

appropriate to carry out the intent of the *Anchorage Wetlands Management Plan* and such other wetlands studies as may be relevant.

- iii. **"C" Wetlands**
When approving plats or conditional use permits in wetlands designated "C" under the plan, the platting authority or the planning and zoning commission shall, whenever applicable, include the recommended construction mitigation techniques and conditions and enforceable policies in table 2 of the *Anchorage Wetlands Management Plan*.

b. Application of Plan to Approved Projects

Conditional uses and preliminary plats approved prior to March 12, 1996, the date of adoption of the revised *Anchorage Wetlands Management Plan*, shall not have additional conditions imposed upon them as a result of requirements of the plan except as follows:

- i. The "A" designation shall apply regardless of prior approvals.
- ii. Approved plats or conditional uses in wetlands that are returned to the platting authority or planning and zoning commission for major amendment may be examined for conformity with goals and enforceable policies of the *Anchorage Wetlands Management Plan*.
- iii. A new U.S. Corps of Engineers permit is required.

C. Steep Slope Development

1. Purpose

The purpose of this subsection 21.07.020C. is to establish standards that help achieve the following objectives for development on steep slopes:

- a. Prevent soil erosion and landslides;
- b. Provide safe circulation of vehicular and pedestrian traffic to and within hillside areas and to provide access for emergency vehicles necessary to serve the hillside areas;
- c. Encourage only minimal grading that relates to the natural contour of the land and discourage mass grading of large pads and excessive terracing;
- d. Encourage building types, grading design, lot sizes, site design, density, arrangement, and spacing of buildings in developments in sloped areas that integrate into the natural terrain with minimal re-contouring, in accordance with adopted goals and policies;
- e. Encourage innovative architectural, landscaping, circulation, and site design;
- f. Encourage the protection of visually significant and/or prominent natural features, such as ridgelines and rock outcroppings;
- g. Incorporate drainage design that does not adversely impact neighboring or nearby properties, downstream properties, receiving waters, and public infrastructure; and

- h. Encourage the retention of natural, indigenous vegetation that provides wildlife habitat, helps retain runoff, and maintains the area's visual character.

2. **Applicability**

Any lot with an average slope of 20 percent or greater, or where adverse conditions associated with slope stability, erosion, or sedimentation are present as determined by the municipal engineer, shall comply with the standards of this subsection 21.07.020C. Lots being subdivided shall comply with chapter 21.08, including subsection 21.08.030H., *Subdivisions on Slopes*, if applicable.

3. **Standards**

Except as allowed in subsection C.4. below, all proposed development subject to this section shall comply with the following standards.

a. **Determination of Original/Natural Grade**

Original/natural grade shall be as defined in chapter 21:14. If there has been previous development on the lot (e.g., gravel extraction), the director shall determine original/natural grade, taking into account the previous development, the existing grade of surrounding lots, the availability of information on pre-development grade, and the feasibility of using pre-development grade.

b. **Slopes Greater than 30 Percent**

That contiguous portion of any lot which is 5,000 square feet or larger with slopes steeper than 30 percent shall remain undisturbed, except as allowed in subsection C.4. below.

c. **Site Disturbance Envelope**

i. There shall be a site disturbance envelope on each applicable lot. Earth disturbance and vegetation clearing shall be limited to the site disturbance envelope. Clearing, grubbing, or grading outside the site disturbance envelope is prohibited except to modify fuels in order to reduce fire risk, or to accommodate utility service connections.

ii. The size of the site disturbance envelope shall be as follows:

(A) Lots less than 40,000 square feet: 60 percent of the lot area maximum.

(B) Lots 40,000 square feet to two acres in area: 20,000 square feet maximum.

(C) Lots over two acres but less than five acres: 30,000 square feet maximum.

(D) Lots five acres or greater: 40,000 square feet maximum.

iii. Areas outside the site disturbance envelope shall not be used for stockpiling materials or excess fill, construction vehicle access, storage of vehicles during construction, or similar uses. Temporary construction fencing shall be installed around the perimeter of the site disturbance envelope, to be removed after the final certificate of zoning compliance is issued.

- iv. The front setback of the lot may be reduced to 10 feet.
 - v. If the average slope of the site disturbance envelope is less than 20 percent, the development is exempt from subsections 3.e., 3.f., 3.g., 3.h., and 3.i.
- d. **Cutting, Grading, and Filling**
- i. Cutting and grading to create benches or pads for buildings or structures shall be limited to within the site disturbance envelope.
 - ii. Cut and fill slopes shall be entirely contained within the site disturbance envelope. The toe of any fill slope not utilizing an engineered retaining structure, and any engineered retaining structure shall be a minimum of 15 feet from any property line, except for the property line abutting the street from which driveway access is taken.
 - iii. Cut and fill slopes shall be designed to provide a natural transition into the existing terrain by feathering and rounding.
- e. **Raising or Lowering of Natural Grade**
The original, natural grade of a lot shall not be raised or lowered more than four feet at any point for construction of any structure or improvement, except:
- i. The site's original grade may be raised or lowered a maximum of six feet if retaining walls are used to reduce the steepness of constructed slopes, provided that the retaining walls comply with the requirements set forth in this subsection.
 - ii. As necessary to construct a driveway from the street to a garage or parking area, grade changes or retaining walls up to six feet may be allowed.
 - iii. For the purposes of this subsection 21.07.020C.3.e., basements and buildings set into a slope are not considered to lower the natural grade within their footprint.
- f. **Retaining Walls**
Retaining walls may be used to maximize the usable area on a lot within the site disturbance envelope. Generally, a retaining wall shall be no higher than six feet, except that a wall varied in height to accommodate a variable slope shall have an average height no greater than six feet and a maximum height no greater than eight feet in any 100-foot length. Parallel retaining walls may be used to overcome steep slopes, provided the following standards are met:
- i. The minimum distance between walls shall be six feet;
 - ii. The maximum allowable slope between walls shall be 3H:1V; and
 - iii. The area between the walls shall be landscaped with trees, shrubs, or both at a rate of 0.5 landscape units per linear foot measured along the length of the lower retaining wall.

A higher wall is permitted:

- i. Where used internally at the split between one- and two-story portions of a building; and
 - ii. Where substantially hidden from public view at the rear of a building, where it may not exceed the eave height of the building.
- g. **Natural Drainage Patterns**
- i. Site design shall not change natural drainage patterns, except as provided below.
 - ii. All grading and drainage shall comply with section 21.07.040, title 23, the *Design Criteria Manual* (current approved edition), and the municipality's *Storm Water Treatment Plan Review Guidance Manual*.
 - iii. Except where otherwise provided in this section, development shall preserve the natural surface drainage pattern, unique to each site as a result of topography and vegetation. Grading shall ensure that drainage flows away from all structures. Natural on-site drainage patterns may be modified on site only if the applicant shows that there will be no significant adverse environmental impacts on site or on adjacent properties. If natural drainage patterns are modified, appropriate stabilization techniques shall be employed.
 - iv. Development shall not adversely impact adjacent and surrounding drainage patterns.
- h. **Ground Cover and Revegetation**
- Ground cover and vegetation shall be maintained to control erosion and sedimentation. All areas that are denuded for any purpose shall be revegetated or the soils stabilized to prevent erosion and sedimentation prior to November 1 of the year of construction. No excavation shall be permitted after November 1 or before May 1 except under emergency conditions, as determined by the building official.
- i. **Building Design Standards**
- The purpose of the building design standards is to minimize site disturbance, avoid extreme grading required by large building pads on steep slopes, and reduce the risk of damage from natural hazards.
- i. All buildings and structures shall have a foundation which has been designed by a professional engineer, architect, or other qualified professional.
 - ii. At any given point, the height of the structure shall not exceed 25 feet above the original (natural) grade.
4. **Slopes Greater Than 30 Percent**
- a. **Purpose**
- The requirements of this section are intended to allow consideration of development on slopes up to 50 percent. In order to assure the safety and stability of such development and to reduce offsite impacts, additional submittals are required as described in this subsection. Nothing in this subsection guarantees approval to disturb slopes greater than 30 percent.

- b. **Applicability**
If the site disturbance envelope as defined in C.3.c. above contains slopes over 30 percent, the standards of this section shall apply.
- c. **Slopes Greater Than 50 Percent**
All slopes greater than 50 percent shall remain undisturbed.
- d. **Existing Lots**
Notwithstanding other standards of this section, lots existing on [effective date] that, due to the prevalence and/or distribution of slopes over 50 percent, are not able to meet these standards, are allowed a site disturbance envelope of 20,000 square feet. Within this site disturbance envelope, slopes over 50 percent are allowed to be disturbed.
- e. **Administrative Site Plan Review Required**
Development on slopes greater than 30 percent but not exceeding 50 percent requires an administrative site plan review. In addition to the site plan approval criteria set forth in subsection 21.03.180E., the approval criteria in subsection 4.g. below shall apply.
- f. **Additional Submittal Requirements**
In addition to the submittal requirements for an administrative site plan review, the following information is required:
 - i. A geotechnical engineering report, stamped by an engineer licensed in the state of Alaska, to include the following:
 - (A) Nature, distribution, strength, and stability of soils; conclusions and recommendations for grading procedures; recommendations for frequency of soil compaction testing, design criteria for corrective measures; and opinions and recommendations covering the adequacy of the site to be developed.
 - (B) Slope stability analysis: conclusions and recommendations concerning the effects on slope stability of excavation and fill, introduction of water (both on and offsite), seismic activity, and erosion.
 - (C) Foundation investigation: conclusions and recommendations concerning the effects of soil conditions on foundation and structural stability, including permeability, bearing capacity, and shear strength of soils.
 - (D) Specific recommendations for cut and fill slope stability, seepage and drainage control, or other design criteria to mitigate geologic hazards, slope failure, and soil erosion.
 - (E) Depth to groundwater in the wettest seasonal conditions, and to bedrock, if less than 15 feet.
 - (F) Complete description of the geology of the site, a complete description of bedrock and subsurface conditions and materials, including artificial fill, soil depth, avalanche and mass wasting hazard areas, fractures, or other significant features.

- (G) A summary of field exploration methods and tests on which the report is based, such as probings, core drillings, borehole photography, or test pits. The project management and engineering department shall confirm that the analysis methods and age of data are a reliable gauge of the site conditions and the potential impacts.
- ii. A site development plan showing the following:
 - (A) Site disturbance envelope as set forth in C.3.c. above.
 - (B) Location of all driveways, and utility lines and installations.
 - (C) Location of all structures.
 - (D) Elevation drawings of all structures.
- iii. Grading and drainage plans that provide the following:
 - (A) Topographic survey of existing conditions depicting at a minimum two foot contour intervals on a legible site map of one inch equaling 50 feet, or better.
 - (B) Proposed grading plan indicating limits of disturbed area, finished grade at minimum two foot contour intervals, proposed elevations of improvements, driveway grading at minimum 10 foot intervals measured on centerline, delineation of cut and fill areas, constructed slopes, proposed drainage features, and related construction.
 - (C) Drainage plans showing approximate locations for all surface and subsurface drainage devices, retaining walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as part of, the proposed work, together with a map showing drainage area, how roof and other impervious surface drainage will be disposed, the complete drainage network, including outfall lines and natural drainage ways which may be affected by the proposed development, and the estimated volume and rate of runoff of the area served by the drains.
 - (D) A plan for erosion control and other specific control practices to be employed on the disturbed area where necessary.
- iv. A revegetation plan that shows:
 - (A) The type, size, location, and grade of vegetation that will be used to complete the development plan and restore areas disturbed during construction, on a scaled plan of one inch equaling 30 feet, or better.
 - (B) Slope stabilization measures to be installed.
- g. **Standards**
The following subsections apply to development under this subsection C.4.:

- i. 21.07.020C.3.c., *Site Disturbance Envelope*;
 - ii. 21.07.020C.3.d., *Cutting, Grading, and Filling*;
 - iii. 21.07.020C.3.g., *Natural Drainage Patterns*;
 - iv. 21.07.020C.3.h., *Ground Cover and Revegetation*; and
 - v. 21.07.020C.3.i., *Building Design Standards*.
- h. **Approval Criteria**
- i. The proposed development minimizes disruption of the natural topography and protects natural features on the site in their natural state to the greatest degree possible.
 - ii. The principal and accessory structures have been sited in such a manner as to protect natural features of the site, minimize grading, preserve the appearance of scenic vistas, and minimize the risk of property damage and personal injury from natural hazards.
 - iii. The design of the structures includes massing, roof lines, exterior materials and colors, and decking that complements the terrain and complies with the building design standards set forth in paragraph C.3.i. above.
 - iv. Proposed landscaping preserves the natural character of the area while minimizing erosion and fire hazard risks to persons and property.
 - v. The drainage design of the development will have no adverse impact on neighboring or nearby properties.
 - vi. Areas not well suited for development due to soil stability characteristics, geology, hydrology limitations, or wastewater disposal, have been avoided.

D. Wildlife Management Corridors

1. Intent

The purpose of this section is to reduce wildlife-human conflicts by managing certain linear stream corridors to minimize adverse human-wildlife interactions and to facilitate more safely the movement of wildlife in those corridors identified in this section. It is not the intent of this section to reduce density that is otherwise allowed.

2. Applicability

This subsection shall apply within 200 feet on either side of the ordinary high water of the following streams: Peters Creek and its tributaries upstream of the Old Glenn Highway, Eagle River, South Fork of Eagle River (below the falls), Ship Creek (upstream from Reeve Blvd.), Campbell Creek (upstream from Lake Otis Parkway), North Fork of Little Campbell Creek (upstream from Elmore Road), Rabbit Creek, Little Rabbit Creek, Indian Creek, Bird Creek, Penguin Creek, California Creek, Glacier Creek, Virgin Creek and Portage Creek.



Steep Slope and Ridgeline Protection

Use this tool with: habitat protection, erosion and sedimentation controls

I. Background and Purpose

There are a number of issues associated with development on steep slopes, hillsides, and ridgelines. Foremost among them are health, safety, and environmental considerations that arise when planning development in steep areas. Another factor is the aesthetic quality of hillsides and ridgelines that can be lost when they are developed. New Hampshire residents and visitors place great value on the state's natural resources. Protecting hillsides and steep slopes from development helps to preserve those unique environmental qualities that people value. Furthermore, development on steep slopes can have an adverse effect on water quality as a result of increased erosion and sedimentation.

This chapter provides information on regulating both steep slopes and ridgelines. While the two subjects are closely related, the regulations for each usually have different emphasis: steep slope regulations are frequently based on environmental considerations such as erosion and sedimentation controls, while ridgeline regulations have more emphasis on view protection. The model ordinance in this chapter contains a section that deals with steep slopes and one that deals with ridgelines.

II. Appropriate Circumstances and Context for Use

Since the beginning of steep slope regulation in the 1950s, there have been a variety of ways to approach the subject. In 1975, the authors of a report called *Performance Standards for Sensitive Lands* reviewed a total of 35 hillside and grading regulations, and found that the regulations could be classified in the following three categories (Thurow et al):

Slope/Density Provisions. These reduce allowable densities on hillsides: the steeper the slope, the less the allowed density.

Soil Overlays. These provisions key development regulations to soil type, based on maps by the Natural Resource Conservation Service.

The Guiding Principles Approach. This approach creates hillside overlay districts to cover all hillside lands in a jurisdiction. A set of guiding principles is applied to all proposed development in these areas. These regulations are usually flexible, allowing for tailoring of development to the characteristics of each site and encouraging innovative approaches to attain the desired end.

These approaches have all become popular because they reduce the negative impacts of hillside development. These impacts include excessive cuts and fills, unattractive slope scars, and erosion and drainage problems. A logical method for addressing these problems is to reduce the intensity of development as the grade of the slope increases. The implication of

linking density limitations with steep slopes is that steeply sloped hillsides are inherently unsuited for development for reasons of public safety, erosion, aesthetics, or general environmental protection. Because this type of regulation does allow for some hillside development, property owners can retain some use of their land. Pairing slope/density regulations with grading regulations helps to ensure that those sites that are developed are done so as safely as possible.

In most cases, large-scale commercial development is discouraged in areas with steep slopes because of the difficulties associated with trying to provide level building and parking areas as well as safe access to the site. Drainage and stormwater runoff can also cause problems. Some commercial activity may be permitted in the steep slope district as long as it would not cause excessive erosion.

When developing regulations to govern development on steep slopes, hillsides, and ridgelines, it is important to collect as much data as possible to form the basis of the ordinance. In a 1996 publication, Robert Olshansky, an expert on hillside development outlined ten topics that should be considered prior to implementing a regulation. These ten topics, which are outlined below, can be used as a framework to build a solid justification for regulating steep slopes, hillsides, and ridgelines.

1. Topography

Before the location and extent of steep slopes in a community can be determined, it is essential that the definition of a steep slope be determined. Many communities define steep slopes as having a grade of 15% or greater, meaning that the elevation increases by 15 feet over a horizontal distance of 100 feet.

2. Slope Stability

When considering slope stability, it is important to consider not only how stable the slope is prior to development, but also what effect the grading necessary for development would have on slope stability. On steep slopes, any change in the equilibrium, whether it is caused by natural phenomena such as heavy rains or earthquakes or human activities, can cause erosion or landslides. Development on very steep slopes disturbs far more than the building footprint: on a 30% slope, 250 feet would have to be graded in order to create a 100-foot wide pad for construction, assuming a maximum 2:1 (50%) steepness of cut and fill as specified in the Uniform Building Code.

3. Drainage and Erosion

Collecting data on drainage and erosion entails identifying major watersheds and drainage courses as well as areas that are prone to flooding. In addition, key facilities and structures downstream of hillside drainageways should be identified. Knowing where the water is likely to drain and what impacts changing existing patterns will have on the entire drainage system can help to prevent damage to buildings and loss of life in the event of a landslide. In

addition, changing drainage patterns and increased sedimentation due to erosion can compromise water quality. All highly erodible soils should be identified.

4. Infrastructure

Extending infrastructure to hilltop communities can be very difficult to engineer and construct, especially for water and sewer systems. Individual septic systems are especially difficult to construct and maintain on steep slopes, both because of the slopes and because the soils tend to be shallow and poorly drained. This makes septic systems on steep slopes prone to higher failure rates, which puts ground and surface water supplies at risk. Failed septic systems often pose a health threat to everyone who relies on water resources in close proximity to a failed system. In New Hampshire, no septic system may be placed on a slope greater than 33%; however, individual municipalities may implement stricter regulations, or develop inspection/maintenance programs. Roads, power lines, and telephone wires are also difficult and expensive to extend up steep slopes, and to maintain after construction.

5. Access

Providing access roads and driveways to development on steep slopes can be especially challenging. The New Hampshire Department of Transportation recommends that driveways for commercial activities do not exceed an 8% grade, and that driveways to residences not exceed 15%. Towns may set a lower threshold if they choose. In order to be safe, roads and driveways on steep areas tend to be longer and have more curves and switchbacks than roads and driveways on flatter terrain. This means that there are more impacts on the hillside, such as increased erosion and runoff, a higher potential for accidents, and difficulty for emergency vehicles to access the development.

6. Aesthetics

In many of the steep slope ordinances reviewed during the preparation of this chapter, preserving a view was cited as one of the purposes for enacting the ordinance. Although this chapter treats steep slope and ridgeline/viewshed regulation separately, there is a good deal of overlap. When citing aesthetic reasons for implementing an ordinance, it is important to carefully document the rationale. This includes evaluating the extent and quality of views to the hills. In addition, it is important to identify any peaks or hillsides of special symbolic value to the community, to survey community values regarding appearance of hillsides and ridgelines, and to prepare maps of significant aesthetic resources. Taking photographs of the most important resources is another valuable tool that can be used, especially to convince the community that the ordinance is needed.

One method for cataloging visual resources is to use the Visual Resource Management strategy developed by the United States Bureau of Land

Management (BLM) for use on public lands (BLM Manual H-8410-1). This system analyzes the quality of the view, the sensitivity of the resource, and the impacts that development would have at different distances. This comprehensive approach allows resources to be ranked in the context of their surroundings. Individual communities may not want or need to go into the amount of detail described in the BLM manual. However, the process outlined in the manual does provide a good framework that communities can use to build their own natural resource inventories.

7. Natural Qualities

Documenting natural qualities or resources includes identifying and mapping vegetation communities and wildlife habitats, and identifying threats to these resources. Special attention should be paid to rare and endangered plant and animal species. Because of the difficulties associated with steep slope development, hillsides tend to be developed after development has occurred on flatter areas. Wildlife species often take refuge on undeveloped hillsides, even if it is not their native habitat, because their preferred habitats have been overtaken by development.

8. Fire Hazard

Fire can break out in many parts of New Hampshire, especially in the White Mountain National Forest. Since it is more difficult to control fires on hillsides than on flat areas, it is important to evaluate the frequency and causes of hillside wildfires, identify fuel reduction methods, and identify architectural and landscaping factors in fire safety. Attention must be paid to response times and access requirements for fire departments, as well as the evaluation of the tradeoffs between natural habitat preservation and fire hazards.

9. Recreational Values

Hills and mountains provide many popular and important recreational opportunities, including hiking, hunting, climbing, wildlife observation, and skiing. When developing ordinances, consideration of areawide needs and opportunities for wildland recreation as well as identification of possible trail and viewpoint locations are important factors. Locating possible access points to existing and potential recreational opportunities is also important.

10. Open Space

Providing open spaces can be a key component of hillside/steep slope regulations. Possible mechanisms for open space management include creating greenways, wildlife habitat preservation areas, and conservation areas.

III. Legal Basis and Considerations for New Hampshire

In New Hampshire, regulating development on steep slopes is authorized under RSA 674:16, the zoning Grant of Power, RSA 674:21, Innovative Land Use Controls, and 674:21, I (j), Environmental Characteristics Zoning. Although steep slopes and ridgelines are not

specifically named in the RSA, they are generally considered to be environmental characteristics and are frequently found as overlay districts similar to wetland protection. According to the New Hampshire Office of Energy and Planning, there were 27 municipalities in the state that had steep slopes regulations as of January 2006. In addition to regulating steep slopes and ridgelines through zoning, some communities include site-specific standards in their subdivision and site plan regulations.

Master Plan

Communities interested in regulating development on steep slopes, hillsides, and ridgelines should address the subject in the natural resource or land use chapters of their master plans. In developing the plan, it will be helpful to study maps of various slope categories. Using the ten-point framework outlined in Section II, a strong case can be built for protecting steep slopes: If viewshed protection is a high priority, then communities should survey their resources using either the Visual Resource Management strategy developed by the United States Bureau of Land Management, or another, similar tool.

IV. Examples and Outcome of where Technique has been Applied

In the United States, the earliest known example of steep slope regulations was in Los Angeles, California in the early 1950s, when grading regulations were first implemented. These regulations were designed to protect lives and property from unengineered development of hillsides (Olshansky 1995). This type of ordinance has been very successful at addressing engineering problems on hillside developments.

In December 2005, the Lakes Region Planning Commission published *Regulating Development on Steep Slopes, Hillsides, and Ridgelines*, a comprehensive look at the history and rationale behind steep slope regulation, along with several case studies from the state of New Hampshire as well as a few examples from other states. Excerpts from some of the case studies are included below.

Lyme, New Hampshire

The Lyme zoning ordinance has both a Steep Slopes Conservation District and a Ridgeline and Hillside Conservation District. The Steep Slopes Conservation District is defined as all areas where there is an elevation change of 20 feet or greater and the average slope is 20% or greater. The Ridgeline and Hillside Conservation is defined as those ridgeline and hillside areas which are visible from public waters or public roads located within the Town at a distance on the USGS topographic map of 1/2 or more miles (measured in a straight line distance from the proposed area of development).

According to the town planner, the Steep Slopes Conservation District works smoothly for the most part. There are occasional difficulties associated with determining where the district should be applied, which are solved with a site visit. The town has faced some challenges in defining exactly what land falls in the Ridgeline and Hillside Conservation District. The town is working on a map that will show where the district falls.

Sanbornton, New Hampshire

The minimum lot size in the steep slopes conservation district is six acres. However, the planning board can waive that requirement if at least 50% of the lot has a slope of less than 15% and there is at least one contiguous area of 40,000 square feet that has a slope of 15% or less. According to the town planner, this regulation has been in place for several years, and people who plan to subdivide land in the steep slope conservation district are accustomed to the regulations and therefore bring the proposed subdivision plans with lots drawn in accordance with the ordinance.

North Carolina Mountain Ridge Protection Act

Steep slope and hillside regulations are mostly found at the local level as part of either the zoning ordinance or subdivision regulations. One exception to this trend is the North Carolina Mountain Ridge Protection Act of 1983 (NC G.S. 113A-205-214). This state law restricts development on mountain ridges that have elevations of 3,000 feet and higher. As the basis for enacting the law, the North Carolina State Legislature found that:

The construction of tall or major buildings and structures on the ridges and higher elevations of North Carolina's mountains in an inappropriate or badly designed manner can cause unusual problems and hazards to the residents of and to visitors to the mountains. Supplying water to, and disposing of the sewage from, buildings at high elevations with significant numbers of residents may infringe on the ground water rights and endanger the health of those persons living at lower elevations. Providing fire protection may be difficult given the lack of water supply and pressure and the possibility that fire will be fanned by high winds. Extremes of weather can endanger buildings, structures, vehicles, and persons. Tall or major buildings and structures located on ridges are a hazard to air navigation and persons on the ground and detract from the natural beauty of the mountains.

According to a report from the Land-of-Sky Regional Council in North Carolina, this law has been mostly effective in controlling development on mountain ridges. However, many mountain communities in the state are currently searching for ways to protect land at lower elevations from development as well (Houck 2005).

V. Model Language, Illustrations, and Guidance for Implementation

This model ordinance contains two sections: Steep Slopes Protection and a Visual Resource Protection District. Steep Slopes Conservation should be adopted as a component of the zoning ordinance that applies in all districts. The Visual Resource Protection District is an overlay district where the boundaries are determined through a visual resource inventory process.

Statutory Authorization

A. RSA Title LXIV, Chapters 674:16, Grant of Power

- B. 674:21, Innovative Land Use Controls
- C. 674:21 (j), Environmental Characteristics Zoning
- D. 673:16, II; 676:4, I(g); and 674:44, V collectively authorize Planning Boards to collect fees from applicants to cover the costs of hiring outside experts to review subdivision applications and site plans.

A. Steep Slopes

Title: Steep Slopes Protection

Section 1: Purpose

The purpose of this ordinance is to reduce damage to streams and lakes from the consequences of excessive and improper construction, erosion, stormwater runoff, or effluent from improperly sited sewage disposal systems, and to preserve the natural topography, drainage patterns, vegetative cover, scenic views, wildlife habitats, and to protect unique natural areas.

Section 2: Delineation

This ordinance shall apply to all areas with a slope greater than 15%, as shown on the town's steep slopes map, and where the proposed site disturbance is greater than one acre.

Section 3: Definitions

Erosion: The wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities.

Sedimentation: The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse or wetland.

Site Disturbance: Any activity which removes the vegetative cover from the land surface.

Slope: The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees; rise over run.

Vegetative cover: Grasses, shrubs, trees, and other vegetation which hold and stabilize soils.

Section 4: Application Requirements

- A. Uses that will cause more than one acre of site disturbance must show the area subject to site disturbance in 2-foot contours.
- B. An engineering plan will be prepared by a Professional Engineer that shows specific methods that will be used to control soil erosion and sedimentation, soil loss, and excessive stormwater runoff, both during and after construction.

This draft is a chapter of *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*, expected publication date January 2007, prepared as part of the Regional Environmental Planning Program by the NH Department of Environmental Services, the NH Association of Regional Planning Commissions, the NH Office of Energy and Planning, and the NH Local Government Center. All ordinances and regulations proposed for local adoption should be carefully reviewed by local officials and legal counsel.

- C. A hydrology, drainage, and flooding analysis will be included that shows the effect of the proposed development on water bodies and/or wetlands in the vicinity of the project.
- D. A grading plan for the construction site and all access routes will be prepared.

Section 5: Performance Standards

All uses permitted in the underlying district will be a conditional use in the Steep Slope Conservation District and must meet the following conditions for approval:

- A. The grading cut and fill should not exceed a 2:1 ratio.
- B. Existing natural and topographic features, including the vegetative cover, will be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site shall be replanted with indigenous vegetation and shall replicate the original vegetation as much as possible.
- C. No section of any driveway may exceed a 10% slope for residential subdivisions or 8% slope for nonresidential site plans.
- D. No structure shall be built on an extremely steep slope (greater than 25% prior to site disturbance).

Section 6: Administration of conditional use permits

In addition to meeting the conditions set forth in this section, Conditional Use Permits shall be granted in accordance with the following pertinent procedures:

- A. A Conditional Use Permit shall be granted by the Planning Board upon a finding that the proposed use is consistent with the intent of the Ordinance and following receipt of a review and recommendation of the Conservation Commission and any other professional expertise deemed necessary by the Board.
- B. The applicant must demonstrate that no alternatives are available for the productive use of areas outside of the steep slopes district, that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have upon the District.

Section 7: Costs

All costs pertaining to the consideration of an application, including consultants fees, on-site inspections, environmental impact studies, notification of interested persons, and other costs shall be borne by the applicant and paid prior to the Planning Board's final action.

B. Ridgelines/Hillsides/Viewshed Protection

Title: Visual Resource Protection District

Section 1: Purpose

The purpose of the Visual Resource Protection district is to protect the scenic and ecological resources associated with lands characterized by high elevations, steep slopes, and visual sensitivity in a manner that allows for carefully designed, low-impact development.

Section 2: Delineation:

The Visual Resource Protection District is an overlay district that will be defined by a visual resource inventory dated _____. The results of the visual resource strategy will be shown on the Visual Resource Map, which is hereby incorporated into this ordinance.

NOTE: Each community will have unique visual resources. It is the responsibility of the community implementing this ordinance to complete and document a comprehensive visual resource inventory. A manual detailing the Bureau of Land Management's Visual Resource Management Strategy is available online: <http://www.blm.gov/nstc/VRM/8410.html#Anchor-49575>

Section 3: Definitions

Design Guidelines: A set of guidelines defining parameters to be followed in a site or building design or development.

Site Disturbance: Any activity which removes the vegetative cover from the land surface.

Visual Impact: A modification or change that could be incompatible with the scale, form, texture or color of the existing natural or man-made landscapes.

Visual Resource Map: The map depicting the visually sensitive areas, as determined by the visual resource inventory.

Visual Resource Inventory: A system for minimizing the visual impacts of surface-disturbing activities and maintaining scenic values. The inventory consists of a scenic quality evaluation, sensitivity level analysis, and a delineation of distance zones.

Section 4: Application Requirements

- A. Uses that will cause more than one acre of site disturbance must show the buildable area in 2-foot contours.
- B. An engineering plan will be prepared by a Professional Engineer that shows specific methods that will be used to control soil erosion and sedimentation, soil loss, and excessive stormwater runoff, both during and after construction.
- C. A hydrology, drainage, and flooding analysis will be included that shows the effect of the proposed development on water bodies and/or wetlands in the vicinity of the project.

This draft is a chapter of *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*, expected publication date January 2007, prepared as part of the Regional Environmental Planning Program by the NH Department of Environmental Services, the NH Association of Regional Planning Commissions, the NH Office of Energy and Planning, and the NH Local Government Center. All ordinances and regulations proposed for local adoption should be carefully reviewed by local officials and legal counsel.

- D. A grading plan for the construction site and all access routes will be prepared.
- E. Architectural plans and renderings clearly depicting all proposed structures to scale and their location on the site in relation to the physical and natural features of the parcel, including the proposed grade of the building area and finished floor elevations. Drawings should clearly display building elevation and architectural design, including building materials, exterior colors and window fenestration. All structures proposed, including outbuildings and garages are to be shown.
- F. A landscaping plan showing existing vegetation and proposed landscaping and clearing plans showing proposed type, size, and location of all vegetation to be preserved and/or installed, along with other landscaping elements such as gazebos, berms, fences, walls, etc. Special attention should be given to existing/proposed vegetation adjacent to buildings for visibility and screening purposes. A species list of existing vegetation and a plan for maintenance of the existing and proposed landscape should be included. Such a plan shall address specific measures to be taken to ensure the protection and survival, and if necessary, replacement of designated trees during and after the construction and/or installation of site improvements.

Section 5: Administration of Conditional Use Permits

Conditional Use Permits shall include the findings of an architectural review in accordance with the following pertinent procedures:

- A. A Conditional Use Permit shall be granted by the Planning Board upon a finding that the proposed use is consistent with the intent of the Ordinance and following receipt of a review and recommendation of the Conservation Commission and any other professional expertise deemed necessary by the Board, such as a licensed architect.
- B. The applicant must demonstrate that no alternatives are available for the productive use of areas outside of the District, that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have upon the District.

Section 6: Design Guidelines

In order to reduce the visual impact of development in the Visual Resource Protection District, all proposed structures shall meet the following design guidelines:

- A. Building Envelope: The building envelope permitted in this district is a rectangle with an up-slope boundary 40 feet or less from the building, side boundaries 40 feet or less from each side of the building, and a down-slope boundary 25 feet or less from the building. Accessory structures shall be built within the building envelope. Building envelopes shall be at least 30 feet from property lines.

Graphic: Building Envelop

- B. Clearing for views: In order to develop a view, trees may be removed beyond the building envelope for a width of clear cutting not to exceed 25 feet and extending outward therefrom at an angle of 45 degrees or less on both sides. The 25 foot opening may be at any point along the down-slope boundary.

Graphic: Clearing for Views

- C. Natural/neutral colors will be used.
- D. Reflective glass will be minimized.
- E. Only low level, indirect lighting shall be used. Spot lights and floodlights are prohibited.
- F. No portion of any structure shall extend above the elevation of the ridgeline.
- G. Structures shall use natural landforms and existing vegetation to screen them from view from public roads and waterways to the extent practicable.
- H. Cuts and fills are minimized, and where practical, driveways are screened from public view.
- I. Building sites and roadways shall be located to preserve trees and tree stands.

Section 7: Costs

All costs pertaining to the consideration of an application, including consultants fees, on-site inspections, environmental impact studies, notification of interested persons, and other costs shall be borne by the applicant and paid prior to the Planning Board's final action.

VI. References

Bureau of Land Management. Manual H-8410-1 - Visual Resource Inventory. Washington, DC: U.S. Department of the Interior, Bureau of Land Management
www.blm.gov/nstc/VRM/8410.html#Anchor-49575

This manual provides a process for inventorying and prioritizing important visual resources. This, or another methodology, should always be employed when a community is contemplating a visual resource protection district.

Lakes Region Planning Commission. *Regulating Development on Steep Slopes, Hillsides, and Ridgelines*. December 2005. www.lakesrpc.org/steep%20slopes%20final.pdf

The report explores the historical importance of steep slope regulation, outlines key development issues, and provides a variety of case studies designed to address safety, aesthetics, preservation of wildlife habitat, water quality protection and more.

Olshansky, Robert. "Planning for Hillside Development" in *Environment & Development*, American Planning Association, September/October 1995

A short article that introduces the themes found in the 1996 PAS report of the same name.

Olshansky, Robert. *Planning for Hillside Development: Planning Advisory Service Report No. 466*, American Planning Association, Chicago, 1996.

A comprehensive study, building on the themes published in the 1995 article that discusses in depth the history and challenges of regulating hillside and steep slope development. The PAS report also provides excerpts from several of the ordinances and regulations reviewed for the study.

Thurow et al. *Performance Standards for Sensitive Lands*, Planning Advisory Service Nos. 307/308, American Planning Association, 1975

This report was one of the first comprehensive looks at steep slope regulations.

Zoning Ordinances Reviewed:

Links to all of the New Hampshire ordinances listed here are available online from the Steep Slope Protection section of the New Hampshire Office of Energy and Planning Reference Library, nh.gov/oep/resourcelibrary/referencelibrary/s/steepslopeprotection/index.htm

Town of Antrim, NH

Town of Bath, NH

Town of Dublin, NH

Town of Enfield, NH

Town of Frankestown, NH

Town of Hancock, NH

Town of Harrisville, NH

Town of Loudon, NH

Town of Lyme, NH

Town of New Ipswich, NH

Town of New London, NH
Town of Newbury, NH
Town of Northwood, NH
Town of Roxbury, NH
Town of Sanbornton, NH
Town of Sandwich, NH
Town of South Hampton, NH

Town of Stowe, Vt
www.townofstowevt.org/images/photos/stowe_regs_8-29-05.pdf
City of Park City, UT,
www.parkcity.org/government/codesandpolicies/title_15_c_2_21.html
City of San Rafael, CA
ordlink.com/codes/sanraf/ DATA/TITLE14/Chapter_14_12_HILLSIDEDEVELOP.html
Town of Cortlandt, NY
law.wustl.edu/landuselaw/ssprotection.htm
Sonoma County, CA
municipalcodes.lexisnexis.com/codes/sonomaco (Article 26, Section 64)
Model Steep Slope Ordinance, Ten Towns Committee, New Jersey
www.tentowns.org/10t/ordsteep.htm
North Carolina Mountain Ridge Protection Act of July 1983
www.cals.ncsu.edu/wq/lpn/statutes/nc/mountainridgeprotection.htm

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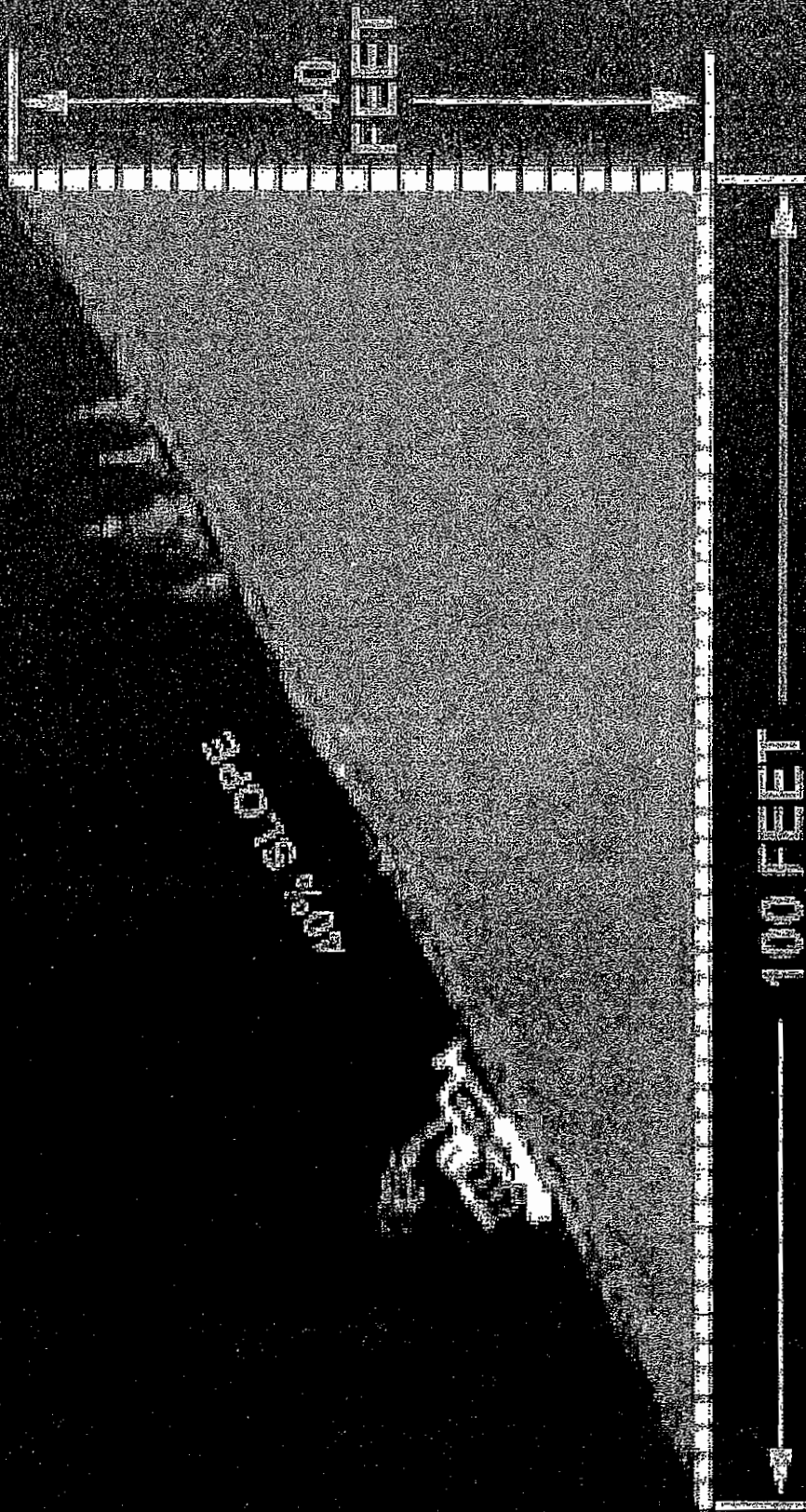
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VOTE: (main motion as amended): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

C. Staff Report PL 10-71, Draft Spit Comprehensive Plan

The commission continued discussion in work session mode.

KRANICH/BOS - MOVE TO SUSPEND RULES TO ALLOW PUBLIC COMMENT.

Nancy Hillstrand voiced concern about lack of public participation on the Spit Comprehensive Plan. Discussion followed regarding the time frame for the final document and when public meetings would occur. There will be a final draft document available prior to the next planning commission meeting on September 1, 2010.

D. Staff Report PL 10-73, Draft Steep Slope Ordinance

BOS/KRANICH - MOVE TO FORWARD THE DRAFT STEEP SLOPE ORDINANCE TO PUBLIC HEARING.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

E. Staff Report PL 10-59, Rezone Ordinance

KRANICH/DRUHOT - MOVE TO POSTPONE DISCUSSION OF THE DRAFT REZONE ORDINANCE TO THE NEXT WORK SESSION.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

F. Decision and Findings for Refuge Chapel/Refuge Room Appeal of an Enforcement Order

KRANICH/BOS - MOVE TO TAKE DECISION AND FINDINGS FOR REFUGE CHAPEL/REFUGE ROOM APPEAL OF AN ENFORCEMENT ORDER OFF CONSENT AGENDA TO PENDING BUSINESS, ITEM F AND ADOPT DOCUMENT AS PRESENTED.

Commissioner Kranich noted that item 11 on page ten refers to small 8 person dorm....two rooms that can each hold two men...numbers wrong...'in addition to an 8 person room'...

KRANICH/BOS - MOVE TO AMEND ITEM 11 ON PAGE TEN TO STATE 'ONE EIGHT PERSON ROOM, PLUS TWO ROOMS THAT CAN EACH HOUSE TWO MEN.

VOTE: (amendment) NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Page 7 typo, Top of page

KRANICH/DRUHOT - MOVE TO AMEND PAGE 7 TO STATE 'PAID BY SOCIAL SERVICE GROUPS.'

VOTE: (amendment): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

VOTE: (main motion as amended) NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

A. Staff Report PL 10-74, Election of Officers

SINN/BOS -MOVE TO SUSPEND RULES AND CONTINUE MEETING UNTIL 10:30p.m.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

DRUHOT/BOS - MOVE TO NOMINATE CHAIR MINSCH FOR CHAIR OF THE HOMER ADVISORY PLANNING COMMISSION.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

DRUHOT/HIGHLAND - MOVE TO NOMINATE COMMISSIONER BOS FOR VICE CHAIR OF THE HOMER ADVISORY PLANNING COMMISSION.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Staff Report PL 10-77, Capital Improvement Plan

KRANICH/SINN - MOVE TO SUBMIT LAST YEAR'S RECOMMENDATIONS WITH THE EXCEPTION OF DELETING EAST BOAT HARBOR AND MOVING WATER SOURCE TO THE NUMBER ONE POSITION.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

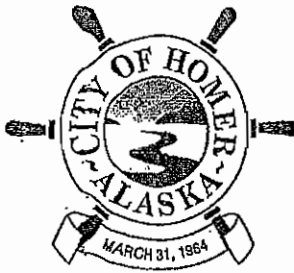
Motion carried.

INFORMATIONAL MATERIALS

A. City Manager's Report dated August 9, 2010

B. Letter dated August 11, 2010 from Mayor Hornaday to Franco Venuti regarding Appointment to the Homer Advisory Planning Commission

C. Memorandum dated August 4, 2010 to Rick Abboud, City Planner from Carey Meyer, Public Works Director regarding Homer City Code Revisions



City of Homer

Planning & Zoning

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Web Site www.ci.homer.ak.us

STAFF REPORT PL 10-72

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: August 4, 2010

SUBJECT: Draft Steep Slope Ordinance

GENERAL INFORMATION

Commissioner Minsch has reconsidered her vote to take the ordinance to public hearing. I will try to summarize some of the concerns with the ordinance. This subject has been under consideration for at least 9 years. We have only two commissioners that have been part of this conversation prior to the last two years. Have we lost focus and not given consideration to the original direction?

History

Attachments include a newspaper article that states some consideration given to the original drafts. I have also included a chapter from *Innovative Land Use Planning Techniques* that I imagine was presented to the commission prior to my employment with the City of Homer. Also included is the finished Anchorage regulation, which I believe was presented to the commission in draft form. I thought that it would be useful as an example of Alaskan regulation. It must be remembered that Anchorage has adopted the International Building Code which also regulates development on slopes (such things as finished cut and fill must be no greater than 2/1 or 50%).

Concern

What is steep? While all can agree that 45-50% is steep, most have to concede that less than 45% is steep also. Does this require regulation? While we have come from disallowing any development on slopes greater than 50% to allowing it with an engineer's approval, we seem to have thrown out all regulation below 45%. Currently, we limit development to not exceed 25% of the lot on slopes of 15 – 30% (15%!) and not to exceed 10% of the lot on slopes greater than 30%. ----- Side note: The Fire Department would like to not have any driveway greater than 10%.

We seem to agree that the current regulation is not really getting us where we wish to be. Why not? Because no direction is given to where the development may take place and also the percentage of development is relative to the lot size.

Do we really wish to allow for maximum development on all lots under 45%? Regulation to consider may be a maximum percentage of lot development or a maximum size of building envelope and we allow exception if someone wishes to jump through the engineering hoops (here is where a finished cut and full requirement as in the International Building Code might discourage disturbing steeper slopes). Perhaps the Dirt Work Ordinance does (or will) address this with standards on grading and excavation creating a permanent slope of 30% or more. The caveat to consider is the cases of natural building envelopes next to very steep slopes.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission

1. Consider/reconsider inclusion of requirements of developing on slopes less than 45%.
2. Suggest time frame for outreach and public hearing.

Attachments

1. Homer News article – April 30, 2008
2. Site Example
3. Anchorage Steep Slope Ordinance
4. Steep Slope and Ridgeline Protection - ILU
5. 40% slope diagram

Why does woman win steep-slope ordinance

BY MICHAEL ARMSTRONG
STAFF WRITER

Two years ago when a neighborhood association raised concerns over a subdivision near the Baycrest Hill bluff, Homer city officials and city council members said the issue showed the need for the Homer Advisory Planning Commission and the city council to craft and pass a steep-slope development ordinance.

"Maybe when we get the Fred Meyer and Gateway (Zoning District) stuff out of the way, we can attack this," council member Mike Heimlich said in August 2006. "I can guarantee you this case has lit the fire again."

Last month, the planning commission resigned that discussion when it presented a workshop on a proposed ordinance. Commissioners emphasized the ordinance is a draft version and only the first step in a long public process that has to go through several planning commission work sessions and commission and council public hearings before — or if — it's adopted into city code.

Developers might worry the ordinance would cover any land steep enough to roll a marble downhill. Not so; the proposed ordinance applies to property with more than a 30-percent slope, within 40 feet of a bluff edge or where the city engineer determines slope, erosion or stability issues.

What the ordinance says about how slopes steeper than 50 percent can be developed could ignite some controversy. The version available on the Homer Planning Department Web site says "on slopes of 50 percent or greater, no development, regrading or stripping of vegetation shall be permitted."

Planning Commission Chairman Ray Krauteth said that restriction could get people alarmed. He cautioned that the ordinance is only a draft, and that as it works its way through the process, a blanket restriction could be qualified to read that anything over 50 percent would need an engineering plan.

"This is a very rough ordinance," he said.

David Cole of DOWL Engineers, Anchorage, gave a talk that could be called Steep Slope 101. Cole works as a consultant to the city on steep-slope issues under a five-year Environmental Protection Agency grant to the city for wetlands and other geologic mapping. Engineers calculate slope by dividing horizontal distance by vertical distance. A hill that runs 5 feet for every 1 foot of rise has a 20 percent-slope and a hill that runs 2

feet for every 1 foot of rise has a 50 percent slope. Slopes at or under 50 percent generally can be built on without major difficulty, Cole said.

"If they're steeper than two-to-one, generally you'll need some engineering analysis," he said.

The proposed ordinance would require a site plan by a civil engineer for slopes 30 percent or greater.

Another factor has to do with soil types, geologic features or vegetation. Engineers compare the driving force, or the movement of soils downhill, with the resisting force, or soil structure or subsurface geologic features. If the resisting force is greater than the driving force — say, well-vegetated topsoil on a shallow slope — then the slope will be stable.

Stability can be improved by putting in retaining walls at the uphill or toe side of the slope. Disturbed slopes can be re-vegetated and the soil stabilized with materials like jute fabric to retain soil while grasses and brushies grow.

In a comment period, Mike McCarthy encouraged the city to address soil structure. McCarthy, a Kachemak Drive resident, said his research suggests marine sediments that contain salt become unstable when water dissolves the salt crystals. Along with calculating slope areas, the city should do a baseline hydrology and surficial soils analysis, McCarthy said.

The proposed ordinance also looks at development within 40 feet of a bluff edge. It focuses on upland or inland bluffs, such as the bluffs along Skyline Drive. Nina Faust, a Skyline Drive area homeowner, said she wondered if 40 feet would be enough.

"That sounds like something that needs to be addressed," she said.

Faust also said she thought the ordinance should address issues like dumping off a bluff.

"That would not be acceptable," Cole said. "You're creating a fill."

Filling or dumping also is addressed by the draft ordinance, with restrictions on how high a fill could be built. It would require a site plan for fill placement over 8 feet and for cuts 5 feet high or greater.

Borough assemblywoman Millie Martin, also a Skyline Drive area resident, raised similar concerns.

"What is the impact of what occurs on the top?" she asked.

"What is the impact below?"

Cole said he understood Martin's concern about where a sloping area ends and how uphill activity could affect neighbors below.

"The ordinance as written doesn't talk about that, but you make a very good point," Cole said.

The steep slope ordinance workshop led to many similar concerns. With notes in the draft ordinance like "What to call this section?" it clearly is in rough form. After the planning commission has conducted more work sessions and the city incorporated its ideas, the steep slope ordinance will go before the commission for its consideration, with public hearings. If passed or amended, it would go to the Homer City Council for more public hearings and final action.

No dates for future action have been set. The draft ordinance is at the planning department's Web page at planning.ci.homer.ak.us.

Michael Armstrong can be reached at michael.armstrong@homernews.com.

BRIEF

Tire change deadline extended

Due to poor road conditions, Alaska Department of Public Safety Commissioner Walt Monegan has issued an emergency order extending the studded-tire deadline on Alaska roads by two weeks. April 15 and May 1 are the normal deadlines to have studded tires removed; however April 29 was the extended deadline for roads south of 60 degrees north latitude and May 15 is the deadline for roads north of that latitude. "The extension should provide all motorists that additional margin of safety on lingering winter roads," the department said in a press release issued April 24. "The extension should also show that the state is concerned enough to remain flexible in deadlines to best ensure the safety on roads."

Lots of New Spring Arrivals



Rubber Boots & Rainwear
for the entire family

Pants, Shirts, Hats


YOUR GIRLS!



Play Bras • Strapless
Sports bras • lined

Olga Watson

Ride on by the gas station on your bike.....



Everything you need at Homey Saw & Cycle
Sales - Service

April 30, 2008

Photo from 2003.
Property lines are not exact.

15.207.5910
Average slope here



EXISTING GRADE

Average Slope

38% Development limited to 10% of the lot

91049 ft

9443
34 ft
VARIANCE?

8% slope

Average slope here is 2.0-2.5%

Photo from 2003.
Property lines are not exact.



appropriate to carry out the intent of the *Anchorage Wetlands Management Plan* and such other wetlands studies as may be relevant.

iii. **"C" Wetlands**

When approving plats or conditional use permits in wetlands designated "C" under the plan, the platting authority or the planning and zoning commission shall, whenever applicable, include the recommended construction mitigation techniques and conditions and enforceable policies in table 2 of the *Anchorage Wetlands Management Plan*.

b. **Application of Plan to Approved Projects**

Conditional uses and preliminary plats approved prior to March 12, 1996, the date of adoption of the revised *Anchorage Wetlands Management Plan*, shall not have additional conditions imposed upon them as a result of requirements of the plan except as follows:

i. The "A" designation shall apply regardless of prior approvals.

ii. Approved plats or conditional uses in wetlands that are returned to the platting authority or planning and zoning commission for major amendment may be examined for conformity with goals and enforceable policies of the *Anchorage Wetlands Management Plan*.

iii. A new U.S. Corps of Engineers permit is required.

C. Steep Slope Development

1. **Purpose**

The purpose of this subsection 21.07.020C. is to establish standards that help achieve the following objectives for development on steep slopes:

- a. Prevent soil erosion and landslides;
- b. Provide safe circulation of vehicular and pedestrian traffic to and within hillside areas and to provide access for emergency vehicles necessary to serve the hillside areas;
- c. Encourage only minimal grading that relates to the natural contour of the land and discourage mass grading of large pads and excessive terracing;
- d. Encourage building types, grading design, lot sizes, site design, density, arrangement, and spacing of buildings in developments in sloped areas that integrate into the natural terrain with minimal re-contouring, in accordance with adopted goals and policies;
- e. Encourage innovative architectural, landscaping, circulation, and site design;
- f. Encourage the protection of visually significant and/or prominent natural features, such as ridgelines and rock outcroppings;
- g. Incorporate drainage design that does not adversely impact neighboring or nearby properties, downstream properties, receiving waters, and public infrastructure; and

- h. Encourage the retention of natural, indigenous vegetation that provides wildlife habitat, helps retain runoff, and maintains the area's visual character.

2. **Applicability**

Any lot with an average slope of 20 percent or greater, or where adverse conditions associated with slope stability, erosion, or sedimentation are present as determined by the municipal engineer, shall comply with the standards of this subsection 21.07.020C. Lots being subdivided shall comply with chapter 21.08, including subsection 21.08.030H., *Subdivisions on Slopes*, if applicable.

3. **Standards**

Except as allowed in subsection C.4. below, all proposed development subject to this section shall comply with the following standards.

a. **Determination of Original/Natural Grade**

Original/natural grade shall be as defined in chapter 21.14. If there has been previous development on the lot (e.g., gravel extraction), the director shall determine original/natural grade, taking into account the previous development, the existing grade of surrounding lots, the availability of information on pre-development grade, and the feasibility of using pre-development grade.

b. **Slopes Greater than 30 Percent**

That contiguous portion of any lot which is 5,000 square feet or larger with slopes steeper than 30 percent shall remain undisturbed, except as allowed in subsection C.4. below.

c. **Site Disturbance Envelope**

i. There shall be a site disturbance envelope on each applicable lot. Earth disturbance and vegetation clearing shall be limited to the site disturbance envelope. Clearing, grubbing, or grading outside the site disturbance envelope is prohibited except to modify fuels in order to reduce fire risk, or to accommodate utility service connections.

ii. The size of the site disturbance envelope shall be as follows:

(A) Lots less than 40,000 square feet: 60 percent of the lot area maximum.

(B) Lots 40,000 square feet to two acres in area: 20,000 square feet maximum.

(C) Lots over two acres but less than five acres: 30,000 square feet maximum.

(D) Lots five acres or greater: 40,000 square feet maximum.

iii. Areas outside the site disturbance envelope shall not be used for stockpiling materials or excess fill, construction vehicle access, storage of vehicles during construction, or similar uses. Temporary construction fencing shall be installed around the perimeter of the site disturbance envelope, to be removed after the final certificate of zoning compliance is issued.

- iv. The front setback of the lot may be reduced to 10 feet.
 - v. If the average slope of the site disturbance envelope is less than 20 percent, the development is exempt from subsections 3.e., 3.f., 3.g., 3.h., and 3.i.
- d. **Cutting, Grading, and Filling**
- i. Cutting and grading to create benches or pads for buildings or structures shall be limited to within the site disturbance envelope.
 - ii. Cut and fill slopes shall be entirely contained within the site disturbance envelope. The toe of any fill slope not utilizing an engineered retaining structure, and any engineered retaining structure shall be a minimum of 15 feet from any property line, except for the property line abutting the street from which driveway access is taken.
 - iii. Cut and fill slopes shall be designed to provide a natural transition into the existing terrain by feathering and rounding.
- e. **Raising or Lowering of Natural Grade**
The original, natural grade of a lot shall not be raised or lowered more than four feet at any point for construction of any structure or improvement, except:
- i. The site's original grade may be raised or lowered a maximum of six feet if retaining walls are used to reduce the steepness of constructed slopes, provided that the retaining walls comply with the requirements set forth in this subsection.
 - ii. As necessary to construct a driveway from the street to a garage or parking area, grade changes or retaining walls up to six feet may be allowed.
 - iii. For the purposes of this subsection 21.07.020C.3.e., basements and buildings set into a slope are not considered to lower the natural grade within their footprint.
- f. **Retaining Walls**
Retaining walls may be used to maximize the usable area on a lot within the site disturbance envelope. Generally, a retaining wall shall be no higher than six feet, except that a wall varied in height to accommodate a variable slope shall have an average height no greater than six feet and a maximum height no greater than eight feet in any 100-foot length. Parallel retaining walls may be used to overcome steep slopes, provided the following standards are met:
- i. The minimum distance between walls shall be six feet;
 - ii. The maximum allowable slope between walls shall be 3H:1V; and
 - iii. The area between the walls shall be landscaped with trees, shrubs, or both at a rate of 0.5 landscape units per linear foot measured along the length of the lower retaining wall.

A higher wall is permitted:

- i. Where used internally at the split between one- and two-story portions of a building; and
 - ii. Where substantially hidden from public view at the rear of a building, where it may not exceed the eave height of the building.
- g. **Natural Drainage Patterns**
- i. Site design shall not change natural drainage patterns, except as provided below.
 - ii. All grading and drainage shall comply with section 21.07.040, title 23, the *Design Criteria Manual* (current approved edition), and the municipality's *Storm Water Treatment Plan Review Guidance Manual*.
 - iii. Except where otherwise provided in this section, development shall preserve the natural surface drainage pattern unique to each site as a result of topography and vegetation. Grading shall ensure that drainage flows away from all structures. Natural on-site drainage patterns may be modified on site only if the applicant shows that there will be no significant adverse environmental impacts on site or on adjacent properties. If natural drainage patterns are modified, appropriate stabilization techniques shall be employed.
 - iv. Development shall not adversely impact adjacent and surrounding drainage patterns.
- h. **Ground Cover and Revegetation**
- Ground cover and vegetation shall be maintained to control erosion and sedimentation. All areas that are denuded for any purpose shall be revegetated or the soils stabilized to prevent erosion and sedimentation prior to November 1 of the year of construction. No excavation shall be permitted after November 1 or before May 1 except under emergency conditions, as determined by the building official.
- i. **Building Design Standards**
- The purpose of the building design standards is to minimize site disturbance, avoid extreme grading required by large building pads on steep slopes, and reduce the risk of damage from natural hazards.
- i. All buildings and structures shall have a foundation which has been designed by a professional engineer, architect, or other qualified professional.
 - ii. At any given point, the height of the structure shall not exceed 25 feet above the original (natural) grade.
4. **Slopes Greater Than 30 Percent**
- a. **Purpose**
- The requirements of this section are intended to allow consideration of development on slopes up to 50 percent. In order to assure the safety and stability of such development and to reduce offsite impacts, additional submittals are required as described in this subsection. Nothing in this subsection guarantees approval to disturb slopes greater than 30 percent.

- b. **Applicability**
If the site disturbance envelope as defined in C.3.c. above contains slopes over 30 percent, the standards of this section shall apply.
- c. **Slopes Greater Than 50 Percent**
All slopes greater than 50 percent shall remain undisturbed.
- d. **Existing Lots**
Notwithstanding other standards of this section, lots existing on [effective date] that, due to the prevalence and/or distribution of slopes over 50 percent, are not able to meet these standards, are allowed a site disturbance envelope of 20,000 square feet. Within this site disturbance envelope, slopes over 50 percent are allowed to be disturbed.
- e. **Administrative Site Plan Review Required**
Development on slopes greater than 30 percent but not exceeding 50 percent requires an administrative site plan review. In addition to the site plan approval criteria set forth in subsection 21.03.180E., the approval criteria in subsection 4.g. below shall apply.
- f. **Additional Submittal Requirements**
In addition to the submittal requirements for an administrative site plan review, the following information is required:
- i. A geotechnical engineering report, stamped by an engineer licensed in the state of Alaska, to include the following:
- (A) Nature, distribution, strength, and stability of soils; conclusions and recommendations for grading procedures; recommendations for frequency of soil compaction testing, design criteria for corrective measures; and opinions and recommendations covering the adequacy of the site to be developed.
 - (B) Slope stability analysis: conclusions and recommendations concerning the effects on slope stability of excavation and fill, introduction of water (both on and offsite), seismic activity, and erosion.
 - (C) Foundation investigation: conclusions and recommendations concerning the effects of soil conditions on foundation and structural stability, including permeability, bearing capacity, and shear strength of soils.
 - (D) Specific recommendations for cut and fill slope stability, seepage and drainage control, or other design criteria to mitigate geologic hazards, slope failure, and soil erosion.
 - (E) Depth to groundwater in the wettest seasonal conditions, and to bedrock, if less than 15 feet.
 - (F) Complete description of the geology of the site, a complete description of bedrock and subsurface conditions and materials, including artificial fill, soil depth, avalanche and mass wasting hazard areas, fractures, or other significant features.

- (G) A summary of field exploration methods and tests on which the report is based, such as probings, core drillings, borehole photography, or test pits. The project management and engineering department shall confirm that the analysis methods and age of data are a reliable gauge of the site conditions and the potential impacts.
- ii. A site development plan showing the following:
 - (A) Site disturbance envelope as set forth in C.3.c. above.
 - (B) Location of all driveways, and utility lines and installations.
 - (C) Location of all structures.
 - (D) Elevation drawings of all structures.
- iii. Grading and drainage plans that provide the following:
 - (A) Topographic survey of existing conditions depicting at a minimum two foot contour intervals on a legible site map of one inch equaling 50 feet, or better.
 - (B) Proposed grading plan indicating limits of disturbed area, finished grade at minimum two foot contour intervals, proposed elevations of improvements, driveway grading at minimum 10 foot intervals measured on centerline, delineation of cut and fill areas, constructed slopes, proposed drainage features, and related construction.
 - (C) Drainage plans showing approximate locations for all surface and subsurface drainage devices, retaining walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as part of, the proposed work, together with a map showing drainage area, how roof and other impervious surface drainage will be disposed, the complete drainage network, including outfall lines and natural drainage ways which may be affected by the proposed development, and the estimated volume and rate of runoff of the area served by the drains.
 - (D) A plan for erosion control and other specific control practices to be employed on the disturbed area where necessary.
- iv. A revegetation plan that shows:
 - (A) The type, size, location, and grade of vegetation that will be used to complete the development plan and restore areas disturbed during construction, on a scaled plan of one inch equaling 30 feet, or better.
 - (B) Slope stabilization measures to be installed.
- g. **Standards**
The following subsections apply to development under this subsection C.4.:

- i. 21.07.020C.3.c., *Site Disturbance Envelope*;
 - ii. 21.07.020C.3.d., *Cutting, Grading, and Filling*;
 - iii. 21.07.020C.3.g., *Natural Drainage Patterns*;
 - iv. 21.07.020C.3.h., *Ground Cover and Revegetation*; and
 - v. 21.07.020C.3.i., *Building Design Standards*.
- h. **Approval Criteria**
- i. The proposed development minimizes disruption of the natural topography and protects natural features on the site in their natural state to the greatest degree possible.
 - ii. The principal and accessory structures have been sited in such a manner as to protect natural features of the site, minimize grading, preserve the appearance of scenic vistas, and minimize the risk of property damage and personal injury from natural hazards.
 - iii. The design of the structures includes massing, roof lines, exterior materials and colors, and decking that complements the terrain and complies with the building design standards set forth in paragraph C.3.i. above.
 - iv. Proposed landscaping preserves the natural character of the area while minimizing erosion and fire hazard risks to persons and property.
 - v. The drainage design of the development will have no adverse impact on neighboring or nearby properties.
 - vi. Areas not well suited for development due to soil stability characteristics, geology, hydrology limitations, or wastewater disposal, have been avoided.

D. Wildlife Management Corridors

1. Intent

The purpose of this section is to reduce wildlife-human conflicts by managing certain linear stream corridors to minimize adverse human-wildlife interactions and to facilitate more safely the movement of wildlife in those corridors identified in this section. It is not the intent of this section to reduce density that is otherwise allowed.

2. Applicability

This subsection shall apply within 200 feet on either side of the ordinary high water of the following streams: Peters Creek and its tributaries upstream of the Old Glenn Highway, Eagle River, South Fork of Eagle River (below the falls), Ship Creek (upstream from Reeve Blvd.), Campbell Creek (upstream from Lake Otis Parkway), North Fork of Little Campbell Creek (upstream from Elmore Road), Rabbit Creek, Little Rabbit Creek, Indian Creek, Bird Creek, Penguin Creek, California Creek, Glacier Creek, Virgin Creek and Portage Creek.



Steep Slope and Ridgeline Protection

Use this tool with: habitat protection, erosion and sedimentation controls

I. Background and Purpose

There are a number of issues associated with development on steep slopes, hillsides, and ridgelines. Foremost among them are health, safety, and environmental considerations that arise when planning development in steep areas. Another factor is the aesthetic quality of hillsides and ridgelines that can be lost when they are developed. New Hampshire residents and visitors place great value on the state's natural resources. Protecting hillsides and steep slopes from development helps to preserve those unique environmental qualities that people value. Furthermore, development on steep slopes can have an adverse effect on water quality as a result of increased erosion and sedimentation.

This chapter provides information on regulating both steep slopes and ridgelines. While the two subjects are closely related, the regulations for each usually have different emphasis: steep slope regulations are frequently based on environmental considerations such as erosion and sedimentation controls, while ridgeline regulations have more emphasis on view protection. The model ordinance in this chapter contains a section that deals with steep slopes and one that deals with ridgelines.

II. Appropriate Circumstances and Context for Use

Since the beginning of steep slope regulation in the 1950s, there have been a variety of ways to approach the subject. In 1975, the authors of a report called *Performance Standards for Sensitive Lands* reviewed a total of 35 hillside and grading regulations, and found that the regulations could be classified in the following three categories (Thurow et al):

Slope/Density Provisions. These reduce allowable densities on hillsides: the steeper the slope, the less the allowed density.

Soil Overlays. These provisions key development regulations to soil type, based on maps by the Natural Resource Conservation Service.

The Guiding Principles Approach. This approach creates hillside overlay districts to cover all hillside lands in a jurisdiction. A set of guiding principles is applied to all proposed development in these areas. These regulations are usually flexible, allowing for tailoring of development to the characteristics of each site and encouraging innovative approaches to attain the desired end.

These approaches have all become popular because they reduce the negative impacts of hillside development. These impacts include excessive cuts and fills, unattractive slope scars, and erosion and drainage problems. A logical method for addressing these problems is to reduce the intensity of development as the grade of the slope increases. The implication of

linking density limitations with steep slopes is that steeply sloped hillsides are inherently unsuited for development for reasons of public safety, erosion, aesthetics, or general environmental protection. Because this type of regulation does allow for some hillside development, property owners can retain some use of their land. Pairing slope/density regulations with grading regulations helps to ensure that those sites that are developed are done so as safely as possible.

In most cases, large-scale commercial development is discouraged in areas with steep slopes because of the difficulties associated with trying to provide level building and parking areas as well as safe access to the site. Drainage and stormwater runoff can also cause problems. Some commercial activity may be permitted in the steep slope district as long as it would not cause excessive erosion.

When developing regulations to govern development on steep slopes, hillsides, and ridgelines, it is important to collect as much data as possible to form the basis of the ordinance. In a 1996 publication, Robert Olshansky, an expert on hillside development outlined ten topics that should be considered prior to implementing a regulation. These ten topics, which are outlined below, can be used as a framework to build a solid justification for regulating steep slopes, hillsides, and ridgelines.

1. Topography

Before the location and extent of steep slopes in a community can be determined, it is essential that the definition of a steep slope be determined. Many communities define steep slopes as having a grade of 15% or greater, meaning that the elevation increases by 15 feet over a horizontal distance of 100 feet.

2. Slope Stability

When considering slope stability, it is important to consider not only how stable the slope is prior to development, but also what effect the grading necessary for development would have on slope stability. On steep slopes, any change in the equilibrium, whether it is caused by natural phenomena such as heavy rains or earthquakes or human activities, can cause erosion or landslides. Development on very steep slopes disturbs far more than the building footprint: on a 30% slope, 250 feet would have to be graded in order to create a 100-foot wide pad for construction, assuming a maximum 2:1 (50%) steepness of cut and fill as specified in the Uniform Building Code.

3. Drainage and Erosion

Collecting data on drainage and erosion entails identifying major watersheds and drainage courses as well as areas that are prone to flooding. In addition, key facilities and structures downstream of hillside drainageways should be identified. Knowing where the water is likely to drain and what impacts changing existing patterns will have on the entire drainage system can help to prevent damage to buildings and loss of life in the event of a landslide. In

addition, changing drainage patterns and increased sedimentation due to erosion can compromise water quality. All highly erodible soils should be identified.

4. Infrastructure

Extending infrastructure to hilltop communities can be very difficult to engineer and construct, especially for water and sewer systems. Individual septic systems are especially difficult to construct and maintain on steep slopes, both because of the slopes and because the soils tend to be shallow and poorly drained. This makes septic systems on steep slopes prone to higher failure rates, which puts ground and surface water supplies at risk. Failed septic systems often pose a health threat to everyone who relies on water resources in close proximity to a failed system. In New Hampshire, no septic system may be placed on a slope greater than 33%; however, individual municipalities may implement stricter regulations, or develop inspection/maintenance programs. Roads, power lines, and telephone wires are also difficult and expensive to extend up steep slopes, and to maintain after construction.

5. Access

Providing access roads and driveways to development on steep slopes can be especially challenging. The New Hampshire Department of Transportation recommends that driveways for commercial activities do not exceed an 8% grade, and that driveways to residences not exceed 15%. Towns may set a lower threshold if they choose. In order to be safe, roads and driveways on steep areas tend to be longer and have more curves and switchbacks than roads and driveways on flatter terrain. This means that there are more impacts on the hillside, such as increased erosion and runoff, a higher potential for accidents, and difficulty for emergency vehicles to access the development.

6. Aesthetics

In many of the steep slope ordinances reviewed during the preparation of this chapter, preserving a view was cited as one of the purposes for enacting the ordinance. Although this chapter treats steep slope and ridgeline/viewshed regulation separately, there is a good deal of overlap. When citing aesthetic reasons for implementing an ordinance, it is important to carefully document the rationale. This includes evaluating the extent and quality of views to the hills. In addition, it is important to identify any peaks or hillsides of special symbolic value to the community, to survey community values regarding appearance of hillsides and ridgelines, and to prepare maps of significant aesthetic resources. Taking photographs of the most important resources is another valuable tool that can be used, especially to convince the community that the ordinance is needed.

One method for cataloging visual resources is to use the Visual Resource Management strategy developed by the United States Bureau of Land

Management (BLM) for use on public lands (BLM Manual H-8410-1). This system analyzes the quality of the view, the sensitivity of the resource, and the impacts that development would have at different distances. This comprehensive approach allows resources to be ranked in the context of their surroundings. Individual communities may not want or need to go into the amount of detail described in the BLM manual. However, the process outlined in the manual does provide a good framework that communities can use to build their own natural resource inventories.

7. Natural Qualities

Documenting natural qualities or resources includes identifying and mapping vegetation communities and wildlife habitats, and identifying threats to these resources. Special attention should be paid to rare and endangered plant and animal species. Because of the difficulties associated with steep slope development, hillsides tend to be developed after development has occurred on flatter areas. Wildlife species often take refuge on undeveloped hillsides, even if it is not their native habitat, because their preferred habitats have been overtaken by development.

8. Fire Hazard

Fire can break out in many parts of New Hampshire, especially in the White Mountain National Forest. Since it is more difficult to control fires on hillsides than on flat areas, it is important to evaluate the frequency and causes of hillside wildfires, identify fuel reduction methods, and identify architectural and landscaping factors in fire safety. Attention must be paid to response times and access requirements for fire departments, as well as the evaluation of the tradeoffs between natural habitat preservation and fire hazards.

9. Recreational Values

Hills and mountains provide many popular and important recreational opportunities, including hiking, hunting, climbing, wildlife observation, and skiing. When developing ordinances, consideration of areawide needs and opportunities for wildland recreation as well as identification of possible trail and viewpoint locations are important factors. Locating possible access points to existing and potential recreational opportunities is also important.

10. Open Space

Providing open spaces can be a key component of hillside/steep slope regulations. Possible mechanisms for open space management include creating greenways, wildlife habitat preservation areas, and conservation areas.

III. Legal Basis and Considerations for New Hampshire

In New Hampshire, regulating development on steep slopes is authorized under RSA 674:16, the zoning Grant of Power, RSA 674:21, Innovative Land Use Controls, and 674:21, I (j), Environmental Characteristics Zoning. Although steep slopes and ridgelines are not

specifically named in the RSA, they are generally considered to be environmental characteristics and are frequently found as overlay districts similar to wetland protection. According to the New Hampshire Office of Energy and Planning, there were 27 municipalities in the state that had steep slopes regulations as of January 2006. In addition to regulating steep slopes and ridgelines through zoning, some communities include site-specific standards in their subdivision and site plan regulations.

Master Plan

Communities interested in regulating development on steep slopes, hillsides, and ridgelines should address the subject in the natural resource or land use chapters of their master plans. In developing the plan, it will be helpful to study maps of various slope categories. Using the ten-point framework outlined in Section II, a strong case can be built for protecting steep slopes: If watershed protection is a high priority, then communities should survey their resources using either the Visual Resource Management strategy developed by the United States Bureau of Land Management, or another, similar tool.

IV. Examples and Outcome of where Technique has been Applied

In the United States, the earliest known example of steep slope regulations was in Los Angeles, California in the early 1950s, when grading regulations were first implemented. These regulations were designed to protect lives and property from unengineered development of hillsides (Olshansky 1995). This type of ordinance has been very successful at addressing engineering problems on hillside developments.

In December 2005, the Lakes Region Planning Commission published *Regulating Development on Steep Slopes, Hillsides, and Ridgelines*, a comprehensive look at the history and rationale behind steep slope regulation, along with several case studies from the state of New Hampshire as well as a few examples from other states. Excerpts from some of the case studies are included below.

Lyme, New Hampshire

The Lyme zoning ordinance has both a Steep Slopes Conservation District and a Ridgeline and Hillside Conservation District. The Steep Slopes Conservation District is defined as all areas where there is an elevation change of 20 feet or greater and the average slope is 20% or greater. The Ridgeline and Hillside Conservation is defined as those ridgeline and hillside areas which are visible from public waters or public roads located within the Town at a distance on the USGS topographic map of 1/2 or more miles (measured in a straight line distance from the proposed area of development).

According to the town planner, the Steep Slopes Conservation District works smoothly for the most part. There are occasional difficulties associated with determining where the district should be applied, which are solved with a site visit. The town has faced some challenges in defining exactly what land falls in the Ridgeline and Hillside Conservation District. The town is working on a map that will show where the district falls.

Sanbornton, New Hampshire

The minimum lot size in the steep slopes conservation district is six acres. However, the planning board can waive that requirement if at least 50% of the lot has a slope of less than 15% and there is at least one contiguous area of 40,000 square feet that has a slope of 15% or less. According to the town planner, this regulation has been in place for several years, and people who plan to subdivide land in the steep slope conservation district are accustomed to the regulations and therefore bring the proposed subdivision plans with lots drawn in accordance with the ordinance.

North Carolina Mountain Ridge Protection Act

Steep slope and hillside regulations are mostly found at the local level as part of either the zoning ordinance or subdivision regulations. One exception to this trend is the North Carolina Mountain Ridge Protection Act of 1983 (NC G.S. 113A-205-214). This state law restricts development on mountain ridges that have elevations of 3,000 feet and higher. As the basis for enacting the law, the North Carolina State Legislature found that:

The construction of tall or major buildings and structures on the ridges and higher elevations of North Carolina's mountains in an inappropriate or badly designed manner can cause unusual problems and hazards to the residents of and to visitors to the mountains. Supplying water to, and disposing of the sewage from, buildings at high elevations with significant numbers of residents may infringe on the ground water rights and endanger the health of those persons living at lower elevations. Providing fire protection may be difficult given the lack of water supply and pressure and the possibility that fire will be fanned by high winds. Extremes of weather can endanger buildings, structures, vehicles, and persons. Tall or major buildings and structures located on ridges are a hazard to air navigation and persons on the ground and detract from the natural beauty of the mountains.

According to a report from the Land-of-Sky Regional Council in North Carolina, this law has been mostly effective in controlling development on mountain ridges. However, many mountain communities in the state are currently searching for ways to protect land at lower elevations from development as well (Houck 2005).

V. Model Language, Illustrations, and Guidance for Implementation

This model ordinance contains two sections: Steep Slopes Protection and a Visual Resource Protection District. Steep Slopes Conservation should be adopted as a component of the zoning ordinance that applies in all districts. The Visual Resource Protection District is an overlay district where the boundaries are determined through a visual resource inventory process.

Statutory Authorization

A. RSA Title LXIV, Chapters 674:16, Grant of Power

- B. 674:21, Innovative Land Use Controls
- C. 674:21 (j), Environmental Characteristics Zoning
- D. 673:16, II; 676:4, I(g); and 674:44, V collectively authorize Planning Boards to collect fees from applicants to cover the costs of hiring outside experts to review subdivision applications and site plans.

A. Steep Slopes

Title: Steep Slopes Protection

Section 1: Purpose

The purpose of this ordinance is to reduce damage to streams and lakes from the consequences of excessive and improper construction, erosion, stormwater runoff, or effluent from improperly sited sewage disposal systems, and to preserve the natural topography, drainage patterns, vegetative cover, scenic views, wildlife habitats, and to protect unique natural areas.

Section 2: Delineation

This ordinance shall apply to all areas with a slope greater than 15%, as shown on the town's steep slopes map, and where the proposed site disturbance is greater than one acre.

Section 3: Definitions

- Erosion:** The wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities.
- Sedimentation:** The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse or wetland.
- Site Disturbance:** Any activity which removes the vegetative cover from the land surface.
- Slope:** The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees; rise over run.
- Vegetative cover:** Grasses, shrubs, trees, and other vegetation which hold and stabilize soils.

Section 4: Application Requirements

- A. Uses that will cause more than one acre of site disturbance must show the area subject to site disturbance in 2-foot contours.
- B. An engineering plan will be prepared by a Professional Engineer that shows specific methods that will be used to control soil erosion and sedimentation, soil loss, and excessive stormwater runoff, both during and after construction.

This draft is a chapter of *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*, expected publication date January 2007, prepared as part of the Regional Environmental Planning Program by the NH Department of Environmental Services, the NH Association of Regional Planning Commissions, the NH Office of Energy and Planning, and the NH Local Government Center. All ordinances and regulations proposed for local adoption should be carefully reviewed by local officials and legal counsel.

- C. A hydrology, drainage, and flooding analysis will be included that shows the effect of the proposed development on water bodies and/or wetlands in the vicinity of the project.
- D. A grading plan for the construction site and all access routes will be prepared.

Section 5: Performance Standards

All uses permitted in the underlying district will be a conditional use in the Steep Slope Conservation District and must meet the following conditions for approval:

- A. The grading cut and fill should not exceed a 2:1 ratio.
- B. Existing natural and topographic features, including the vegetative cover, will be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site shall be replanted with indigenous vegetation and shall replicate the original vegetation as much as possible.
- C. No section of any driveway may exceed a 10% slope for residential subdivisions or 8% slope for nonresidential site plans.
- D. No structure shall be built on an extremely steep slope (greater than 25% prior to site disturbance).

Section 6: Administration of conditional use permits

In addition to meeting the conditions set forth in this section, Conditional Use Permits shall be granted in accordance with the following pertinent procedures:

- A. A Conditional Use Permit shall be granted by the Planning Board upon a finding that the proposed use is consistent with the intent of the Ordinance and following receipt of a review and recommendation of the Conservation Commission and any other professional expertise deemed necessary by the Board.
- B. The applicant must demonstrate that no alternatives are available for the productive use of areas outside of the steep slopes district, that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have upon the District.

Section 7: Costs

All costs pertaining to the consideration of an application, including consultants fees, on-site inspections, environmental impact studies, notification of interested persons, and other costs shall be borne by the applicant and paid prior to the Planning Board's final action.

B. Ridgelines/Hillsides/Viewshed Protection

Title: Visual Resource Protection District

Section 1: Purpose

The purpose of the Visual Resource Protection district is to protect the scenic and ecological resources associated with lands characterized by high elevations, steep slopes, and visual sensitivity in a manner that allows for carefully designed, low-impact development.

Section 2: Delineation:

The Visual Resource Protection District is an overlay district that will be defined by a visual resource inventory dated _____. The results of the visual resource strategy will be shown on the Visual Resource Map, which is hereby incorporated into this ordinance.

NOTE: Each community will have unique visual resources. It is the responsibility of the community implementing this ordinance to complete and document a comprehensive visual resource inventory. A manual detailing the Bureau of Land Management's Visual Resource Management Strategy is available online: <http://www.blm.gov/nstc/VRM/8410.html#Anchor-49575>

Section 3: Definitions

Design Guidelines: A set of guidelines defining parameters to be followed in a site or building design or development.

Site Disturbance: Any activity which removes the vegetative cover from the land surface.

Visual Impact: A modification or change that could be incompatible with the scale, form, texture or color of the existing natural or man-made landscapes.

Visual Resource Map: The map depicting the visually sensitive areas, as determined by the visual resource inventory.

Visual Resource Inventory: A system for minimizing the visual impacts of surface-disturbing activities and maintaining scenic values. The inventory consists of a scenic quality evaluation, sensitivity level analysis, and a delineation of distance zones.

Section 4: Application Requirements

- A. Uses that will cause more than one acre of site disturbance must show the buildable area in 2-foot contours.
- B. An engineering plan will be prepared by a Professional Engineer that shows specific methods that will be used to control soil erosion and sedimentation, soil loss, and excessive stormwater runoff, both during and after construction.
- C. A hydrology, drainage, and flooding analysis will be included that shows the effect of the proposed development on water bodies and/or wetlands in the vicinity of the project.

This draft is a chapter of *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*, expected publication date January 2007, prepared as part of the Regional Environmental Planning Program by the NH Department of Environmental Services, the NH Association of Regional Planning Commissions, the NH Office of Energy and Planning, and the NH Local Government Center. All ordinances and regulations proposed for local adoption should be carefully reviewed by local officials and legal counsel.

- D. A grading plan for the construction site and all access routes will be prepared.
- E. Architectural plans and renderings clearly depicting all proposed structures to scale and their location on the site in relation to the physical and natural features of the parcel, including the proposed grade of the building area and finished floor elevations. Drawings should clearly display building elevation and architectural design, including building materials, exterior colors and window fenestration. All structures proposed, including outbuildings and garages are to be shown.
- F. A landscaping plan showing existing vegetation and proposed landscaping and clearing plans showing proposed type, size, and location of all vegetation to be preserved and/or installed, along with other landscaping elements such as gazebos, berms, fences, walls, etc. Special attention should be given to existing/proposed vegetation adjacent to buildings for visibility and screening purposes. A species list of existing vegetation and a plan for maintenance of the existing and proposed landscape should be included. Such a plan shall address specific measures to be taken to ensure the protection and survival, and if necessary, replacement of designated trees during and after the construction and/or installation of site improvements.

Section 5: Administration of Conditional Use Permits

Conditional Use Permits shall include the findings of an architectural review in accordance with the following pertinent procedures:

- A. A Conditional Use Permit shall be granted by the Planning Board upon a finding that the proposed use is consistent with the intent of the Ordinance and following receipt of a review and recommendation of the Conservation Commission and any other professional expertise deemed necessary by the Board, such as a licensed architect.
- B. The applicant must demonstrate that no alternatives are available for the productive use of areas outside of the District, that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have upon the District.

Section 6: Design Guidelines

In order to reduce the visual impact of development in the Visual Resource Protection District, all proposed structures shall meet the following design guidelines:

- A. Building Envelope: The building envelope permitted in this district is a rectangle with an up-slope boundary 40 feet or less from the building, side boundaries 40 feet or less from each side of the building, and a down-slope boundary 25 feet or less from the building. Accessory structures shall be built within the building envelope. Building envelopes shall be at least 30 feet from property lines.

Graphic: Building Envelop

- B. Clearing for views: In order to develop a view, trees may be removed beyond the building envelope for a width of clear cutting not to exceed 25 feet and extending outward therefrom at an angle of 45 degrees or less on both sides. The 25 foot opening may be at any point along the down-slope boundary.

Graphic: Clearing for Views

- C. Natural/neutral colors will be used.
- D. Reflective glass will be minimized.
- E. Only low level, indirect lighting shall be used. Spot lights and floodlights are prohibited.
- F. No portion of any structure shall extend above the elevation of the ridgeline.
- G. Structures shall use natural landforms and existing vegetation to screen them from view from public roads and waterways to the extent practicable.
- H. Cuts and fills are minimized, and where practical, driveways are screened from public view.
- I. Building sites and roadways shall be located to preserve trees and tree stands.

Section 7: Costs

All costs pertaining to the consideration of an application, including consultants fees, on-site inspections, environmental impact studies, notification of interested persons, and other costs shall be borne by the applicant and paid prior to the Planning Board's final action.

VI. References

Bureau of Land Management. Manual H-8410-1 - Visual Resource Inventory. Washington, DC: U.S. Department of the Interior, Bureau of Land Management
www.blm.gov/nstc/VRM/8410.html#Anchor-49575

This manual provides a process for inventorying and prioritizing important visual resources. This, or another methodology, should always be employed when a community is contemplating a visual resource protection district.

Lakes Region Planning Commission. *Regulating Development on Steep Slopes, Hillsides, and Ridgelines*. December 2005. www.lakesrpc.org/steep%20slopes%20final.pdf

The report explores the historical importance of steep slope regulation, outlines key development issues, and provides a variety of case studies designed to address safety, aesthetics, preservation of wildlife habitat, water quality protection and more.

Olshansky, Robert. "Planning for Hillside Development" in *Environment & Development*, American Planning Association, September/October 1995

A short article that introduces the themes found in the 1996 PAS report of the same name.

Olshansky, Robert. *Planning for Hillside Development: Planning Advisory Service Report No. 466*, American Planning Association, Chicago, 1996.

A comprehensive study, building on the themes published in the 1995 article that discusses in depth the history and challenges of regulating hillside and steep slope development. The PAS report also provides excerpts from several of the ordinances and regulations reviewed for the study.

Thurrow et al. *Performance Standards for Sensitive Lands*, Planning Advisory Service Nos. 307/308, American Planning Association, 1975

This report was one of the first comprehensive looks at steep slope regulations.

Zoning Ordinances Reviewed:

Links to all of the New Hampshire ordinances listed here are available online from the Steep Slope Protection section of the New Hampshire Office of Energy and Planning Reference Library, nh.gov/oep/resourcelibrary/referencelibrary/s/steepslopeprotection/index.htm

Town of Antrim, NH

Town of Bath, NH

Town of Dublin, NH

Town of Enfield, NH

Town of Frankestown, NH

Town of Hancock, NH

Town of Harrisville, NH

Town of Loudon, NH

Town of Lyme, NH

Town of New Ipswich, NH

Town of New London, NH
Town of Newbury, NH
Town of Northwood, NH
Town of Roxbury, NH
Town of Sanbornton, NH
Town of Sandwich, NH
Town of South Hampton, NH

Town of Stowe, Vt

www.townofstowevt.org/images/photos/stowe_regs_8-29-05.pdf

City of Park City, UT,

www.parkcity.org/government/codesandpolicies/title_15_c_2_21.html

City of San Rafael, CA

ordlink.com/codes/sanraf/ DATA/TITLE14/Chapter_14_12_HILLSIDEDEVELOP.html

Town of Cortlandt, NY

law.wustl.edu/landuselaw/ssprotection.htm

Sonoma County, CA :

municipalcodes.lexisnexis.com/codes/sonomaco (Article 26, Section 64)

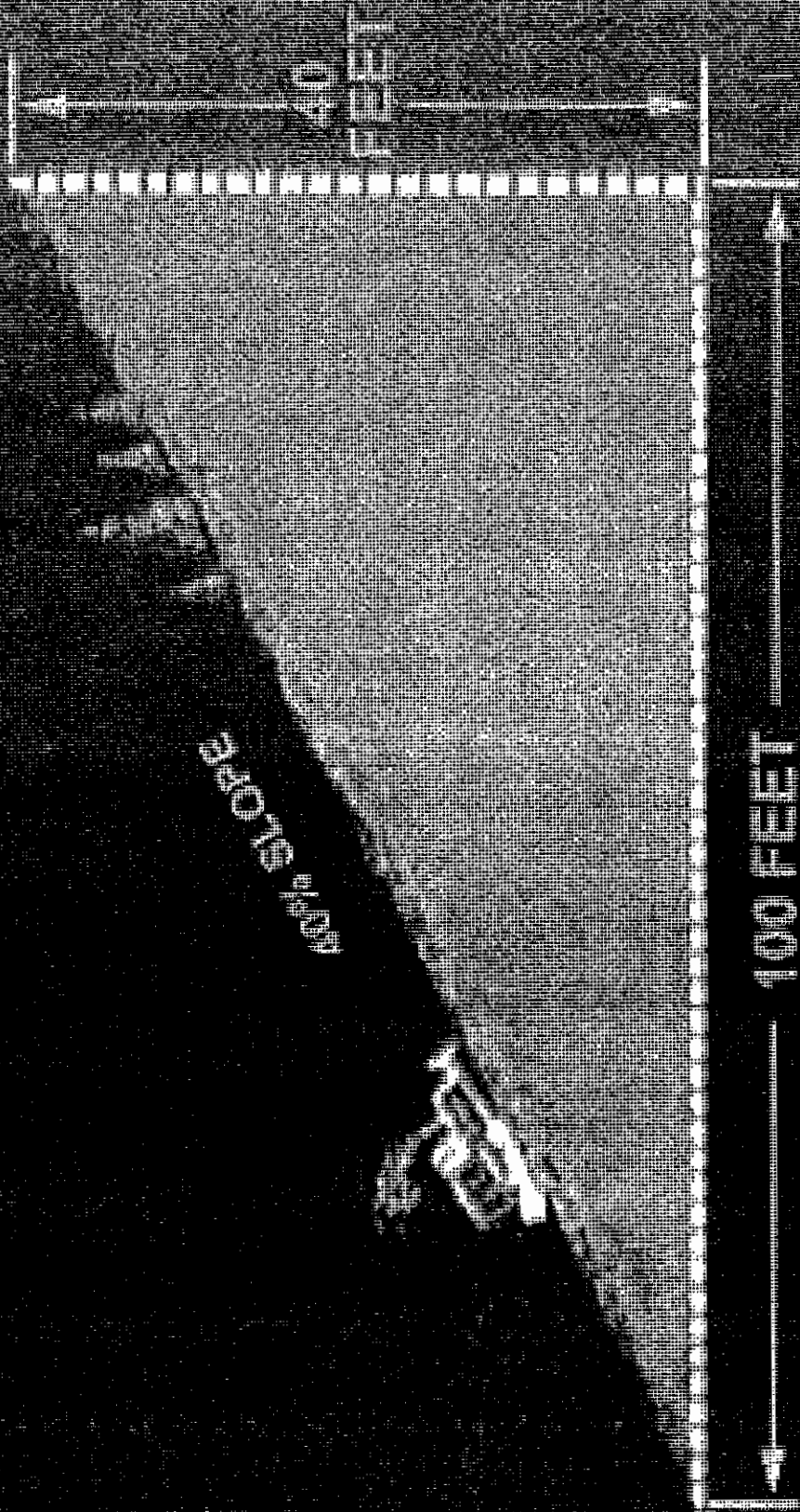
Model Steep Slope Ordinance, Ten Towns Committee, New Jersey

www.tentowns.org/10t/ordsteep.htm

North Carolina Mountain Ridge Protection Act of July 1983

www.cals.ncsu.edu/wq/lpn/statutes/nc/mountainridgeprotection.htm







There was discussion that the vegetation information that is marked out will be addressed. It needs more study to determine where it will be added back in.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Chair Minsch called for a motion to adjourn.

KRANICH SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

NEW BUSINESS

INFORMATIONAL MATERIALS

- A. City Manager's Report
- B. Letter dated July 27, 2010 to property or business owners, from Dotti Harness-Foster regarding spit signage.

COMMENTS OF THE AUDIENCE

Members of the audience may address the Commission on any subject. (3 minute time limit)

There were no audience comments.

COMMENTS OF STAFF

There were no comments from staff.

COMMENTS OF THE COMMISSION

There were no comments from the commission.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 8:31 p.m. The next regular meeting is scheduled for August 18, 2010 at 7:00 p.m. in the City Hall Cowles Council Chambers. There is a worksession at 5:30 p.m. prior to the meeting.

Melissa Jacobsen, CMC, Deputy City Clerk

Approved: _____

REPORTS

A. Staff Report PL 10-70, City Planner's Report

City Planner Abboud reviewed his report.

PUBLIC HEARINGS

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

No public hearings were scheduled.

PLAT CONSIDERATION

No plats were scheduled for consideration.

PENDING BUSINESS

A. Staff Report PL 10-58, Draft Spit Comprehensive Plan

Chair Minsch stated that the Commission completed the review of the first draft and have given their input to staff to bring back the amended draft.

KRANICH/SINN MOVED TO POSTPONE UNTIL THE NEXT MEETING.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Staff Report PL 10-57, Draft Steep Slope Ordinance

The Commission continued their worksession discussion of the draft steep slope ordinance. They recommended the following changes allowing staff to take care of appropriate wording and requested the draft come back after City Attorney review.

MINSCH/KRANICH MOVED TO AMEND THE STEEP SLOPE ORDINANCE AS FOLLOWS:

- DEALING WITH SLOPES AT 15 TO 30% GRADE ALLOWING 25% LOT COVERAGE, 25% LOT DEVELOPMENT. DEVELOPMENT OVER 25% REQUIRES ENGINEER REPORT AND PUBLIC WORKS APPROVAL.
- STAFF WILL MAKE APPROPRIATE ADJUSTMENTS IN THE LEVEL 1 AND LEVEL 2 SECTIONS.
- STAFF WILL CRAFT THE APPROPRIATE DEFINITION.
- LOTS WITH 30 TO 45% SLOPE ARE STILL ALLOWED 10% LOT DEVELOPMENT OVER 10% LOT DEVELOPMENT REQUIRES AN ENGINEER AND PUBLIC WORKS APPROVAL.
- LOTS WITH OVER 45% SLOPE REQUIRE ENGINEERING AND PUBLIC WORKS APPROVAL FOR ANY DEVELOPMENT.



City of Homer Planning & Zoning

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Web Site www.ci.homer.ak.us

STAFF REPORT PL 10-57

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen
MEETING: July 21, 2010
SUBJECT: Draft Steep Slope Ordinance

GENERAL INFORMATION

Staff submitted the ordinance to the attorney for one last review prior to public hearing. Staff and Commission comments and questions led the attorney to reorganize the ordinance. Therefore, there are two attached documents. The first is the 'clean copy' or final copy of the draft ordinance. If you are curious about how the changes came about and what they are, see the second document that shows the changes.

STAFF COMMENTS/RECOMMENDATIONS:

The Commission scheduled the dirt work ordinance for public hearing on September 1st and 15th. Staff recommends the Commission schedule this ordinance for hearings on those dates.

Once the Commission accepts this draft ordinance as ready for public review, staff will conduct public outreach as has already been discussed.

ATTACHMENTS

1. Draft ordinance "clean copy"
2. Draft ordinance, track changes version



Clean Copy 6/2010

CITY OF HOMER HOMER, ALASKA

Planning

ORDINANCE 10-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 21.03.040, DEFINITIONS, 21.05.040, MEASURING SLOPES, HOMER CITY CODE 21.50.020, SITE DEVELOPMENT STANDARDS – LEVEL ONE, AND HOMER CITY CODE 21.50.030, SITE DEVELOPMENT STANDARDS – LEVEL TWO; AND ENACTING HOMER CITY CODE CHAPTER 21.44, STEEP SLOPES; REGARDING THE REGULATION OF DEVELOPMENT ACTIVITY ON SITES AFFECTED BY STEEP SLOPES.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.03.040, Definitions used in zoning code, is hereby amended by adding the following definitions:

“*Bluff*” means an abrupt elevation change in topography of at least 15 feet, with an average slope of not less than 200% (two feet difference in elevation per one foot of horizontal distance).

“*Coastal bluff*” means a bluff whose toe is within 300 feet of the mean high water line of Kachemak Bay.

“*Ravine*” means a long, deep hollow in the earth’s surface with walls that have a height of at least 15 feet and an average slope of not less than 500% (five feet difference in elevation per one foot of horizontal distance).

“*Slope*” means with respect to two points on the surface of the ground, the ratio, expressed as a percentage, of the difference between their elevations divided by the horizontal distance between them. Slope is measured as provided in HCC 21.05.040.

“*Steep slope*” means an elevation change in topography of at least 15 feet, with an average slope of not less than 50% (one foot difference in elevation per two feet of horizontal distance). A steep slope can occur naturally or can be created by excavation into or filling over natural ground.

Section 2. Homer City Code 21.05.040, Measuring slopes, is amended to read as follows:

[Bold and underlined added. Deleted language stricken through.]

21.05.040 Measuring slopes. The slope between two points on the surface of the ground is measured by calculating the vertical change in elevation (H) over the horizontal run (L) between them and multiplying this decimal result by 100 to determine percent (%) slope. Percent Slope = (H/L)x100. When calculating the slope of a lot, an average slope is used based on the elevations at the corners of the lot. The average slope of a lot, expressed as a percentage, is calculated by subtracting the average elevation of the uphill lot line and the average elevation of the downhill lot line and dividing the sum by the average distance between the two lot lines. The average elevation of the uphill or downhill lot line is calculated by adding the elevations at the ends of the lot line and dividing by two. See Figure 1.

Section 3. Homer City Code Chapter 21.44 Steep Slopes is hereby amended to read as follows:

CHAPTER 21.44

STEEP SLOPES

21.44.010	Purpose and intent
21.44.020	Applicability
21.44.030	Steep slope development standards
21.44.040	Setbacks for development activity
21.44.050	Site plan for conditional use

21.44.010 Purpose and intent. This chapter regulates development activity and structures in areas affected by steep slopes, bluffs, coastal bluffs and ravines, and provides the means for additional review and protection to encourage safe and orderly growth to promote the health, welfare and safety of Homer residents.

21.44.020 Applicability. a. This chapter applies to all development activity that disturbs the existing land surface, including without limitation clearing, grading, excavating and filling in areas that are subject to any of the following conditions:

1. Steep slopes, bluffs, coastal bluffs and ravines;
2. Located within forty (40) feet of the top or within fifteen (15) feet of the toe of a steep slope, bluff, coastal bluff or ravine; and
3. Any other location where the City Engineer determines that adverse conditions associated with slope stability, erosion or sedimentation are present.

b. This chapter imposes regulations and standards in addition to the requirements of the underlying zoning district(s).

21.44.030 Steep slope development standards. The following standards apply to all development activity on a site described in HCC 21.44.020.

[Bold and underlined added. Deleted language stricken through.]

a. No development activity, including clearing and grading, may occur before the issuance of a zoning permit under HCC Chapter 21.70.

b. Subject to HCC 21.44.040, all development activity is subject to the following setback requirements.

1. No structure may be closer to the top of a ravine or non-coastal bluff than the lesser of:

- i. 40 feet; or
- ii. 1/3 of the height of the bluff, but not less than 15 feet.

2. No structure may be closer than 15 feet to the toe of a bluff other than a coastal bluff.

3. No structure may be closer than 40 feet to the top of a coastal bluff and closer than 15 feet to the toe of a coastal bluff.

c. The site design and development activity shall not restrict natural drainage patterns, except as provided in this subsection.

1. To the maximum extent feasible, the natural surface drainage patterns unique to the topography and vegetation of the site shall be preserved. Natural surface drainage patterns may be modified only pursuant to the site plan approved under 21.44.040, and upon a showing that there will be no significant adverse environmental impacts on the site or on adjacent properties. If natural drainage patterns are modified, appropriate soil stabilization techniques shall be employed.

2. The site shall be graded as necessary to ensure that drainage flows away from all structures for a distance of at least 10 feet, especially where building pads are cut into hillsides.

3. The development activity shall not cause an adverse effect on adjacent land and surrounding drainage patterns.

d. Erosion control.

1. Erosion control methods approved by the City Planner and City Engineer, including without limitation sediment traps, small dams and barriers, shall be used during construction and site development to protect water quality, control soil erosion and control the velocity of runoff.

2. Winter Erosion Control Blankets. If development on a slope is not stabilized by October 15, erosion control blankets (or a product with equivalent performance characteristics) must be installed upon completion of the seasonal work, but no later than October 15. The erosion control blankets shall remain in place until at least the following May 1.

21.44.040 Exceptions to setback requirements. a. Any of the following may be located within a required setback:

1. A deck extending no more than five feet into the required setback.
2. An unoccupied accessory structure having a building area not greater than 200 square feet that is no closer than 15 feet to the top of any bluff or ravine.

[Bold and underlined added. Deleted language stricken through.]

3. A boardwalk, sidewalk, foot path or stairway that provides access to a beach, bluff or accessory structure, and that is located at or within three feet above ground level.

4. Development activity that the City Planner determines is reasonably intended to stabilize an eroding coastal bluff.

b. No structure other than a structure described in (a) of this section may be located in a required setback without a conditional use permit issued in accordance with HCC Chapter 21.71 and HCC 21.44.050.

21.44.050. Site plan requirements for steep slope development conditional use permit. a. No conditional use permit for development activity under HCC 21.44.040(b) may be approved unless the City Engineer approves a site plan for the development activity that conforms to the requirements of this section. The City Engineer shall accept or reject the plan as submitted or may require that specific conditions be complied with in order for the plan to meet approval.

b. The site plan shall be prepared by a qualified geotechnical engineer licensed to practice in the state of Alaska and shall include the following information.

1. The location of all watercourses, water bodies, and wetlands within 100 feet of the location of the proposed development activity.

2. The location of all existing and proposed drainage structures and patterns.

3. Site topography shown by contours with a maximum vertical interval of five feet.

4. The location of all proposed and existing buildings, utilities (including onsite well and septic facilities), driveways and streets.

5. The location of all existing vegetation types including meadow, forest and scrub lands, identifying all areas of vegetation that will be removed as well as vegetation to be preserved or replaced. Specifications for revegetation shall also be included.

6. Specific methods that will be used to control soil erosion, sedimentation, and excessive storm water runoff both during and after construction.

7. A description of the stability of the existing soils on site and a narrative and other detail sufficient to demonstrate the appropriateness of the development and construction methods proposed.

8. A grading plan for all areas that will be disturbed by the development activity.

9. A [slope stability analysis] including the following:

i. Summary of all subsurface exploration data, including subsurface soil profile, exploration logs, laboratory or *in situ* test results, and ground water information;

ii. Interpretation and analysis of the subsurface data;

iii. Summary of seismic concerns and recommended mitigation;

[iv. A slope stability analysis]

iv. Specific engineering recommendations for design;

v. Discussion of conditions for solution of anticipated problems;

vi. Recommended geotechnical special provisions;

[Bold and underlined added. Deleted language stricken through.]

vii. An opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes.

10. Conformance to the site development standards of HCC 21.44.030.

Section 4. Homer City Code 21.50.020, Site development standards – level one, is amended to read as follows:

This section establishes level one site development standards. Level one site development standards apply in all zoning districts, unless otherwise provided by another provision of the zoning code.

a. Slopes. All development on **a site affected by a steep slope, bluff, coastal bluff or ravine, as described in HCC 21.44.020, shall be subject to the requirements of HCC Chapter 21.44 in addition to the requirements of this section** ~~lots with slopes of 15 percent more is subject to the following standards:~~

1. ~~For lots with slopes of 15 to 30 percent, the area used for development shall not exceed 25 percent of the lot. If the development site includes more than one lot, a conditional use permit is required.~~

2. ~~For lots with slopes of greater than 30 percent, the area used for development shall not exceed ten percent of the lot. If the development site includes more than one lot, a conditional use permit is required.~~

3. ~~Vegetation shall remain undisturbed except as necessary to construct improvements and to eliminate hazardous conditions, in which case it must be replanted with approved materials including ground cover, shrubs and trees. Native vegetation is preferred for replanting operations, and will be used where practicable.~~

4. ~~Grading shall not alter the natural contours of the terrain except as necessary for building sites or to correct unsafe conditions. The locations of buildings and roads shall be planned to follow and conform to existing contours as nearly as possible.~~

b. Drainage. All development activity on lands shall conform to the following:

1. Development shall provide a drainage system that is designed to deposit all runoff into either an engineered drainage system or into a natural drainage.

2. Where open-ditch construction is used to handle drainage within the development, a minimum of 15 feet shall be provided between any structures and the top of the bank of the defined channel of the drainage ditch.

3. When a closed system is used to handle drainage within the development, all structures shall be a minimum of ten feet from the closed system.

c. Landscaping Requirements. All development activity on lands shall conform to the following:

1. Development activities shall not adversely impact other properties by causing damaging alteration of surface water drainage, surface water ponding, slope failure, erosion, siltation, intentional or inadvertent fill or root damage to neighboring trees, or other

[Bold and underlined added. Deleted language stricken through.]

damaging physical impacts. The property owner and developer shall take such steps, including installation of culverts or buffers, or other methods, as necessary to comply with this requirement.

2. Upon completion of earthwork, all exposed slopes and all cleared, filled, and disturbed soils shall be protected against subsequent erosion by methods such as, but limited to, landscaping, planting, and maintenance of vegetative cover.

3. All exposed, cleared, filled and disturbed soils shall be revegetated within 16 months following the initiation of earthwork. Natural revegetation is acceptable if the site naturally revegetates within that 16 month period. If natural revegetation is not successful within that 16 month period, the property owner and developer shall revegetate by other means no later than the end of that 16 month period.

4. Drainage can be stabilized by other means than vegetation, if approved in writing by the City Engineer.

Section 5. Subsection (b) of Homer City Code 21.50.030, Site development standards – level two, is amended to read as follows:

b. Slopes. All development on a site affected by a steep slope, bluff, coastal bluff or ravine, as described in HCC 21.44.020, shall be subject to the requirements of HCC Chapter 21.44 in addition to the requirements of this section ~~lots with slopes of 20 percent or more shall be subject to the following standards:~~

~~1. For lots with slopes of 20 percent to 30 percent, the area used for development shall not exceed 25 percent of the lot. If the development site includes more than one lot, a conditional use permit is required.~~

~~2. For lots with slopes greater than 30 percent, the area used for development shall not exceed ten percent of the lot. If the development site includes more than one lot, a conditional use permit is required.~~

~~3. Vegetation shall remain undisturbed except as necessary to construct improvements and to eliminate hazardous conditions, unless replanted with as much native vegetation as practicable including ground cover, shrubs and trees.~~

~~4. Grading shall not alter the natural contours of the terrain except as necessary for building sites or to correct unsafe conditions. The locations of buildings and roads shall be planned to follow and conform to existing contours as nearly as possible.~~

Section 6. This ordinance shall be effective upon adoption, except that land development plans that received final approval prior to the effective date of this ordinance shall not be subject to the amendments in this ordinance.

Section 7. This Ordinance is of a permanent and general character and shall be included in the City Code.

[**Bold and underlined added.** Deleted language stricken through.]

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
_____ 2010.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager

Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

[**Bold and underlined added.** Deleted language stricken through.]



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TRACK CHANGES VERSION 6/2010

CITY OF HOMER
HOMER, ALASKA

Planning

ORDINANCE 10-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 21.03.040, DEFINITIONS, 21.05.040, MEASURING SLOPES, HOMER CITY CODE 21.50.020, SITE DEVELOPMENT STANDARDS – LEVEL ONE, AND HOMER CITY CODE 21.50.030, SITE DEVELOPMENT STANDARDS – LEVEL TWO; AND ENACTING HOMER CITY CODE CHAPTER 21.44, STEEP SLOPES; REGARDING THE REGULATION OF DEVELOPMENT ACTIVITY ON SITES AFFECTED BY STEEP SLOPES.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.03.040, Definitions used in zoning code, is hereby amended by adding the following definitions:

“*Bluff*” means an abrupt elevation change in topography of at least 15 feet, with an average slope of not less than 200% (two feet difference in elevation per one foot of horizontal distance).

“*Coastal bluff*” means a bluff whose toe is within 300 feet of the mean high water line of Kachemak Bay.

“*Ravine*” means a long, deep hollow in the earth’s surface with walls that have a height of at least 15 feet and an average slope of not less than 500% (five feet difference in elevation per one foot of horizontal distance).

“*Slope*” means with respect to two points on the surface of the ground, the ratio, expressed as a percentage, of the difference between their elevations divided by the horizontal distance between them. ~~The slope of a lot is measured as provided in HCC 21.05.040.~~

“*Steep slope*” means an elevation change in topography of at least 15 feet, with an average slope of not less than 50% (one foot difference in elevation per two feet of horizontal distance). A steep slope can occur naturally or can be created by excavation into or filling over natural ground.

Section 2. Homer City Code 21.05.040, Measuring slopes, is amended to read as follows:

[Bold and underlined added. Deleted language stricken through.]

45 21.05.040 Measuring slopes. The slope between two points on the surface of the
46 ground is measured by calculating the vertical change in elevation (H) over the horizontal
47 run (L) across any portion of the lot between them and multiplying this decimal result by
48 100 to determine percent (%) slope. Percent Slope = (H/L)x100. ~~When calculating the slope~~
49 ~~of a lot, an average slope is used based on the elevations at the corners of the lot. The average~~
50 ~~slope of a lot, expressed as a percentage, is calculated by subtracting the average elevation of the~~
51 ~~uphill lot line and the average elevation of the downhill lot line and dividing the sum by the~~
52 ~~average distance between the two lot lines. The average elevation of the uphill or downhill lot~~
53 ~~line is calculated by adding the elevations at the ends of the lot line and dividing by two. See~~
54 Figure 1.

55
56 Section 3. Homer City Code Chapter 21.44 Steep Slopes is hereby amended to read as
57 follows:

58
59 CHAPTER 21.44

60
61 STEEP SLOPES

62
63 21.44.010 Purpose and intent
64 21.44.020 Applicability
65 21.44.030 Steep slope development standards
66 21.44.040 Setbacks for development activity
67 21.44.050 Site plan for conditional use
68

69 21.44.010 Purpose and intent. This chapter regulates development activity and structures
70 in areas affected by steep slopes, bluffs, coastal bluffs and ravines, and provides the means for
71 additional review and protection to encourage safe and orderly growth to promote the health,
72 welfare and safety of Homer residents.
73

74 21.44.020 Applicability. a. This chapter applies to all development activity that disturbs
75 the existing land surface, including without limitation clearing, grading, excavating and filling in
76 areas that are subject to any of the following conditions:

- 77 1. Steep slopes, bluffs, coastal bluffs and ravines;
78 2. Located within forty (40) feet of the top or within fifteen (15) feet of the
79 toe of a steep slope, bluff, coastal bluff or ravine; and
80 3. Any other location where the City Engineer determines that adverse
81 conditions associated with slope stability, erosion or sedimentation are present.

82 b. This chapter imposes regulations and standards in addition to the requirements of
83 the underlying zoning district(s).
84

85 21.44.030 Steep slope development standards. The following standards apply to all
86 development activity on a site described in HCC 21.44.020.

[Bold and underlined added. Deleted language stricken through.]

87 a. No development activity, including clearing and grading, may occur before the
88 approval of a site plan of the level required for the applicable zoning district under HCC Chapter
89 21.73, and the issuance of a zoning permit under HCC Chapter 21.70.

90 b. Subject to HCC 21.44.040, all development activity is subject to the following
91 setback requirements.

92 1. No structure may be closer to the top of a ravine or non-coastal bluff than
93 the lesser of:

94 i. 40 feet; or

95 ii. 1/3 of the height of the bluff, but not less than 15 feet.

96 2. No structure may be closer than 15 feet to the toe of a bluff other than a
97 coastal bluff.

98 3. No structure may be closer than 40 feet to the top of a coastal bluff and
99 closer than 15 feet to the toe of a coastal bluff. ~~Except where authorized by a conditional use~~
100 ~~permit under HCC 21.44.050, all development activity shall conform to setback requirements in~~
101 ~~HCC 21.44.040.~~

102 c. The site design and development activity shall not restrict natural drainage
103 patterns, except as provided in this subsection.

104 1. To the maximum extent feasible, the natural surface drainage patterns
105 unique to the topography and vegetation of the site shall be preserved. Natural surface drainage
106 patterns may be modified only pursuant to the site plan approved under 21.44.040, and upon a
107 showing that there will be no significant adverse environmental impacts on the site or on
108 adjacent properties. If natural drainage patterns are modified, appropriate soil stabilization
109 techniques shall be employed.

110 2. The site shall be graded as necessary to ensure that drainage flows away from
111 all structures for a distance of at least 10 feet, especially where building pads are cut into
112 hillsides.

113 3. The development activity shall not cause an adverse effect on adjacent
114 land and surrounding drainage patterns.

115 d. Erosion control.

116 1. Erosion control methods approved by the City Planner and City Engineer,
117 including without limitation sediment traps, small dams and barriers, shall be used during
118 construction and site development to protect water quality, control soil erosion and control the
119 velocity of runoff.

120 2. Winter Erosion Control Blankets. If development on a slope is not
121 stabilized by October 15, erosion control blankets (or a product with equivalent performance
122 characteristics) must be installed upon completion of the seasonal work, but no later than
123 October 15. The erosion control blankets shall remain in place until at least the following May

124 1.

125 **[Bold and underlined added. Deleted language stricken through.]**

126 21.44.040 Setbacks for development activity Exceptions to setback requirements. a.
127 Subject to (b) and (c) of this section, all development activity on a site described in HCC
128 ~~21.44.020~~ is subject to the following setback requirements.

129 1. No structure may be closer to the top of a ravine or non-coastal bluff than
130 the lesser of:

131 i. 40 feet; or

132 ii. 1/3 of the height of the bluff, but not less than 15 feet.

133 2. No structure may be closer than 15 feet to the toe of a bluff other than a
134 coastal bluff.

135 3. No structure may be closer than 40 feet to the top of a coastal bluff and
136 closer than 15 feet to the toe of a coastal bluff.

137 ab. Development activity conforms to the setback requirements of this section
138 notwithstanding that any of the following are may be located within the required setback:

139 1. A deck extending no more than five feet into the required setback.

140 2. An unoccupied accessory structure having a building area not greater than
141 200 square feet that is no closer than 15 feet to the top of any bluff or ravine.

142 3. A boardwalk, sidewalk, foot path or stairway that provides access to a
143 beach, bluff or accessory structure, and that is located at or within three feet above ground level.

144 4. Development activity that the City Planner determines is reasonably
145 intended to stabilize an eroding coastal bluff.

146 be. No structure other than a structure described in (ba) of this section, may be
147 located in a required setback ~~required in (a) of this section~~ without a conditional use permit
148 issued in accordance with HCC Chapter 21.71 and HCC 21.44.050.

149
150 21.44.050 Site plan for steep slope development. a. No development activity under HCC
151 21.44.040(c) may be approved unless the City Engineer finds that the site plan required under
152 this section is complete and in conformance with the requirements of this section. The City
153 Engineer shall accept or reject the plan as submitted or may require that specific conditions be
154 complied with in order for the plan to meet approval.

155 b. The site plan shall be prepared by a qualified geotechnical engineer licensed to
156 practice in the state of Alaska and shall include the following information.

157 1. The location of all watercourses, water bodies, and wetlands within 100
158 feet of the location of the proposed development activity.

159 2. The location of all existing and proposed drainage structures and patterns.

160 3. Site topography shown by contours with a maximum vertical interval of
161 five feet.

162 4. The location of all proposed and existing buildings, utilities (including
163 onsite well and septic facilities), driveways and streets.

164 5. The location of all existing vegetation types including meadow, forest and
165 scrub lands, identifying all areas of vegetation that will be removed as well as vegetation to be
166 preserved or replaced. Specifications for revegetation shall also be included.

[**Bold and underlined added.** Deleted language stricken through.]

- 167 6. Specific methods that will be used to control soil erosion, sedimentation,
168 and excessive storm water runoff both during and after construction.
- 169 7. A description of the stability of the existing soils on site and a narrative
170 and other detail sufficient to demonstrate the appropriateness of the development and
171 construction methods proposed.
- 172 8. A grading plan for all areas that will be disturbed by the development
173 activity.
- 174 9. A [slope stability analysis] ~~geotechnical engineering report~~ including the
175 following:
176 i. Summary of all subsurface exploration data, including subsurface
177 soil profile, exploration logs, laboratory or *in situ* test results, and ground water information;
178 ii. Interpretation and analysis of the subsurface data;
179 iii. Summary of seismic concerns and recommended mitigation;
180 [iv ~~-A slope stability analysis~~]
181 iv. Specific engineering recommendations for design;
182 v. Discussion of conditions for solution of anticipated problems;
183 vi. Recommended geotechnical special provisions;
184 vii. An opinion on adequacy for the intended use of sites to be
185 developed by the proposed grading as affected by soils engineering factors, including the
186 stability of slopes.
- 187 10. Conformance to the site development standards of HCC 21.44.030.

188
189 Section 4. Homer City Code 21.50.020, Site development standards – level one, is
190 amended to read as follows:

191
192 This section establishes level one site development standards. Level one site
193 development standards apply in all zoning districts, unless otherwise provided by another
194 provision of the zoning code.

195 a. Slopes. All development on **a site affected by a steep slope, bluff, coastal bluff**
196 **or ravine, as described in HCC 21.44.020, shall be subject to the requirements of HCC**
197 **Chapter 21.44 in addition to the requirements of this section** ~~lots with slopes of 15 percent~~
198 ~~more is subject to the following standards:~~

199 1. ~~For lots with slopes of 15 to 30 percent, the area used for development~~
200 ~~shall not exceed 25 percent of the lot. If the development site includes more than one lot, a~~
201 ~~conditional use permit is required.~~

202 2. ~~For lots with slopes of greater than 30 percent, the area used for~~
203 ~~development shall not exceed ten percent of the lot. If the development site includes more than~~
204 ~~one lot, a conditional use permit is required.~~

205 3. ~~Vegetation shall remain undisturbed except as necessary to construct~~
206 ~~improvements and to eliminate hazardous conditions, in which case it must be replanted with~~

[Bold and underlined added. Deleted language stricken through.]

207 approved materials including ground cover, shrubs and trees. Native vegetation is preferred for
208 replanting operations, and will be used where practicable.

209 4. ~~Grading shall not alter the natural contours of the terrain except as~~
210 ~~necessary for building sites or to correct unsafe conditions. The locations of buildings and roads~~
211 ~~shall be planned to follow and conform to existing contours as nearly as possible.~~

212 b. Drainage. All development activity on lands shall conform to the following:

213 1. Development shall provide a drainage system that is designed to deposit
214 all runoff into either an engineered drainage system or into a natural drainage.

215 2. Where open-ditch construction is used to handle drainage within the
216 development, a minimum of 15 feet shall be provided between any structures and the top of the
217 bank of the defined channel of the drainage ditch.

218 3. When a closed system is used to handle drainage within the development,
219 all structures shall be a minimum of ten feet from the closed system.

220 c. Landscaping Requirements. All development activity on lands shall conform to
221 the following:

222 1. Development activities shall not adversely impact other properties by
223 causing damaging alteration of surface water drainage, surface water ponding, slope failure,
224 erosion, siltation, intentional or inadvertent fill or root damage to neighboring trees, or other
225 damaging physical impacts. The property owner and developer shall take such steps, including
226 installation of culverts or buffers, or other methods, as necessary to comply with this
227 requirement.

228 2. Upon completion of earthwork, all exposed slopes and all cleared, filled,
229 and disturbed soils shall be protected against subsequent erosion by methods such as, but limited
230 to, landscaping, planting, and maintenance of vegetative cover.

231 3. All exposed, cleared, filled and disturbed soils shall be revegetated within
232 16 months following the initiation of earthwork. Natural revegetation is acceptable if the site
233 naturally revegetates within that 16 month period. If natural revegetation is not successful within
234 that 16 month period, the property owner and developer shall revegetate by other means no later
235 than the end of that 16 month period.

236 4. Drainage can be stabilized by other means than vegetation, if approved in writing
237 by the City Engineer.

238
239 Section 5. Subsection (b) of Homer City Code 21.50.030, Site development standards –
240 level two, is amended to read as follows:

241
242 b. Slopes. All development on a site affected by a steep slope, bluff, coastal bluff
243 or ravine, as described in HCC 21.44.020, shall be subject to the requirements of HCC
244 Chapter 21.44 in addition to the requirements of this section ~~lots with slopes of 20 percent or~~
245 ~~more shall be subject to the following standards:~~

[**Bold and underlined added.** Deleted language stricken through.]

246 1. ~~For lots with slopes of 20 percent to 30 percent, the area used for~~
247 ~~development shall not exceed 25 percent of the lot. If the development site includes more than~~
248 ~~one lot, a conditional use permit is required.~~

249 2. ~~For lots with slopes greater than 30 percent, the area used for development~~
250 ~~shall not exceed ten percent of the lot. If the development site includes more than one lot, a~~
251 ~~conditional use permit is required.~~

252 3. ~~Vegetation shall remain undisturbed except as necessary to construct~~
253 ~~improvements and to eliminate hazardous conditions, unless replanted with as much native~~
254 ~~vegetation as practicable including ground cover, shrubs and trees.~~

255 4. ~~Grading shall not alter the natural contours of the terrain except as~~
256 ~~necessary for building sites or to correct unsafe conditions. The locations of buildings and roads~~
257 ~~shall be planned to follow and conform to existing contours as nearly as possible.~~
258

259 Section 6. This ordinance shall be effective upon adoption, except that land development
260 plans that received final approval prior to the effective date of this ordinance shall not be subject
261 to the amendments in this ordinance.

262 Section 7. This Ordinance is of a permanent and general character and shall be included
263 in the City Code.
264

265 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
266 _____ 2010.
267

268 CITY OF HOMER

269
270
271
272
273 JAMES C. HORNADAY, MAYOR
274

275 ATTEST:
276
277

278
279 JO JOHNSON, CMC, CITY CLERK
280

281 YES:

282 NO:

283 ABSTAIN:

284 ABSENT:

285
286 First Reading:

[**Bold and underlined added.** Deleted language stricken through.]

287 Public Hearing:
288 Second Reading:
289 Effective Date:
290
291
292 Reviewed and approved as to form:
293
294
295
296 _____
297 Walt E. Wrede, City Manager
Date: _____

Thomas F. Klinkner, City Attorney
Date: _____

[Bold and underlined added. Deleted language stricken through.]

Bill Glynn mentioned that his property is steep as well, and he had to use many yards of fill on his property in order to comply, and access it.

Public hearing closed.

Commissioner Bos asked Mr. Becker if he would consider this to be the last building opportunity on the lot, and where he would choose to put another structure. Mr. Becker stated he would consider other development on the property, and if he were aware of the rules up front he would have considered moving the building further down the slope. The site was chosen because it was the best place for the tower.

City Manager Wrede addressed the issue and concurred this was the best place for the repeater, timing was important due to the necessity to increase public safety. He clarified that when he gave Mr. Becker the go ahead, he was clear that the developer is responsible for obtaining all necessary permits. The miscommunication was that the permits weren't specified up front.

Public hearing closed.

SINN/BOS-MOVED TO CONTINUE DELIBERATIONS ON STAFF REPORT PL 10-6, Variance 10-01, WHEN THERE ARE FIVE COMMISSIONERS PRESENT.

Motion carried.

PLAT CONSIDERATION

- A. Staff Report PL 10-60, Stream Hill Park Unit 2, Resubdivision of Lots 35 & 45 Preliminary Plat

City Planner Abboud reviewed the staff report; stated staff is recommending approval of the plat.

SINN/BOS-MOVE TO APPROVE STAFF REPORT PL10-60 WITH STAFF RECOMMENDATIONS.

Motion carried.

PENDING BUSINESS

- A. Staff Report PL 10-57, Draft Steep Slope Ordinance

The commission continued their discussion from the work session.

Consensus of 50% slope, discussion of 40% versus 50, and what is the right number, 32-40.

HIGHLAND/SINN-MOVE TO FORWARD STAFF REPORT PL 10-57 FORWARD TO PUBLIC HEARING.

Discussion followed regarding percentage of slope.

HIGHLAND/SINN-MOVE TO AMEND STAFF REPORT PL 10-57 TO CHANGE SLOPE TO NO MORE THAN 45%.

Motion carried.



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City of Homer Planning & Zoning

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Web Site www.ci.homer.ak.us

STAFF REPORT PL 10-40

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: May 05, 2010
SUBJECT: Draft Steep Slope Ordinance

GENERAL INFORMATION

The Commission was presented the new draft steep slope ordinance at the last meeting. Planning Technician Engebretsen will be present at the meeting, and David Cole, the steep slope consultant, has been invited to participate by teleconference. From the Commission's comment, it appears there is concern about how to regulate slopes in the 30-50% range. Staff has asked David to be prepared to talk about this. (Staff has also posted his power point presentation from 2008 on the planning website).

Staff has also invited Public Works Director Carey Meyer to discuss the Public Works Dept role in project review for steep slope and dirt work ordinance permitting.

ANALYSIS

Staff has thought about some of the Commission's questions and concerns. Below are some ideas...

Big Picture: How can we best regulate development on steep slopes for the health, welfare and safety of Homer residents with the resources that we have; staff, city and land owner financial resources, contractors, and public will?

Staff Thoughts:

1. There are no magic bullets or magic numbers. Without an adopted building code and inspections (public or private), there is only so much that a new set of rules can accomplish. We can or should reinvent the wheel only so much.
2. There is a TON of information available on the internet. And it may or may not all be appropriate or possible Homer. The city hired a consultant for this ordinance because it is very technical. What is appropriate for conditions in Maine might not be appropriate for Anchorage; soils, climate, rainfall, development patterns, construction practices, etc, all vary a lot.

Larger communities also may have geotechnical review committees of local engineers and contractors to review these plans. Homer has few locally qualified and interested people to sit on such a committee. So we have to find a workable solution with what we have.

3. 50% slope is the 'rule of thumb' to REQUIRE engineering. There may be situations where an engineer at 30-50% may be appropriate. The draft ordinance gives the City Engineer the flexibility to require engineering, if necessary on slopes less than 50%.

If the Commission is more comfortable regulating at 40% slope; fine, make a motion and amend the ordinance. That 10% difference is not a big deal.

4. What to do about 30% or greater slopes...where engineering is not 'required.' Recall this regulation is designed to protect health welfare and safety, so houses don't come sliding down the hill. If you want to regulate for storm water, brush cutting and aesthetics, that is NOT the point of this ordinance. While these are important topics on slopes, they are a city wide issue; all lands should be treated the same or at least similarly. Anyway, on 30% slope, (give or take) there is more gray area about when an engineer should be required, and at what point it is the responsibility of the property owner to use common sense. The ordinance essentially says, at 50%, the city of Homer does not trust a land owner or dirt worker to develop their land, in fact, the only person that can be trusted is an engineer.

Staff recommends adopting this 50% rule. (or 40%). If the Commission wants to regulate at 30% or less, that is certainly an option. Make a motion and amend the ordinance.

Attachments

1. (new) 4/29/2010 email and attachments from Kevin Walker
2. Meeting minutes of April 21, 2010 (steep slope excerpt)
3. Staff report 10-36 and all attachments
4. Staff Reports 08-43, 09-25, 09-42 and the March 4, 2009 requested by Chair Minsch

Shelly Rosencrans

From: Kevin Walker [homerkev@gmail.com]
Sent: Thursday, April 29, 2010 12:08 AM
To: Jo Johnson; Department Planning; Carey Meyer; Dan Gardner
Subject: Steep slope ordinance
Attachments: steep_slope_-Peoria-Eill.pdf; steep_slope_E-PeoriaOrdinance.pdf; Slopes%-HtoV-Degrees-Slope.xls; 1.5to1-slope=33degree-pic60.JPG

I attended the Planning Advisory Commission meeting on April 21, 2010, and noticed that there is a need for further definition of what steep slopes are. Hopefully some of the attached information will help. Please see that this information is available to all members of the commission and staff.

The steep slope -Peoria-Eill.pdf is directly off the internet and has good graphics as to how a steep slope is defined in that community. It defines the toe and shoulder of the steep slope.

The steep slope E-PeoriaOrdinance.pdf is the actual ordinance for that community.

The spreadsheet, Slopes%-HtoV-Degrees-Slope.xls is a chart of how various slopes are defined using percentage, horizontal vs vertical changes, degrees, and "slope".

The photo, 1,5to1-slope=33degree-pic60.jpg is a slope adjacent to the recently constructed Canyon Trails subdivision on the east end of Homer. This 33% slope failed initially.

Last week the Planning Advisory Commission initially approved a 50% slope as the point where a professional engineer needs to be involved with the design of new project. There were considerable questions as to what slopes were and what they looked like. Before I left the meeting, a commissioner went out the City Hall door and asked me what the slopes were between the parking lot and the building. Without a level and plumb bob, I didn't feel qualified to answer the question.

Today I measured and photographed the slope outside my kitchen window near the entrance to Canyon Trails Subdivision. The 33% slope has failed. When I attempted to step into the area where the slope failed, I sunk 8" into the muddy clay.

Please reconsider the automatic approval of a 49% (less than 50%) slope for all Homer steep slope construction. If an unengineered - but ordinance legal - slope fails, the City of Homer will be totally responsible for the damage caused and repair of the slope. If a professional engineer has stamped / approved a particular design, he and/or the contractor will be responsible for the failure.

The ugly 33% slope I look at every time I look out my window is a constant reminder of what may work in some parts of the world may not work on the slippery slopes of Homer. Wednesday, 4-28, John Fowler agreed with me on this point.

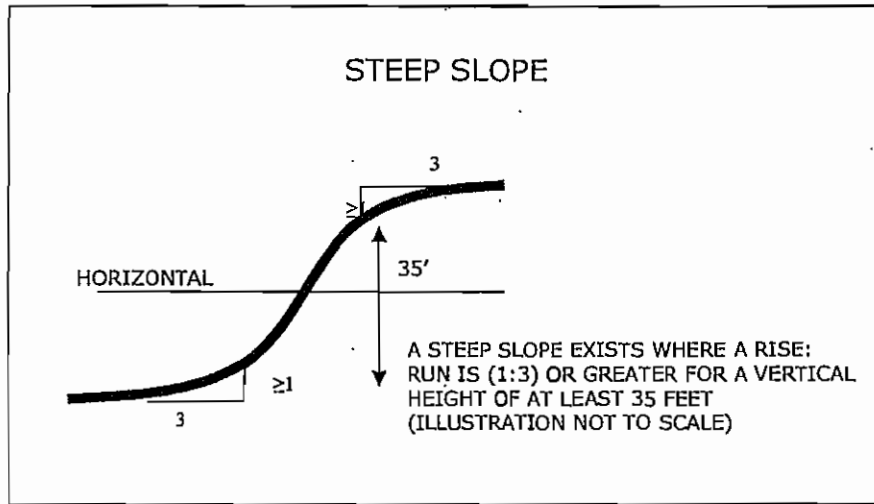
Kevin Walker 235-5304 homerkev@gmail.com



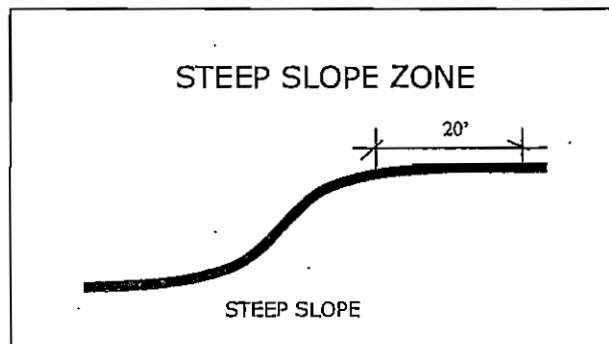


Steep Slope Ordinance

Steep Slope illustration:



Steep Slope Zone illustration:



Construction within 100' of the Steep Slope Zone is also restricted and additional requirements may be imposed.



ORDINANCE NO. 3682

AN ORDINANCE AMENDING TITLE 4 OF THE EAST PEORIA CITY CODE BY THE DELETION OF CHAPTER 17, AMENDING TITLE 5 OF THE EAST PEORIA CITY CODE FOR THE PURPOSE OF ADDING A NEW CHAPTER 15 WHICH REGULATES CONSTRUCTION ON AND MAINTENANCE OF STEEP SLOPE ZONES AND AMENDING TITLE 6, CHAPTER 3, SECTION 4 OF THE SUBDIVISION CODE TO ALLOW FOR REDUCED BUILDING SETBACKS ON LOTS CONTAINING STEEP SLOPE ZONES

WHEREAS, bluffs, hillsides and ravines in the City of East Peoria contain numerous steep slopes; and

WHEREAS, steep slopes are susceptible to erosion caused by the runoff of surface water; and

WHEREAS, the rate of erosion on steep slopes is significantly accelerated by the removal of trees and other vegetation from such slopes; and

WHEREAS, the rate of erosion on steep slopes is significantly accelerated as a result of the flow of stormwater shed by buildings, driveways, patios and other impermeable surfaces; and

WHEREAS, soil loosened as a result of construction activity on steep slopes is particularly susceptible to abnormally high rates of erosion; and

WHEREAS, steep slopes which suffer from rapid erosion and the improper draining or ponding of water are susceptible to sudden collapses and landslides which can endanger persons and property; and

WHEREAS, soil eroded from steep slopes adversely affects property located at the base of the slope and contributes to the build up of sediment in the Illinois River; and

WHEREAS, in order to reduce the rate of erosion on steep slopes within the City and to protect persons and property, the City Council finds that it is necessary to regulate the removal and replacement of vegetation from steep slopes, the construction of improvements on steep slopes and the flow of stormwater in the vicinity of steep slopes; and

WHEREAS, the regulations hereinafter set forth are adopted in part to further the maintenance of forested bluffs and ravines that adjoin the Illinois River valley and to reduce sedimentation of the Illinois River; and

WHEREAS, after hearing pursuant to duly published notice the East Peoria Zoning Board of Appeals has recommended approval of the proposed regulation; and

WHEREAS, the City Council finds that adoption of the regulations hereinafter set forth is essential to the health, safety and welfare of the citizens of the City of East Peoria;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. The recitations hereinabove set forth are hereby adopted and found to be true.

Section 2. Title 4, Chapter 17 of the East Peoria City Code is hereby repealed in its entirety.

Section 3. Title 5, Chapter 8, Section 2(b) of the East Peoria City Code which sets forth special uses authorized within the "C-Conservation and Residential Estate District" is hereby amended by the addition thereto of a new subparagraph (17) which shall read as follows:

- (17) Certain construction activities within a Steep Slope Zone in accordance with the provisions of Chapter 17 of this title.

Section 4. Title 5, Chapter 8, Section 3(b) of the East Peoria City Code which sets forth special uses authorized within the "R-1, One Family Dwelling District" is hereby amended by the addition thereto of a new subparagraph (23) which shall read as follows:

- (23) Certain construction activities within a Steep Slope Zone in accordance with the provisions of Chapter 17 of this title.

Section 5. Title 5, Chapter 9, Section 2(b) of the East Peoria City Code which sets forth special uses authorized within the "B-1, Business District, Offices" is hereby amended by the addition thereto of a new subparagraph (13) which shall read as follows:

- (13) Certain construction activities within a Steep Slope Zone in accordance with the provisions of Chapter 17 of this title.

Section 6. Title 5, Chapter 10, Section 2(b) of the East Peoria City Code which sets forth special uses authorized within the "M-1, Manufacturing District Limited" is hereby amended by the addition thereto of a new subparagraph (14) which shall read as follows:

- (14) Certain construction activities within a Steep Slope Zone in accordance with the provisions of Chapter 17 of this title.

Section 7. Title 5 of the East Peoria City Code is hereby amended by the addition thereto of a new Chapter 15 which shall read as follows:

CHAPTER 15. CONSTRUCTION ON AND MAINTENANCE OF STEEP SLOPE ZONES

SECTION:

- 5-15-1. Definitions.
- 5-15-2. Limitation on construction in and development of steep slope zones.
- 5-15-3. Maintenance of property in a steep slope zone.
- 5-15-4. Subdivision of property which includes steep slopes.
- 5-15-5. Structures and activities authorized within a steep slope zone.
- 5-15-6. Development standards.
- 5-15-7. Permits.
- 5-15-8. Reimbursement of Engineering Fees.

- 5-15-9. Security for completion of improvements.
- 5-15-10. Penalties and enforcement.
- 5-15-11. Conflict with other regulations.

5-15-1. Definitions.

For purposes of this chapter, the following definitions shall apply:

Aggregate diameter. The combined diameter of a multiple trunk tree measured at diameter breast height.

Bottom, or toe, of slope. The line formed by the base of a steep slope.

Construction Activities. Any activity that involves the construction or demolition of any structure of any nature whatsoever or the disturbance, excavation or placement of soil in sufficient quantities to change soil contour at any location by a depth of more than six inches, or removal of any protected tree.

Desirable Species. Any species of tree belonging to any of the following genera:

Genus	Common Name
<i>Juglans</i>	Walnut
<i>Carya</i>	Hickory
<i>Celtis</i>	Hackberry
<i>Tilia</i>	Basswood
<i>Quercus</i>	Oak
<i>Gymnocladus</i>	Kentucky Coffeetree
<i>Fraxinus</i>	Ash

Diameter breast height or "DBH". The diameter of a tree measured at four and one-half feet (4-1/2') above the highest point of the existing grade at the base of the tree.

Director. The Director of Planning and Zoning of the City.

Drainage line. A pipe, tile, ditch or other similar manmade means of accomplishing the removal of surface and/or subsurface water.

Erosion. The process whereby soils are transferred from place to place by the movement of wind or water.

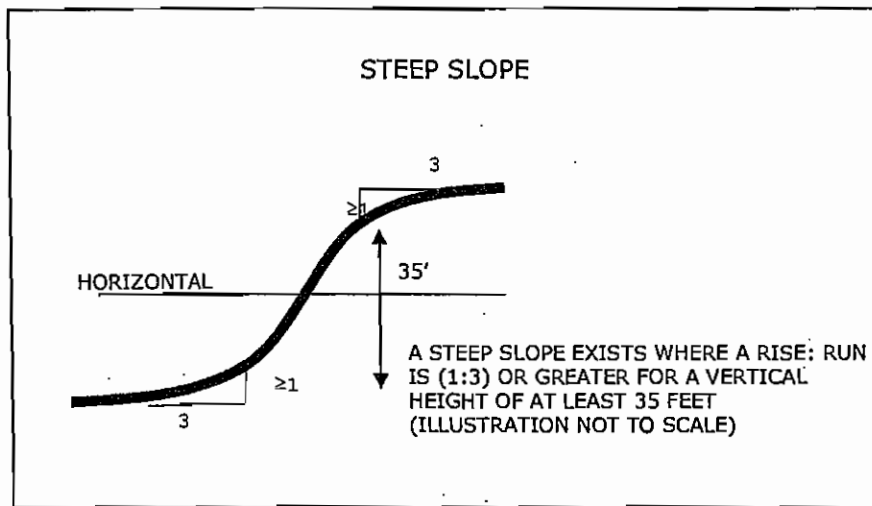
Protected tree. Any living tree of a desirable species having a diameter of eight inches (8") DBH or larger or having an aggregate diameter of fifteen inches (15") DBH or larger.

Ravine. A gully or gorge worn by the flow of water in a regularly or intermittently flowing waterway.

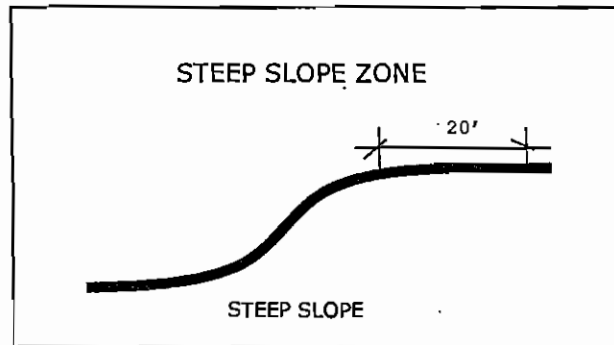
Remove or removal. The actual physical removal of a tree, or the effective removal through intentional damaging, poisoning, or other direct or indirect intentional action resulting in, or likely to result in, the death of a tree.

Restoration. The re-establishment of the grade, slope, stability, vegetation, or drainage systems of disturbed property in a steep slope zone by bringing the property back to substantially the same condition as existed prior to disturbance.

Steep slope. Land with a slope which equals or exceeds a vertical rise of one foot for a horizontal run of three feet for a vertical height of 35 feet or more.



Steep slope zone. All land which lies between the bottom of a steep slope and a line twenty (20) feet beyond the top of a steep slope into the adjoining tableland.



Tableland. An elevated region with a low relief surface and with at least one border defined by more or more steep slopes.

Top of steep slope. The line formed by the top of a steep slope.

Tree. A self-supporting, woody plant, together with its root system, having a well defined stem or trunk or a multi-stemmed trunk system, a more or less well defined crown, and a mature height of at least fifteen feet. "Tree" shall not include trees in containers or nursery stock trees maintained for resale.

Undesirable species. Are those species of tree considered by arborists to be invasive, nonnative, and/or shallow-rooted, including, but not limited to, buckthorn, Norway maple, mulberry, box elder, black locust, Chinese elm, Siberian elm, tree of heaven and willow.

5-15-2. Limitation on construction in and development of steep slope zones.

Except as authorized in this Chapter, no construction activities may be undertaken or continue in a steep slope zone. Steep slope zones shall remain vegetated in the natural state. Any steep slope zone disturbed for any reason including the commencement of any authorized or unauthorized construction activities shall be restored by planting appropriate native vegetation. Whenever construction activities occur upon property abutting a steep slope zone, erosion control measures prescribed by this chapter and by Title 4, Chapter 15 of this Code shall be placed along the top of the steep slope and maintained during any construction activities.

5-15-3. Maintenance of property in a steep slope zone.

Owners of real estate within or adjacent to a steep slope zone shall install and properly maintain drainage lines that convey storm water generated by manmade structures on such property either to a public storm sewer or to the base of the steep slope. Private drainage lines shall not leak water onto the surface of a steep slope zone. Lawn waste or other debris shall not be placed in a steep slope zone and if placed shall be removed.

5-15-4. Subdivision of property which includes steep slopes.

In connection with the approval and recordation of a plat of subdivision, the City may require covenants to be placed of record as may be necessary to ensure the long-term maintenance of drainage lines and other measures designed to reduce erosion. All subdivision plats approved after the effective date of this ordinance shall show the boundaries of any steep slope zone located within the subdivision. Within subdivisions that contain steep slope zones, the City Council may in its sole discretion approve requests by the subdivider to reduce front yard setbacks on lots containing steep slope zones, but only if the City Council finds that such reductions meet the standards for an exception as prescribed by Section 6-3-13 of the Subdivision Code.

5-15-5. Structures and activities authorized within a steep slope zone.

The following construction activities are permitted within a steep slope zone subject to prior issuance of a building permit and subject to conformance with the standards established in this chapter and elsewhere in the City Code:

(a) Legal non-conforming structures may be maintained or rebuilt subject to the provisions of Title 5, Chapter 5 of the City Code pertaining to nonconforming buildings and uses.

(b) Mechanical or electrical lifts, bridges, walkways, steps, landings, and/or fences which do not obstruct the flow of light or water, and utility service lines. Stairs constructed in the steep slope zone shall be no greater than five feet in width. Landings constructed in the steep slope zone shall be no larger than five feet by ten feet.

(c) Emergency action to remediate an unstable or insecure slope which poses an imminent threat to the health, safety, or welfare of the public, provided further that the remedial action involves the least possible disruption of the natural features of the site and conforms as nearly as possible with the standards and policies of this Chapter.

(d) Normal landscape maintenance or routine arboreal activities, including small scale planting of ornamental flowers or shrubs, and/or the removal of diseased, dead or damaged trees of any species, and/or the removal of undesirable trees provided such activities include revegetation in conformance with the standards contained in this chapter.

(e) Extensions of structures such as balconies or decks provided that such extension is not supported by any structure or foundation located within the steep slope zone. However, no part of any such structure may extend more than one foot into the steep slope zone for each three (3) feet of height.

(f) Public improvements and infrastructure constructed by the City or other units of federal, state or local government.

(g) Other accessory structures having a total ground cover area not exceeding 150 square feet.

(h) Small scale erosion control structures such as check dams not exceeding a height of three feet and riprap.

(i) Construction activities within a steep slope zone other than those specifically authorized by subsections 5-15-5(a)-(h) immediately above shall require a special use authorized by the City Council in accordance with the procedures established by section 5-11-10 of the City Code. Every application for a special use to undertake construction activities within a steep slope zone shall include the submission of a report prepared by a licensed professional civil/structural engineer trained and experienced in the practice of geotechnical engineering. The report shall cover affected portions of the steep slope zone where construction is proposed together with all adjoining areas in the tableland located beyond the top of the steep slope zone but within 30 feet thereof. The report shall include the following:

1. Soil Types and Subsurface Materials Investigation. This Investigation shall at a minimum consist of:
 - A. A thorough subsurface investigation using techniques such as

- borings, test pits, *in situ* tests, laboratory tests or other procedures performed to a depth sufficient to determine foundation conditions for the proposed construction; and
- B. A description of the soil and subsurface materials found on the subject site to a depth extending below any proposed excavation as well as the engineering properties of the subsurface soil materials.
2. A written description of the proposed means and methods of accomplishing such work, which means and methods shall be carefully selected to minimize slope damage. In the case of any proposed structure, the means and methods shall include plans and specifications for construction including, without limitation, a foundation plan which takes into account the conditions identified through the soil types and subsurface materials investigation. Upon approval of a building permit for the structure by the Director, such written description shall be the enforceable means and method of construction.
 3. Geotechnical Characteristics. A discussion of geotechnical characteristics which shall at a minimum include the following:
 - A. Consideration in the design of all proposed structures shall be given to the effect of undercutting at the base of Steep Slopes or bluffs caused by wave action, storm water flow, and erosion and/or channel changes.
 - B. A description of the stability of surface patterns of water flow as well as indication of the presence or absence of permeable zones in underlying soils and susceptibility of slope instability due to changes in the water table.
 - C. An opinion that the soil types, soil stability, subsurface hydrology, and external influences affecting the site will not cause any significant hazards for the proposed use; or if they may cause such hazards, an opinion that such hazards can be overcome, together with a reasonably detailed description of how it is proposed to overcome them.
 4. Earth Moving Plan. An earth moving plan which complies with the provisions of section 5-15-6(c) of this chapter which plan shall at a minimum include the following:
 - A. A topographic survey, showing property contours at one foot intervals for tableland and five (5) foot intervals for Steep Slopes, including special notes and details of the existing terrain;
 - B. Proposed earth moving details, including the dimensions,

- elevations, and contours of any proposed earth moving and the placement of excavated materials;
- C. A description of the methods to be employed in disposing of soil and other material removed, including the location of the disposal site.
 - D. A time-table for commencement and completion of each stage of the project; and
 - E. A provision requiring where appropriate the placement of a temporary construction perimeter fence on the tableland at the top edge of Steep Slope Zone until construction is completed.
5. Hydrological Control Plan. A plan for intercepting and containing drainage at the site and from any structure which plan complies with section 5-15-6(a) of this chapter.
6. Vegetation Plan. A vegetation plan which complies with the provisions of 5-15-6(b) of this chapter prepared or approved in writing by a landscape professional trained and experienced in both the characteristics of plant material and proper procedures for installation, which plan shall at a minimum include the following:
- A. An inventory describing the existing floral and tree cover of the site, including identification of undesirable species and protected trees showing those areas where the vegetation will be removed as part of the proposed development;
 - B. A description of proposed revegetation of disturbed areas, specifying the materials to be used;
 - C. A written description detailing methods of slope stabilization and revegetation, together with the rationale for selecting the plant materials and planting techniques proposed to be used; and
 - D. A maintenance guideline, instructing owners of the site of necessary actions to be taken following construction and/or earth moving in order to maintain plantings in good and serviceable health.

5-15-6. Development standards.

Construction and/or earth moving within a steep slope zone and within one hundred feet of a steep slope zone shall occur in accordance with the following standards:

- (a) Hydrological Controls.

1. Natural Channels. Natural drainage ways shall be preserved to the maximum extent possible.
2. Controlled Run-Off. Concentrated run-off from impervious surfaces shall be conveyed away from a steep slope to a municipal storm sewer system if available, or through grassed swales, infiltration trenches or other sound professional engineering practices designed to infiltrate stormwater runoff and minimize erosion. If infiltration is not deemed appropriate, concentrated runoff from impervious surfaces shall be collected and transported in drainage lines. Stormwater pipes conveying concentrated runoff to the bottom of a steep slope shall generally be located above ground, but may be located below ground with the approval of the Director.
Sump pump drain lines shall be connected to a municipal storm sewer system if located within 350 feet thereof.
3. Interceptor Ditches. When sound professional engineering practice dictates or when required by the Director, interceptor ditches shall be established outside of Steep Slope Zones in order that soil shall not become saturated and the intercepted water shall be conveyed in a pipe or other approved manner to a municipal storm sewer system, if available, or to the bottom of a slope in a manner designed to minimize erosion.
4. Discharge Point Stabilization in Steep Slopes. Natural drainage ways shall be stabilized by landscape integration, rip-rap, rolled erosion control products or other means consistent with sound professional engineering practice, to a distance below drainage and culvert discharge points sufficient to convey the discharge while minimizing channel erosion and in such a manner as to dissipate the energy of the discharge.
5. Early Completion. The overall drainage system shall be completed and made operational at the earliest possible time during construction.
6. Impact on Adjacent Property. The natural or usual flow of surface or subsurface water shall not be altered or obstructed by grade changes in any way that may adversely affect the property of another by either contributing to pooling or collection of waters or to the concentration or intensification of surface water discharge. However, construction which might otherwise be prohibited hereinabove may be allowed if such waters are properly drained by a pipe or other approved manner to a municipal storm sewer system, if available, or to the bottom of the steep slope.

(b) Vegetation and Revegetation.

1. Natural Vegetation. Every effort shall be made to maintain natural vegetation in a steep slope zone.
2. Smallest Area. When construction activities are authorized in a steep slope zone, the smallest practical area of raw soil shall be exposed for as short a duration of time as practical. When sound professional engineering practice dictates or when required by the Director, temporary vegetation, or other acceptable cover shall be used to protect areas of raw soil exposed during construction.
3. Revegetation. A mixed planting of perennial and woody species (preferably native species with adequate deep root systems) shall be used to landscape disturbed areas in a steep slope zone.
4. Tree removal. It shall be unlawful to remove any protected tree from a steep slope zone without the approval of the Director.
5. Long term management. The Director shall encourage the owners of property containing Steep Slope Zones including, in particular, those who apply for permits to undertake construction activities as authorized under the provisions of this chapter, to learn and implement the most current techniques for the management of the forested areas of the Steep Slope Zones in accordance with the best available scientific information.

(c) Earth Moving.

1. Minimum Alterations. Earth moving shall be limited to the minimum required for building foundations, driveways, drainage control structures, and immediate yard areas.
2. Erosion Control. All earth moving shall be accomplished in a manner which will create the lowest possible potential for erosion.
3. Soil Fill on Steep Sloped Land. All fill in a steep slope zone is prohibited, other than back-fill which is determined by the Director to be necessary for slope stabilization.
4. Prompt Completion. All earth moving shall be accomplished in the shortest practical period of time. All excess excavated material shall be removed from the steep slope zone and no temporary or permanent storage of material shall be permitted within the steep slope zone. No existing natural vegetation shall be destroyed, removed or disturbed prior to the initiation of earth moving activities.

5-15-7. Permits.

A permit for any construction activity which under the provisions of 5-15-5(g)

requires a special use may be issued only after approval of the special use by the City Council. Each application for a permit to undertake any construction activities within a steep slope zone which does not require a special use shall be made in compliance with the Building Code, the Zoning Code and this chapter. The seal of an Illinois licensed professional civil or structural engineer shall appear on all plans and specifications pursuant to which any permit is issued for any construction activities within a steep slope zone which does not require a special use. No building permit shall be issued for any construction activity within a steep slope zone which does not require a special use until the applicant has submitted and the Director has approved a written plan consisting of at least the following:

(a) A description of soil and subsoil conditions in the area where the construction activity will occur.

(b) An earth moving plan which details dimensions, elevations and contours of any proposed earth moving activities, describes the placement of excavated materials, describes the methods to be employed in disposing of excess excavated material including the location of the disposal site, a timetable for completion of the project and a description of temporary and permanent erosion control measures, including provisions for the interception and containment of surface and subsurface water in the vicinity of construction.

(c) A vegetation plan which describes vegetation to be removed or affected during construction, including in particular any protected trees to be removed and a plan for revegetation of the disturbed area including a description of the plant materials which will be utilized in connection with the restoration.

5-15-8. Reimbursement of Engineering Fees.

Should any representative of the City deem it necessary to obtain the services of a professional engineer to review or verify the calculations or conclusions submitted to the City in connection with any application for a permit to undertake construction activities within a steep slope zone, to conduct inspections while an applicant engages in construction activities after issuance of a permit, or to undertake any other reasonably necessary investigations or activities, the applicant for such permit shall reimburse the City for the reasonable cost of such services. By submitting an application to undertake construction activities within a steep slope zone, the applicant shall be taken to have agreed to pay any such fees. The Director shall refuse to issue a permit for any construction activities within a steep slope zone until all actual or estimated engineering fees due under the provisions of this section have been paid in full. The Director shall refuse to issue a certificate of occupancy for any improvements until all engineering fees due under the provisions of this section have been paid in full. The Director may as a condition to commencing the process of considering an application for a special use under the provisions of Section 5-15-5(i) require advance payment of the estimated cost of such engineering fees.

5-15-9 Security for completion of improvements.

In order to secure compliance with this chapter, including the completion of construction activities within a Steep Slope Zone in accordance with the provisions of any report submitted in support of an application to undertake such activities and/or to secure compliance with the terms of any permit or special use authorized under the provisions of this chapter, either the City Council or the Director may require the applicant to post security in the form of either a performance bond or a letter of credit.

Any such performance bond or letter of credit shall make funds available to the City in an amount which reasonably approximates the cost of completing any construction activities commenced under the terms of any permit or special use and/or the cost of completing the restoration of the affected property in the event that construction activities are commenced but not completed. In the event that construction activities are commenced but not completed in accordance with any applicable permit or special use, the City may at its option either complete any authorized construction activities or undertake restoration of the affected property. Should it complete the authorized construction activities or undertake restoration of the affected property, the City may pay any costs that it incurs by drawing on the performance bond or letter of credit posted with respect to the affected property. A performance bond or letter of credit required under this section shall contain such terms and conditions as the City Council or the Director deem reasonably necessary to insure the availability of funds in the amount of the security instrument for the purpose of completing any construction activities or completing any restoration.

5-15-10. Penalties and enforcement.

The general penalty provisions of the City Code shall apply to violations of this chapter. Failure to comply with the terms and conditions of any special use authorized under the provisions of this chapter shall constitute a violation of this chapter. Failure to comply with or implement the provisions of any engineering report or other plan submitted in support of any application for a permit or special use under this chapter shall constitute a violation of this chapter. Each day that a violation continues shall constitute a separate offense. In addition, the City may in its discretion apply to a court of competent jurisdiction for injunctive relief for the purpose of enforcing the provisions of this chapter.

5-15-11. Conflict with other regulations.

Where the provisions of this chapter conflict with other laws, regulations and policies, the more restrictive of this chapter and such other laws, regulations or policies shall apply.

Section 8. Title 6, Chapter 3, Section 4 of the East Peoria City Code which establishes the standards for lots in subdivisions is hereby amended by the addition thereto of a new subsection (j) which shall read as follows:

- (j) Within subdivisions that contain steep slope zones, the City Council may in its sole discretion approve requests by the subdivider to reduce front yard setbacks on lots containing steep slope zones but only if the City Council finds that such reductions meet the standards for an exception as prescribed by Section 6-3-13 of this Subdivision Code. A reduced setback so approved by the City Council and shown on the final plat shall supersede any other provision of the City Code which requires a larger setback.

Section 9. This Ordinance is hereby ordered to be published in pamphlet form by the East Peoria City Clerk and said Clerk is ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 10. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 11. This Ordinance shall be in full force and effect immediately upon its passage, and approval in the manner provided by law.

PASSED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND PUBLIC SESSION THIS ____ DAY OF _____, 2006.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel



Slope by %, H:V, Degrees (D), and Slope

%	Horiz:Vert	Degrees	Slope
50	1:1	45.0000008	1
33	1.5:1	33.7	0.67
25	2:1	26.6	0.5

Horizontal

48"

48"

48"

Vertical

48"

32"

24"

Motion carried.

KRANICH/HIGHLAND - MOVED TO ADOPT STAFF REPORT PL 10-44, BONNY BLUFF NO. 2, PRELIMINARY PLAT AS AMENDED.

Discussion to clarify that the amendments are to be considered as recommendations from the Planning Commission.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Staff Report PL 10-40, Draft Steep Slope Ordinance

Planning Technician Engebretsen stated the draft ordinance will be forwarded to the City Attorney for minor edits. Staff will attempt to have the revised draft ordinance before them for the June 2, 2010 meeting, holding a public hearing on June 16, 2010 to allow public comment.

There was no further discussion.

C. Staff Report PL 10-41, Draft Ordinance Amending Appeal Procedure

KRANICH/HIGHLAND - MOVED TO BRING TO THE FLOOR STAFF REPORT PL 10-41 FOR DISCUSSION AND POSSIBLE AMENDMENT.

Chair Minsch opened discussion on the draft ordinance, line 44-45, to change listing names to just the number. She referenced the comments from the City Attorney. She noted that names are not required and she would like to amend that to state how many not who. Further discussion was held regarding code requirements and the city attorney referencing how the Board of Adjustment proceeds. It was necessary to make this change for reporting requirements. Clarification was made on the term "express vote".

KRANICH/HIGHLAND - MOVED TO CHANGE LANGUAGE IN LINE 45 AFTER THE FIRST COMMA FROM "WHO VOTED" TO "NUMBER VOTING" IN FAVOR OF THE DECISION, AND "NUMBER VOTING" AGAINST THE DECISION.

No changes to line 44 is required it is proper to read as written.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

KRANICH/HIGHLAND - MOVED TO APPROVE THE DRAFT ORDINANCE AMENDING APPEAL PROCEDURES AS AMENDED AND FORWARD FOR PUBLIC HEARING.

There was clarification on the motion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.





City of Homer

Planning & Zoning

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Homer, Alaska 99603-7645

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Web Site www.ci.homer.ak.us

STAFF REPORT PL 10-36

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: April 21, 2010
SUBJECT: Draft Steep Slope Ordinance

Requested Action: Discuss the draft ordinance and amend as necessary. Forward to public hearing after attorney review.

General Information

Staff and the Commission have been working on a draft steep slope ordinance for about two years. At the end of the staff report is some recent history. The Commission recently finalized the ordinance that was reviewed by the steep slope consultant, David Cole, of DOWL Engineers. It has also been reviewed by the City Attorney. There are a few changes planning staff has made; this ordinance should go back to the Attorney prior to public hearing, along with any further changes made by the PC.

Changes

The City Attorney changed the definition of coastal bluff, see line 24.

Public Comments

Staff did receive one public comment: this ordinance allows development on some pretty steep sites, and the Commission may want to consider applying these rules to less steep areas (say 30% slope).

Requested Action: Discuss the draft ordinance. Make any last changes, forward for attorney review and public hearing.

Background on the ordinance

Over the years, there has been turn over on the Commission and of staff. The following review is not an exhaustive history; I myself have only been involved for the last few years.

Early 2008: Contract entered with Dowl Engineers to help develop an ordinance.

April 2008: Draft ordinance presentation to the Commission (staff turnover here and end of contract)

January 2009: ordinance revised and presented to the Commission

March 2009: More revisions and PC review

May 2009: More revisions and PC review. The City entered into a new contract with Dowl Engineers to revise the new draft ordinance.

February 2010: Draft presented to PC. Staff forwarded the ordinance to the City Attorney.

April 2010: City Attorney review completed, revised draft to PC.

How is development on slopes regulated now?

HCC 21.50, starting on page 244 of your code book, and page 244-2, describes how slope is regulated. As you can see, in some parts of town, slope regulation begins at 15%, and in other parts of town it starts at 20%. In general, lots that have 15-30% slope can only have development that disturbs 25% of the lot area. That means, regardless of lot size, a land owner can only bulldoze 25% of the lot for the driveway, house, etc. And it does not matter if the area to be bulldozed is a level, stable plateau, or if they want to carve up the face of the bluff. They have the right to develop 25% of the site regardless of the suitability of the terrain for development. If a lot has 30% slope or greater, development is limited to 10%.

This approach has served Homer fairly well since its adoption in 1982, but as the town grows and marginal land is developed, it is less effective. The rules do not do enough to protect very steep slopes, and conversely are too restrictive in more gently sloping areas.

Under-regulated slopes

Current code allows development on very steep slopes with almost no limits or guidelines. In some locations, any development, no matter how small an area, could be a hazard to public health, welfare and safety, which is the purpose of zoning. The new ordinance limits ALL development on slopes greater than 50%; engineering and permitting is required prior to development.

Over-regulated slopes

It is common to find a lot that has a level plateau, with an unusable steep portion. Examples include beach properties on the bluff, or up East Hill, where there may be a level building area near the street, but the property drops off downhill. Because current code regulates based on the average slope of the whole lot, it ignores the appropriateness of development on the flat area.

Attachments

1. April 21, 2010 draft Steep Slope Ordinance
2. Minutes of February 17, 2010 HAPC meeting
3. Examples from SR 09-42, May 6, 2009 attachments

ORDINANCE 10-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 21.03.040, DEFINITIONS, 21.05.040, MEASURING SLOPES, HOMER CITY CODE 21.50.020, SITE DEVELOPMENT STANDARDS – LEVEL ONE, AND HOMER CITY CODE 21.50.030, SITE DEVELOPMENT STANDARDS – LEVEL TWO; AND ENACTING HOMER CITY CODE CHAPTER 21.44, STEEP SLOPES; REGARDING THE REGULATION OF DEVELOPMENT ACTIVITY ON SITES AFFECTED BY STEEP SLOPES.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.03.040, Definitions used in zoning code, is hereby amended by adding the following definitions:

“*Bluff*” means an abrupt elevation change in topography of at least 15 feet, with an average slope of not less than 200% (two feet difference in elevation per one foot of horizontal distance).

“*Coastal bluff*” means a bluff whose toe is within 300(?) feet of the mean high water line of Kachemak Bay.

“*Ravine*” means a long, deep hollow in the earth’s surface with walls that have a height of at least 10 feet and an average slope of not less than 500% (five feet difference in elevation per one foot of horizontal distance).

“*Slope*” means with respect to two points on the surface of the ground, the ratio, expressed as a percentage, of the difference between their elevations divided by the horizontal distance between them. The slope of a lot is measured as provided in HCC 21.05.040.

“*Steep slope*” means an elevation change in topography of at least 15 feet, with an average slope of not less than 50% (one foot difference in elevation per two feet of horizontal distance). A steep slope can occur naturally or can be created by excavation into or filling over natural ground.

Section 2. Homer City Code 21.05.040, Measuring slopes, is amended to read as follows:

21.05.040 Measuring slopes. The slope of a lot is measured by calculating the vertical change in elevation (H) over the horizontal run (L) across the steepest portion of the lot and

[Bold and underlined added. Deleted language stricken through.]

45 multiplying this decimal result by 100 to determine percent (%) slope. Percent Slope =
46 (H/L)x100. When calculating the slope of a lot, an average slope is used based on the elevations
47 at the corners of the lot. The average slope of a lot, expressed as a percentage, is calculated by
48 subtracting the average elevation of the uphill lot line and the average elevation of the downhill
49 lot line and dividing the sum by the average distance between the two lot lines. The average
50 elevation of the uphill or downhill lot line is calculated by adding the elevations at the ends of
51 the lot line and dividing by two. See Figure 1.

52
53 Section 3. Homer City Code Chapter 21.44 Steep Slopes is hereby amended to read as
54 follows:

55
56 CHAPTER 21.44

57
58 STEEP SLOPES

59
60 21.44.010 Purpose and intent
61 21.44.020 Applicability
62 21.44.030 Steep slope development standards
63 21.44.040 Setbacks for development activity
64 21.44.050 Site plan for conditional use
65

66 21.44.010 Purpose and intent. This chapter regulates development activity and structures
67 in areas affected by steep slopes, bluffs, coastal bluffs and ravines, and provides the means for
68 additional review and protection to encourage safe and orderly growth to promote the health,
69 welfare and safety of Homer residents.

70
71 21.44.020 Applicability. a. This chapter applies to all development activity that disturbs
72 the existing land surface, including without limitation clearing, grading, excavating and filling in
73 areas that are subject to any of the following conditions:

- 74 1. Steep slopes, bluffs, coastal bluffs and ravines;
75 2. Located within forty (40) feet of the top or within fifteen (15) feet of the
76 toe of a steep slope, bluff, coastal bluff or ravine; and
77 3. Any other location where the City Engineer determines that adverse
78 conditions associated with slope stability, erosion or sedimentation are present.

79 b. This chapter imposes regulations and standards in addition to the requirements of
80 the underlying zoning district(s).

81
82 21.44.030 Steep slope development standards. The following standards apply to all
83 development activity on a site described in HCC 21.44.020.

84 a.. No development activity, including clearing and grading, may occur before the
85 approval of a site plan under HCC 21.44.050 ~~of the level required for the applicable zoning~~

[**Bold and underlined added.** Deleted language stricken through.]

86 ~~district under HCC Chapter 21.73~~, and the issuance of a zoning permit under HCC Chapter
87 21.70.

88 b. Except where authorized by a conditional-use permit under HCC 21.44.050, all
89 development activity shall conform to setback requirements in HCC 21.44.040.

90 c. The site design and development activity shall not restrict natural drainage
91 patterns, except as provided in this subsection.

92 1. To the maximum extent feasible, the natural surface drainage patterns
93 unique to the topography and vegetation of the site shall be preserved. Natural surface drainage
94 patterns may be modified only pursuant to the site plan approved under 21.44.040, and upon a
95 showing that there will be no significant adverse environmental impacts on the site or on
96 adjacent properties. If natural drainage patterns are modified, appropriate soil stabilization
97 techniques shall be employed.

98 2. The site shall be graded as necessary to ensure that drainage flows away from
99 all structures for a distance of at least 10 feet, especially where building pads are cut into
100 hillsides.

101 3. The development activity shall not cause an adverse effect on adjacent
102 land and surrounding drainage patterns.

103 d. Erosion control.

104 1. Erosion control methods approved by the City Planner and City Engineer,
105 including without limitation sediment traps, small dams and barriers, shall be used during
106 construction and site development to protect water quality, control soil erosion and control the
107 velocity of runoff.

108 2. Winter Erosion Control Blankets. If development on a slope is not
109 stabilized by October 15, erosion control blankets (or a product with equivalent performance
110 characteristics) must be installed upon completion of the seasonal work, but no later than
111 October 15. The erosion control blankets shall remain in place until at least the following May
112 1.

113
114 21.44.040 Setbacks for development activity. a. Subject to (b) and (c) of this section, all
115 development activity on a site described in HCC 21.44.020 is subject to the following setback
116 requirements.

117 1. No structure may be closer to the top of a ravine or non-coastal bluff than
118 the lesser of:

119 i. 40 feet; or

120 ii. 1/3 of the height of the bluff, but not less than 15 feet.

121 2. No structure may be closer than 15 feet to the toe of a bluff other than a
122 coastal bluff.

123 3. No structure may be closer than 40 feet to the top of a coastal bluff and
124 closer than 15 feet to the toe of a coastal bluff.

125 b. Development activity conforms to the setback requirements of this section
126 notwithstanding that any of the following are located within the required setback:

[Bold and underlined added. Deleted language stricken through.]

- 127 1. A deck extending no more than five feet into the required setback.
128 2. An unoccupied accessory structure having a building area not greater than
129 200 square feet that is no closer than 15 feet to the top of any bluff or ravine.
130 3. A boardwalk, sidewalk, foot path or stairway that provides access to a
131 beach, bluff or accessory structure, and that is located at or within three feet above ground level.
132 c. No structure other than a structure described in (b) of this section, may be located
133 in a setback required in (a) of this section without a conditional use permit. **An application for**
134 **such a conditional use permit shall include the information required by HCC 21.44.050 in**
135 **addition to HCC 21.73.**
136

137 **21.44.050 Site plan for conditional-use Steep Slope Development.** a. No **Development**
138 **on a steep slope** conditional-use under HCC 21.44.040(c) may be approved unless the City
139 Engineer finds that the site plan ~~for the conditional-use~~ required under this section is complete
140 and in conformance with the requirements of this section. The City Engineer shall accept or
141 reject the plan as submitted or may require that specific conditions be complied with in order for
142 the plan to meet approval.

143 b. ~~In addition to the applicable requirements for a site plan under HCC Chapter~~
144 ~~21.73, the site plan for a conditional use permit under HCC 21.44.040(e) shall include the~~
145 ~~following information.~~

- 146 1. The location of all watercourses, water bodies, and wetlands within 100
147 feet of the location of the proposed development activity.
148 2. The location of all existing and proposed drainage structures and patterns.
149 3. Site topography shown by contours with a maximum vertical interval of
150 five feet.
151 4. The location of all proposed and existing buildings, utilities (including
152 onsite well and septic facilities), driveways and streets.
153 5. The location of all existing vegetation types including meadow, forest and
154 scrub lands, identifying all areas of vegetation that will be removed as well as vegetation to be
155 preserved or replaced. Specifications for revegetation shall also be included.
156 6. Specific methods that will be used to control soil erosion, sedimentation,
157 and excessive storm water runoff both during and after construction.
158 7. A description of the stability of the existing soils on site and a narrative
159 and other detail sufficient to demonstrate the appropriateness of the development and
160 construction methods proposed.
161 8. A grading plan for all areas that will be disturbed by the development
162 activity.
163 9. A geotechnical engineering report including the following:
164 i. Summary of all subsurface exploration data, including subsurface
165 soil profile, exploration logs, laboratory or in situ test results, and ground water information;
166 ii. Interpretation and analysis of the subsurface data;
167 iii. Summary of seismic concerns and recommended mitigation;

[Bold and underlined added. Deleted language stricken through.]

- 168 iv. Specific engineering recommendations for design;
- 169 v. Discussion of conditions for solution of anticipated problems;
- 170 vi. Recommended geotechnical special provisions;
- 171 vii. An opinion on adequacy for the intended use of sites to be
- 172 developed by the proposed grading as affected by soils engineering factors, including the
- 173 stability of slopes.
- 174 10. Conformance to the site development standards of HCC 21.44.030.
- 175

176 Section 4. Homer City Code 21.50.020, Site development standards – level one, is
177 amended to read as follows:

178
179 This section establishes level one site development standards. Level one site
180 development standards apply in all zoning districts, unless otherwise provided by another
181 provision of the zoning code.

182 a. Slopes. All development on a site affected by a steep slope, bluff, coastal bluff
183 or ravine, as described in HCC 21.44.020, shall be subject to the requirements of HCC
184 Chapter 21.44 in addition to the requirements of this section. lots with slopes of 15 percent
185 more is subject to the following standards:

186 1. ~~For lots with slopes of 15 to 30 percent, the area used for development~~
187 ~~shall not exceed 25 percent of the lot. If the development site includes more than one lot, a~~
188 ~~conditional use permit is required.~~

189 2. ~~For lots with slopes of greater than 30 percent, the area used for~~
190 ~~development shall not exceed ten percent of the lot. If the development site includes more than~~
191 ~~one lot, a conditional use permit is required.~~

192 3. ~~Vegetation shall remain undisturbed except as necessary to construct~~
193 ~~improvements and to eliminate hazardous conditions, in which case it must be replanted with~~
194 ~~approved materials including ground cover, shrubs and trees. Native vegetation is preferred for~~
195 ~~replanting operations, and will be used where practicable.~~

196 4. ~~Grading shall not alter the natural contours of the terrain except as~~
197 ~~necessary for building sites or to correct unsafe conditions. The locations of buildings and roads~~
198 ~~shall be planned to follow and conform to existing contours as nearly as possible.~~

199 b. Drainage. All development activity on lands shall conform to the following:
200 1. Development shall provide a drainage system that is designed to deposit
201 all runoff into either an engineered drainage system or into a natural drainage.

202 2. Where open-ditch construction is used to handle drainage within the
203 development, a minimum of 15 feet shall be provided between any structures and the top of the
204 bank of the defined channel of the drainage ditch.

205 3. When a closed system is used to handle drainage within the development,
206 all structures shall be a minimum of ten feet from the closed system.

207 c. Landscaping Requirements. All development activity on lands shall conform to
208 the following:

[**Bold and underlined added.** Deleted language stricken through.]

209 1. Development activities shall not adversely impact other properties by
210 causing damaging alteration of surface water drainage, surface water ponding, slope failure,
211 erosion, siltation, intentional or inadvertent fill or root damage to neighboring trees, or other
212 damaging physical impacts. The property owner and developer shall take such steps, including
213 installation of culverts or buffers, or other methods, as necessary to comply with this
214 requirement.

215 2. Upon completion of earthwork, all exposed slopes and all cleared, filled,
216 and disturbed soils shall be protected against subsequent erosion by methods such as, but limited
217 to, landscaping, planting, and maintenance of vegetative cover.

218 3. All exposed, cleared, filled and disturbed soils shall be revegetated within
219 16 months following the initiation of earthwork. Natural revegetation is acceptable if the site
220 naturally revegetates within that 16 month period. If natural revegetation is not successful within
221 that 16 month period, the property owner and developer shall revegetate by other means no later
222 than the end of that 16 month period.

223 4. Drainage can be stabilized by other means than vegetation, if approved in writing
224 by the City Engineer.

225
226 Section 5. Subsection (b) of Homer City Code 21.50.030, Site development standards –
227 level two, is amended to read as follows:

228
229 b. Slopes. All development on **a site affected by a steep slope, bluff, coastal bluff**
230 **or ravine, as described in HCC 21.44.020, shall be subject to the requirements of HCC**
231 **Chapter 21.44 in addition to the requirements of this section** ~~lots with slopes of 20 percent or~~
232 ~~more shall be subject to the following standards:~~

233 1. ~~For lots with slopes of 20 percent to 30 percent, the area used for~~
234 ~~development shall not exceed 25 percent of the lot. If the development site includes more than~~
235 ~~one lot, a conditional use permit is required.~~

236 2. ~~For lots with slopes greater than 30 percent, the area used for development~~
237 ~~shall not exceed ten percent of the lot. If the development site includes more than one lot, a~~
238 ~~conditional use permit is required.~~

239 3. ~~Vegetation shall remain undisturbed except as necessary to construct~~
240 ~~improvements and to eliminate hazardous conditions, unless replanted with as much native~~
241 ~~vegetation as practicable including ground cover, shrubs and trees.~~

242 4. ~~Grading shall not alter the natural contours of the terrain except as~~
243 ~~necessary for building sites or to correct unsafe conditions. The locations of buildings and roads~~
244 ~~shall be planned to follow and conform to existing contours as nearly as possible.~~

245
246 Section 6. This ordinance shall be effective upon adoption, except that land development
247 plans that received final approval prior to the effective date of this ordinance shall not be subject
248 to the amendments in this ordinance.

249

[Bold and underlined added. Deleted language stricken through.]

250 Section 7. This Ordinance is of a permanent and general character and shall be included
251 in the City Code.

252
253 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
254 _____ 2010.

255
256 CITY OF HOMER

257
258
259
260 _____
261 JAMES C. HORNADAY, MAYOR

262 ATTEST:

263
264
265 _____
266 JO JOHNSON, CMC, CITY CLERK

267
268 YES:

269 NO:

270 ABSTAIN:

271 ABSENT:

272
273 First Reading:

274 Public Hearing:

275 Second Reading:

276 Effective Date:

277
278
279 Reviewed and approved as to form:

280
281
282 _____
283 Walt E. Wrede, City Manager

284 Date: _____

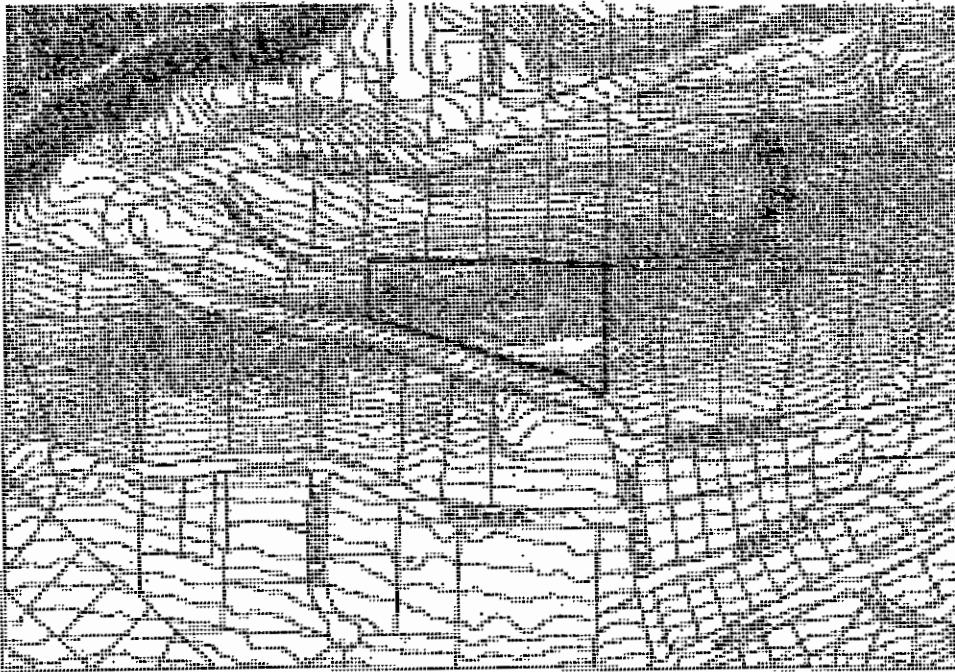
Thomas F. Klinkner, City Attorney
Date: _____

[**Bold and underlined added.** Deleted language stricken through.]



Steep Slope examples

from SR09-42



1. West Hill lot

A long steeply sloping lot; no distinct bluff and no areas of 50% slope.

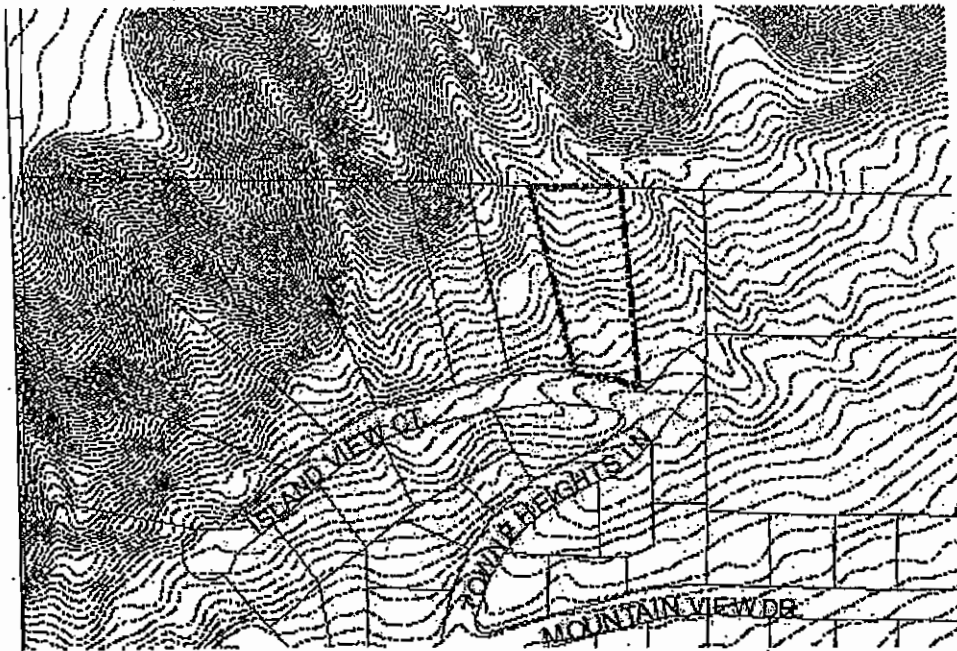
Calculated slope: 32%

Current regulation: development limited to 10% of the lot (that's driveway, house, lawn, ie any dirt work.)

Total developable area on this lot: 23000 sq ft.

Total developed: 22,000. This lot is compliant with current regulations.

New regs: no limit on work on slope; its less than 50% and there is no bluff portion on this lot.

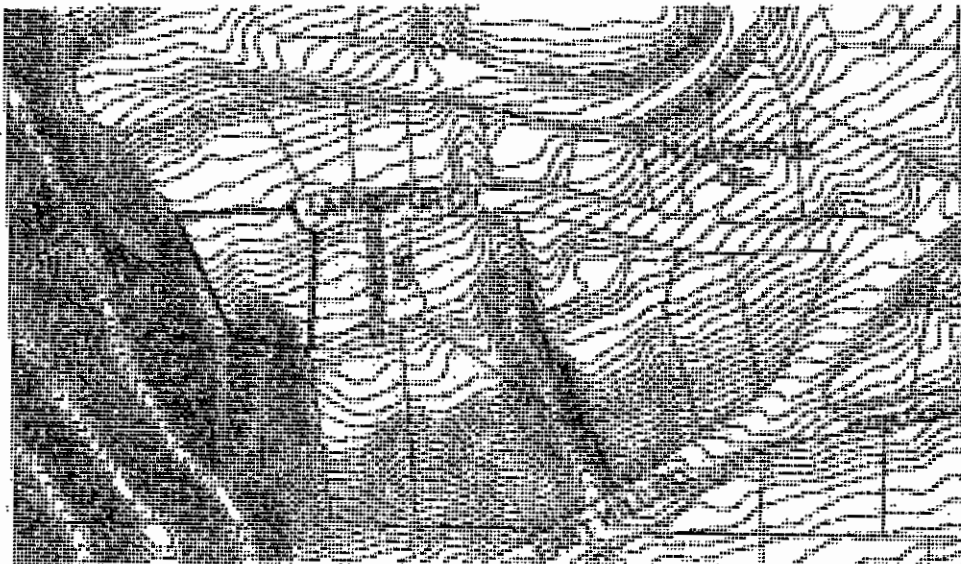


2. Island View Court

Calculated slope: 18%

Current regulation: limited to developing 25% of the lot, about 13,000 square feet

New regs: no limit; its not that steep and there are no ravines or drainages (on our maps at least)



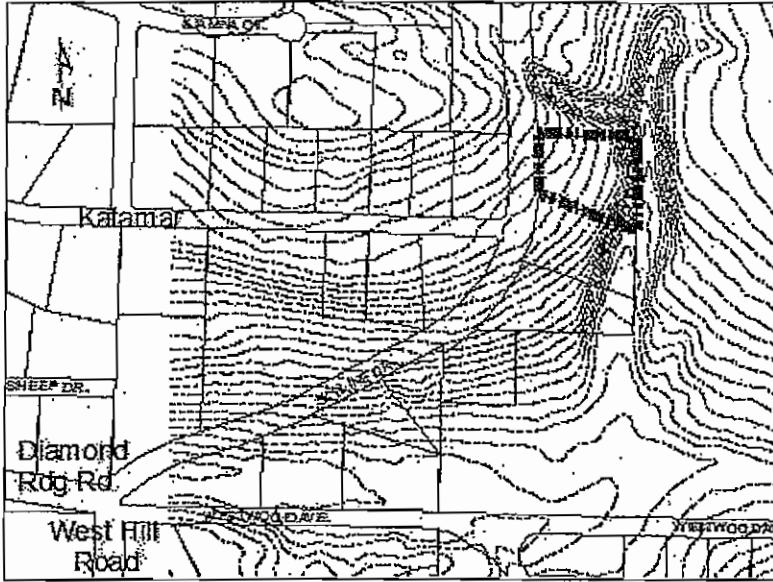
3. Larkspur Court

Lot description: Large level plateau near the street, then sharp drop off into a gully on west and south sides of the lot.

Calculated slope: 20%

Current regulation: limited to developing 25% of the lot, or 14,000 sq ft, ANYWHERE on the lot. The current rules allow someone to reasonably develop the lots. But nothing prevents them from excavating or building on the 50% slope portion of the lot.

New rules: stay back 40 from the top of the bluff/ravine. This lot would physically have a 29,000 sq ft buildable envelope. End result; increase in developable area, but must stay away from bluff edge, protecting the bluff.



4. Skyline Drive

Gently sloping lot (generally about 8%) with a deep steep ravine at the far end of the lot.

Calculated Slope: 18%

Current Regulation: limited to developing 25% of the lot, or 22,000 sq ft

New rules: stay back 40 from the steep slope ravine area, develop as much as you want.

End result: much more developable area, and the ravine area is protected.



...

Discussion resumed regarding requirement thirteen and that not all areas are completely identified. City Planner Abboud suggested a condition to clearly identify all slopes over 20%. He pointed out where it is labeled steep with no contour lines is the bluff area and is all over 20%. Point was raised that if all areas exceed 20% they cannot get a zoning permit to build on the land. City Planner Abboud reiterated that the action is a subdivision and there is a plat note that it is subject to the requirements of City Code.

MINSCH/KRANICH MOVED TO POSTPONE UNTIL THERE IS AN APPLICANTS REPRESENTATIVE TO ANSWER QUESTIONS.

There was discussion arguing the points regarding dealing with the notion that the lot is unbuildable. There was also discussion regarding access. The Commission expressed their desire to have an applicant's representative available to answer questions.

VOTE: YES: BOS, MINSCH, HIGHLAND, DRUHOT, KRANICH

Motion carried.

PENDING BUSINESS

A. Staff Report PL 10-36, Steep Slope

City Planner Abboud reviewed the staff report.

Comments included:

- Re vegetation on line 153 applies to everything, not exclusive to steep slope.
- This ordinance doesn't address road construction.
- Discussion if 50% slope is too steep.
- There has to be balance with what the existing regulations are and peoples property rights.
- There has to be consideration of safety for the people down slope.
- It is important to consider that if an engineer can draw a home on a lot that has a 75% slope, it could very possibly be vegetated to strengthen the slope far greater than the person doing a project on a 20% grade.
- In the case of a ravine, where you have one side on a lot with an 8 foot elevation and a 20 foot elevation on the other side on the adjacent lot, one side is a ravine and the other a bluff. There could be drawings included with the definitions.
- Steep slope can be relative to location, soils, tectonics, and so forth.
- Change ravine height from 10 to 15 feet. It would put it consistent with the bluff.
- There has been public input prior to the ordinance being drafted and now the Commission needs to have something on paper for further comment. The process isn't limited to one public hearing.
- The consultant's report states that generally speaking slopes that are 2 to 1 or 50% or less are pretty stable. Those comments don't specifically address Homer and the soils here are different than "generally speaking".
- We can get something on the books to regulate 50% now and then start work on the 30% to 50%.
- It is really all about the stabilization after excavating, no matter where you excavate. If the 16 month period was brought to the level of the State guide line which is 14 days, then the 50% shouldn't make much difference at all. With good engineering it could be made stronger.

- The 16 month time frame is for level one development standards, regulating less than steep slopes. Line 153 addresses that the engineer will specify how revegetation will be done.
- Line 69 add, "and the environment".
- The environment is going to be effected simply by building. That is too broad of a statement.
- Need to address the footage for coastal bluffs line 24.

The Commission requested Planning Technician Engebretsen join them for their next discussion to help address some of their questions.

B. Staff Report PL 10-37, Draft Ordinance 10-xx Amending HCC 21.93 Appeals

KRANICH/HIGHLAND MOVED TO MOVE THE DRAFT ORDINANCE PERTAINING TO APPEALS TO PUBLIC HEARING.

There was brief discussion that they wanted questions answered regarding voting and cross examination.

VOTE: NO: KRANICH, BOS, HIGHLAND, MINSCH, DRUHOT

Motion failed.

KRANICH/BOS MOVED TO POSTPONE UNTIL STAFF BRINGS IT BACK WITH ANSWERS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

C. Staff Report PL 10-33, Draft Homer Spit Comprehensive Plan

KRANICH MOVED TO POSTPONE FURTHER ACTION UNTIL THE NEXT MEETING.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

A. April 7 minutes

Commissioner Kranich asked for clarification of the discussion of paving requirements during the of the UAA conditional use permit.

KRANICH/BOS MOVED TO APPROVE THE MINUTES AS AMENDED.

There was brief discussion.



City of Homer Planning & Zoning

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STAFF REPORT PL 10-15

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: ~~February 3, 2010~~ February 17, 2010
SUBJECT: Draft Steep Slope Ordinance

GENERAL INFORMATION

Staff and the Planning Commission have been working on a draft ordinance to regulate development on steep slopes. This effort has been on-going for a few years. The Commission finished their review in May last year, and staff has been working with a consultant to perform a final review the draft ordinance. Staff has now (finally) received the consultant's comments on the ordinance. The consultant will also provide some written comments which will be a lay down at the meeting.

Note: this staff report is rather brief! The consultant's comments were received at the last minute before the meeting packet was copied. So this report is a very brief review of the changes! Please feel free to ask questions. The Commission may chose to continue discussion at a meeting or work session, or forward for city attorney review and then public hearing. Staff also recommends discussion or at least a review of the discussion during the regular meeting so there are meeting minutes. Staff recommends attorney review soon as there are code mechanics that he may want to change.

For those Commissioners that recall the discussion of the definition of steep slope, the consultant had some comments on that and it will be addressed in his report. He will be available by telephone to answer questions.

There is some history with this ordinance, but in summary, the ordinance seeks to address the following problems with existing code.

1. Existing code limits the percent of the lot that can be developed, based on the amount of steepness. Therefore if you had a large lot but were limited to developing 10% of your land, you could develop a large area, whether it was safe to do so or not. Example: if someone had a 10 acre lot, they could still bulldoze 1 acre of that land.

2. A steep lot might have a great building location, such as a bluff lot that is flat on top, and then drops to the beach. The % slope rules would limit how much someone could develop their lot, even though a perfectly good building area exists.

3. Nothing in current code regulates how close someone can build to the bluff edge.

4. Little in current code keeps someone from running a bulldozer up a steep slope – ie the road above Karen Hornaday Park.

The new code is not based on the size of the lot. It is based on the presence of steep slopes and coastal bluffs, whether it is on your building site or not. The ordinance has three main parts.

1. Defines what a steep slope is.

2. Creates bluff/steep slope setback standards.

3. If someone wants to build/construct/develop on steep slopes, engineering will be required. Code does not dictate how these steep areas can or should be developed, but it does require a qualified licensed professional to be involved in the process, to ensure the safety of the land owner and other area property owners. A land owner can avoid this expense and effort by choosing to not develop on slopes of 50% or greater.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission review the draft ordinance. When ready, forward for attorney review, and public hearing when brought back by staff.

ATTACHMENTS

1. January 29, 2010 draft ordinance

To attorney, Feb 2010 Draft Version

HOMER, ALASKA

Planning/

ORDINANCE 10-xx

AN ORDINANCE OF THE OF THE CITY COUNCIL
DELETING 21.050.20 (a) (1-4) AND DELETING 21.030(b)(1-4)
AND AMENDING 21.020.040 AND AMENDING SECTION
21.44 STEEP SLOPES

WHEREAS,; and (STAFF TO WORK ON THIS PRIOR TO PUBLIC HEARING)

WHEREAS,.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Zoning and Planning 21.50.020 (a)(1-4) Site Development Standards Level one, Slopes, is hereby amended to read as follows:

Delete 21.50.020 a (1-4) and renumber that section accordingly.

~~a. Slopes. All development on lots with slopes of 15 percent more is subject to the following standards:~~

~~1. For lots with slopes of 15 to 30 percent, the area used for development shall not exceed 25 percent of the lot. If the development site includes more than one lot, a conditional use permit is required.~~

~~2. For lots with slopes of greater than 30 percent, the area used for development shall not exceed ten percent of the lot. If the development site includes more than one lot, a conditional use permit is required.~~

~~3. Vegetation shall remain undisturbed except as necessary to construct improvements and to eliminate hazardous conditions, in which case it must be replanted with approved materials including ground cover, shrubs and trees. Native vegetation is preferred for replanting operations, and will be used where practicable.~~

~~4. Grading shall not alter the natural contours of the terrain except as necessary for building sites or to correct unsafe conditions. The locations of buildings and roads shall be planned to follow and conform to existing contours as nearly as possible.~~

44

45 Section 2. Homer City Code Zoning and Planning 21.50.020 (a)(1-4) Site Development
46 Standards Level two, Slopes, is hereby amended as follows:

47

48 Delete 21.50.030 b (1-4), and renumber code accordingly.

49

50 ~~b. Slopes. All development on lots with slopes of 20 percent or
51 more shall be subject to the following standards:~~

52 1. ~~For lots with slopes of 20 percent to 30 percent, the
53 area used for development shall not exceed 25 percent of the lot. If
54 the development site includes more than one lot, a conditional use
55 permit is required.~~

56 2. ~~For lots with slopes greater than 30 percent, the area
57 used for development shall not exceed ten percent of the lot. If the
58 development site includes more than one lot, a conditional use permit
59 is required.~~

60 3. ~~Vegetation shall remain undisturbed except as
61 necessary to construct improvements and to eliminate hazardous
62 conditions, unless replanted with as much native vegetation as
63 practicable including ground cover, shrubs and trees.~~

64 4. ~~Grading shall not alter the natural contours of the
65 terrain except as necessary for building sites or to correct unsafe
66 conditions. The locations of buildings and roads shall be planned to
67 follow and conform to existing contours as nearly as possible.~~

68 Section 3. Homer City Code Zoning and Planning 21.05.040, Measuring Slopes, is hereby
69 amended to read as follows:

70

71 21.02.040 Measuring Slopes. Slope is measured by calculating the vertical change in
72 elevation (H) over the horizontal run (L) across the steepest portion of the lot and
73 multiplying this decimal result by 100 to determine percent (%) slope. Percent Slope =
74 $(H/L) \times 100$

75 ~~When calculating the slope of a lot, an average slope is used based on
76 the elevations at the corners of the lot. The average slope of a lot,
77 expressed as a percentage, is calculated by subtracting the average
78 elevation of the uphill lot line and the average elevation of the
79 downhill lot line and dividing the sum by the average distance between
80 the two lot lines. The average elevation of the uphill or downhill
81 lot line is calculated by adding the elevations at the ends of the lot
82 line and dividing by two. See Figure 1.~~

83

84

85 Section 4. Homer City Code Zoning and Planning Title 21.03 Definitions and Rules of
86 Construction, is hereby amended include the following:

87

88 **Definitions to add under 21.030.040:**

89 Steep slope: A steep slope is defined as a slope where the average vertical change in topography
90 is equal to or greater than one foot of rise for every two feet of horizontal travel (50% slope),
91 with an overall vertical change of 15 feet or greater. Steep slopes can be naturally occurring or
92 man-made by excavating into naturally sloping ground or by filling over naturally sloping
93 ground. (See drawing)

94
95 Bluff: An abrupt vertical change in topography of more than 15 feet with an average slope
96 steeper than two feet of rise for one foot of horizontal travel (steeper than 200%).

97
98 Coastal Bluff: a bluff along the beach.

99
100 (Diagrams will be included here for bluff and coastal bluff)

101
102 Ravine: a long, deep hollow in the earth's surface with sharply sloping walls that has a drop in
103 elevation from the top ravine edge equal to or greater than five feet vertical for every one foot
104 (500%) horizontal, and is at least ten feet in height.

105
106 Section 5. Homer City Code, Zoning and Planning Title 21.44 Steep Slopes is hereby amended
107 to read as follows:

108
109 **21.44.010 PURPOSE**

110 The purpose of this chapter is to regulate the development activities and structures in areas with
111 steep slopes, and along coastal bluffs, to protect the health and safety of Homer residents.

112
113 **21.44.020 APPLICABILITY**

114 a. This chapter applies to development, grading, and any other land disturbing activity under any
115 of the following conditions:

- 116 1. On steep slopes.
117 2. Within forty (40) feet of the top or within fifteen (15) feet of the toe of steep slopes,
118 of a bluff, coastal bluff, or ravine.
119 3. At locations where adverse conditions associated with slope stability, erosion, or
120 sedimentation are present as determined by the City Engineer.

121 b. The requirements of this chapter apply in addition to all other applicable codes, rules, acts or
122 ordinances.

123
124 **21.44.030 STANDARDS (no idea if this is the right word or phrase)**

125 a. Site Grading and Development Activity

- 126 1. On all sites regulated under this chapter, no development, including clearing and
127 grading, shall occur without a site plan approved under 21.73.010 Site Plan, and a
128 zoning permit.
129 2. Prior to any development on lands regulated by this chapter (excluding b, setbacks?),
130 the applicant shall submit a site development plan meeting the requirements of
131 21.44.040 prepared by a civil engineer licensed in the State of Alaska.

132 b. Setbacks (Tom – this is the carrot part of the ordinance. If a developer meets these setbacks,
133 then they don't have to do 21.44.040, which is pretty onerous. I have really struggled with where
134 to put this setback section in code. I am not sure that it does not conflict with line 129 above.)

- 135 1. Structures near ravines and non-coastal bluffs must be setback from the top of the
136 bluff at least 40 feet or one third (1/3) the height of the bluff, whichever is less, but no
137 less than 15 feet. Structures near the toe must be setback at least 15 feet or one half
138 (1/2) the height of the bluff, whichever is less.
- 139 2. Structures near coastal bluffs must be setback from the top of the bluff at least 40 feet
140 and 15 feet from the toe.
- 141 3. Setback exceptions. Exceptions to the setback requirements of this title include:
 - 142 a. Decks may extend up to five feet into the setback required.
 - 143 b. Unoccupied accessory structures up to two hundred square feet may be placed
144 within the setback area but must be at least 15 feet from the top of the bluff,
145 coastal bluff or ravine.
 - 146 c. Boardwalks, sidewalks, foot paths, stairways, etc, generally at ground level or
147 slightly elevated, that provide access to the beach or bluff area, or to accessory
148 structures.
 - 149 d. Further setback exceptions may be granted by Conditional Use Permit. (Tom –
150 we want the developer to submit all the steep slope stuff in the rest of this ordinance,
151 when they apply for a CUP, so that when the PC reviews the request, they have technical
152 information from which to make findings or to disagree. We need to say somehow the
153 applicant will provide the info of 21.44.040 as part of the CUP application process.)
154
155

156 **21.44.040 Steep Slope SITE PLAN REQUIREMENTS**

- 157 a. The site plan at a minimum must include the following:
 - 158 1. Location of all watercourses, water bodies, and wetlands within 100 feet of the
159 proposed development.
 - 160 2. Location of all existing and proposed drainage structures and patterns.
 - 161 3. Site topography shown in minimum of 5 foot contours.
 - 162 4. Location of all proposed and existing buildings, utilities (including well and septic)
163 driveways and streets.
 - 164 5. Location of all existing vegetation types including meadow, forest and scrub lands,
165 identifying all areas of vegetation that will be removed as well as vegetation to be
166 preserved or replaced. Specifications for revegetation shall also be included.
 - 167 6. Specific methods that will be used to control soil erosion, sedimentation, and
168 excessive stormwater runoff both during and after construction.
 - 169 7. A description of the stability of the existing soils on site and a narrative and other
170 detail sufficient to demonstrate the appropriateness of the development and
171 construction methods proposed.
 - 172 8. Grading plan for the development, the construction site(s) and all development and
173 construction access routes.
 - 174 9. A geotechnical engineering report including at minimum

- 175 a. Summary of all subsurface exploration data, including subsurface soil
176 profile, exploration logs, laboratory or in situ test results, and ground
177 water information;
178 b. Interpretation and analysis of the subsurface data;
179 c. Summary of seismic concerns and recommended mitigation;
180 d. Specific engineering recommendations for design;
181 e. Discussion of conditions for solution of anticipated problems;
182 f. Recommended geotechnical special provisions;
183 g. An opinion on adequacy for the intended use of sites to be developed
184 by the proposed grading as affected by soils engineering factors,
185 including the stability of slopes.

186 10. Conformance with the site development requirements of 21.44.xxxx (line 193)

187 b. The site plan shall be reviewed by the City Engineer to determine if it complete and in
188 conformance with the ordinance requirements. The City Engineer shall accept or reject the plan
189 as submitted or may require that specific conditions be complied with in order for the plan to
190 meet approval.

191 c. No zoning permit shall be issued and no clearing, grading, or other development shall occur
192 until a site plan has been reviewed and approved by the City.

193 Site Development Requirements? Performance standards? Not sure what to call it...
194 21.44.xxxx

195 a. Natural Drainage Patterns. Site design and development activity shall not restrict
196 natural drainage patterns, except as provided below.

197 1. To the maximum extent feasible, development activity shall preserve the
198 natural surface drainage pattern unique to each site and lot as a result of
199 topography and vegetation. Grading shall ensure that drainage flows away
200 from all structures for a distance of at least 10 feet, especially where
201 building pads are cut into hillsides. Natural drainage patterns may be
202 modified on a site only pursuant to the site plan approved under 21.44.040
203 and upon a showing that there will be no significant adverse environmental
204 impacts on the lot, site or on adjacent properties. If natural drainage
205 patterns are modified, appropriate stabilization techniques shall be
206 employed.

207
208 2. Development activity shall not cause an adverse effect on adjacent land
209 and surrounding drainage patterns.

210
211
212 b. Erosion control.

213 1. Erosion control methods shall be used during construction and site development
214 to protect water quality, control erosion, and reduce soil erosion. Sediment traps, small

215 dams, barriers, or other methods approved by the City Planner and City Engineer shall
216 be located to control the velocity of runoff.

217 2. Winter Erosion Control Blankets. If development on a slope is not stabilized by
218 October 15, erosion control blankets (or a product with equivalent performance
219 characteristics) must be installed upon completion of the seasonal work, but no later
220 than October 15. The erosion control blankets shall remain in place until at least the
221 following May 1.

222

223 Section 6. Land development plans that received final approval prior to the effective date of this
224 ordinance shall be exempt from these requirements.

225 Section 7. If the provisions of any part of this ordinance shall be judged invalid by a court of
226 competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of this
227 ordinance.

228

229 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this _____ day of
230 _____, 2010.

231

232 CITY OF HOMER

233

234

235

236

237

JAMES C. HORNADAY, MAYOR

238

239 ATTEST:

240

241

242

243 Jo Johnson, CMC, CITY CLERK

244

245

246 YES:

247 NO:

248 ABSTAIN:

249 ABSENT:

250

251 First Reading:

252 Public Hearing:

253 Second Reading:

254 Effective Date:

255 Reviewed as to form:

256 _____

257 Walt Wrede, City Manager

258 Date: _____

259

Thomas F. Klinkner, City Attorney

Date: _____



There was brief discussion that the legal access provided by the cul-de-sac to the upper lot could present a challenge. It is questionable if it can be developed to acceptable standard for a city maintained road because of the topography.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PENDING BUSINESS

A. Staff Report PL 10-15, Draft Steep Slope Ordinance

Planning Technician Engebretsen reviewed the staff report.

The following points were addressed:

- The adequacy of 15 feet from the toe of the bluff. Planning Technician Engebretsen will research and see if there is a maximum footage.
- Currently there is no code regarding building on steep slopes, and this is a good first step.
- The ordinance addresses building requirements on a coastal bluff, and on a land bluff. Coastal erosion needs to be dealt with separately.
- The City Attorney will review format and content prior to the public hearing.
- In the event that the Public Works Director can not review a plan timely, he can contract with another engineer. If there is going to cost to the tax payers for this process it needs to be delineated somewhere. If there is going to be a third party reviewing the plan, the burden of the cost should not be to the developer who has already paid for their required engineering services.
- Based on prior conversations, Conditional Uses can be approved by the Commission to allow a property owner with appropriate engineering documentation the opportunity to build within the setback.
- There are stricter rules we could get to, but this is a good place to start.
- There needs to be more specifics about the requirement for the geotechnical report from an engineer.
- Planning Technician Engebretsen will research setting a performance standard for seismic activity.

KRANICH/BOS MOVED TO SEND THE STEEP SLOPE ORDINANCE BACK TO STAFF TO INCORPORATE CHANGES DISCUSSED TONIGHT AND FOR LEGAL REVIEW BEFORE RETURNING IT TO THE COMMISSION AND THE PUBLIC HEARING.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 10-05, Draft Ordinance 10-XX, Amending HCC 21.75, Storm Water Plans

Planning Technician Engebretsen recapped that at the worksession there was consensus with 150% finance security, using escrow funds, and defined rainfall events. The last outstanding issue is talking about bonding exemption.

0

0



City of Homer

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STAFF REPORT PL 09-42

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: May 6, 2009

SUBJECT: Draft Steep Slope Ordinance

GENERAL INFORMATION

The Commission requested some changes to the draft steep slope ordinance at the meeting of March 4, 2009. The following report discusses the changes staff has made, and requests further direction. Staff also came up with three examples of how the new ordinance works compared to the old. See attached.

Natural Drainage Patterns

Line 127. The commission requested a process to allow an applicant to change the drainage flow on a property. This is very problematic; its how we ended up with so many drainage problems in the first place – by moving water around without an overall plan. Also, drainage is a huge contributor to bluff instability. Not only are bluff soils easily eroded, but upstream changes can cause problems for downstream land owners. So, the current requirement that development not alter the drainage pattern is the low tech way to regulate this.

I did copy and paste the language from the original draft back into the ordinance (lines 129-139), which does allow some flexibility for moving water around. The former city attorney had reviewed this and those are his questions in parenthesis. The biggest issue is, if you create language that says "no adverse impact" how do you prove or disprove adverse impact, and how do you enforce it? This is a problem with current code and staff strongly recommends against "no adverse impact" language in code.

This adverse impact language can be avoided by having specific requirements; such as "hire an engineer/hydrologist to design a storm water detention system. "

What are the options?

1. Use the "no adverse impact" language, as presented in lines 129-139
2. Strike lines 129-139. Do not allow altering natural drainage patterns.
3. Add a section under the site plan, requiring an engineered plan if the natural drainage will be altered.

4. ???

Please make a motion and state what you want the ordinance to say.

CUP Process - Process for being allowed to build within a setback area. For example, building closer than 40 feet from the top of a bluff.

Lines 153 and 157 have been amended, to allow for an applicant to apply for a conditional use permit to develop with a setback area. Developers still have to submit a steep slope site plan, including a geotechnical report, but if they want to, there is a process they can go through to get approval to build near the steep slope.

Please think about what information you as a commission would want, if you had to review one of these requests. Some sort of standards for review should be included in this ordinance – otherwise the commission, staff and the developer don't know what criteria to use to know if their project can meet it or not. An applicant will not want to spend months and thousands of dollars applying for a conditional use permit, without some idea if they can get it or not. How would you review the application? What information would you want? Think of this for coastal areas (rate of erosion is easy to come up with, but what else would you want to know?), for bluff areas like behind the hospital, and for ravines. In larger communities, they frequently have geotechnical committees, composed of professionals such as engineers. We probably don't have that level of interest or expertise in our community, nor will we have many permit applications. We just need a set of rules that can reasonably understood, followed and enforced!

Note: the way the CUP language is added to the ordinance is a little bit weird. I expect that when the PC is done reviewing the ordinance, we will send it to the attorney. Please do not get too caught up in word-smithing – I need your direction now on the big picture. We'll bring a final ordinance to you for fine tuning after the attorney works on it.

Geotechnical reports

The Commission asked for information on Geotechnical reports. A geotechnical report is a summary report of the exploration of the subsurface soils and how they are to be used as construction materials.

Attached are two documents about geotechnical investigations. The first is a handout from the Municipality of Anchorage. The second is an on-line class that provides a long thorough explanation of what a geotechnical report can include. The bigger and more complex the project, the longer and more detailed the report.

City Engineer Approval

Line 179 states the requirement that the City Engineer must review the geotechnical report. At the March 4 2009 meeting, the commission questioned the role of the city engineer in reviewing the site plans. The problem we are trying to address is that planning staff and most PW staff is not qualified to review a geotechnical report. We are not civil engineers. Having the city engineer, who is a licensed civil engineer, review the geotechnical report provides some due diligence on the city's part. This is how we deal with Storm Water Plans. Another option is

to contract with a private engineer to do the reviews on behalf of the city. We may choose as a city to do this anyway; if the city engineer is too busy or the project beyond his or her expertise, another engineer can be contracted to provide a third party analysis, and advise the city engineer.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission

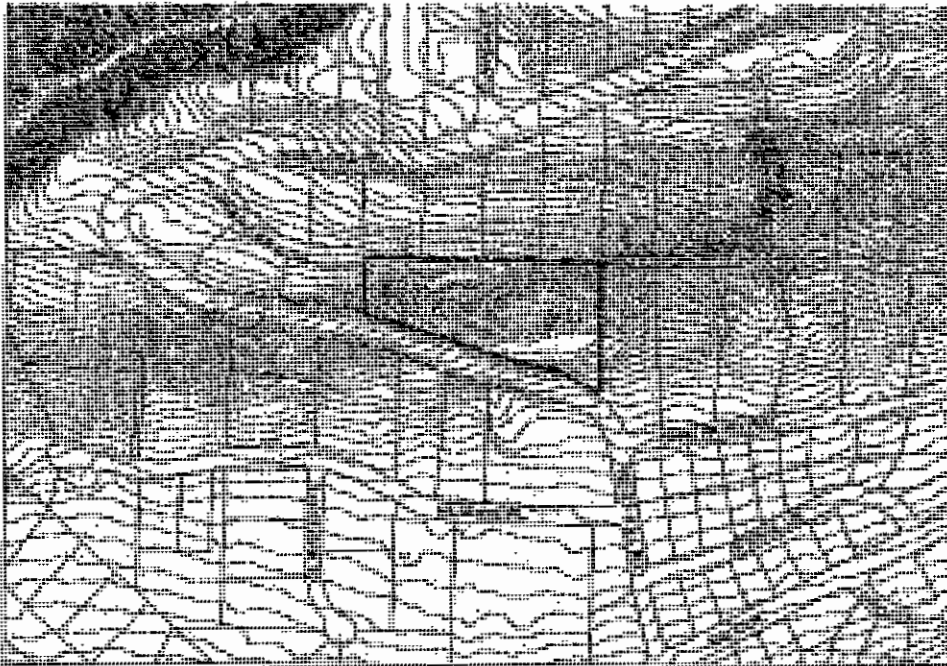
1. Move to include or delete language about drainage (starting at line 127)
2. Decide what information should be part of an application for a CUP for development on or near steep slopes.

Attachments

1. May 09 draft ordinance
2. Sample diagrams to illustrate the definition of slope
3. Examples of the new slope rules vs current regulations
4. March 4, 2009 HAPC minutes
5. April 16, 2008 Minutes
6. Municipality of Anchorage geotechnical report handout
7. "Understanding the Geotechnical Report as an Engineering Construction Reference," phd.com



Steep Slope examples



1. West Hill lot

A long steeply sloping lot; no distinct bluff and no areas of 50% slope.

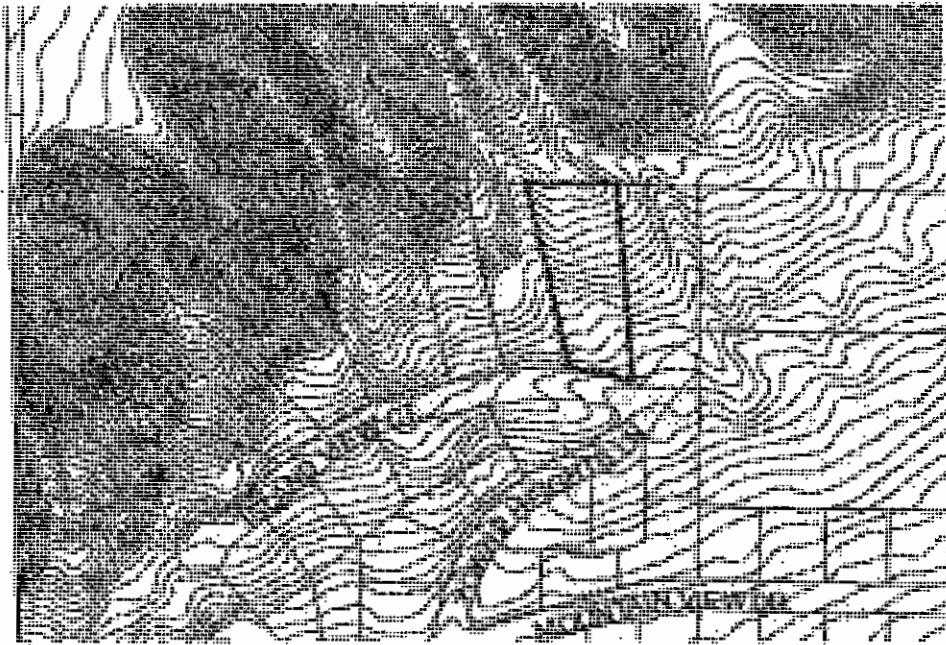
Calculated slope: 32%

Current regulation: development limited to 10% of the lot (that's driveway, house, lawn, ie any dirt work.)

Total developable area on this lot: 23000 sq ft.

Total developed: 22,000. This lot is compliant with current regulations.

New regs: no limit on work on slope; its less than 50% and there is no bluff portion on this lot.

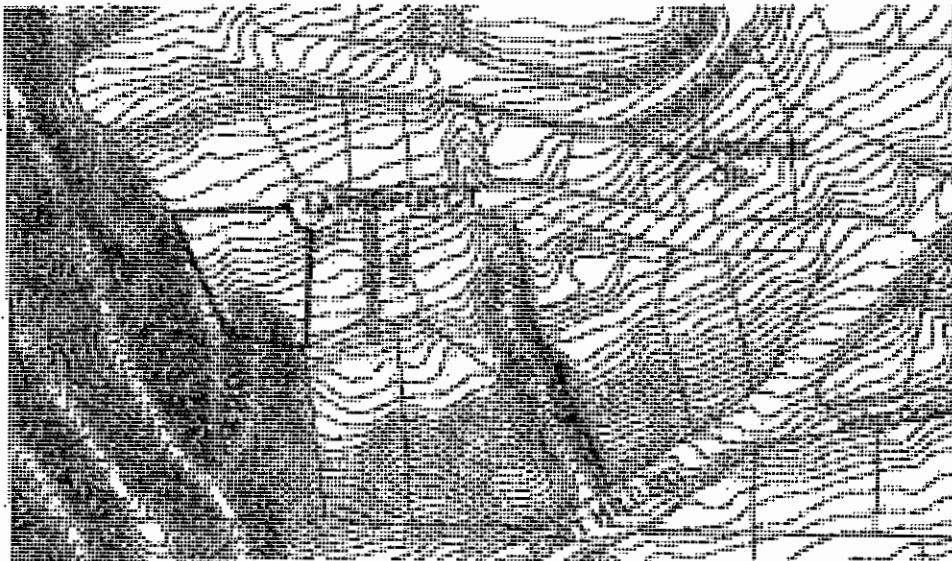


2. Island View Court

Calculated slope: 18%

Current regulation: limited to developing 25% of the lot, about 13,000 square feet

New regs: no limit; its not that steep and there are no ravines or drainages (on our maps at least)



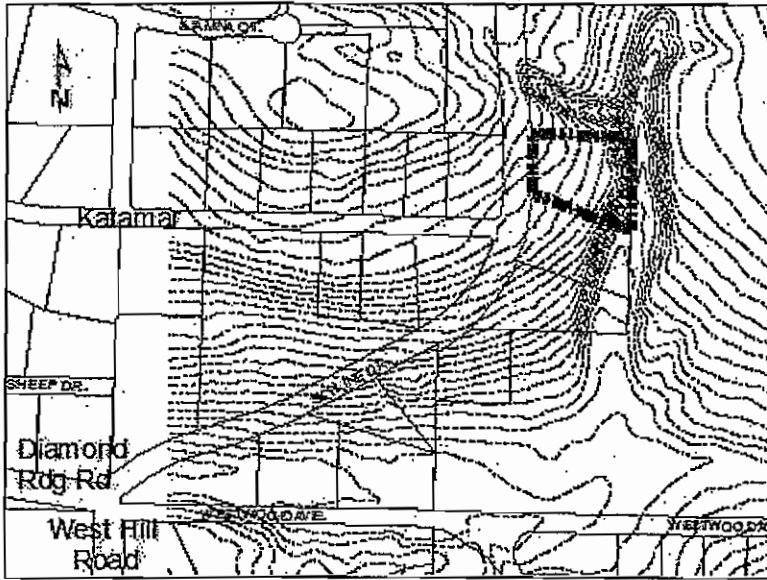
3. Larkspur Court

Lot description: Large level plateau near the street, then sharp drop off into a gully on west and south sides of the lot.

Calculated slope: 20%

Current regulation: limited to developing 25% of the lot, or 14,000 sq ft, ANYWHERE on the lot. The current rules allow someone to reasonably develop the lots. But nothing prevents them from excavating or building on the 50% slope portion of the lot.

New rules: stay back 40 from the top of the bluff/ravine. This lot would physically have a 29,000 sq ft buildable envelope. End result; increase in developable area, but must stay away from bluff edge, protecting the bluff.



4. Skyline Drive

Gently sloping lot (generally about 8%) with a deep steep ravine at the far end of the lot.

Calculated Slope: 18%

Current Regulation: limited to developing 25% of the lot, or 22,000 sq ft

New rules: stay back 40 from the steep slope ravine area, develop as much as you want.

End result: much more developable area, and the ravine area is protected.



1 May 6, 2009 Draft Version

2
3 HOMER, ALASKA

4
5 Planning/

6 ORDINANCE 09-xx

7
8 AN ORDINANCE OF THE OF THE CITY COUNCIL
9 DELETING 21.050.20 (a) (1-4) AND DELETING 21.030(b)(1-4)
10 AND AMENDING 21.020.040 AND AMENDING SECTION
11 21.44 STEEP SLOPES

12
13 WHEREAS,; and (STAFF TO WORK ON THIS PRIOR TO PUBLIC HEARING)

14
15 WHEREAS,.

16
17 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

18
19 Section 1. Homer City Code Zoning and Planning 21.50.020 (a)(1-4) Site Development
20 Standards Level one, Slopes, is hereby amended to read as follows:

21
22 Delete 21.50.020 a (1-4) and renumber that section accordingly.

23
24 ~~a. Slopes. All development on lots with slopes of 15 percent more is~~
25 ~~subject to the following standards:~~

26 ~~1. For lots with slopes of 15 to 30 percent, the area used for~~
27 ~~development shall not exceed 25 percent of the lot. If the~~
28 ~~development site includes more than one lot, a conditional use permit~~
29 ~~is required.~~

30 ~~2. For lots with slopes of greater than 30 percent, the area~~
31 ~~used for development shall not exceed ten percent of the lot. If the~~
32 ~~development site includes more than one lot, a conditional use permit~~
33 ~~is required.~~

34 ~~3. Vegetation shall remain undisturbed except as necessary to~~
35 ~~construct improvements and to eliminate hazardous conditions, in which~~
36 ~~case it must be replanted with approved materials including ground~~
37 ~~cover, shrubs and trees. Native vegetation is preferred for~~
38 ~~replanting operations, and will be used where practicable.~~

39 ~~4. Grading shall not alter the natural contours of the terrain~~
40 ~~except as necessary for building sites or to correct unsafe~~
41 ~~conditions. The locations of buildings and roads shall be planned to~~
42 ~~follow and conform to existing contours as nearly as possible.~~

43

44
45 Section 2. Homer City Code Zoning and Planning 21.50.020 (a)(1-4) Site Development
46 Standards Level two, Slopes, is hereby amended as follows:

47
48 Delete 21.50.030 b (1-4), and renumber code accordingly.

49
50 ~~b. Slopes. All development on lots with slopes of 20 percent or~~
51 ~~more shall be subject to the following standards:~~

52 ~~1. For lots with slopes of 20 percent to 30 percent, the~~
53 ~~area used for development shall not exceed 25 percent of the lot. If~~
54 ~~the development site includes more than one lot, a conditional use~~
55 ~~permit is required.~~

56 ~~2. For lots with slopes greater than 30 percent, the area~~
57 ~~used for development shall not exceed ten percent of the lot. If the~~
58 ~~development site includes more than one lot, a conditional use permit~~
59 ~~is required.~~

60 ~~3. Vegetation shall remain undisturbed except as~~
61 ~~necessary to construct improvements and to eliminate hazardous~~
62 ~~conditions, unless replanted with as much native vegetation as~~
63 ~~practicable including ground cover, shrubs and trees.~~

64 ~~4. Grading shall not alter the natural contours of the~~
65 ~~terrain except as necessary for building sites or to correct unsafe~~
66 ~~conditions. The locations of buildings and roads shall be planned to~~
67 ~~follow and conform to existing contours as nearly as possible.~~

68 Section 3. Homer City Code Zoning and Planning 21.05.040, Measuring Slopes, is hereby
69 amended to read as follows:

70
71 21.02.040 Measuring Slopes. Slope is measured by calculating the vertical change in
72 topography over the horizontal run.
73 ~~When calculating the slope of a lot, an average slope is used based on~~
74 ~~the elevations at the corners of the lot. The average slope of a lot,~~
75 ~~expressed as a percentage, is calculated by subtracting the average~~
76 ~~elevation of the uphill lot line and the average elevation of the~~
77 ~~downhill lot line and dividing the sum by the average distance between~~
78 ~~the two lot lines. The average elevation of the uphill or downhill~~
79 ~~lot line is calculated by adding the elevations at the ends of the lot~~
80 ~~line and dividing by two. See Figure 1.~~

81
82
83 Section 4. Homer City Code Zoning and Planning Title 21.03 Definitions and Rules of
84 Construction, is hereby amended include the following:

85
86 Definitions to add under 21.030.040:

87 Steep slope: A steep slope is a slope where there is a vertical change in topography of more than
88 25 feet with an average slope equal to or greater than two feet of horizontal travel for one foot of
89 rise. (50%).

90
91 Bluff: An abrupt vertical change in topography of more than 25 feet with an average slope
92 steeper than two feet of rise for one foot of horizontal travel (50%).

93
94 Coastal Bluff: a bluff along the beach.

95
96 (Diagrams will be included here for bluff and coastal bluff)

97
98 Ravine: a long, deep hollow in the earth's surface with sharply sloping walls that has a drop in
99 elevation from the top ravine edge equal to or greater than two feet vertical for every ten feet
100 horizontal, and is at least ten feet in height.

101
102 Section 5: Homer City Code, Zoning and Planning Title 21.44 Steep Slopes is hereby amended
103 to read as follows:

104
105 **21.44.010 PURPOSE**

106 The purpose of this chapter is to regulate the development activities and structures in areas with
107 steep slopes, and along coastal bluffs, to protect the health and safety of Homer residents.

108
109 **21.44.020 APPLICABILITY**

110 a. This chapter applies to development, grading, and any other land disturbing activity under any
111 of the following conditions:

- 112 1. On steep slopes.
113 2. Within forty (40) feet of steep slopes, the top of a bluff, coastal bluff, or ravine.
114 3. On sites where adverse conditions associated with slope stability, erosion, or
115 sedimentation are present as determined by the City Engineer.

116 b. The requirements of this chapter apply in addition to all other applicable codes, rules, acts or
117 ordinances.

118
119 **21.44.030 STANDARDS**

120 a. Site Grading and Development Activity

- 121 1. On all sites regulated under this chapter, no development, including grading and
122 clearing, shall occur without a site plan approved under 21.73.010 Site Plan, and a
123 zoning permit.
124 2. Prior to any development on a steep slope of 50% or greater the applicant shall
125 submit a site development plan meeting the requirements of 21.44.040 prepared by a
126 civil engineer licensed in the State of Alaska.

127 b. Natural Drainage Patterns. Site design and development activity shall not change
128 natural drainage patterns, except as provided below.

- 129 1. To the maximum extent feasible, development activity shall preserve
130 the natural surface drainage pattern unique to each site and lot as a result of topography

131 and vegetation. Grading shall ensure that drainage flows away from all structures,
132 especially structures that are cut into hillsides. Natural drainage patterns may be modified
133 on site only pursuant to permit approved by the [WHO?] upon a showing that there will be
134 no significant adverse environmental impacts on the lot, site or on adjacent properties. If
135 natural drainage patterns are modified, appropriate stabilization techniques shall be
136 employed.

137
138 2. Development activity shall not cause a substantial adverse effect on
139 adjacent land and surrounding drainage patterns.

140 ~~Site grading and development activity shall preserve the natural _____ surface~~
141 ~~drainage pattern unique to each site as a result of topography and vegetation.~~

142 c. Erosion control.

143 1. Erosion control methods shall be used during construction and site development to
144 protect water quality, control erosion, and reduce soil erosion. Sediment traps, small
145 dams, barriers, or other methods approved by the City Planner and City Engineer
146 shall be located to control the velocity of runoff.

147 2. Winter Erosion Control Blankets. If development on a disturbed slope is not
148 stabilized by October 15, erosion control blankets (or a product with equivalent
149 performance characteristics) must be installed upon completion of the seasonal work,
150 but no later than October 15. The erosion control blankets shall remain in place until
151 at least the following May 1.

152 d. Setbacks

153 1. Structures near ravines and non-coastal bluffs must be setback from the top of the
154 bluff at least 40 feet or one-third (1/3) the height of the bluff, whichever is less, but no
155 less than 15 feet.

156 2. Structures near coastal bluffs must be setback from the top of the bluff at least 40
157 feet.

158 3. Setback exceptions. Exceptions to the setback requirements of this title include:

159 a. Decks may extend up to five feet into the setback required.

160 b. Unoccupied accessory structures up to two hundred square feet may be placed
161 within the setback area but must be at least 15 feet from the top of the bluff,
162 coastal bluff or ravine.

163 c. Boardwalks, sidewalks, foot paths, stairways, etc, generally at ground level or
164 slightly elevated, that provide access to the beach or bluff area, or to accessory
165 structures.

166 d. Further setback exceptions may be granted by Conditional Use Permit.

167

168 21.44.040 Steep Slope SITE PLAN REQUIREMENTS

169 a. The steep slope site plan, for sites with development on slopes of 50% or greater, or within 40
170 feet of the top of a bluff or coastal bluff, at a minimum must include the following:

171 1. Location of all watercourses, water bodies, and wetlands within 100 feet of the
172 proposed development.

173 2. Location of all existing and proposed drainage structures and patterns.

174 3. Site topography shown in minimum of 5 foot contours.

175 4. Location of all proposed and existing buildings, utilities (including well and septic)
176 driveways and streets.

- 177 5. Location of all existing vegetation types including meadow, forest and scrub lands,
178 identifying all areas of vegetation that will be removed as well as vegetation to be
179 preserved or replaced. Specifications for revegetation shall also be included.
180 6. Specific methods that will be used to control soil erosion, sedimentation, and
181 excessive stormwater runoff both during and after construction.
182 7. A description of the stability of the existing soils on site and a narrative and other
183 detail sufficient to demonstrate the appropriateness of the development and
184 construction methods proposed.
185 8. Grading plan for the development, the construction site(s) and all development and
186 construction access routes.
187 9. A geotechnical engineering report.

188 b. The site plan shall be reviewed by the City Engineer to determine if it complete and in
189 conformance with the ordinance requirements. The City Engineer shall accept or reject the plan
190 as submitted or may require that specific conditions be complied with in order for the plan to
191 meet approval.

192 c. No zoning permit shall be issued and no grading, clearing, or other development shall occur
193 until a site plan has been reviewed and approved by the City.

194 Section 6. Land development plans that received final approval prior to the effective date of this
195 ordinance shall be exempt from these requirements.

196 Section 7. If the provisions of any part of this ordinance shall be judged invalid by a court of
197 competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of this
198 ordinance.

199
200 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this _____ day of
201 _____, 2009.

202
203 CITY OF HOMER

204
205
206
207
208

JAMES C. HORNADAY, MAYOR

209
210 ATTEST:

211
212
213

214 _____
Jo Johnson, CMC, CITY CLERK

215
216

217 YES:

218 NO:
219 ABSTAIN:
220 ABSENT:
221
222 First Reading:
223 Public Hearing:
224 Second Reading:
225 Effective Date:

226 Reviewed as to form:

227 _____

228 Walt Wrede, City Manager

229 Date: _____

230

Thomas F. Klinkner, City Attorney

Date: _____

SECTION I: EXPLANATION OF DEFINITIONS

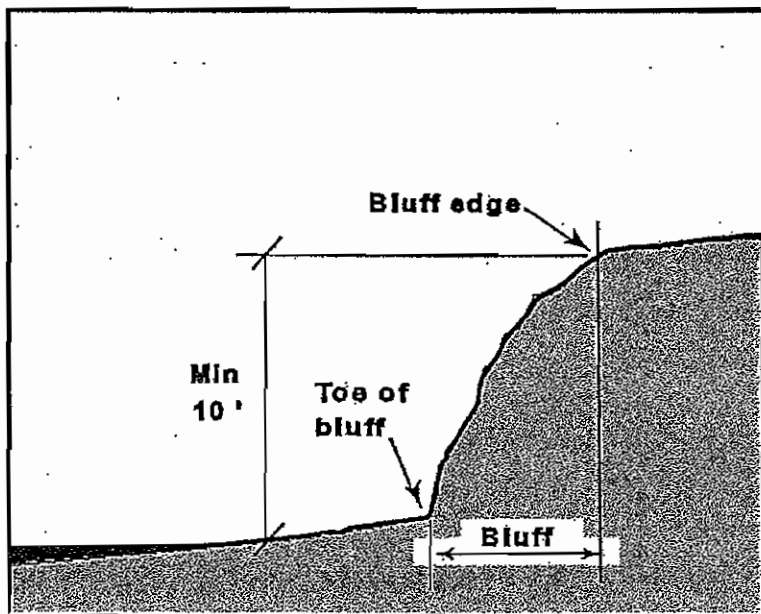
For each of the following terms, the definition is repeated (in italics) from **Chapter 11, Article 3, Division 1**, Land Development Terms, followed by additional information intended to clarify the definitions. The additional information provided is not part of the definition.

A. Coastal Bluff

Coastal Bluff means an escarpment or steep face of rock, decomposed rock, or soil resulting from erosion, faulting, or folding of the land mass that has a vertical relief of 10 feet or more and is located in the coastal zone.

A coastal bluff is a naturally formed precipitous landform that generally has a gradient of at least 200 percent (1:2 slope) with a vertical elevation of at least 10 feet. See **Diagram I-1**. The gradient of a coastal bluff could be less than 200 percent but the vertical elevation must always be at least 10 feet. A coastal bluff is a form of environmentally sensitive lands that is included in the definition of steep hillsides. The coastal bluff includes the bluff face which is all the area between the toe of the bluff and the bluff edge. Steep landforms meeting the criteria of coastal bluffs occur both inside and outside the Coastal Zone. These landforms and all other steep hillsides, both inside and outside the Coastal Zone, are regulated by the steep hillside regulations of the Environmentally Sensitive Lands Regulations (**Section 143.0142**) and are subject to the **Steep Hillside Guidelines**.

DIAGRAM I-1: COASTAL BLUFF

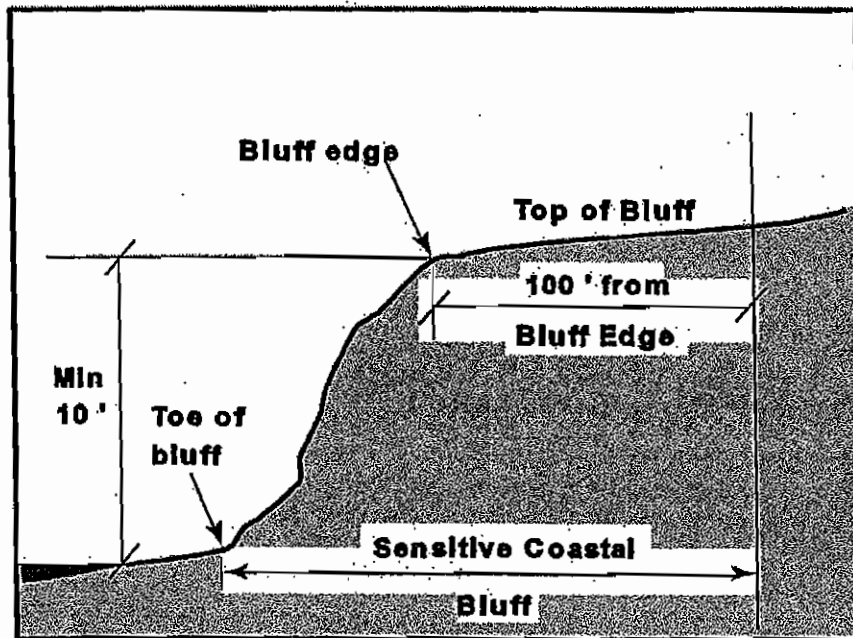


B. Sensitive Coastal Bluff

Sensitive Coastal Bluff means a coastal bluff that is designated within Hazard Category Numbers 41 through 47, inclusive, on the City's Geologic Hazard Maps plus the area of an additional 100-foot landward strip located landward and contiguous to the coastal bluff edge.

Sensitive coastal bluffs are a form of coastal bluffs that are generally located along the shoreline and adjacent to coastal beaches. Sensitive coastal bluffs include the bluff face and the area of the top of bluff located within 100 feet of the bluff edge. See **Diagram I-2**. Because of their location, sensitive coastal bluffs are regulated differently than other coastal bluffs (or steep hillsides). Although they technically meet the definition of steep hillsides, sensitive coastal bluffs are regulated by a separate regulation section in the Environmentally Sensitive Lands Regulations (**Section 143.0143**) and are subject to the Coastal Bluffs and Beaches Guidelines.

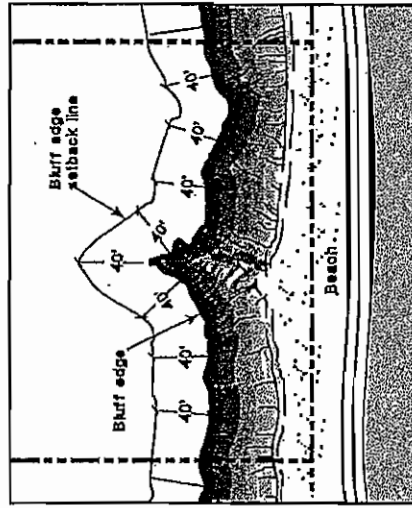
DIAGRAM I-2: SENSITIVE COASTAL BLUFF



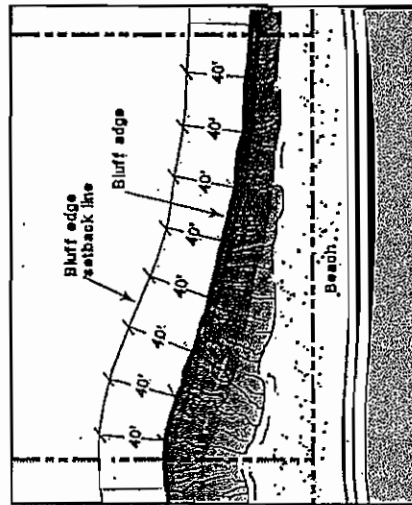
B. Measurement of Distance from Coastal Bluff Edge for Sensitive Coastal Bluffs

The distance from the coastal bluff edge required for development on a sensitive coastal bluff is measured landward and perpendicular to every point along the coastal bluff edge. The line of the required distance from the coastal bluff edge will result in a line that is parallel to the coastal bluff edge. See Diagram III-8.

DIAGRAM III-8: DISTANCE FROM COASTAL BLUFF EDGE



Distance from Coastal Bluff Edge



Distance from Coastal Bluff Edge



C. Staff Report PL 09-42, Draft Steep Slope Ordinance

Planning Technician Engebretsen reviewed the staff report.

KRANICH/BOS MOVED TO BRING STAFF REPORT 09-42 AND ACCOMPANYING DRAFT ORDINANCE TO THE FLOOR FOR DISCUSSION.

Discussion included:

- There needs to be some clear boundaries set for the requirements of a CUP for development on a steep slope. No one here has the knowledge to look at a plan and okay it.
- The set back is an issue. If you are building on a steep slope it is understandable to have the engineer requirements. But if you are on flat ground at the top of the hill, what is the problem.
- 40 feet is the international building code and is the standard. Another consideration is 1/3 the height of the bluff.
- Part of the reason for the standards is to have a blanket rules that fit a lot of possibilities, for example if you were building 40 feet from the bluff and were planning to have a 10 foot basement, it might not be safe at 40 feet. 40 feet isn't that far.
- If there is a responsible process in place, then people could be allowed to build within the 40 foot setback.
- If the ordinance says the development will not change the natural drainage patterns there will not be a road or driveway built on the side of a hill. Cutting into or filling a hillside will change the natural drainage pattern.
- Line 166 setback exemptions granted by CUP. What are the conditions are considered in the CUP in that instance.
- When we started this we were going to do a separate piece in the Sensitive Ordinance for the Coastal Bluffs.
- Line 71 and 72, should it refer to a change in elevation rather than the change of topography.
- Line 123 talks about the sites where you can't do any development without a site plan approved and a zoning permit. Consideration could be given to have it say zoning permit issued.

KRANICH/BOS MOVED TO RETURN THE DRAFT STEEP SLOPE ORDINANCE TO STAFF FOR UPDATE AND RETURN TO THE COMMISSION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Chair Minsch called for a short recess at 8:27 p.m. for staff to prepare. The meeting resumed at 8:29 p.m.

May 6, 2009 HAPC minutes

D

O



City of Homer Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-8121
Fax (907) 235-3118
E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

STAFF REPORT PL 09-25

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: March 4, 2009
SUBJECT: Revised Draft Steep Slope Ordinance

Requested Action: Review the draft ordinance and staff recommendations. Request staff to review the draft ordinance with a qualified geotechnical consultant, and bring back a revised/finalized ordinance. If there are only minor changes recommended by the consultant, schedule the ordinance for public hearing when ready.

GENERAL INFORMATION

1. On the definition of bluff: the PC changed the minimum height of the bluff, from 10 feet to 25 feet, and asked staff to research what a reasonable height would be. This height would be the threshold for regulation: A bluff that was steeper than 50% AND more than 25 feet high would trigger the steep slope code.
 - Staff did some research, but it appears the definitions for slopes vary a lot. Staff recommends keeping the 25 ft height threshold and that staff should discuss it with the consultant.
2. Coastal bluff setback. Staff recommends that coastal bluffs be defined as bluffs higher than ten feet, not twenty five. The point of the coastal setback is to protect public health, welfare and safety by limiting construction on land that is prone to erosion. Properties on Kachemak drive for about a half a mile south of the boat yard do not have a high bluff – its less than 25 feet high. The developable land has become more narrow over time due to coastal erosion, and is forecasted to continue to erode. The average rate of erosion calculated from 1951 to 2003 is 0.5-0.7 meters per year, or 1.5 to 2.1 feet. This land may erode gradually, or large chunks may fall off into the bay during storms. The peat soils are common to this area and they are a very weak soil with almost no strength when saturated, leading to more erosion and drainage problems, which also contributes to erosion. A forty foot bluff setback does not even gain 40 years for a structure. Other communities require setbacks for 75 to 100 years worth of erosion.

Staff recommends an amendment at line 91, to define a coastal bluff as:

An abrupt vertical change in topography of more than 10 feet with an average slope steeper than two feet of rise for one foot of horizontal travel (50%), the toe of which lies on the shore of Kachemak Bay.

3. Staff reworded and streamlined the ordinance so it is clearer.

STAFF COMMENTS/RECOMMENDATIONS: Review the draft ordinance and staff recommendations. Request staff to review the draft ordinance with a qualified geotechnical consultant, and bring back a revised/finalized ordinance. If there are only minor changes recommended by the consultant, schedule the ordinance for public hearing when ready.

ATTACHMENTS

1. Sample graphics of bluff and coastal bluff areas
2. Draft Ordinance

February 2009 Draft Version

HOMER, ALASKA

Planning/

ORDINANCE 09-xx

AN ORDINANCE OF THE OF THE CITY COUNCIL
DELETING 21.050.20 (a) (1-4) AND DELETING 21.030(b)(1-4)
AND AMENDING 21.020.040 AND AMENDING SECTION
21.44 STEEP SLOPES

WHEREAS,; and (STAFF TO WORK ON THIS PRIOR TO PUBLIC HEARING)

WHEREAS,.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Zoning and Planning 21.50.020 (a)(1-4) Site Development Standards Level one, Slopes, is hereby amended to read as follows:

Delete 21.50.020 a (1-4) and renumber that section accordingly.

~~a. Slopes. All development on lots with slopes of 15 percent more is subject to the following standards:~~

~~1. For lots with slopes of 15 to 30 percent, the area used for development shall not exceed 25 percent of the lot. If the development site includes more than one lot, a conditional use permit is required.~~

~~2. For lots with slopes of greater than 30 percent, the area used for development shall not exceed ten percent of the lot. If the development site includes more than one lot, a conditional use permit is required.~~

~~3. Vegetation shall remain undisturbed except as necessary to construct improvements and to eliminate hazardous conditions, in which case it must be replanted with approved materials including ground cover, shrubs and trees. Native vegetation is preferred for replanting operations, and will be used where practicable.~~

~~4. Grading shall not alter the natural contours of the terrain except as necessary for building sites or to correct unsafe conditions. The locations of buildings and roads shall be planned to follow and conform to existing contours as nearly as possible.~~

43 Section 2. Homer City Code Zoning and Planning 21.50.020 (a)(1-4) Site Development
44 Standards Level two, Slopes, is hereby amended as follows:

45

46 **Delete 21.50.030 b (1-4), and renumber code accordingly.**

47

48 ~~b. Slopes. All development on lots with slopes of 20 percent or~~
49 ~~more shall be subject to the following standards:~~

50 ~~1. For lots with slopes of 20 percent to 30 percent, the~~
51 ~~area used for development shall not exceed 25 percent of the lot. If~~
52 ~~the development site includes more than one lot, a conditional use~~
53 ~~permit is required.~~

54 ~~2. For lots with slopes greater than 30 percent, the area~~
55 ~~used for development shall not exceed ten percent of the lot. If the~~
56 ~~development site includes more than one lot, a conditional use permit~~
57 ~~is required.~~

58 ~~3. Vegetation shall remain undisturbed except as~~
59 ~~necessary to construct improvements and to eliminate hazardous~~
60 ~~conditions, unless replanted with as much native vegetation as~~
61 ~~practicable including ground cover, shrubs and trees.~~

62 ~~4. Grading shall not alter the natural contours of the~~
63 ~~terrain except as necessary for building sites or to correct unsafe~~
64 ~~conditions. The locations of buildings and roads shall be planned to~~
65 ~~follow and conform to existing contours as nearly as possible.~~

66 Section 3. Homer City Code Zoning and Planning 21.05.040, Measuring Slopes, is hereby
67 amended to read as follows:

68

69 21.02.040 Measuring Slopes. **Slope is measured by calculating the vertical change in**
70 **topography over the horizontal run.**

71 ~~When calculating the slope of a lot, an average slope is used based on~~
72 ~~the elevations at the corners of the lot. The average slope of a lot,~~
73 ~~expressed as a percentage, is calculated by subtracting the average~~
74 ~~elevation of the uphill lot line and the average elevation of the~~
75 ~~downhill lot line and dividing the sum by the average distance between~~
76 ~~the two lot lines. The average elevation of the uphill or downhill~~
77 ~~lot line is calculated by adding the elevations at the ends of the lot~~
78 ~~line and dividing by two. See Figure 1.~~

79

80

81 Section 4. Homer City Code Zoning and Planning Title 21.03 Definitions and Rules of
82 Construction, is hereby amended include the following:

83

84 **Definitions to add under 21.030.040:**

85 Steep slope: A steep slope is a slope where there is a vertical change in topography of more than
86 25 feet with an average slope equal to or greater than two feet of horizontal travel for one foot of
87 rise (50%).

88

89 Bluff: An abrupt vertical change in topography of more than 25 feet with an average slope
90 steeper than two feet of rise for one foot of horizontal travel (50%).

91

92 Coastal Bluff: a bluff along the beach.

93

94 (Diagrams will be included here for bluff and coastal bluff)

95

96 Ravine: a long, deep hollow in the earth's surface with sharply sloping walls that has a drop in
97 elevation from the top ravine edge equal to or greater than two feet vertical for every ten feet
98 horizontal, and is at least ten feet in height.

99

100 Section 5. Homer City Code, Zoning and Planning Title 21.44 Steep Slopes is hereby amended
101 to read as follows:

102

103 **21.44.010 PURPOSE**

104 The purpose of this chapter is to regulate the development activities and structures in areas with
105 steep slopes, and along coastal bluffs, to protect the health and safety of Homer residents.

106

107 **21.44.020 APPLICABILITY**

108 a. This chapter applies to development, grading, and any other land disturbing activity under any
109 of the following conditions:

110

1. On steep slopes.

111

2. Within forty (40) feet of steep slopes, the top of a bluff, coastal bluff, or ravine.

112

3. On sites where adverse conditions associated with slope stability, erosion, or
113 sedimentation are present as determined by the City Engineer.

114

b. The requirements of this chapter apply in addition to all other applicable codes, rules, acts or
115 ordinances.

116

117 **21.44.030 STANDARDS**

118 a. Site Grading and Development Activity

119

1. On all sites regulated under this chapter, no development, including grading and
120 clearing, shall occur without a site plan approved under 21.73.010 Site Plan, and a
121 zoning permit.

122

2. Prior to any development on a steep slope of 50% or greater the applicant shall
123 submit a site development plan meeting the requirements of 21.44.040 prepared by a
124 civil engineer licensed in the State of Alaska.

125

b. Natural Drainage Patterns. Site grading and development activity shall preserve the natural
126 surface drainage pattern unique to each site as a result of topography and vegetation.

127

c. Erosion control.

128

1. Erosion control methods shall be used during construction and site development to
129 protect water quality, control erosion, and reduce soil erosion. Sediment traps, small

130 dams, barriers, or other methods approved by the City Planner and City Engineer
131 shall be located to control the velocity of runoff.

132 2. Winter Erosion Control Blankets. If a disturbed slope is not stabilized by October 15,
133 erosion control blankets (or a product with equivalent performance characteristics)
134 must be installed upon completion of the seasonal work, but no later than October 15.
135 The erosion control blankets shall remain in place until at least the following May 1.

136 d. Setbacks

137 1. Structures near ravines and non-coastal bluffs must be setback from the top of the
138 bluff at least 40 feet or one third (1/3) the height of the bluff, whichever is less, but no
139 less than 15 feet.

140 2. Structures near coastal bluffs must be setback from the top of the bluff at least 40
141 feet.

142 3. Setback exceptions. Exceptions to the setback requirements of this title include:

143 a. Decks may extend up to five feet into the setback required.

144 b. Unoccupied accessory structures up to two hundred square feet may be placed
145 within the setback area but must be at least 15 feet from the top of the bluff,
146 coastal bluff or ravine.

147 c. Boardwalks, sidewalks, foot paths, stairways, etc, generally at ground level or
148 slightly elevated, that provide access to the beach or bluff area, or to accessory
149 structures.

150

151 **21.44.040 Steep Slope SITE PLAN REQUIREMENTS**

152 a. The steep slope site plan, for sites with development on slopes of 50% or greater, at a
153 minimum must include the following:

154 1. Location of all watercourses, water bodies, and wetlands within 100 feet of the
155 proposed development.

156 2. Location of all existing and proposed drainage structures and patterns.

157 3. Site topography shown in minimum of 5 foot contours.

158 4. Location of all proposed and existing buildings, utilities (including well and septic)
159 driveways and streets.

160 5. Location of all existing vegetation types including meadow, forest and scrub lands,
161 identifying all areas of vegetation that will be removed as well as vegetation to be
162 preserved or replaced. Specifications for revegetation shall also be included.

163 6. Specific methods that will be used to control soil erosion, sedimentation, and
164 excessive stormwater runoff both during and after construction.

165 7. A description of the stability of the existing soils on site and a narrative and other
166 detail sufficient to demonstrate the appropriateness of the development and
167 construction methods proposed.

168 8. Grading plan for the development, the construction site(s) and all development and
169 construction access routes.

170 9. A geotechnical engineering report.

171 b. The site plan shall be reviewed by the City Engineer to determine if it complete and in
172 conformance with the ordinance requirements. The City Engineer shall accept or reject the plan
173 as submitted or may require that specific conditions be complied with in order for the plan to
174 meet approval.

175 c. No zoning permit shall be issued and no grading, clearing, or other development shall occur
176 until a site plan has been reviewed and approved by the City.

177 Section 6. Land development plans that received final approval prior to the effective date of this
178 ordinance shall be exempt from these requirements.

179 Section 7. If the provisions of any part of this ordinance shall be judged invalid by a court of
180 competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of this
181 ordinance.

182
183 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this _____ day of
184 _____, 2009.

185 CITY OF HOMER

186
187
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191

JAMES C. HORNADAY, MAYOR

192 ATTEST:

193
194
195

196 _____
Jo Johnson, CMC, CITY CLERK

197
198
199 YES:
200 NO:
201 ABSTAIN:
202 ABSENT:
203

204 First Reading:
205 Public Hearing:
206 Second Reading:
207 Effective Date:

208 Reviewed as to form:

209 _____

210 Walt Wrede, City Manager

Thomas F. Klinkner, City Attorney

211 Date: _____

Date: _____

212

NEW BUSINESS

The Commission hears a report from staff. Commission business includes resolutions, ordinances, zoning issues, requests for reconsideration and other issues as needed. The Commission may ask questions of staff, applicants, and the public. Any items brought before the Commission for discussion are on the floor for discussion following introduction of the item. The Commission will accept testimony or a presentation on agenda items that involve an applicant (such as acceptance of a non conformity).

A. Staff Report PL 09- 25, Steep Slope Development Ordinance

City Planner Abboud and Planning Technician Engebretsen reviewed the staff report.

Commissioner Moore commented if someone wants build up to the bluff and can keep the land from falling into the bay they should be able to. This ordinance should allow for a waiver to let people build where they want to on a coastal bluff if it can be done properly. Planning Technician Engebretsen responded that if there is a lot that doesn't have enough buildable area the property owner could apply for variance.

KRANICH/BOS MOVED TO SUSPEND THE RULES TO ALLOW PUBLIC COMMENT.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Roger Imhoff commented that he appreciates the Commission working on this ordinance as it has been long needed in Homer. He commented that there are some descriptions and wording that seem a little subjective. He referenced line 96 that a ravine is a long, deep, hollow in the earth's surface, it seems that the words long and deep are open to interpretation, why not call it a hollow in the earth's surface. He noted there are a few other spots with similar wording that could be changed. Mr. Imhoff questioned what went into the 50% cut off where it is less than 50% it is not a steep slope, but 50% or more is; and what area's of Homer that topographic break mostly affects. Mr. Imhoff also raised question about how this will tie in with the design criteria of the streets, utility placement, and so on in subdivision development. He recalled an ordinance the Transportation Advisory Committee proposed to allow narrow, steep streets in steep areas of Homer, it seemed at the time like an excuse to develop some of our bluff areas around town and he was opposed to it. His main concern is that visually and scenically the bluffs above town are part of the real nice scenic landscape of Homer and he would hate to see roads and houses put all the way up there. On the other hand Mr. Imhoff noted that they have to be careful that this is a police power situation where the City is doing a taking through land use regulations. There is the right to do that but on the other hand people need to be compensated if they are not going to be able to develop the property in an economically feasible manner.

KRANICH/BOS MOVED TO ADOPT STAFF REPORT PL09-25 STEEP SLOPE DEVELOPMENT ORDINANCE WITH STAFF RECOMMENDATIONS.

MOORE/KRANICH MOVED TO STRIKE LINE 111.

Commissioner Moore commented that he wants to strike this because there is no allowance in the draft ordinance for a person to build on the bluff. Some slopes can be developed safely if

it is done properly. He thinks this applies to all the bluffs in the City, not only the coastal bluffs.

Staff responded that eliminating line 111 would mean there would be no regulation at all. It was suggested that a solution would be to add on line 152 that if you have a slope of 50% or greater or you were within 40 feet of a steep slope the requirements listed in that section would apply.

There was discussion that it could be possible for someone to invest the money in the development, but there are still concerns regarding health and safety.

VOTE: (Primary amendment): YES: MOORE
NO: BOS, MINSCH, HAINA, KRANICH, SINN

Motion failed.

MOORE/KRANICH MOVED TO POSTPONE THIS AND HAVE FURTHER DISCUSSION AT A WORKSESSION.

The Commission commented to staff on other areas of the ordinance they would like more information on.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 09-26, Comprehensive Plan Review: Chapter 8

City Planner Abboud reviewed the staff report.

KRANICH MOVED TO BRING STAFF REPORT PL 09-26, COMPREHENSIVE PLAN CHAPTER 8 TO THE FLOOR FOR DISCUSSION.

There was consensus and discussion ensued.

The Commission discussed in a worksession format the recommended amendments to Chapter 8 and provided recommendations to staff.

KRANICH/BOS MOVED THAT WE SEND CHAPTER 8 BACK FOR STAFF TO CORRECT AND SCHEDULE FOR PUBLIC HEARING.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

C. Staff Report PL 09-27, Comprehensive Plan Review: Chapter 4

Chair Minsch called for a recess at 8:29 p.m. The meeting resumed at 8:36 p.m. Commissioner Haina was excused from the meeting.



City of Homer

Planning & Zoning

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Web Site www.ci.homer.ak.us

STAFF REPORT PL 09-02

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: January 7, 2009
SUBJECT: Steep Slope Ordinance

GENERAL INFORMATION

1. Definitions section. Commission Kranich discussed the definitions section with staff and requested further work.

Here are some options. Please discuss and provide staff direction.

Definition of a Bluff:

- **Option A:** A very steep landform; having a prominent and almost vertical front.
- **Option B:** A steep headland, promontory or cliff.
- **Option C:** An abrupt vertical change in topography of more than 10 feet with an average slope steeper than two feet of rise for one foot of horizontal travel.
- **Coastal Bluff:** a bluff along the beach
(may also include a diagram, see attachments)
- **Ravine:** a long, deep hollow in the earth's surface a valley with sharply sloping walls, that has a drop in elevation from the top ravine edge equal to or greater than two feet vertical for every ten feet horizontal.

2. The threshold of when the steep slope rules apply.

In the original draft ordinance, there were some thresholds that are no longer included. Staff can discuss these further with the Commission at the meeting, but here is a basic summary of what was changed and why.

A. Fill placement over 8 feet high, and cuts more than 5 feet high. While this type of dirt work can be hazardous on slopes, it can be hazardous anywhere, even level ground. The 2006 International Building Code regulates grading and filling of these heights in ALL circumstances, not just on steep slope areas. When the steep slope ordinance was drafted, staff was concurrently working on a draft grading and filling ordinance. It made more sense to regulate ALL cut and fill, city wide, rather than limit it to steep slope areas. The dirt work ordinance is separate from the steep slope ordinance; staff will bring it back when the Commission asks for it.

B. When is a slope steep? The Commission may note that in the older draft ordinance, some development was regulated on a 25% slope, where the current draft rules kick in at 50% slope. Staff extensively researched other communities and also discussed this issue with the consultant. (DOWL Engineers). Usually, the % slope threshold is based on geologic studies, soil stability, etc, so there is some scientific/engineering basis for when 'steep' areas become hazardous. For example, a good stable soil may be able to hold a much steeper slope, than a poor weak soil. We don't really have good data here in Homer to make these assumptions. However, with the consultant's guidance, he stated that usually, slopes less than 50% are stable, and if they are steeper than 50%, that is generally when engineering and a soils report are needed. So, that is why our draft ordinance defines a steep slope at 50% and requires that a stamped plan be submitted.

The question really becomes, how much do we want to regulate, and why. If the goal is aesthetic, i.e. about the scars on the hillside from roads or driveways, then regulate for vegetation and how it looks. That is not a 'steep slope' safety issue. If the goal is public health welfare and safety, development on 50% and greater slopes should be regulated. But there is room here to regulate slopes that are under 50%; if the Commission wants to regulate all development on 30% slope, or even more level ground that is possible. Provide staff with the direction you wish to go. Staff has chosen 50% in this draft because it is the absolute minimum needed to address public health welfare and safety.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission discuss:

1. The definitions of "Bluff" and provide staff direction
2. The amount of slope and when regulations should kick in. If more information is needed, provide staff some guidance. When staff knows the questions we can research answers or get some professional technical help!

ATTACHMENTS

1. December 2008 Draft Ordinance
2. April 16, 2008 HAPC minutes
3. April 16, 2008 draft ordinance
4. Coastal bluff diagram

Draft Steep Slope Ordinance 12/17/08

Definitions to add under 21.030.040:

Bluff:

Option A: A very steep landform; having a prominent and almost vertical front.

Option B: A steep headland, promontory or cliff.

Option C: An abrupt vertical change in topography of more than 10 feet with an average slope steeper than two feet of rise for one foot of horizontal travel.

Coastal Bluff: a bluff along the beach
(may also include a diagram, if HAPC feels its needed)

Ravine: a long, deep hollow in the earth's surface a valley with sharply sloping walls, that has a drop in elevation from the top ravine edge equal to or greater than two feet vertical for every ten feet horizontal.

21.44.010 PURPOSE

The purpose of this chapter is to regulate the intensity of use, development activities, and structures, in areas with steep slopes, to protect the health and safety of Homer residents.

21.44.020 APPLICABILITY

a. This chapter applies to development, grading, and any other land disturbing activity under any of the following conditions:

1. On any site with slopes greater than 50%
2. Within forty (40) feet of the top of a bluff, coastal bluff or ravine
3. On sites where adverse conditions associated with slope stability, erosion, or sedimentation are present as determined by the City Engineer.

b. The requirements of this chapter apply in addition to all other applicable codes, rules, acts or ordinances.

21.44.030 STANDARDS

a. Site Grading and Development Activity

1. On slopes greater than 50% no development, grading or clearing shall occur without a site plan approved under 21.42.040 Site Plan Requirements, and a zoning permit.

b. Natural Drainage Patterns. Site grading and development activity shall not change natural drainage patterns, except as provided below.

1. To the maximum extent feasible, development activity shall:

- 37 a. Preserve the natural surface drainage pattern unique to each site and lot
38 as a result of topography and vegetation.
39 b. Grading shall ensure that drainage flows away from all structures.
40 c. Natural drainage patterns may be modified on site only pursuant to a
41 permit approved by the City Planner upon a showing that there will be no
42 significant adverse environmental impacts on the lot, site or on adjacent
43 properties.
44 d. If natural drainage patterns are modified, *appropriate stabilization*
45 *techniques shall be employed (need to identify a manual, or be more*
46 *specific here).*

47
48 2. Development activity shall not cause a substantial adverse effect on
49 adjacent land and surrounding drainage patterns.

50
51 3. Erosion control methods shall be used during construction and site
52 development to protect water quality, control erosion, and reduce soil erosion. Sediment traps,
53 small dams, barriers, or other methods approved by the City Planner and City Engineer shall be
54 located to control the velocity of runoff.

55
56 c. Winter Erosion Control Blankets. If a disturbed slope is not stabilized by October 15,
57 erosion control blankets (or a product with equivalent performance characteristics) must be
58 installed upon completion of the seasonal work, but no later than October 15. The erosion control
59 blankets shall remain in place until at least the following May 1.

60
61 d. Structures near ravines and non-coastal bluffs must be setback from the top of the bluff
62 at least 40 feet or one third (1/3) the height of the bluff, whichever is less, but no less than 10
63 feet.

64
65 e. Structures near coastal bluffs must be setback from the top of the bluff at least 40 feet.

66
67 **21.44.040 SITE PLAN REQUIREMENTS**

68 a. For all development on a slope of 50% or greater the applicant shall submit a site
69 development plan prepared by a civil engineer licensed in the State of Alaska. The site plan must
70 include at a minimum the following:

- 71 1. Location of all watercourses, water bodies, and wetlands within 100 feet
72 of the proposed development.
73 2. Site topography shown in minimum of 5 foot contours.
74 3. All existing and proposed drainage structures
75 4. Location of all proposed and existing buildings, utilities (including well
76 and septic) driveways and streets.
77 5. Location of all existing vegetation types including meadow, forest and
78 scrub lands, identifying all areas of vegetation that will be removed as well as vegetation to be
79 preserved or replaced. Specifications for revegetation shall also be included.

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Slopes\121083ERA.doc

- 80 6. Specific methods that will be used to control soil erosion, sedimentation,
81 and excessive stormwater runoff both during and after construction.
82 7. A description of the stability of the existing soils on site and a narrative
83 and other detail sufficient to demonstrate the appropriateness of the development and
84 construction methods proposed.
85 8. Grading plan for the development, the construction site(s) and all
86 development and construction access routes.
87 9. A geotechnical engineering report.

88 b. The site plan shall be reviewed by the City Engineer to determine if it complete and in
89 conformance with the ordinance requirements. The City engineer shall accept or reject the plan
90 as submitted or may require that specific conditions be complied with in order for the plan to
91 meet approval.

92 c. No zoning permit shall be issued and no grading, clearing, or other development shall
93 occur until a site plan has been reviewed and approved by the City.

94

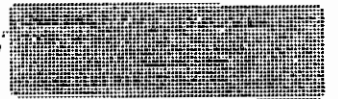
95

96 The following are transitional or non-general provisions. They should not be codified, but may
97 be included within the ordinance, typically at the end:

98 1. Land development plans that received final approval prior to the effective date of this
99 ordinance shall be exempt from these requirements.

100 Help from attorney here: Does the below need to be added?

101 [SEE ITEM (b) ADDED TO 21.42.020 ABOVE]2. If the provisions of any part of this ordinance
102 shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not
103 affect or invalidate the remainder of this ordinance.





HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
APRIL 16, 2008

B. Steep Slope Presentation - David Cole, Dowl Engineers

David Cole of Dowl Engineers said he has been working with the Planning Staff by giving technical advice on the steep slope ordinance. The purpose of this ordinance is to protect life safety, protect property and protect the surrounding environment as we do not want slope failures that impact buildings and properties or people in the buildings and properties. He provided a power point presentation and addressed-

Concerns affecting development on or near sloping ground:

Structural stability of slope

Erosion of slope face

Increased and or concentrated runoff

Blockage of natural drainage channels

Removal of ground cover

Elements that affect stability

Angle of slope

Height of slope

Materials comprising slope

Ground water

Surface runoff

Ground cover/erosion protection

Mr. Cole reviewed slope inclinations relating to stability. Generally slopes that are 2:1 or 50% or less are pretty stable and don't require a lot of engineering analysis. Steeper slopes need engineering analysis to ensure stability and address improvements

if needed. There are general modes of slope failure. Shallow failures are where you get a shallow slump on the face of the slope, it might occur after heavy rains. Slumping may only be 2-4 feet thick, but it is an issue as you don't want the slump to go down into a drainage ditch, into a roadway, or onto neighboring property down slope. Deep or circular type failures are not just at the surface but deep in the soil mass. Usually engineers evaluate the stability of slopes by comparing the sliding or driving forces to the resisting or friction force at the bottom of the potentially sliding mass. If the resisting forces are greater than the driving forces, the slope is stable. The factor of safety for a slope is the ratio between the driving forces and the resisting forces. If the factor of safety is greater than 1 then the slope is stable. The minimum factor of safety that is used in industry and is required by most codes is 1.5. It is very rare that a 2:1 slope, man made or natural, doesn't meet this minimum factor of safety. Mr. Cole reviewed a graph, along with drawings to review cut and fill situations as well as road and driveway development and setbacks.

Commissioner Zak questioned if you would expect to see more continued erosion or continued failure after a slope fails. Mr. Cole responded that generally a massive failure will stabilize the ground and shallower slope failures will continue to fail.

Commissioner Foster asked what role a standard septic will play on unconsolidated loamy soils with a coal or clay seam. Mr. Cole responded that you do not want to put water on a sloping structure. If there were a coal seam it would tend to be the weak layer and would tend to fail along the coal seam. If there were a septic system along the coal seam and the water began running along the coal seam, it would de-stabilize it.

Commissioner Zak commented that vegetation is a recommendation when a person cuts into something, but it doesn't seem to work well in these soils. He asked Mr. Cole what would be a good recommendation when developing a steep slope. Mr. Cole said in some of the road development there are areas that have to be re-vegetated. He said they use erosion control fabrics or blankets, like a jute mat, to hold everything together while the grasses grow and mature.

Chair Kranich opened the floor to questions from the public.

Nina Faust asked about the factor of safety (FS factor). She asked if it is determined before the slope is disturbed and questioned if it changes once they disturb it. Mr. Cole responded, citing a re-grading project as an example, his group would drill soil borings, get soil properties, strength properties and the civil engineer who would be

designing the new slopes would tell them what the new slope would look like. Mr. Cole said they would review the information and if it doesn't have the proper FS factor, they would go back to the civil engineer and give feedback on what needs to be done to achieve the proper FS factor. Ms. Faust commented that a lot of the development that is occurring in the area is on the tops of bluffs and some of the bluffs have erosion areas that are affected by wind and water and are already carved out and actively eroding. If someone puts in a house with their drainage field, gravel pads and so forth, those things have to be factored in when determining a safe setback. She asked if 40 feet on an active erosion slope would be a safe distance. Mr. Cole responded that is different than what he was discussing. The analyses that he was discussing were not active erosion areas or trying to inhibit erosion. That is a different analysis of trying to predict how much erosion you will get and try to determine what setback is going to be appropriate. Mr. Cole said in his mind the ordinance, as it is written now, is for the upland areas, not for the beach front bluffs. He doesn't think it should be used for that unless they add something specific to it. There are strict requirements for constructing on or around these areas. One approach is to analyze the bluff faces, estimate where it might fail and put the house back behind it. Ms. Faust said it sounds like something that needs to be considered as this slope ordinance is developed. She added that she has seen where people who clear their property and dump brush over the bluff and suggested they consider adding to the ordinance that it not be allowed. She has seen major rain events where the slope fails in those areas. Mr. Cole responded as an engineer and said that would not be acceptable. When there is an "engineered fill" you would compact and use the proper material. Regarding the ordinance, Mr. Cole thinks it is addressed in that it says that if you do a fill over a certain height, it has to be engineered.

Mike McCarthy, resident on Kachemak Drive, asked about the life span of the multi layer geo-textile material before the UV rays start to break it down. Mr. Cole said he couldn't answer that, they have used the materials sub surface. He said the jute matting goes away quickly; it is usually there long enough for the planting to take hold. Mr. McCarthy asked if when they are analyzing and using the diagram that was shown, if they take into account that the terrace here is marine sediment and the cementation naturally occurring in it is sodium chloride and the latistructure, once water is introduced into it, dissolves out. Mr. Cole responded that when they analyze slopes they try to retrieve soil samples within the bluff and perform strength tests on them. Usually they try to perform the test on undisturbed samples so as not to introduce additional water to the samples and not dissolving chloride cementation that is there. But it is not taken into account in the graph shown in the presentation. Mr. McCarthy asked how they address area-wide ground water and surface hydrology in their study and if they could encourage a basic basin-wide hydrology baseline study. Mr. Cole said he would encourage that it be done. When they are researching areas they look at all the information they can find for the area. They had a brief discussion regarding the area where the hospital is located.

Milli Martin, Borough Resident, commended the City for pursuing this and reiterated Ms. Faust's concern regarding the development that occurs on top of the bluff. She

questioned the impact of the construction that occurs on the top and is there a risk of weakening the bluff as the construction grows, because that is where people want to build now. She sees that the ordinance is endeavoring to protect the lands around, but it needs to be not only what happens below, but also what happens above. Mr. Cole commented that as he understands it, the ordinance is addressing the bluff areas, the sloping ground areas and the definition of where this sloping ground ends is what Ms. Martin is talking about. She makes a good point but he is not sure how to fit it into the ordinance: The ordinance is concerned with the sloping ground, not the ground above it. He added that it is a concern, but also a legal question when a person owns property and wants to put their house on it.

Bob Howard, City Resident, commented regarding structures on the bluff, item "e" on page 2 of the draft ordinance. He said the ordinance addresses the set back and said that it seems to beg an appropriate engineering analysis to determine the stability associated with putting a structure at the top of the bluff. He thinks the City would be prudent in requiring analyses of homes to be set on top of bluffs to ensure that the real estate would remain stable. He reads the ordinance that if you have a bluff that is 30 feet high, straight up and down, you would only have to come back about 10 feet to build a structure and a 2:1 slope is 60 feet back. In all likelihood you are adding additional load to the bluff that potentially would exacerbate its potential for sliding. He thinks there should be language to address this issue in order to ensure any structures at the tops of bluffs are put in a stable fashion. Mr. Cole said he understands that right now the ordinance says that you can't build houses on a slope that is greater than 50% or 2:1 and it will be amended to add "unless you can do engineering studies to show that it safe." There would still be setback restrictions on a 2:1 slope. Mr. Cole said the paragraph Mr. Howard referred to is what they were saying earlier where they need to differentiate between the upland bluff slopes and the bluffs at the waters edge. City Planner McKibben added that the draft ordinance does differentiate between upland bluffs and coastal bluffs.

Michael Armstrong, with the Homer News, commented that in talking about slopes 30% or 50% and under it is pretty safe, is not necessarily true in avalanche areas. He asked if it should be considered in the ordinance that a slope might be safe in the summer but not in the winter, not so much with the slope failing but the snow above you failing on your structure. Mr. Cole said that these are two different things. The ordinance addresses the permanent earthen slopes with buildings versus a seasonal occurrence. Mr. Armstrong said there have been avalanche deaths in Homer.

Robert Archibald, City resident, asked if they factor rain and weather when they are figuring the safety factor. Mr. Cole said they do. They address the potential for liquefaction of saturated sands in the soil mass during earthquakes and that sort of thing. They do look at the shallow type failures assuming the ground is going to get saturated at a certain depth.

There was no further discussion.



21.XX.010 PURPOSE

The purpose of this ordinance is to regulate the intensity of use in areas with steep slopes to protect the health and safety of Homer residents.

21.XX.020 APPLICABILITY

This ordinance shall be applicable under any of the following conditions:

- a. land disturbing activity on slopes greater than 50%
- b. land disturbing activity within forty (40) feet of the edge of a bluff
- c. on slopes greater than ___ % where fill placement exceeds eight (8) feet in height
- d. on slopes greater than ___ % where cuts are five (5) feet in height or greater
- e. where adverse conditions associated with slope stability, erosion, or sedimentation are present as determined by the City Engineer:

21.XX.030 STANDARDS

a. Site Grading

1. On slopes of 50% or greater, no development, regrading or stripping of vegetation shall be permitted.

2. Any disturbance for roadway crossings or utility construction in areas of 25% slopes or greater are considered variance conditions and the applicant must affirmatively demonstrate that the roadway or utility improvements are necessary in the sloped area. The sloped area to be developed, regraded or stripped of vegetation shall be drawn on the development plans for each individual lot.

b. Natural drainage patterns. Site design shall not change natural drainage patterns, except as provided below.

1. To the maximum extent feasible, development shall preserve the natural surface drainage pattern unique to each site as a result of topography and vegetation. Grading shall ensure that drainage flows away from all structures, especially structures that are cut into hillsides. Natural drainage patterns may be modified on site only if the applicant shows that there will be no significant adverse environmental impacts on site or on adjacent properties. If natural drainage patterns are modified, appropriate stabilization techniques shall be employed.

2. Development shall not adversely impact adjacent and surrounding drainage patterns.

3. Erosion control methods shall be used during construction to protect water quality, control drainage, and reduce soil erosion. Sediment traps, small dams, barriers, or other methods acceptable to the City shall be located to control the velocity of runoff.

c. Winter Erosion Blanket. If a disturbed slope is not stabilized by October 15, the Applicant shall install an erosion blanket (or a product with equivalent performance specifications) when finished working, but no later than October 15, to prevent erosion prior to the establishment of permanent ground cover. The erosion blanket shall remain in place until the following May 1.

d. Roads, driveways or private access improvements on areas with slopes of 20% or greater will be engineered by a Civil Engineer licensed in the State of Alaska. The engineer must be approved by the City.

e. Structures on bluffs, as identified on _____ map, will be setback one third (1/3) the height of the bluff, but not more than 40 feet from the top of the bluff.

f. Structures on coastal bluffs, as identified on _____ map, will be setback at least 40 feet from the top of the bluff.

21.XX.040 SITE PLAN REQUIREMENTS

a. For all earth moving activities on slopes of 30% or greater and for all development proposing a cut slope five feet and higher and/or a fill slope eight feet or higher, the Applicant shall submit a site plan prepared by a State of Alaska Licensed Civil Engineer, experienced to practice in the specialty of geotechnical engineering. The site plan submitted shall be reviewed by the City Engineer. The City Engineer shall determine if the site plan as submitted is complete and in conformance with the ordinance requirements. The City Engineer shall recommend acceptance or rejection of the plan or may require that specific conditions be complied with in order for the plan to merit acceptance. The Applicant's site plan as prepared by a State of Alaska Licensed Civil Engineer will include at a minimum the following:

1. Location of all waterbodies including but not limited to streams, lakes and wetlands.
2. Existing natural and topographic features.
3. All drainage structures
4. Location of all proposed and existing buildings, utilities (including well and septic) driveways and streets.
5. Location of all existing vegetation including meadow, forest and scrub lands broken down by those areas of vegetation which will be removed as well as vegetation to be preserved; specifications for revegetation shall also be included.
6. Specific methods that will be used to control soil erosion and sedimentation, soil loss and excessive stormwater runoff both during and after construction.
7. A statement and description of the stability of the soils on site and the appropriateness of the construction method proposed.
8. Calculations of the area of proposed disturbance of each slope class on each proposed lot, proposed driveway, and within any proposed road right-of-way.
9. Grading plan for the construction site and all construction access routes.

b. The site plan submitted shall be reviewed by the City Engineer. The City engineer shall accept or reject the plan as submitted or may require that specific conditions be complied with in order for the plan to meet approval.

c. No zoning permit shall be issued and no grading or site clearing shall occur until a site plan including all of the above items has been reviewed and approved by the City.

21.XX.050 WHAT TO CALL THIS SECTION??? Question for attorney

a. Lands to be preserved in one hundred percent (100%) open space due to the presence of steep slopes may be offered for dedication to the city, a private land trust or a non-profit agency in order to preserve and maintain the area in its natural state.

b. The use of conservation easements on steep slopes shall be encouraged to preserve the area in perpetuity.

21.XX.060 EXEMPTIONS

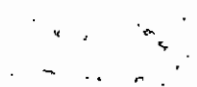
Land development plans which were approved prior to the adoption date of this ordinance shall be exempt from these requirements.

21.XX.070 COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS

Development approvals issued pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and zoning process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by other applicable codes, rules, acts or ordinances. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, general welfare and the protection of water quality.

21.XX.080 SEVERABILITY

If the provisions of any part of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of this ordinance.

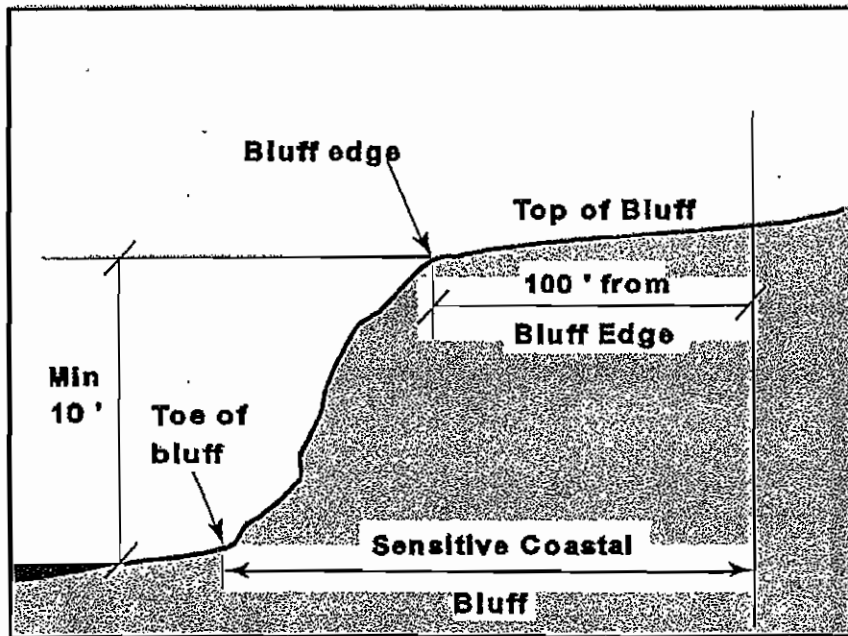


B. Sensitive Coastal Bluff

Sensitive Coastal Bluff means a coastal bluff that is designated within Hazard Category Numbers 41 through 47, inclusive, on the City's Geologic Hazard Maps plus the area of an additional 100-foot landward strip located landward and contiguous to the coastal bluff edge.

Sensitive coastal bluffs are a form of coastal bluffs that are generally located along the shoreline and adjacent to coastal beaches. Sensitive coastal bluffs include the bluff face and the area of the top of bluff located within 100 feet of the bluff edge. See **Diagram I-2**. Because of their location, sensitive coastal bluffs are regulated differently than other coastal bluffs (or steep hillsides). Although they technically meet the definition of steep hillsides, sensitive coastal bluffs are regulated by a separate regulation section in the Environmentally Sensitive Lands Regulations (**Section 143.0143**) and are subject to the Coastal Bluffs and Beaches Guidelines.

DIAGRAM I-2: SENSITIVE COASTAL BLUFF



SECTION I: EXPLANATION OF DEFINITIONS

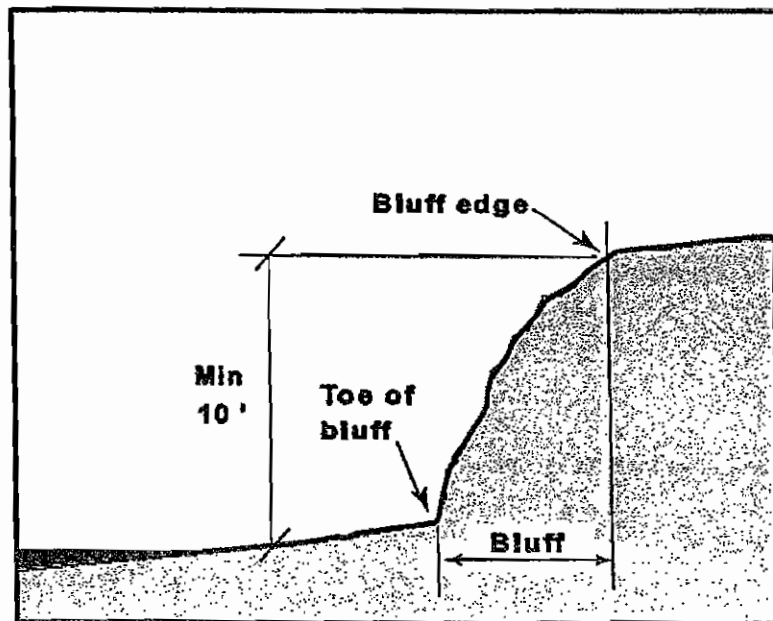
For each of the following terms, the definition is repeated (in italics) from **Chapter 11, Article 3, Division 1, Land Development Terms**, followed by additional information intended to clarify the definitions. The additional information provided is not part of the definition.

A. Coastal Bluff

Coastal Bluff means an escarpment or steep face of rock, decomposed rock, or soil resulting from erosion, faulting, or folding of the land mass that has a vertical relief of 10 feet or more and is located in the coastal zone.

A coastal bluff is a naturally formed precipitous landform that generally has a gradient of at least 200 percent (1:2 slope) with a vertical elevation of at least 10 feet. See **Diagram I-1**. The gradient of a coastal bluff could be less than 200 percent but the vertical elevation must always be at least 10 feet. A coastal bluff is a form of environmentally sensitive lands that is included in the definition of steep hillsides. The coastal bluff includes the bluff face which is all the area between the toe of the bluff and the bluff edge. Steep landforms meeting the criteria of coastal bluffs occur both inside and outside the Coastal Zone. These landforms and all other steep hillsides, both inside and outside the Coastal Zone, are regulated by the steep hillside regulations of the Environmentally Sensitive Lands Regulations (**Section 143.0142**) and are subject to the **Steep Hillside Guidelines**.

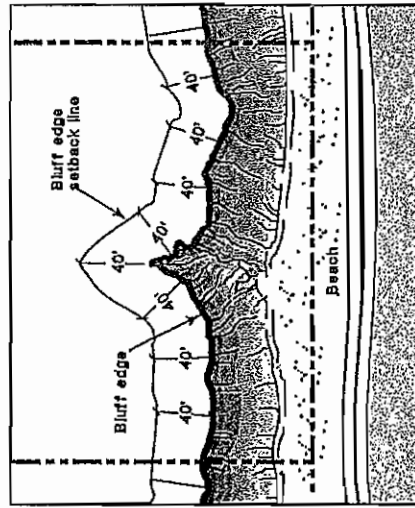
DIAGRAM I-1: COASTAL BLUFF



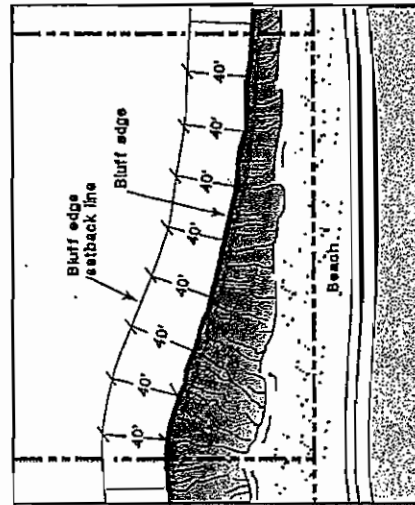
B. Measurement of Distance from Coastal Bluff Edge for Sensitive Coastal Bluffs

The distance from the coastal bluff edge required for development on a sensitive coastal bluff is measured landward and perpendicular to every point along the coastal bluff edge. The line of the required distance from the coastal bluff edge will result in a line that is parallel to the coastal bluff edge. See Diagram III-8.

DIAGRAM III-8: DISTANCE FROM COASTAL BLUFF EDGE



Distance from Coastal Bluff Edge



Distance from Coastal Bluff Edge



Chair Minsch called for a recess 8:20 p.m. The meeting resumed at 8:30 p.m. Commissioner Storm was excused during the break.

NEW BUSINESS

The Commission hears a report from staff. Commission business includes resolutions, ordinances, zoning issues, requests for reconsideration and other issues as needed. The Commission may ask questions of staff, applicants, and the public. Any items brought before the Commission for discussion are on the floor for discussion following introduction of the item. The Commission will accept testimony or a presentation on agenda items that involve an applicant (such as acceptance of a non conformity).

A. Staff Report PL 09-02 Steep Slope - Draft Ordinance

KRANICH/MOORE MOVED TO DISCUSS AND MAKE RECOMMENDATIONS ON THE STEEP SLOPE DRAFT ORDINANCE.

There was no objection and discussion ensued.

City Planner Abboud reviewed the staff report.

Discussion points included:

- Definition of a Bluff, option C changing 10 feet to 25 feet.
An abrupt vertical change in topography of more than 10 25 feet with an average slope steeper than two feet of rise for one foot of horizontal travel.
- The information regarding ravines doesn't address how deep or tall a ravine is. There should be reference to say what depth is considered a ravine.
- The purpose of the setback from the top of the bluff is for safety reasons. There are bluffs of varying heights within the City and a property owner can request a variance if they want to do something within the setback.
- Item 2A in the staff report regarding fill placement is more in line with grading and filling than the steep slope ordinance.
- People should be able to have an opportunity to build out on their lot.

B. Staff Report 09-03, Nonconformity Draft Ordinance

City Planner Abboud reviewed the staff report.

Point was raised that the zoning of annexed areas did not happen until after the date of the annexation so the date needs to be open as to when the area was actually zoned.

KRANICH/MOORE MOVED TO DISCUSS AND MAKE RECOMMENDATION.

There was no objection and discussion ensued.

It was noted that the entire nonconforming section should be available at public hearing time.

Line 35 should clarify that the Commission should receive the information prior to the public hearing for their review.

Rather than the ordinance referring to the reviewing authority it should to specify who the reviewing authority is.





City of Homer Planning & Zoning

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Web Site www.ci.homer.ak.us

STAFF REPORT PL 08-43

TO: Homer Advisory Planning Commission
FROM: Beth McKibben, City Planner *BMK*
MEETING: April 16, 2008
SUBJECT: Steep Slope Ordinance

INTRODUCTION

In 2003, the City was awarded a grant by the EPA. The grant will be finished on April 31, 2008. One of the deliverables of this grant is to present an ordinance to the Planning Commission addressing development on steep slopes.

The Steep Slope component of the EPA grant is divided into tasks as follows:

Task A – staff within the Homer Planning Division will work with DOWL Engineers of Anchorage to develop a draft ordinance.

Task B – Present the draft ordinance to the Homer Advisory Planning Commission for public review. If approved by the Commission, the draft ordinance will then be presented to the City Council for further public review and possible adoption.

The assumptions identified with this component are as follows: The City of Homer recognizes the need for a steep slope ordinance to regulate development on steep terrain. Many of these areas incorporate wetland drainages and creeks. Regulation of development in these areas to preserve storm water runoff channels is important for mitigating future flooding and extreme rainfall events.

DISCUSSION

On January 29, 2008 the Planning and Zoning Office hosted a facilitated community discussion about development in sensitive areas, including steep slopes.

In February 2008 the City entered into a contract with David Cole of DOWL Engineers. This contract included technical assistance/review of a draft ordinance and a report that addresses important applicable engineering issues and recommendations as to how they should be addressed through a steep

slope ordinance. Mr. Cole has met with staff and been an essential resource in developing the draft ordinance.

STAFF RECOMMENDATIONS:

Planning Commission discuss this ordinance, and move to a future work session.

ATTACHMENTS

1. Ordinance 08-XX Steep Slopes

21.XX.010 PURPOSE

The purpose of this ordinance is to regulate the intensity of use in areas with steep slopes to protect the health and safety of Homer residents.

21.XX.020 APPLICABILITY

This ordinance shall be applicable under any of the following conditions:

- a. land disturbing activity on slopes greater than 50%
- b. land disturbing activity within forty (40) feet of the edge of a bluff
- c. on slopes greater than ___ % where fill placement exceeds eight (8) feet in height
- d. on slopes greater than ___ % where cuts are five (5) feet in height or greater
- e. where adverse conditions associated with slope stability, erosion, or sedimentation are present as determined by the City Engineer.

21.XX.030 STANDARDS

a. Site Grading

1. On slopes of 50% or greater, no development, regrading or stripping of vegetation shall be permitted.

2. Any disturbance for roadway crossings or utility construction in areas of 25% slopes or greater are considered variance conditions and the applicant must affirmatively demonstrate that the roadway or utility improvements are necessary in the sloped area. The sloped area to be developed, regraded or stripped of vegetation shall be drawn on the development plans for each individual lot.

b. Natural drainage patterns. Site design shall not change natural drainage patterns, except as provided below.

1. To the maximum extent feasible, development shall preserve the natural surface drainage pattern unique to each site as a result of topography and vegetation. Grading shall ensure that drainage flows away from all structures, especially structures that are cut into hillsides. Natural drainage patterns may be modified on site only if the applicant shows that there will be no significant adverse environmental impacts on site or on adjacent properties. If natural drainage patterns are modified, appropriate stabilization techniques shall be employed.

2. Development shall not adversely impact adjacent and surrounding drainage patterns.

3. Erosion control methods shall be used during construction to protect water quality, control drainage, and reduce soil erosion. Sediment traps, small dams, barriers, or other methods acceptable to the City shall be located to control the velocity of runoff.

c. Winter Erosion Blanket. If a disturbed slope is not stabilized by October 15, the Applicant shall install an erosion blanket (or a product with equivalent performance specifications) when finished working, but no later than October 15, to prevent erosion prior to the establishment of permanent ground cover. The erosion blanket shall remain in place until the following May 1.

d. Roads, driveways or private access improvements on areas with slopes of 20% or greater will be engineered by a Civil Engineer licensed in the State of Alaska. The engineer must be approved by the City.

e. Structures on bluffs, as identified on _____ map, will be setback one third (1/3) the height of the bluff, but not more than 40 feet from the top of the bluff.

f. Structures on coastal bluffs, as identified on _____ map, will be setback at least 40 feet from the top of the bluff.

21.XX.040 SITE PLAN REQUIREMENTS

a. For all earth moving activities on slopes of 30% or greater and for all development proposing a cut slope five feet and higher and/or a fill slope eight feet or higher, the Applicant shall submit a site plan prepared by a State of Alaska Licensed Civil Engineer, experienced to practice in the specialty of geotechnical engineering. The site plan submitted shall be reviewed by the City Engineer. The City Engineer shall determine if the site plan as submitted is complete and in conformance with the ordinance requirements. The City Engineer shall recommend acceptance or rejection of the plan or may require that specific conditions be complied with in order for the plan to merit acceptance. The Applicant's site plan as prepared by a State of Alaska Licensed Civil Engineer will include at a minimum the following:

1. Location of all waterbodies including but not limited to streams, lakes and wetlands.
2. Existing natural and topographic features.
3. All drainage structures
4. Location of all proposed and existing buildings, utilities (including well and septic) driveways and streets.
5. Location of all existing vegetation including meadow, forest and scrub lands broken down by those areas of vegetation which will be removed as well as vegetation to be preserved; specifications for revegetation shall also be included.
6. Specific methods that will be used to control soil erosion and sedimentation, soil loss and excessive stormwater runoff both during and after construction.
7. A statement and description of the stability of the soils on site and the appropriateness of the construction method proposed.
8. Calculations of the area of proposed disturbance of each slope class on each proposed lot, proposed driveway, and within any proposed road right-of-way.
9. Grading plan for the construction site and all construction access routes.

b. The site plan submitted shall be reviewed by the City Engineer. The City engineer shall accept or reject the plan as submitted or may require that specific conditions be complied with in order for the plan to meet approval.

c. No zoning permit shall be issued and no grading or site clearing shall occur until a site plan including all of the above items has been reviewed and approved by the City.

21.XX.050 WHAT TO CALL THIS SECTION??? Question for attorney

a. Lands to be preserved in one hundred percent (100%) open space due to the presence of steep slopes may be offered for dedication to the city, a private land trust or a non-profit agency in order to preserve and maintain the area in its natural state.

b. The use of conservation easements on steep slopes shall be encouraged to preserve the area in perpetuity.

21.XX.060 EXEMPTIONS

Land development plans which were approved prior to the adoption date of this ordinance shall be exempt from these requirements.

21.XX.070 COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS

Development approvals issued pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and zoning process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by other applicable codes, rules, acts or ordinances. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, general welfare and the protection of water quality.

21.XX.080 SEVERABILITY

If the provisions of any part of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of this ordinance.



Julie Engebretsen

From: Beth McKibben
Sent: Wednesday, May 21, 2008 11:56 AM
To: 'David A. Cole Jr., P.E.'; Julie Engebretsen; 'Tans, Gordon (Perkins Coie)'
Subject: May 21 2008 Draft Steep Slope Ordinance.doc

Attachments: May 21 2008 Draft Steep Slope Ordinance.doc



May 21 2008 Draft
Steep Slope ...

Attached is the latest version of the steep slope ordinance. I accepted the edits by Gordon -in some cases I kept his questions and/or notes. I also incorporated most of the edits proposed by David on that last draft. I also included my notes - which were mad from my conversation w/David as we reviewed GTs comments and during the PC meeting.

I created a term called site development permit. There is a term in there -grading and drainage plan. I bet these could become one and the same.... It just seems to me that a site development permit would be a good term to use to evaluat this type of activity...and it allows folks to go thru this process before they actually go for the gold via the zoning permit. Altho the logistics of permitting could be organized a variety of ways and that is only one idea.

I suggested the site development permit would be approved by the City Planner -thinking they might be similar to a DAP or SWP -we look to the City Engineer for a review even tho the permits are issued by Planning.

David - can we expect any more invoices from you? If so and it comes soon we can still charge it to the grant I believe. Friday is my last day in the office -after that Julie is stuck w/this one. Sorry J.

○

○

21.XX.010 PURPOSE

The purpose of this chapter is to regulate the intensity of use, development activities, and structures in areas with steep slopes to protect the health and safety of Homer residents.

21.XX.020 APPLICABILITY

a. This chapter applies to development activity, grading, and any other land disturbing activity under any of the following conditions:

1. on any lot or site with slopes greater than 50%
2. within forty (40) feet of the edge of a bluff
3. on slopes greater than 20 % where fill placement exceeds eight (8) feet in depth
4. on slopes greater than 20 % where cuts are five (5) feet in depth or greater
5. on any lot or site where adverse conditions associated with slope stability, erosion, or sedimentation are present as determined by the City Engineer.

b. The requirements of this chapter apply in addition to all other applicable codes, rules, acts or ordinances.

21.XX.030 STANDARDS

a. Site Grading and Development Activity

1. On slopes greater than 50% no development, regrading or stripping of vegetation shall be permitted without a plan and engineering by a civil engineer licensed in the State of Alaska.

2. On a site with slopes of 20% or greater, any development activity, grading, or disturbance for roadway crossings or utility construction requires a site development permit, which may be granted only upon a showing that the development activity, roadway or utility improvements are necessary in the sloped area. The affected area shall be drawn on the development plans for each individual lot.

b. Natural drainage patterns. Site grading and development activity shall not change natural drainage patterns, except as provided below.

1. To the maximum extent feasible, development activity shall preserve the natural surface drainage pattern unique to each site and lot as a result of topography and vegetation. Grading shall ensure that drainage flows away from all structures. Natural drainage patterns may be modified on site only pursuant to permit approved by the City Planner upon a showing that there will be no significant adverse environmental impacts on the lot, site or on adjacent properties. If natural drainage patterns are modified, appropriate stabilization techniques shall be employed.

2. Development activity shall not cause a substantial adverse effect on adjacent land and surrounding drainage patterns.

3. Erosion control methods shall be used during construction and site development to protect water quality, control erosion, and reduce soil erosion. Sediment traps, small dams, barriers, or other methods approved by the City Planner shall be located to control the velocity of runoff.

c. Winter Erosion Control Blankets. If a disturbed slope is not stabilized by October 15, erosion control blankets (or a product with equivalent performance characteristics) must be installed upon completion of the seasonal work, but no later than October 15.. The erosion control blankets shall remain in place until at least the following May 1.

d. Roads, driveways or private access improvements on areas with slopes of 20% or greater must be designed to meet the requirements of this chapter by a civil engineer licensed in the State of Alaska. The engineer must be approved by the City.

e. Structures near bluffs, as identified on _____ map, must be setback from the top of the bluff at least 40 feet or one third (1/3) the height of the bluff, whichever is less. *Minimum setback here???*

f. Structures near coastal bluffs, as identified on _____ map, must be setback from the top of the bluff at least 40 feet.

21.XX.040 SITE PLAN REQUIREMENTS

a. For all grading activities on slopes of 30% or greater and for all development activity proposing a permanent cut slope of five feet or higher or a fill slope of five feet or higher, or both, the applicant shall submit a site development plan prepared by a civil engineer licensed in the State of Alaska *[THE PRECEDING SENTENCE REFERS TO "SLOPES" BY ONLY ONE LINEAR MEASUREMENT, SO IT APPEARS THAT "SLOPE" IS BEING MISUSED IN LIGHT OF ITS BASIC DEFINITION OF RISE / RUN. AND ALSO SEE THE NEW CODE REVISION SECTION 21.05.040 ON MEASURING SLOPES. WHAT WORD OR PHRASE MORE CORRECTLY NAMES WHAT YOU ARE REFERRING TO?] [SEE SUBPARAGRAPH. (b) BELOW.]* The site plan must include at a minimum the following:

1. Location of all watercourses, water bodies, and wetlands within X number of feet of the proposed development.
2. Site topography shown in minimum of X foot contours.
3. All existing and proposed drainage structures
4. Location of all proposed and existing buildings, utilities (including well and septic) driveways and streets.
5. Location of all existing vegetation types including meadow, forest and scrub lands, identifying all areas of vegetation that will be removed as well as vegetation to be preserved or replaced. Specifications for revegetation shall also be included.

6. Specific methods that will be used to control soil erosion, sedimentation, and excessive stormwater runoff both during and after construction.

7. A description of the stability of the existing soils on site and a narrative and other detail sufficient to demonstrate the appropriateness of the development and construction methods proposed.

8. Grading plan for the development, the construction site(s) and all development and construction access routes.

9. A geotechnical engineering report.

b. The site plan shall be reviewed by the City Engineer to determine if it complete and in conformance with the ordinance requirements. . The City engineer shall accept or reject the plan as submitted or may require that specific conditions be complied with in order for the plan to meet approval.

c. No zoning permit shall be issued and no grading, clearing, or other development activity shall occur until a site plan has been reviewed and approved by the City.

21.XX.050 PRESERVATION OF NATURAL LANDS

a. Owners of land that cannot be developed because of the presence of steep slopes are encouraged to offer the land for dedication or conveyance to the city or other government entity, a land trust or a non-profit entity in a form conveyance that will preserve and maintain the area in its natural state.

b. The use of conservation easements to preserve steep slopes in their natural state is encouraged.

c. Nothing in this section requires the city or any other person to accept an offer of dedication or conveyance.

The following are transitional or non-general provisions. They should not be codified, but may be included within the ordinance, typically at the end:

1. Land development plans that received final approval prior to the effective date of this ordinance shall be exempt from these requirements.

[SEE ITEM (b) ADDED TO 21.XX.020 ABOVE]2. If the provisions of any part of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of this ordinance.



HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
APRIL 16, 2008

B. Steep Slope Presentation - David Cole, Dowl Engineers

David Cole of Dowl Engineers said he has been working with the Planning Staff by giving technical advice on the steep slope ordinance. The purpose of this ordinance is to protect life safety, protect property and protect the surrounding environment as we do not want slope failures that impact buildings and properties or people in the buildings and properties. He provided a power point presentation and addressed-

Concerns affecting development on or near sloping ground:

Structural stability of slope

Erosion of slope face

Increased and or concentrated runoff

Blockage of natural drainage channels

Removal of ground cover

Elements that affect stability

Angle of slope

Height of slope

Materials comprising slope

Ground water

Surface runoff

Ground cover/erosion protection

Mr. Cole reviewed slope inclinations relating to stability. Generally slopes that are 2:1 or 50% or less are pretty stable and don't require a lot of engineering analysis. Steeper slopes need engineering analysis to ensure stability and address improvements

if needed. There are general modes of slope failure. Shallow failures are where you get a shallow slump on the face of the slope, it might occur after heavy rains. Slumping may only be 2-4 feet thick, but it is an issue as you don't want the slump to go down into a drainage ditch, into a roadway, or onto neighboring property down slope. Deep or circular type failures are not just at the surface but deep in the soil mass. Usually engineers evaluate the stability of slopes by comparing the sliding or driving forces to the resisting or friction force at the bottom of the potentially sliding mass. If the resisting forces are greater than the driving forces, the slope is stable. The factor of safety for a slope is the ratio between the driving forces and the resisting forces. If the factor of safety is greater than 1 then the slope is stable. The minimum factor of safety that is used in industry and is required by most codes is 1.5. It is very rare that a 2:1 slope, man made or natural, doesn't meet this minimum factor of safety. Mr. Cole reviewed a graph, along with drawings to review cut and fill situations as well as road and driveway development and setbacks.

Commissioner Zak questioned if you would expect to see more continued erosion or continued failure after a slope fails. Mr. Cole responded that generally a massive failure will stabilize the ground and shallower slope failures will continue to fail.

Commissioner Foster asked what role a standard septic will play on unconsolidated loamy soils with a coal or clay seam. Mr. Cole responded that you do not want to put water on a sloping structure. If there were a coal seam it would tend to be the weak layer and would tend to fail along the coal seam. If there were a septic system along the coal seam and the water began running along the coal seam, it would de-stabilize it.

Commissioner Zak commented that vegetation is a recommendation when a person cuts into something, but it doesn't seem to work well in these soils. He asked Mr. Cole what would be a good recommendation when developing a steep slope. Mr. Cole said in some of the road development there are areas that have to be re-vegetated. He said they use erosion control fabrics or blankets, like a jute mat, to hold everything together while the grasses grow and mature.

Chair Kranich opened the floor to questions from the public.

Nina Faust asked about the factor of safety (FS factor). She asked if it is determined before the slope is disturbed and questioned if it changes once they disturb it. Mr. Cole responded, citing a re-grading project as an example, his group would drill soil borings, get soil properties, strength properties and the civil engineer who would be

designing the new slopes would tell them what the new slope would look like. Mr. Cole said they would review the information and if it doesn't have the proper FS factor, they would go back to the civil engineer and give feedback on what needs to be done to achieve the proper FS factor. Ms. Faust commented that a lot of the development that is occurring in the area is on the tops of bluffs and some of the bluffs have erosion areas that are affected by wind and water and are already carved out and actively eroding. If someone puts in a house with their drainage field, gravel pads and so forth, those things have to be factored in when determining a safe setback. She asked if 40 feet on an active erosion slope would be a safe distance. Mr. Cole responded that is different than what he was discussing. The analyses that he was discussing were not active erosion areas or trying to inhibit erosion. That is a different analysis of trying to predict how much erosion you will get and try to determine what setback is going to be appropriate. Mr. Cole said in his mind the ordinance, as it is written now, is for the upland areas, not for the beach front bluffs. He doesn't think it should be used for that unless they add something specific to it. There are strict requirements for constructing on or around these areas. One approach is to analyze the bluff faces, estimate where it might fail and put the house back behind it. Ms. Faust said it sounds like something that needs to be considered as this slope ordinance is developed. She added that she has seen where people who clear their property and dump brush over the bluff and suggested they consider adding to the ordinance that it not be allowed. She has seen major rain events where the slope fails in those areas. Mr. Cole responded as an engineer and said that would not be acceptable. When there is an "engineered fill" you would compact and use the proper material. Regarding the ordinance, Mr. Cole thinks it is addressed in that it says that if you do a fill over a certain height, it has to be engineered.

Mike McCarthy, resident on Kachemak Drive, asked about the life span of the multi layer geo-textile material before the UV rays start to break it down. Mr. Cole said he couldn't answer that, they have used the materials sub surface. He said the jute matting goes away quickly; it is usually there long enough for the planting to take hold. Mr. McCarthy asked if when they are analyzing and using the diagram that was shown, if they take into account that the terrace here is marine sediment and the cementation naturally occurring in it is sodium chloride and the latistructure, once water is introduced into it, dissolves out. Mr. Cole responded that when they analyze slopes they try to retrieve soil samples within the bluff and perform strength tests on them. Usually they try to perform the test on undisturbed samples so as not to introduce additional water to the samples and not dissolving chloride cementation that is there. But it is not taken into account in the graph shown in the presentation. Mr. McCarthy asked how they address area-wide ground water and surface hydrology in their study and if they could encourage a basic basin-wide hydrology baseline study. Mr. Cole said he would encourage that it be done. When they are researching areas they look at all the information they can find for the area. They had a brief discussion regarding the area where the hospital is located.

Milli Martin, Borough Resident, commended the City for pursuing this and reiterated Ms. Faust's concern regarding the development that occurs on top of the bluff. She

questioned the impact of the construction that occurs on the top and is there a risk of weakening the bluff as the construction grows, because that is where people want to build now. She sees that the ordinance is endeavoring to protect the lands around, but it needs to be not only what happens below, but also what happens above. Mr. Cole commented that as he understands it, the ordinance is addressing the bluff areas, the sloping ground areas and the definition of where this sloping ground ends is what Ms. Martin is talking about. She makes a good point but he is not sure how to fit it into the ordinance. The ordinance is concerned with the sloping ground, not the ground above it. He added that it is a concern, but also a legal question when a person owns property and wants to put their house on it.

Bob Howard, City Resident, commented regarding structures on the bluff, item "e" on page 2 of the draft ordinance. He said the ordinance addresses the set back and said that it seems to beg an appropriate engineering analysis to determine the stability associated with putting a structure at the top of the bluff. He thinks the City would be prudent in requiring analyses of homes to be set on top of bluffs to ensure that the real estate would remain stable. He reads the ordinance that if you have a bluff that is 30 feet high, straight up and down, you would only have to come back about 10 feet to build a structure and a 2:1 slope is 60 feet back. In all likelihood you are adding additional load to the bluff that potentially would exacerbate its potential for sliding. He thinks there should be language to address this issue in order to ensure any structures at the tops of bluffs are put in a stable fashion. Mr. Cole said he understands that right now the ordinance says that you can't build houses on a slope that is greater than 50% or 2:1 and it will be amended to add "unless you can do engineering studies to show that it safe." There would still be setback restrictions on a 2:1 slope. Mr. Cole said the paragraph Mr. Howard referred to is what they were saying earlier where they need to differentiate between the upland bluff slopes and the bluffs at the waters edge. City Planner McKibben added that the draft ordinance does differentiate between upland bluffs and coastal bluffs.

Michael Armstrong, with the Homer News, commented that in talking about slopes 30% or 50% and under it is pretty safe, is not necessarily true in avalanche areas. He asked if it should be considered in the ordinance that a slope might be safe in the summer but not in the winter, not so much with the slope failing but the snow above you failing on your structure. Mr. Cole said that these are two different things. The ordinance addresses the permanent earthen slopes with buildings versus a seasonal occurrence. Mr. Armstrong said there have been avalanche deaths in Homer.

Robert Archibald, City resident, asked if they factor rain and weather when they are figuring the safety factor. Mr. Cole said they do. They address the potential for liquefaction of saturated sands in the soil mass during earthquakes and that sort of thing. They do look at the shallow type failures assuming the ground is going to get saturated at a certain depth.

There was no further discussion.



ORDINANCE REFERENCE SHEET
2010 ORDINANCE
ORDINANCE 10-57

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 11.04.030, Definitions; Amending Homer City Code 11.04.040, Street Construction, Design and Dedication Requirements—General; Amending Homer City Code 11.04.120, Sidewalks; Amending Homer City Code 21.52.030, Development Plan; Amending Homer City Code 22.10.030, Definitions; Amending Homer City Code 22.10.050, Improvement Requirements—General; and Homer City Code 22.10.051, Utility Easements; Regarding Subdivisions and Subdivision and Planned Unit Development Improvement Requirements.

Sponsor: Planning

1. City Council Regular Meeting December 13, 2010 Introduction
 - a. Memorandum 10-150 from City Planner as backup
 - b. Staff Reports PL 10-99, 10-92 and 10-80 as backup

1 CITY OF HOMER
2 HOMER, ALASKA

3 Planning

4 ORDINANCE 10-57

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE 11.04.030, DEFINITIONS; AMENDING
8 HOMER CITY CODE 11.04.040, STREET CONSTRUCTION, DESIGN AND
9 DEDICATION REQUIREMENTS—GENERAL; AMENDING HOMER CITY
10 CODE 11.04.120, SIDEWALKS; AMENDING HOMER CITY CODE
11 21.52.030, DEVELOPMENT PLAN; AMENDING HOMER CITY CODE
12 22.10.030, DEFINITIONS; AMENDING HOMER CITY CODE 22.10.050,
13 IMPROVEMENT REQUIREMENTS—GENERAL; AND HOMER CITY
14 CODE 22.10.051, UTILITY EASEMENTS; REGARDING SUBDIVISIONS
15 AND SUBDIVISION AND PLANNED UNIT DEVELOPMENT
16 IMPROVEMENT REQUIREMENTS.

17
18 WHEREAS, The City of Homer City Council Adopted the Homer Non-Motorized
19 Transportation and Trails Plan on August 10, 2004; and

20
21 WHEREAS, The Homer Non-Motorized Transportation and Trails Plan will guide the
22 development of the non-motorized transportation and trails system for the City of Homer; and

23
24 WHEREAS, The Homer Non-Motorized Transportation and Trails Plan contains
25 suggested code amendments to implement its goals and objectives;

26
27 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

28
29 Section 1. Subsection (y) of Homer City Code 11.04.030, Definitions, is amended to
30 read as follows:

31
32 y. "Subdivision" means the division of a tract or parcel of land into two or more lots,
33 sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building
34 development, including **resubdivision. Any addition, deletion or relocation of the boundary**
35 **of a tract or parcel of land shown on a recorded plat is a subdivision.** ~~any subdivision, and~~
36 ~~When appropriate to the context, the term shall refer to the process of subdividing or to the~~
37 ~~land or areas subdivided. A "new subdivision" is an subdivision in which a plat has received~~
38 ~~preliminary approval prior to the effective date of this chapter. There will be no time extension~~
39 ~~allowed for said preliminary plat to be considered at a later date.~~

40
41 Section 2. Homer City Code 11.04.030, Definitions, is amended to add the following
42 definitions, with subsections renumbered accordingly:

43
44 **"Non-Motorized Transportation and Trail Plan" means the Homer Non-Motorized**
45 **Transportation and Trail Plan (2004), adopted as an element of the Homer Comprehensive**
46 **Plan by HCC 21.02.010(b).**

47 “Non-motorized transportation corridor” means an easement or right-of-way
48 designated for public use for pedestrian, bicycle, equestrian or other non-motorized means
49 of transportation.

50 “Public access corridor” means an easement or right-of-way providing public access
51 through a lot, subdivision or development.

52
53 Section 3. Subsection (a) of Homer City Code 11.04.040, Street construction, design and
54 dedication requirements—General, is amended to read as follows:

55
56 a. All streets, ~~or~~ roads or non-motorized transportation facilities constructed or
57 reconstructed within the City of Homer after the effective date of the ordinance codified in this
58 chapter shall adhere to the dedication, design and construction standards set forth in this chapter
59 and shall also be designed and constructed according to the procedures and standards set forth in
60 Chapter 11.20, unless waived as provided in Chapter 11.20.

61
62 Section 4. Homer City Code 11.04.120, Sidewalks, is amended to read as follows:

63 11.04.120 Sidewalks and non-motorized transportation corridors. a. New streets to be
64 accepted by the City and identified as public access corridors in the adopted Homer Non-
65 Motorized Transportation and Trail Plan shall have easements for sidewalks, bicycle paths
66 or other non-motorized transportation facilities to ensure convenient mobility and
67 convenient access to parks, recreation areas, trails, playgrounds, schools and places of
68 public assembly.

69 ab. New streets to be accepted by the City and not identified as public access
70 corridors in the Non-Motorized Transportation and Trail Plan may, at the developer's
71 option, have sidewalks, ~~and/or~~ bicycle paths or other non-motorized transportation facilities.

72 bc. Sidewalks, ~~and~~ bicycle paths and other non-motorized transportation facilities
73 shall be designed in accordance with the design criteria of the City of Homer Design Criteria
74 Manual.

75
76 Section 5. Paragraph (a)(11) of Homer City Code 21.52.030, Development plan, is
77 amended to read as follows:

78
79 11. The substance of covenants, grants of easements or other restrictions to be
80 imposed upon the use of the land, buildings and structures, including proposed easements for
81 public utilities and public access;

82
83 Section 6. Paragraph (a)(18) of Homer City Code 21.52.030, Development plan, is
84 adopted to read as follows:

85

[Bold and underlined added. Deleted language stricken through.]

86 18. Where practical and safe, and where other means of access have not
87 been provided, public access easements or dedications may be required to provide access to
88 contiguous public lands or connections with existing or proposed non-motorized
89 transportation corridors.

90
91 Section 7. Homer City Code 22.10.030, Definitions, is amended to read as follows:

92
93 22.10.030 Definitions. The following words and phrases shall have the meanings set forth in this
94 section, unless otherwise provided or the context otherwise requires:

95 a. "Non-Motorized Transportation and Trail Plan" means the Homer Non-
96 Motorized Transportation and Trail Plan (2004), adopted as an element of the Homer
97 Comprehensive Plan by HCC 21.02.010(b).

98 b. "Non-motorized transportation corridor" means an easement or right-of-
99 way designated for public use for pedestrian, bicycle, equestrian or other non-motorized
100 means of transportation.

101 c. "Public Access Corridor" means an easement or right of way allowing public
102 access through a lot, subdivision or development.

103 da. "Subdivider" means a person, firm, association, partnership, corporation,
104 governmental unit or combination of any of these which may hold any recorded or equitable
105 ownership interest in land, and dividing or proposing to divide such land so as to constitute a
106 subdivision as defined in this section. This term shall also include all heirs, assigns or successors
107 in interest, or representatives of, the subdivider, owner, proprietor or developer.

108 eb. "Subdivision" means the division of a tract or parcel of land into two or more lots,
109 sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building
110 development, including ~~any subdivision or~~ resubdivision. Any addition, deletion or relocation
111 of the boundary of a tract or parcel of land shown on a recorded plat is a subdivision.
112 When appropriate to the context, the term shall refer to the process of subdividing or to the land
113 or areas subdivided.

114
115 Section 8. Subsection (a) of Homer City Code 22.10.050, Improvement requirements—
116 General, is repealed and reenacted to read as follows:

117
118 a. The Kenai Peninsula Borough shall not release any final plat for a subdivision in
119 the city for filing at the State Recorder's Office until the subdivider or developer of the
120 subdivision either enters a subdivision agreement for, or constructs and obtains written city
121 approval of, the following improvements, according to the standards and procedures required
122 under Title 11 of this Code:

- 123 1. Streets in all rights-of-way dedicated by the plat; and,
124 2. All other utilities and public improvements to be constructed in the rights-of-way
125 and easements dedicated by the plat, including water, sewer, electric, communications, and gas
126 lines, as applicable.

[**Bold and underlined added.** Deleted language stricken through.]

127 3. Abandonment or relocation of existing water or sewer service lines required due
128 to conflict with new or relocated property lines, as required by the Public Works Department.

129
130 Section 9. Subsection (b) of Homer City Code 22.10.050, Improvement requirements—
131 General, is repealed and reenacted to read as follows:

132
133 b. The commission may exempt a plat from the provisions of subsection (a) of this
134 section as provided in Section 22.10.040.

135
136 Section 10. Homer City Code 22.10.051, Utility easements, is amended to read as
137 follows:

138
139 ~~22.10.051 Utility Easements and rights-of-way. Each lot of a new subdivision must have~~
140 ~~access from a fifteen foot utility easement.~~ **a. The subdivider shall dedicate in each lot of a**
141 **new subdivision a fifteen (15) foot wide utility easement immediately adjacent to the entire**
142 **length of the boundary between the lot and each existing or proposed street right-of-way.**

143 **b. The subdivider shall dedicate in each lot of a new subdivision any water**
144 **and/or sewer easements that are needed for future water and sewer mains shown on the**
145 **official Water/Sewer Master Plan approved by the council.**

146 **c. The subdivider shall dedicate easements or rights-of-way for sidewalks,**
147 **bicycle paths or other non-motorized transportation facilities in areas identified as public**
148 **access corridors in the Homer Non-Motorized Transportation and Trail Plan, other plans**
149 **adopted by the city council, or as required by the Kenai Peninsula Borough Code.**

150 **d. The city council may accept the dedication of easements or rights-of-way for**
151 **non-motorized transportation facilities that are not required by HCC 21.10.051(c), if the**
152 **city council determines that accepting the dedication would be consistent with the adopted**
153 **plans of the city.**

154
155 Section 11. This ordinance shall be effective upon adoption, and shall apply to all
156 subdivisions for which the Kenai Peninsula Borough grants preliminary plat approval after the
157 effective date of this ordinance.

158
159 Section 12. This Ordinance is of a permanent and general character and shall be included
160 in the City Code.

161
162 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
163 _____ 2010.

164
165 CITY OF HOMER

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[Bold and underlined added. Deleted language stricken through.]

JAMES C. HORNADAY, MAYOR

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ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager

Thomas F. Klinkner, City Attorney

Date: _____

Date: _____

[**Bold and underlined added.** Deleted language stricken through.]



City of Homer

Planning & Zoning

491 East Pioneer Avenue
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E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

MEMORANDUM 10-150

TO: Mayor Hornaday and Homer City Council
THRU: Walt Wrede, City Manager
FROM: Rick Abboud City Planner
DATE: December 13, 2010
SUBJ: Ordinance 10-57 amending HCC 11.04.030, Definitions; Amending HCC 11.04.040, Street Construction, Design and Dedication Requirements- General; Amending HCC 11.04.120 Sidewalks; Amending HCC 21.52.030 Development Plan; Amending HCC 22.10.030 Definitions; Amending 22.10.050 Improvement Requirements- General; and HCC 22.10.051, Utility easements: Regarding Subdivision and Subdivision and Planned Unit Developments.

Introduction

This proposed ordinance has two distinct goals. First, it started out as a request of the Planning Commission to clarify City of Homer platting requirements in regards to dedications requested by public works. The Commission wanted it very clear that any resubdivision was included in the definition of subdivision (some had argued that erasing a lot line was not a subdivision). Additionally, they wanted to make it clear that we required dedication of utility easements for 15 feet along all rights-of-way and easements needed for any water and sewer mains shown on the Water and Sewer Master Plan.

Second, I found a proposed ordinance made by former attorney Tans that enacted some of the provisions of the Non-motorized Trails and Transportation Plan (adopted 2004 as part of the Comprehensive Plan). Since it is a Near Term Goal of the 2008 Comprehensive Plan to “Implement the policy recommendation of the Non-Motorized Transportation Plan, e.g. and acceptance policy for trail easements” and it was to change to some of the very sections of code that the Commission wished to amend it seemed a very good time to enact the already established policy. This part of the ordinance requires the dedication of trail easements described in the HNMTTP and further requires that facilities not identified in the HNMTTP be designed in accordance to the Design Criteria Manual, and may be accepted at the discretion of the City Council.

Recommendation: Adopt Ordinance 10-57 amending HCC 11.04.030, Definitions; Amending HCC 11.04.040, Street Construction, Design and Dedication Requirements- General; Amending HCC 11.04.120 Sidewalks; Amending HCC 21.52.030 Development Plan; Amending HCC 22.10.030 Definitions; Amending 22.10.050 Improvement Requirements- General; and HCC 22.10.051, Utility easements: Regarding Subdivision and Subdivision and Planned Unit Developments.

1 CITY OF HOMER
2 HOMER, ALASKA

3 Planning

4 ORDINANCE 10-

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6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE 11.04.030, DEFINITIONS; AMENDING
8 HOMER CITY CODE 11.04.040, STREET CONSTRUCTION, DESIGN AND
9 DEDICATION REQUIREMENTS—GENERAL; AMENDING HOMER CITY
10 CODE 11.04.120, SIDEWALKS; AMENDING HOMER CITY CODE
11 21.52.030, DEVELOPMENT PLAN; AMENDING HOMER CITY CODE
12 22.10.030, DEFINITIONS; AMENDING HOMER CITY CODE 22.10.050,
13 IMPROVEMENT REQUIREMENTS—GENERAL; AND HOMER CITY
14 CODE 22.10.051, UTILITY EASEMENTS; REGARDING SUBDIVISIONS
15 AND SUBDIVISION AND PLANNED UNIT DEVELOPMENT
16 IMPROVEMENT REQUIREMENTS.

17
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19 WHEREAS, The City of Homer City Council Adopted the Homer Non-motorized
20 Transportation and Trails Plan on August 10, 2004; and

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22 WHEREAS, The Homer Non-motorized Transportation and Trails Plan will guide the
23 development of the non-motorized transportation and trails system for the City of Homer; and

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25 WHEREAS, The Homer Non-motorized Transportation and Trails Plan contains
26 suggested code amendments to implement its goals and objectives;

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34 sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building
35 development, including **resubdivision. Any addition, deletion or relocation of the boundary**
36 **of a tract or parcel of land shown on a recorded plat is a subdivision.** ~~any subdivision, and~~
37 ~~When appropriate to the context, the term shall refer to the process of subdividing or to the~~
38 ~~land or areas subdivided. A "new subdivision" is an subdivision in which a plat has received~~
39 ~~preliminary approval prior to the effective date of this chapter. There will be no time extension~~
40 ~~allowed for said preliminary plat to be considered at a later date.~~

41
42 Section 2. Homer City Code 11.04.030, Definitions, is amended to add the following
43 definitions, with subsections renumbered accordingly:

[Bold and underlined added.] Deleted language stricken through.

44
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46 Transportation and Trail Plan (2004), adopted as an element of the Homer Comprehensive
47 Plan by HCC 21.02.010(b).

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49 designated for public use for pedestrian, bicycle, equestrian or other non-motorized means
50 of transportation.

51 “Public access corridor” means an easement or right-of-way providing public access
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55 dedication requirements—General, is amended to read as follows:

56
57 a. All streets, ~~or~~ roads or non-motorized transportation facilities constructed or
58 reconstructed within the City of Homer after the effective date of the ordinance codified in this
59 chapter shall adhere to the dedication, design and construction standards set forth in this chapter
60 and shall also be designed and constructed according to the procedures and standards set forth in
61 Chapter 11.20, unless waived as provided in Chapter 11.20.

62
63 Section 4. Homer City Code 11.04.120, Sidewalks, is amended to read as follows:
64

65 11.04.120 Sidewalks and non-motorized transportation corridors. a. New streets to be
66 accepted by the City and identified as public access corridors in the adopted Homer Non-
67 Motorized Transportation and Trail Plan shall have easements for sidewalks, bicycle paths
68 or other non-motorized transportation facilities to ensure convenient mobility and
69 convenient access to parks, recreation areas, trails, playgrounds, schools and places of
70 public assembly.

71 ab. New streets to be accepted by the City and not identified as public access
72 corridors in the Non-Motorized Transportation and Trail Plan may, at the developer's
73 option, have sidewalks, ~~and/or~~ bicycle paths or other non-motorized transportation facilities.

74 bc. Sidewalks, ~~and~~ bicycle paths and other non-motorized transportation facilities
75 shall be designed in accordance with the design criteria of the City of Homer Design Criteria
76 Manual.

77
78 Section 5. Paragraph (a)(11) of Homer City Code 21.52.030, Development plan, is
79 amended to read as follows:

80
81 11. The substance of covenants, grants of easements or other restrictions to be
82 imposed upon the use of the land, buildings and structures, including proposed easements for
83 public utilities and public access;
84

[Bold and underlined added. Deleted language stricken through.]

85 Section 6. Paragraph (a)(18) of Homer City Code 21.52.030, Development plan, is
86 adopted to read as follows:

87
88 **18. Where practical and safe, and where other means of access have not**
89 **been provided, public access easements or dedications may be required to provide access to**
90 **contiguous public lands or connections with existing or proposed non-motorized**
91 **transportation corridors.**

92
93 Section 7. Homer City Code 22.10.030, Definitions, is amended to read as follows:

94
95 22.10.030 Definitions. The following words and phrases shall have the meanings set forth in this
96 section, unless otherwise provided or the context otherwise requires:

97 **a. "Non-Motorized Transportation and Trail Plan" means the Homer Non-**
98 **Motorized Transportation and Trail Plan (2004), adopted as an element of the Homer**
99 **Comprehensive Plan by HCC 21.02.010(b).**

100 **b. "Non-motorized transportation corridor" means an easement or right-of-**
101 **way designated for public use for pedestrian, bicycle, equestrian or other non-motorized**
102 **means of transportation.**

103 **c. "Public Access Corridor" means an easement or right of way allowing public**
104 **access through a lot, subdivision or development.**

105 **da.** "Subdivider" means a person, firm, association, partnership, corporation,
106 governmental unit or combination of any of these which may hold any recorded or equitable
107 ownership interest in land, and dividing or proposing to divide such land so as to constitute a
108 subdivision as defined in this section. This term shall also include all heirs, assigns or successors
109 in interest, or representatives of, the subdivider, owner, proprietor or developer.

110 **eb.** "Subdivision" means the division of a tract or parcel of land into two or more lots,
111 sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building
112 development, including ~~any subdivision or~~ resubdivision. **Any addition, deletion or relocation**
113 **of the boundary of a tract or parcel of land shown on a recorded plat is a subdivision.**
114 When appropriate to the context, the term shall refer to the process of subdividing or to the land
115 or areas subdivided.

116
117 Section 8. Subsection (a) of Homer City Code 22.10.050, Improvement requirements—
118 General, is repealed and reenacted to read as follows:

119
120 a. The Kenai Peninsula Borough shall not release any final plat for a subdivision in
121 the city for filing at the State Recorder's Office until the subdivider or developer of the
122 subdivision either enters a subdivision agreement for, or constructs and obtains written city
123 approval of, the following improvements, according to the standards and procedures required
124 under Title 11 of this Code:

125 1. Streets in all rights-of-way dedicated by the plat; and,

[Bold and underlined added. Deleted language stricken through.]

126 2. All other utilities and public improvements to be constructed in the rights-of-way
127 and easements dedicated by the plat, including water, sewer, electric, communications, and gas
128 lines, as applicable.

129 3. Abandonment or relocation of existing water or sewer service lines required due
130 to conflict with new or relocated property lines, as required by the Public Works Department.

131
132 Section 9. Subsection (b) of Homer City Code 22.10.050, Improvement requirements—
133 General, is repealed and reenacted to read as follows:

134
135 b. The commission may exempt a plat from the provisions of subsection (a) of this
136 section as provided in Section 22.10.040.

137
138 Section 10. Homer City Code 22.10.051, Utility easements, is amended to read as
139 follows:

140
141 ~~22.10.051 Utility easements and rights-of-way. Each lot of a new subdivision must have~~
142 ~~access from a fifteen foot utility easement.~~ **a. The subdivider shall dedicate in each lot of a**
143 **new subdivision a fifteen (15) foot wide utility easement immediately adjacent to the entire**
144 **length of the boundary between the lot and each existing or proposed street right-of-way.**

145 **b. The subdivider shall dedicate in each lot of a new subdivision any water**
146 **and/or sewer easements that are needed for future water and sewer mains shown on the**
147 **official Water/Sewer Master Plan approved by the council.**

148 **c. The subdivider shall dedicate easements or rights-of-way for sidewalks,**
149 **bicycle paths or other non-motorized transportation facilities in areas identified as public**
150 **access corridors in the Homer Non-Motorized Transportation and Trail Plan, other plans**
151 **adopted by the city council, or as required by the Kenai Peninsula Borough Code.**

152 **d. The city council may accept the dedication of easements or rights-of-way for**
153 **non-motorized transportation facilities that are not required by HCC 21.10.051(c), if the**
154 **city council determines that accepting the dedication would be consistent with the adopted**
155 **plans of the city.**

156
157 Section 11. This ordinance shall be effective upon adoption, and shall apply to all
158 subdivisions for which the Kenai Peninsula Borough grants preliminary plat approval after the
159 effective date of this ordinance.

160
161 Section 12. This Ordinance is of a permanent and general character and shall be included
162 in the City Code.

163
164 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
165 _____ 2010.

166
167 CITY OF HOMER
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[Bold and underlined added. Deleted language stricken through.]

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JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager

Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

[Bold and underlined added. Deleted language stricken through.]



City of Homer Planning & Zoning

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STAFF REPORT PL 10-99

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: November 3, 2010
SUBJECT: Draft Ordinance 10-xx Subdivision Code Amendments

Requested Action: Conduct a public hearing and make a recommendation to the City Council on the draft ordinance.

This staff report is divided into two sections. The first section will address changes to the subdivision and Title 11 code that concentrate on concerns of the Commission and staff. The second section addresses the changes for the Homer Non-Motorized Transportation and Trails Plan (HNMTTP), part of Homer's Comprehensive Plan. While the Commission was discussing changes to the subdivision code, staff brought forward an older ordinance that included changes to the same sections of code from the HNMTTP. Rather than have two separate ordinances to fix the same sections of code, staff compiled all the amendments into one ordinance.

I. Subdivision/Title 11 Changes

This ordinance addresses two longstanding issues. First, the ordinance creates a new definition of a subdivision, to include just about any type of platting action, not just the creation of a new lot. It has been a point of contention between surveyors and the city that a lot line vacation is not a subdivision and therefore the city cannot require the dedication of utility easements. Second, the requirement for utility easements has changed, from access to a 15 foot utility easement, to requiring a 15 foot utility easement along all rights of way. Homer has two titles in code that deal with subdividing and development; Title 11 Streets Sidewalks and Driveway Construction, and Title 22, Subdivisions. City code must be changes in both places. Therefore some amendments appear twice in the ordinance as each part of code must be amended separately.

Definition of a subdivision

Lines 33-40 and 110-115 change the definition of a subdivision to include most platting actions.

Utility easements

Lines 141-144 require a the dedication of a 15 foot utility easement along all rights of way. Current code only requires access to a 15 foot utility easement (which may or may not be on the subject property).

Lines 145-147 require that easements needed for future water and sewer service, as shown in the approved Water and Sewer Master Plan. The City of Homer adopted the most recent water and sewer

master plan in 2006. The plan is the product of a \$300,000, three-year project to model future water and sewer extensions city wide.

II. General Information on Public Access Easements

The Homer Non-Motorized Transportation and Trails Plan (HNMTTP), was adopted as part of the Homer Comprehensive Plan in 2005. Pages 46-49, Policies 4 and 5, list specific code changes need to implement the plan. The current ordinance in front of the Commission contains some code amendments called for by the plan and that work within the current code.

History

Several years ago, staff worked with Attorney Tans to draft an ordinance to implement the plan. At that time, there were two main issues that effectively stalled the ordinance. The first was the City had no adopted trail requirements (easement width, grade, etc). In 2009, the City adopted trail standards. The second issue was the City had not established historical access routes well enough to support the proposed code requirements. (Parts of the HNMTTP heavily emphasis protecting historical trails.) Historical trail access routes is an issue that is still unresolved, therefore staff is not recommending that part of the plan be implemented at this time. But there are sections of the plan that are ready for implementation.

There are some plan action items that have already been adopted. Since working on the original ordinance with Attorney Tans, there have been changes to Title 21, most notable a re-write in 2008. Some of the code changes during the re-write, such as 21.73 Site Plans and Right-of-Way Access, included some of the recommendations of the plan. Specifically, pedestrian access and flow information became a requirement on site plans. (Previous code language may have already required pedestrian connections in some districts but was inconsistent; the new code language made it clear when and what kind of pedestrian information was required.) Therefore some of the actions items of the HNMTTP have already been accomplished.

Analysis

This ordinance changes three different sections of city code: Title 11 Streets, Sidewalks and Driveway Construction, Title 21 Zoning and Planning, and Title 22 Subdivisions. The ordinance would require the granting of non-motorized public access easements during the subdivision and planned unit development processes, and that trails and easements meet city trail standards. The ordinance does not require the construction of these improvements, only the granting of the easement.

Title 11, Streets, Sidewalks and Driveway Construction

This ordinance makes three main amendments to Title 11. First, it adds definitions (see ordinance lines 42-52). Second, it requires trails be built to city trail standards (line 57). For example, if a developer wanted to build a public access trail, the trail must be built to city standards if the city is going to accept the easement, and responsibility of the trail. Title 11 is amended in more than one location for this requirement. The City adopted trail design and construction standards in 2009. Third, it requires the dedication of easements in certain situations – see lines 65-70. (Kenai Peninsula Borough Code already requires the dedication of pedestrian easements – see attachment).

Title 21 Zoning and Planning

This ordinance requires planned unit developments to provide public access easements in some circumstances. (Line 83)

Title 22 Subdivisions

This ordinance adds definitions to the Title (lines 97-104), requires the granting of easements during the subdivision process (lines 148-151), and also outlines how the city will accept easements (lines 152-155). This provision allows the Council to accept or reject easements, rather than the City Manager. City Manager Wrede felt it was important to have a process in code, so that trail easements are institutionalized. The decision to accept or reject an easement should not lie with a single individual. Potentially every time there is a different manager, the city policy on easements could change. By creating code and a process through City Council, the city will be more consistent over time.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission conduct a public hearing and make a recommendation to the City Council.

ATTACHMENTS

1. Draft Ordinance
2. Kenai Peninsula Subdivision Code on pedestrian easements



CITY OF HOMER
HOMER, ALASKA

Planning

ORDINANCE 10-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 11.04.030, DEFINITIONS; AMENDING HOMER CITY CODE 11.04.040, STREET CONSTRUCTION, DESIGN AND DEDICATION REQUIREMENTS—GENERAL; AMENDING HOMER CITY CODE 11.04.120, SIDEWALKS; AMENDING HOMER CITY CODE 21.52.030, DEVELOPMENT PLAN; AMENDING HOMER CITY CODE 22.10.030, DEFINITIONS; AMENDING HOMER CITY CODE 22.10.050, IMPROVEMENT REQUIREMENTS—GENERAL; AND HOMER CITY CODE 22.10.051, UTILITY EASEMENTS; REGARDING SUBDIVISIONS AND SUBDIVISION AND PLANNED UNIT DEVELOPMENT IMPROVEMENT REQUIREMENTS.

WHEREAS, The City of Homer City Council Adopted the Homer Non-motorized Transportation and Trails Plan on August 10, 2004; and

WHEREAS, The Homer Non-motorized Transportation and Trails Plan will guide the development of the non-motorized transportation and trails system for the City of Homer; and

WHEREAS, The Homer Non-motorized Transportation and Trails Plan contains suggested code amendments to implement its goals and objectives;

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Subsection (y) of Homer City Code 11.04.030, Definitions, is amended to read as follows:

y. "Subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, including **resubdivision. Any addition, deletion or relocation of the boundary of a tract or parcel of land shown on a recorded plat is a subdivision.** ~~any subdivision, and~~ When appropriate to the context, the **term shall refer to the** process of subdividing or to the land or areas subdivided. ~~A "new subdivision" is an subdivision in which a plat has received preliminary approval prior to the effective date of this chapter. There will be no time extension allowed for said preliminary plat to be considered at a later date.~~

Section 2. Homer City Code 11.04.030, Definitions, is amended to add the following definitions, with subsections renumbered accordingly:

[Bold and underlined added. Deleted language stricken through.]

45 “Non-Motorized Transportation and Trail Plan” means the Homer Non-Motorized
46 Transportation and Trail Plan (2004), adopted as an element of the Homer Comprehensive
47 Plan by HCC 21.02.010(b).

48 “Non-motorized transportation corridor” means an easement or right-of-way
49 designated for public use for pedestrian, bicycle, equestrian or other non-motorized means
50 of transportation.

51 “Public access corridor” means an easement or right-of-way providing public access
52 through a lot, subdivision or development.

53
54 Section 3. Subsection (a) of Homer City Code 11.04.040, Street construction, design and
55 dedication requirements—General, is amended to read as follows:

56
57 a. All streets, ~~or~~ roads or non-motorized transportation facilities constructed or
58 reconstructed within the City of Homer after the effective date of the ordinance codified in this
59 chapter shall adhere to the dedication, design and construction standards set forth in this chapter
60 and shall also be designed and constructed according to the procedures and standards set forth in
61 Chapter 11.20, unless waived as provided in Chapter 11.20.

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63 Section 4. Homer City Code 11.04.120, Sidewalks, is amended to read as follows:
64

65 11.04.120 Sidewalks and non-motorized transportation corridors. a. New streets to be
66 accepted by the City and identified as public access corridors in the adopted Homer Non-
67 Motorized Transportation and Trail Plan shall have easements for sidewalks, bicycle paths
68 or other non-motorized transportation facilities to ensure convenient mobility and
69 convenient access to parks, recreation areas, trails, playgrounds, schools and places of
70 public assembly.

71 ab. New streets to be accepted by the City and not identified as public access
72 corridors in the Non-Motorized Transportation and Trail Plan may, at the developer's
73 option, have sidewalks, ~~and/or~~ bicycle paths or other non-motorized transportation facilities.

74 bc. Sidewalks, ~~and~~ bicycle paths and other non-motorized transportation facilities
75 shall be designed in accordance with the design criteria of the City of Homer Design Criteria
76 Manual.
77

78 Section 5. Paragraph (a)(11) of Homer City Code 21.52.030, Development plan, is
79 amended to read as follows:

80
81 11. The substance of covenants, grants of easements or other restrictions to be
82 imposed upon the use of the land, buildings and structures, including proposed easements for
83 public utilities and public access;

84
85 Section 6. Paragraph (a)(18) of Homer City Code 21.52.030, Development plan, is
86 adopted to read as follows:

[Bold and underlined added. Deleted language stricken through.]

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18. Where practical and safe, and where other means of access have not been provided, public access easements or dedications may be required to provide access to contiguous public lands or connections with existing or proposed non-motorized transportation corridors.

Section 7. Homer City Code 22.10.030, Definitions, is amended to read as follows:

22.10.030 Definitions. The following words and phrases shall have the meanings set forth in this section, unless otherwise provided or the context otherwise requires:

a. "Non-Motorized Transportation and Trail Plan" means the Homer Non-Motorized Transportation and Trail Plan (2004), adopted as an element of the Homer Comprehensive Plan by HCC 21.02.010(b).

b. "Non-motorized transportation corridor" means an easement or right-of-way designated for public use for pedestrian, bicycle, equestrian or other non-motorized means of transportation.

c. "Public Access Corridor" means an easement or right of way allowing public access through a lot, subdivision or development.

da. "Subdivider" means a person, firm, association, partnership, corporation, governmental unit or combination of any of these which may hold any recorded or equitable ownership interest in land, and dividing or proposing to divide such land so as to constitute a subdivision as defined in this section. This term shall also include all heirs, assigns or successors in interest, or representatives of, the subdivider, owner, proprietor or developer.

eb. "Subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, including any subdivision or resubdivision. Any addition, deletion or relocation of the boundary of a tract or parcel of land shown on a recorded plat is a subdivision. When appropriate to the context, the term shall refer to the process of subdividing or to the land or areas subdivided.

Section 8. Subsection (a) of Homer City Code 22.10.050, Improvement requirements—General, is repealed and reenacted to read as follows:

a. The Kenai Peninsula Borough shall not release any final plat for a subdivision in the city for filing at the State Recorder's Office until the subdivider or developer of the subdivision either enters a subdivision agreement for, or constructs and obtains written city approval of, the following improvements, according to the standards and procedures required under Title 11 of this Code:

1. Streets in all rights-of-way dedicated by the plat; and,
2. All other utilities and public improvements to be constructed in the rights-of-way and easements dedicated by the plat, including water, sewer, electric, communications, and gas lines, as applicable.
3. Abandonment or relocation of existing water or sewer service lines required due to conflict with new or relocated property lines, as required by the Public Works Department.

[Bold and underlined added. Deleted language stricken through.]

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Section 9. Subsection (b) of Homer City Code 22.10.050, Improvement requirements—
General, is repealed and reenacted to read as follows:

b. The commission may exempt a plat from the provisions of subsection (a) of this section as provided in Section 22.10.040.

Section 10. Homer City Code 22.10.051, Utility easements, is amended to read as follows:

~~22.10.051 Utility easements and rights-of-way. Each lot of a new subdivision must have access from a fifteen-foot utility easement.~~ **a. The subdivider shall dedicate a fifteen (15) foot wide utility easement immediately adjacent along the entire length of the shared boundary to each existing or proposed street right-of-way in each lot of a new subdivision.**

b. The subdivider shall dedicate in each lot of a new subdivision any water and/or sewer easements that are needed for future water and sewer mains shown on the official Water/Sewer Master Plan approved by the council.

c. Easements or rights-of-way for sidewalks, bicycle paths or other non-motorized transportation facilities shall be dedicated in areas identified as public access corridors in the Homer Non-Motorized Transportation and Trail Plan, other plans adopted by the Homer City Council or as required by the Kenai Peninsula Borough Code.

d. The city council may accept the dedication of easements or rights-of-way for non-motorized transportation facilities that are not identified in 21.10.051(c), if the city council determines that accepting the dedication would be consistent with the adopted plans of the city.

Section 11. This ordinance shall be effective upon adoption, and shall apply to all subdivisions for which the Kenai Peninsula Borough grants preliminary plat approval after the effective date of this ordinance.

Section 12. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2010.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

[**Bold and underlined added.** Deleted language stricken through.]

173 ATTEST:

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177 JO JOHNSON, CMC, CITY CLERK

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179 YES:

180 NO:

181 ABSTAIN:

182 ABSENT:

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184 First Reading:

185 Public Hearing:

186 Second Reading:

187 Effective Date:

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190 Reviewed and approved as to form:

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194 Walt E. Wrede, City Manager

195 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

[**Bold and underlined added.** Deleted language stricken through.]



11

20.20.130. Streets—Reversed curves.

Compound curves and broken-back curves should not be generally used. Reverse curves should have an intermediate tangent of 100' or more unless the radii are 200' or greater.
(Ord. No. 78-37, § 2(part), 1979)

20.20.140. Streets—Intersection requirements.

A. Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle of less than 60 degrees. Where acute street intersections are designed, a minimum 50-foot radius corner at the right-of-way line of the acute angle shall be provided.

B. 3-way intersections are encouraged and may be required where an access street intersects with an arterial unless the commission finds topography, existing street patterns or property boundary patterns make such requirement impractical.
(Ord. No. 78-37, § 2(part), 1979)

20.20.150. Streets—Name requirements.

Streets shall be named to conform to adjacent areas and to avoid duplication, and in the uniform manner prescribed by the commission.
(Ord. No. 78-37, § 2(part), 1979)

20.20.160. Blocks—Length requirements—Generally.

Blocks shall not be less than 400 feet or more than 1400 feet in length unless existing conditions justify a variation from this requirement. Along arterial streets and state maintained roads block lengths shall not be less than 800 feet.
(Ord. No. 78-37, § 2(part), 1979)

20.20.170. Pedestrian ways required when.

Pedestrian ways not less than 8 feet wide shall be required in blocks longer than 600 feet where reasonably deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.
(Ord. No. 78-37, § 2(part), 1979)

20.20.180. Lots—Dimensions.

A. The size and shape of lots shall be such as to provide usable sites appropriate for the locality in which the subdivision is located and in conformance with the requirements of any zoning ordinance effective for the area in which the proposed subdivision is located. Lots shall not be less than 60 feet wide on the building setback line. The minimum depth shall be no less than 100 feet, and the depth shall be no greater than three times the width.



PUBLIC HEARINGS

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

A. Staff Report PL 10-99, Draft Subdivision Code Amendment

City Planner Abboud reviewed the staff report.

Chair Minsch opened the public hearing. There were no public comments and the public hearing was closed.

BOS/VENUTI MOVED TO MOVE THE SUBDIVISION CODE AMENDMENT TO THE CITY COUNCIL.

There was discussion about easements for trails, the requirements for development, and the Non Motorized Transportation and Trails Plan. It was pointed out that this ordinance addresses the dedicating of the easement in subdivision but at this time not requiring the trails to be built.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Staff Report PL 10-103, A Request for Exclusion from the Regulations of the Bridge Creek Watershed Protection District at Lot 6 Eker Estates, 5620 Easy Street on the NE Corner of Easy Street and Skyline Dr.

City Planner Abboud reviewed the staff report and referenced the location on the aerial photo.

Joe Carter, applicant, was available to answer questions.

Chair Minsch opened the public hearing. There were no public comments and the public hearing was closed.

HIGHLAND/DOLMA MOVED TO ADOPT STAFF REPORT PL 10-103, A REQUEST FOR EXCLUSION FROM THE REGULATIONS OF THE BRIDGE CREEK WATERSHED PROTECTION DISTRICT AT LOT 6 EKER ESTATES, 5620 EASY STREET ON THE NE CORNER OF EASY STREET AND SKYLINE DRIVE WITH STAFF RECOMMENDATIONS AND FINDINGS.

There was discussion that the location and topography of the lot is such that the surface water flows away from the lot. This lot and other lots with the same circumstances shouldn't have been included in the water shed district.

Other Commissioner's expressed opposition. Commissioner Bos questioned who would assume the liability if approval of this type of action resulted in watershed contamination. Chair Minsch strongly argued issues with subsurface water and the inability to know how it flows.

Commissioner Kranich pointed out that the code outlines the requirements for exempting a lot and the Commission can't hold to a standard that isn't outlined in code.



City of Homer

Planning & Zoning

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Web Site www.ci.homer.ak.us

STAFF REPORT PL 10-92

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: October 6, 2010
SUBJECT: Subdivision Ordinance

Introduction

This ordinance has been refined and additional content has been added to reflect some of the proposed changes recommended in the Homer Non-Motorized Transportation and Trails Plan (HNMTTP), since the changes are to some of the same sections of code we are proposing to amend.

GENERAL INFORMATION

The Homer Non-Motorized Transportation and Trails Plan (HNMTTP) was adopted as part of the Homer Comprehensive Plan in 2005. This ordinance changes three different sections of city code: Title 11 Streets, Sidewalks and Driveway Construction, Title 21 Zoning and Planning, and Title 22 Subdivisions. The ordinance would require the granting of non-motorized public access easements during the subdivision and planned unit development processes, and that trails and easements meet city trail standards.

The ordinance does not require the construction of these improvements, only the granting of the easement. This is something the Commission can further discuss if desired.

ANALYSIS:

Title 11, Streets, Sidewalks and Driveway Construction

This ordinance makes two main amendments to Title 11. First, it adds definitions. Second, it requires trails be built to city trail standards. For example, if a developer wanted to build a public access trail, the trail must be built to city standards if the city is going to accept the easement, and responsibility of the trail. Title 11 is amended in more than one location for this requirement. The City adopted trail design and construction standards in 2009.

Title 21 Zoning and Planning

This ordinance requires planned unit developments to provide public access easements in some circumstances.

Title 22 Subdivisions

This ordinance adds definitions to the Title, requires the granting of easements during the subdivision process, and also outlines how the city will accept easements. This provision allows the Council to

accept or reject easements, rather than the City Manager. City Manager Wrede felt it was important to have a process in code, so that trail easements are institutionalized. The decision to accept or reject an easement should not lie with a single individual. Potentially every time there is a different manager, the city policy on easements could change. By creating code and a process through City Council, the city will be more consistent over time.

Changes from the last draft presented to the Planning Commission

Lines 35 – 40, 112 – 113

Clearly indicates that a subdivision includes the 'deletion or relocation of the boundary of a tract or parcel'. Also aligns the definition of "Subdivision" found in different chapters of code.

Lines 45-51, 57, 65-75, 83, 88-91, 97-104, 148-156

Changes as recommended in HNMTTP relating to the dedication of easements.

Section 8-9, lines 120-136

Repealed and reenacted at my request for brevity and clarity. I found the existing code a difficult read made even more so after incorporating a strikeout version. This basically delineates the various standards expected for subdivision improvements including those that Public Works wished to expand upon.

Lines 141-147

Amended to recommendations of Public Works

Recommendation

Review and suggest date for public hearing(s) or schedule time for further review.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS

There were no pending business items on the agenda.

NEW BUSINESS

A. Staff Report PL 10-92, Draft Subdivision Code Amendment

City Planner Abboud reviewed the staff report.

KRANICH/HIGHLAND MOVED TO SCHEDULE THE SUBDIVISION ORDINANCE UNDER STAFF REPORT 101-92 FOR PUBLIC HEARING AT THE NEXT MEETING.

Commissioner Kranich explained that the Commission had good discussion at the worksession. The ordinance clarifies granting utility easements which has been ambiguous to the Commission in the past. There is information regarding the Non Motorized Transportation and Trails Plan he encouraged everyone review this to ensure it is correct. City Planner Abboud said he would distinguish what is the Planning Commissions work and what is the staff and attorneys work.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 10-97, Draft Sign Code Amendment

City Planner Abboud reviewed the staff report.

KRANICH/HIGHLAND MOVED TO POSTPONE ACTION AND SCHEDULE AT THE NEXT WORKSESSION AND NEXT MEETING AS AN ACTION ITEM.

It was noted that the next worksession is Commission training with the City Attorney so the Commission agreed to have it on the next available worksession.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

C. Staff Report PL 10-96, Draft Zoning Enforcement Ordinance (Outdoor Storage)

City Planner Abboud reviewed the staff report.

There was brief discussion about including commercial districts, provision for vehicles used for work, and if items can be concealed. It was suggested that seasonal use vehicles like tractors or snow plows can sit through the off season.



City of Homer

Planning & Zoning

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STAFF REPORT PL 10-80

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: September 1, 2010 w6
SUBJECT: Subdivision Ordinance

Introduction

This subject was brought to the forefront as there were some questions about Homer's ability to require subdivision improvement for platting actions such as removal of lot lines.

Subdivision

As included in you packets last week, the attorney highlighted the reference in our definition that subdivision includes any subdivision or resubdivision. The key being that a resubdivision includes the removal of a lot line where two or more lots may not be created.

The Attorney and the Borough seem to make it clear that the City of Homer is within its' rights to require that subdivisions or resubdivisions adhere to requirements found in Homer City Code.

Notable Changes

Language suggested by the City Engineer include the dedication of 15' easements along all existing or propose rights-of-way and any easements identified in the Water and Sewer Master Plan.

Another discussion I had with Carey was about the deletion of the waiver of the provision (22.10.050(a)) requiring the construction of all utilities and other public improvements prior to release for plat filing. The waiver allows for an agreement that no building permit or request for utility connection will be submitted until such improvements are completed and accepted. The thought is that this provision has not been requested in the last ten years and seems to be a legacy policy that should be removed from code. So the recommendation would be to strike, "~~This provision may be waived if the developer signs an agreement with the City of Homer that no building permit and/or request for utility connection will be submitted to the City for any lot within the subdivision until such time as the improvements are completed and accepted by the City of Homer. This agreement shall be recorded and constitute a covenant running with the land.~~"

Concepts that are approved will be forwarded to the Attorney for review prior to further review by the Planning Commission.

Recommendation

Review and suggest date for public hearing(s) or schedule time for further review.





CITY OF HOMER
PUBLIC WORKS
3575 HEATH STREET HOMER, AK 99603

TELEPHONE (907)235-3170
FACSIMILE (907)235-3145

MEMORANDUM

TO: Rick Abboud, City Planner

FROM: Carey Meyer, Public Works Director

DATE: August 4, 2010

RE: **Homer City Code Revisions**
15' Frontage Utility Easements and other Issues

The following is discussion of and recommendations for Code language revisions pertaining to the requirement that all lots have a 15' utility easement immediately adjacent to the street right-of way and other platting issues that Public Works routinely comments on.

Issues:

- 1) 15' utility easement immediately adjacent to the street right-of way,
- 2) Requirement to create easements for future water and sewer improvements,
- 3) Radius returns on street intersection property lines,
- 4) Water/sewer service relocation requirements.

Discussion:

Public Works recognizes that when a property owner submits a plat to the Planning Commission to create, vacate, or move property lines; or modify private ownership interests; they are expected to take the public interest into account. One of the purposes of a preliminary plat, according to Kenai Peninsula Borough Code is "to give the planning commission and the planning director ample time to study the proposed *subdivision* and its relation to the *overall needs of the Kenai Peninsula Borough and its residents*." During the review of a plat, Public Works raises the above four issues routinely, in the interest of the public; and in accordance with additional provisions of Homer City Code.

Kenai Peninsula Borough Code 20.04.040 says "A plat, prepared and submitted in accordance with the applicable provisions of this title, is required for all *subdivisions* of land" In KPB Code, Section 20.08.150. states that "*Subdivision* means the division of a tract or parcel of land into 2 or more lots, sites or other divisions for the purpose, whether immediate or future, of sale or building development, *and includes resubdivision* and, when appropriate to the context, relates to the process of subdividing or to the land or areas subdivided." (Ord. No. 78-37, § 2(part), 1979)

The purpose of Title 20 of KPB Code is "to promote an adequate and efficient street and road system, *to provide utility easements*, to provide minimum standards of survey accuracy and proper preparation of plats, and *to protect and improve the health, safety and general welfare of the people*."

15' utility easement immediately adjacent to the street right-of way

Attached is a Typical *Rural* Roadway Section showing what most roads in Homer look like today. There is plenty of room within street right-of-way, on either side of the road, for utility trenching in a rural road right-of-way. The Typical *Utility* Location detail shows where utilities are generally located within the right-of-way.

Attached is a Typical *Urban* Road Section showing what all roads in Homer will probably look like at some time in the future. The cost of maintaining and replacing utilities under the more expensive surface improvements is high. Having the ability to utilize easements adjacent to the right-of-way is an important option that should be provided for. The creation of these easements serves the public interest by reducing substantially the cost of maintaining and replacing these expensive and vital utilities.

These easements *are* an encumbrance on the property, but less than what we might think. The easements are within the front twenty feet of the lot (within the building setback area). The creation of these easements does not affect the buildable area of the lot. The property owner retains the use of the surface of the easement; for parking, lawn, fences, and other surface uses consistent with the utility easement needs. Sometimes a manhole, a pedestal, transformer is located within the easement that can have a localized effect on surface usage.

The language in Homer City Code that requires these easements is 22.10.051 Utility easements. "Each lot of a new subdivision must have access from a fifteen foot utility easement." (Ord. 90-5, 1990) This language has been utilized in the past as authority to require 15' wide easements along the front of all property.

This language could be improved. See recommendations section for proposed revised language.

Requirement to create easements for future water and sewer improvements

The language in Homer City Code that requires plats to show easements needed for future water and sewer main extensions is not definitive. Requirements to dedicate road rights-of-way, drainage easements, and easements for trails are already codified, but not water and sewer main easements. The City has prepared a Water and Sewer Master Plan that shows how water and sewer would most likely be extended to provide serve to all neighborhoods in Homer. Code language that would require water and sewer easements be dedicated is presented in the recommendations section below.

Radius returns on street intersection property lines

Homer City Code 11.04.090 requires minimum 20-foot radius returns at all intersections. No Code language revisions are necessary.

Water/sewer service relocation requirements

When platting actions move property lines, existing water and sewer services are sometimes affected. Public Works makes comments on these types of plats to inform applicants that existing services need to be relocated or new services need to be installed to allow water and or sewer service to continue to be provided.

Before the final plat can be recorded, the Borough contacts Public Works and asks whether any required improvements have been completed or a construction agreement has been executed. Public Works has used this opportunity to make sure that service modifications have been completed.

Homer City Code 22.10.050 Improvement Requirements General states: No subdivision plat shall be released by the Kenai Peninsula Borough for filing at the State Recorder's Office, until the subdivider or developer of such subdivision constructs streets in all rights-of-way dedicated by said plat, *and all other utilities and other public improvements* to be constructed in said rights-of-way dedicated by said plat, and all other utilities and other public improvements to be constructed in said rights-of-way according to the standards and procedures required under Title 11 of this Code. The plat shall not be released for filing until the City of Homer issues written approval of said street and utility improvements to the Kenai Peninsula Borough. This provision may be waived if the developer signs an agreement with the City of Homer that no building permit and/or request for utility connection will be submitted to the City for any lot within the subdivision until such time as the improvements are completed and accepted by the City of Homer. This agreement shall be recorded and constitute a covenant running with the land.

Public Works is not aware of a circumstance where the applicant has refused to accomplish this work as part of the final platting conditions; but language is not present in Homer City Code that specifically stipulates that the completion of these types of improvements can be a condition to a plat approval. Applicants seem to understand the importance of making the service line modifications and appreciate knowing up front what needs to be done.

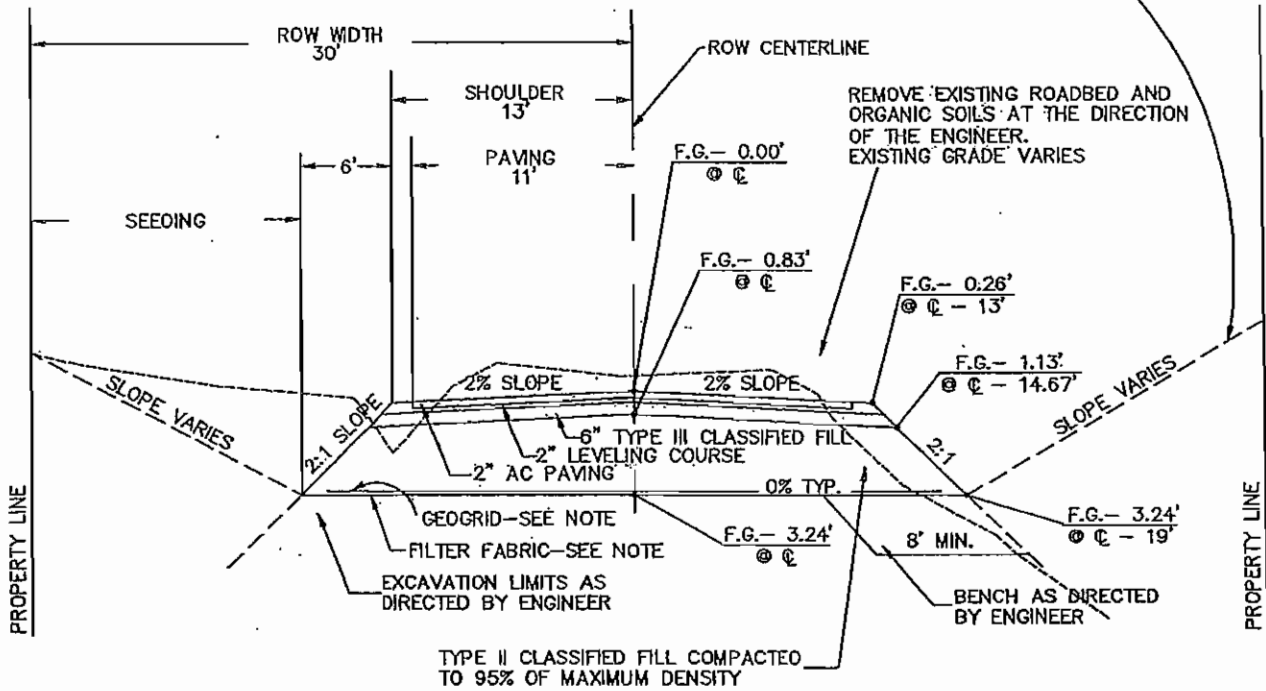
Some additional language in Homer City Code would make sense; recommended language is contained in the recommendations section below.

Recommendations: The Homer Advisory Planning Commission approve the following Homer City Code language modifications/additions:

- 1) 22.10.051 Utility easements. ~~Each lot of a new subdivision must have access from a fifteen foot utility easement. (Ord. 90-5, 1990)~~ **(a) Each lot of a new subdivision shall have a fifteen (15) foot wide utility easement dedicated immediately adjacent to any existing or proposed street right-of-way. (b) New lots within subdivisions shall have water and/or sewer easements dedicated that are needed to construct future water and sewer mains as shown on the official Water/Sewer Master Plan approved by the City Council.**
- 2) 22.10.050 (a) Improvement requirements General. No subdivision plat shall be released by the Kenai Peninsula Borough for filing at the State Recorder's Office, until the subdivider or developer of such subdivision constructs streets in all rights-of-way dedicated by said plat, and all other utilities and other public improvements to be constructed in said rights-of-way dedicated by said plat, and all other utilities and other public improvements to be constructed in said rights-of-way according to the standards and procedures required under Title 11 of this Code. The plat shall not be released for filing until the City of Homer issues written approval of said street and utility improvements **(including water and sewer service relocations/additions)** to the Kenai Peninsula Borough. This provision may be waived if the developer signs an agreement with the City of Homer that no building permit and/or request for utility connection will be submitted to the City for any lot within the subdivision until such time as the improvements are completed and accepted by the City of Homer. This agreement shall be recorded and constitute a covenant running with the land.

Stuber-Carey

CUT BACKSLOPE AT A 2:1 SLOPE UNLESS
CATCH POINT IS OUTSIDE THE PROP. LINE.
IF CATCH POINT IS OUTSIDE PROP. LINE, CUT
BACKSLOPE TO THE PROP. LINE, TYP. BOTH
SIDES OF ROW.



- NOTES:
1. PLACE GEOGRID AND FILTER FABRIC A MINIMUM OF 1' AND A MAXIMUM OF 2' FROM EACH EDGE OF THE EXCAVATION.
 2. TYPICAL CROSS SECTION MAY VARY BASED ON R.O.W. WIDTH, GEOTECHNICAL AND DESIGN INFORMATION.

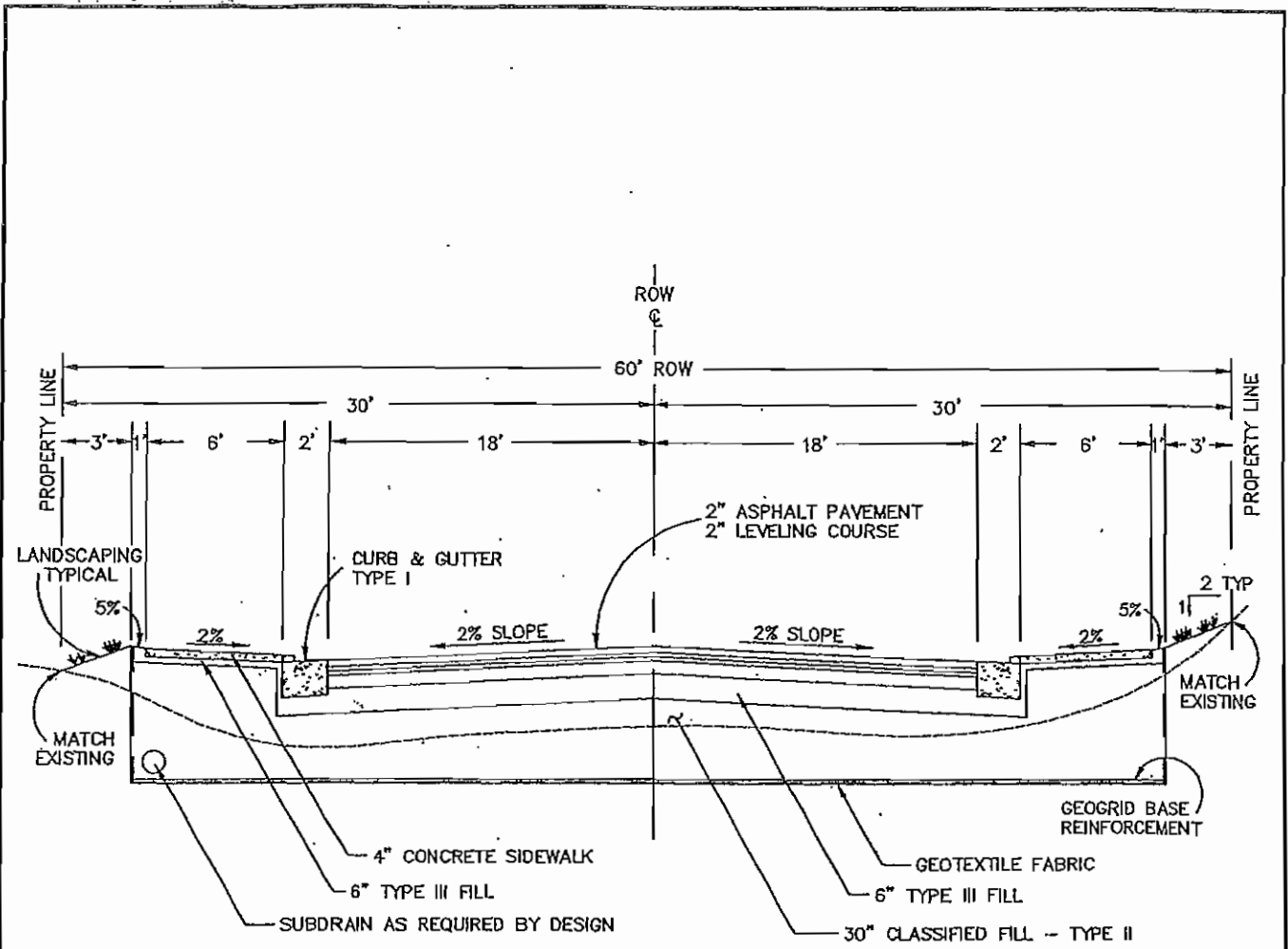


SCALE:
NTS

REVISED:
6/99

TYPICAL ROADWAY SECTION
RURAL

DETAIL #
200.01



NOTES:

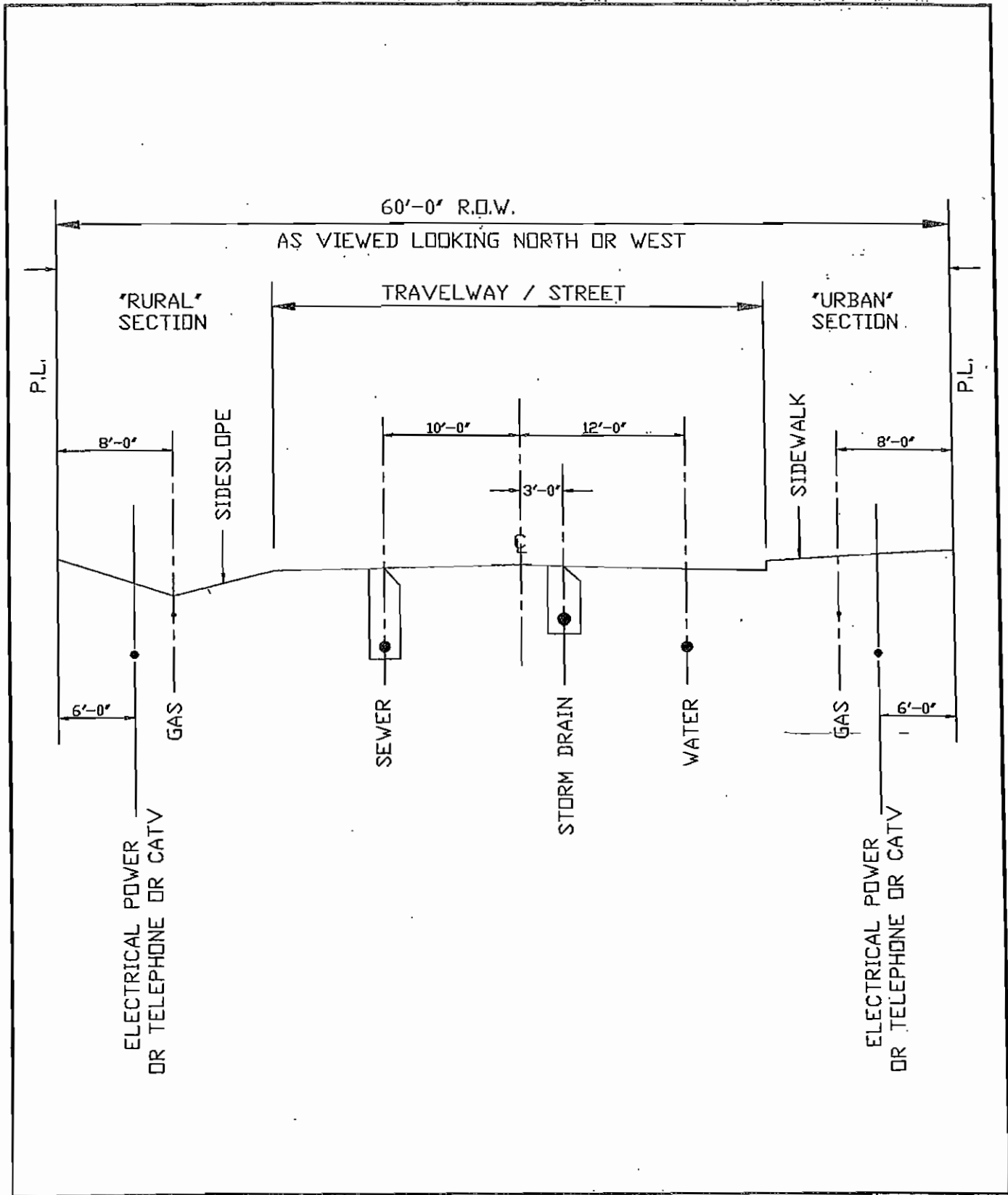
1. TYP. CROSS SECTION MAY VARY BASED ON ROW WIDTH, GEOTECH & DESIGN INFORMATION.



SCALE:
NTS
REVISED:
6/99

TYPICAL ROADWAY SECTION
URBAN
(CURB, GUTTER & SIDEWALK)

DETAIL #
200.02



SCALE:
NTS

REVISED:
6/99

TYPICAL UTILITY LOCATIONS

DETAIL #
200.04

Rick Abboud

From: Best, Max [MBest@borough.kenai.ak.us]
Sent: Monday, July 26, 2010 11:50 AM
To: gary@abilitysurveys.com
Cc: Rick Abboud
Subject: RE: Request for Department Policy Interpretation of Homer City Code

Gary,

1. You are altering a plat.
2. It requires you to apply "subdivision regulations".

Max.

From: gary@abilitysurveys.com [mailto:gary@abilitysurveys.com]
Sent: Monday, July 26, 2010 11:19 AM
To: Best, Max
Cc: Rick Abboud
Subject: Re: Request for Department Policy Interpretation of Homer City Code

Dear Max;

Thank you very much for trying to answer my question. However it seems you're not understanding my question and assertion.

The question is; How does KPB Planning Staff justify treating this plat action which solely requests a vacation of lot lines, as a subdivision in the city of Homer when the Homer City Code specifically defines subdivision as;

22.10.030 Definitions. The following words and phrases shall have the meanings set forth in this section, unless otherwise provided or the context otherwise requires:

22.10.030 (a)–22.10.050 (b)

b. "Subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, including any subdivision or resubdivision. When appropriate to the context, the term shall refer to the process of subdividing or to the land or areas subdivided. (Ord. 87-8 (S) (part), 1987)

and so the assertion is that according to the definition of the Homer City Code, this action does not qualify as a subdivision because it is not a division of a tract or parcel of land into two or more lots, sites, or other divisions" And therefore should not be subject to the more recently enacted easement and right-of-way provisions. This was the assertion in the submittal letter and as yet I don't believe it has been addressed. Now we are trying to find out what reasoning the Staffs use to ignore or re-interpret this code provision.

This clearly is not a division of a tract or parcel of land so how can it come under that definition?

Please explain.

Gary Nelson, PLS

cc: Ken Moore

----- Original Message -----

From: Best, Max

To: gary@abilitysurveys.com

Cc: Rick Abboud

Sent: Monday, July 26, 2010 9:17 AM

Subject: RE: Request for Department Policy Interpretation of Homer City Code

Gary,
AS 29.40.080 (a), The Assembly by ordinance shall establish a platting authority to administer subdivision regulations and to perform other duties as required by the assembly.
AS 29.40.120, A recorded plat may not be altered or replated except by the platting authority on petition of the state, the borough, public utility or the owners of a majority of the land affected by the alteration or replat.
KPB 20.04.010, The purpose of this title is to promote an adequate and efficient street and road system, to provide utility easements, to provide minimum standards of survey accuracy and proper preparation of plats and to protect and improve the health and general welfare of the people.
20.20.250, Where cities have enacted by ordinance different design standards than those set forth in this chapter, the planning commission may apply such city standards in lieu of those set forth in this chapter.

At the KPB plat committee meeting of July 19, 2010 you asked for an exception to 20.20.250 of the KPB code and were denied based on the four findings listed on page 222.

1. Homer 11.04.090 requires minimum 20-foot radius returns at all intersections.
2. Homer 22.10.051 states that each lot of a new subdivision must have access from a 15-foot utility easement.
3. Homer has consistently required compliance with this portion of their code.
4. Per KPB 20.16.120(B)(1) The subdivider bears the responsibility for coordination with the utility companies.

I do not see where the city or the borough have acted outside the bounds of their authority.

Max.

From: gary@abilitysurveys.com [mailto:gary@abilitysurveys.com]

Sent: Friday, July 23, 2010 3:05 PM

To: Best, Max

Cc: Rick Abboud

Subject: Re: Request for Department Policy Interpretation of Homer City Code

Max;

I feel your explanation dances around my request and does not address it.

It is my contention that;

1. Homer Planning Staff and K-B Planning Staff and Commission disregarded the Homer City Code and requested over and above the Homer City Code provisions by definitions contained in the code which I submitted to you. Those definitions seem to exclude the sole action of a vacation of lot lines, making our requested action not subject to the other code provisions to granting easements and rights-of-way.
2. the City's appointed and duly authorized Platting Authority or Voice, the HAPC, did not vote to require the easements or dedication. Those were only recommendations from the Public Works Department and they did not demonstrate an immediate need for them when specifically asked if there was one. This was mentioned in the submittal letter that contained the meeting minutes.
3. KPB staff recommended what Homer Public Works recommended but the HAPC did not support those recommendations.
4. Homer City Code by it's definitions exclude the sole action of Vacating lot lines from the easement, right-of-way, and other subdivision improvement requirements. The wording appears to be intentional.
5. Your reply states "city requirements must be followed", and it is my contention that both the **city and borough are not following the city code requirements.**
6. Your reply does not seem to answer the original question posed. I care not if you address my contentions mentioned here, but I would like a direct answer to the original question posed in the first sentence of my request.

Thank you very much,

Gary Nelson, PLS

----- Original Message -----

From: Best, Max

To: gary@abilitysurveys.com

Cc: Rick Abboud

Sent: Thursday, July 22, 2010 5:07 PM

Subject: RE: Request for Department Policy Interpretation of Homer City Code

Gary, Ken,

Pursuant to KPB 20.12.050, it is mandatory that the plat be first submitted to the city. Pursuant to KPB 20.12.050(C), the applicant bears the responsibility for presentation to and discussions with the city so that the final plat will conform to "lawful ordinances and requirements of said city." The ultimate goal of the platting process is to achieve a final plat, which is why KPB 20.12.050(C) references the final plat; it is not because lawful ordinances and city requirements do not need to be followed prior to the final plat being submitted. Per the boroughs' code, city requirements must be followed from the time of submittal; that is the very reason the borough requires the preliminary plat submittal be made to the city first. If the city's requirements did not need to be followed, there would be no reason to submit the plat at any stage to city for review. Clearly, subsection C requires the advisory planning and municipal departments, as appropriate, review the plat at the preliminary stage, and our code specifically allows the city to establish requirements for this review. It is also mandatory that the city's comments be included with the preliminary plat submittal to the borough. Without the comments, the platting division is well within its purview to return the plat for to the surveyor for modification or corrections as required by AS 29.40.110.

In other words, you need to work things out with the city.

Max Best

From: gary@abilitysurveys.com [mailto:gary@abilitysurveys.com]
Sent: Thursday, July 22, 2010 10:29 AM
To: Best, Max
Cc: Rick Abboud
Subject: Request for Department Policy Interpretation of Homer City Code

Planning Directors Max and Rick;

Please give us (owner/client Ken Moore and I) your departments explanation of why you feel our requested plat action on W.R. Benson's Moore Replat considered at the KPB Plat Meeting of 7/19/2010 required granting easements and right-of-way. Our reading and interpretation of the Homer City Code with definitions cited below lead us to believe the codifiers intended for plat actions of this sort to not be subject to additional takings or requiring additional grants. Why else would the code provisions be expressed as they are? (See code below).

We ask a timely reply because we are considering filing a request for a Plat Committee Review and we only have 10 days from the meeting date to submit our request.

Sincerely,

Gary Nelson, PLS
and
Ken Moore

11.20.010 Intent. The intent of this chapter is to establish procedures for constructing streets and utility mains in existing rights-of-way or public rights-of-way or easements to be dedicated by plat. (Ord. 87-6(S) 1(part), 1987).

11.20.020 Scope and applicability. This chapter governs all street and utility main construction in public rights-of-way which are greater than twenty-two feet in width, excepting those rights-of-way which are specifically claimed for ownership and maintenance by the State of Alaska. It shall further govern such construction of streets and utility mains in rights-of-way or easements proposed to be dedicated as part of pending subdivision plats, as required in Chapter 22.10 of the Homer Municipal Code. (Ord. 87-6(S) 1(part), 1987).

11.20.030 Definitions. In this chapter, unless otherwise provided or the context otherwise requires, the following definitions shall have the meanings set forth below:

t. "**Subdivision**" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, including any subdivision, and

when appropriate to the context, the process of subdividing or the land subdivided. A "new subdivision" is a subdivision in which a plat is recorded after the effective date of this chapter.

=====
=====
22.10 Subdivision Improvements

22.10.030 Definitions. The following words and phrases shall have the meanings set forth in this section, unless otherwise provided or the context otherwise requires:

22.10.030 (a)-22.10.050 (b)

a. "Subdivider" means a person, firm, association, partnership, corporation, governmental unit or combination of any of these which may hold any recorded or equitable ownership interest in land, and dividing or proposing to divide such land so as to constitute a subdivision as defined in this section. This term shall also include all heirs, assigns or successors in interest, or representatives of, the subdivider, owner, proprietor or developer.

b. "Subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, including any subdivision or resubdivision. When appropriate to the context, the term shall refer to the process of subdividing or to the land or areas subdivided. (Ord. 87-8 (S) (part), 1987)

22.10.051 Utility easements. Each lot of a new subdivision must have access from a fifteen foot utility easement. (Ord. 90-5, 1990)

=====
=====
11.04.030 Definitions. In this chapter, unless otherwise provided, or the context otherwise requires, the following words and phrases shall have the meanings set forth below:

y. "Subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, including any subdivision, and when appropriate to the context, the process of subdividing or the land subdivided. A "new subdivision" is an subdivision in which a plat has received preliminary approval prior to the effective date of this chapter. There will be no time extension allowed for said preliminary plat to be considered at a later date.



City Attorney's take on Subdivision Question 7-22-10

The deletion of a lot line is a subdivision. The planning commission may, but is not required to, waive improvement and dedication requirements in connection with a subdivision that consists only of the removal of a lot line.

Under state law, as well as under the Borough and City codes, the term "subdivision" is defined to include resubdivision (i.e., the rearranging of lots in an existing subdivision, including the removal of lot lines).

AS 29.71.800(23)(A) provides that "subdivision" means "the division of a parcel of land into two or more lots or other divisions for the purpose of sale or building development, *includes resubdivision*, and relates to the process of subdividing or the land subdivided." (Emphasis added)

Kenai Peninsula Borough Code 20.08.150 defines "subdivision" as the division of a tract or parcel of land into 2 or more lots, sites or other divisions for the purpose, whether immediate or future, of sale or building development, *and includes resubdivision* and, when appropriate to the context, relates to the process of subdividing or to the land or areas subdivided. (Emphasis added)

HCC 22.10.030(b) defines "subdivision" as "the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, *including any subdivision or resubdivision.*" (Emphasis added)

In addition, state law specifically requires platting action to alter a recorded plat. AS 29.40.120 provides in relevant part, "A recorded plat may not be altered or replatted except by the platting authority on petition of the state, the borough, a public utility, or the owners of a majority of the owners of the land affected by the alteration or replat."

The Homer City Code authorizes the planning commission to exempt small resubdivisions from the standards for subdivisions in the Code. HCC 22.10.040(a) provides, "The standards of this chapter shall apply to all subdivisions in the City of Homer. Exemptions from the requirements of Chapter 22.10 of this Code may be granted concurrent with preliminary plat approval by the Homer Advisory Planning Commission under the following conditions...Resubdivision of existing subdivisions not to exceed three lots, and involving no new dedications of rights-of-way." Similarly HCC 22.10.050, regarding improvement and dedication requirements, includes subsection (b) which provides, "Plats may be exempted from these provisions by the Commission as provided for in Section 22.10.040."

The plat also would be eligible for the abbreviated plat procedure under Kenai Peninsula Borough Code 20.04.070:

The abbreviated plat procedure may be used in those instances where the subdivision or resubdivision is of a simple nature and meets all of the specific requirements of this section.

A. Eligible Preliminary Plats. Movement or elimination of lot lines and the simple subdivision of a single tract parcel or lot into two tracts or lots provided that the subdivision does not:

1. Result in any lot less than the minimum lot size required under existing zoning and this section.
2. Allow a change in the permitted use to which the lot or tract may be devoted under existing zoning.
3. Alter a dedicated street or other right-of-way or require additional dedication.
4. Deny adequate public access to and from all lots or tracts created and adjacent.
5. Require the granting of any exception to the Borough Subdivision Ordinance.



ORDINANCE REFERENCE SHEET
2010 ORDINANCE
ORDINANCE 10-58

An Ordinance of the City Council of Homer, Alaska, Repealing and Reenacting Homer City Code Chapter 21.95, Legislative Procedures and Amendments, Regarding the Standards and Procedures for Amending Title 21 of the Homer City Code and Amending the Official Zoning Map.

Sponsor: Planning

1. City Council Regular Meeting December 13, 2010 Introduction
 - a. Memorandum 10-151 from City Planner as backup
 - b. Staff Reports PL 10-93, 10-90, 10-58 and 10-56

1 CITY OF HOMER
2 HOMER, ALASKA

3 Planning

4 ORDINANCE 10-58
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 REPEALING AND REENACTING HOMER CITY CODE CHAPTER 21.95,
8 LEGISLATIVE PROCEDURES AND AMENDMENTS, REGARDING THE
9 STANDARDS AND PROCEDURES FOR AMENDING TITLE 21 OF THE
10 HOMER CITY CODE AND AMENDING THE OFFICIAL ZONING MAP.
11

12 THE CITY OF HOMER ORDAINS:
13

14 Section 1. Homer City Code Chapter 21.95, Legislative Procedures and Amendments, is
15 repealed and reenacted to read as follows:
16

17 CHAPTER 21.95
18

19 LEGISLATIVE PROCEDURES AND AMENDMENTS
20

21	21.95.010	Initiating code amendment
22	21.95.020	Initiating zoning map amendment
23	21.95.030	Restriction on repeating failed amendment proposals
24	21.95.040	Planning Department review of code amendment
25	21.95.050	Planning Department review of zoning map amendment
26	21.95.060	Review by Planning Commission
27	21.95.070	Review by City Council

28

29 21.95.010 Initiating code amendment. An amendment to this title may be initiated by
30 any of the following:

- 31 a. A member of the City Council;
 - 32 b. A member of the Planning Commission;
 - 33 c. The City Manager;
 - 34 d. The City Planner; or
 - 35 e. A petition bearing the signatures, and the printed names and addresses, of not less
36 than 50 qualified City voters.
- 37

38 21.95.020 Initiating zoning map amendment. An amendment to the official zoning map
39 may be initiated by any of the following:

- 40 a. A member of the City Council;
- 41 b. A member of the Planning Commission;
- 42 c. The City Manager;
- 43 d. The City Planner; or
- 44 e. A petition of property owners meeting the following requirements:
 - 45 1. The proposed amendment would either:
 - 46 i. Apply to an area not less than two acres, including half the width
47 of any abutting street or alley rights-of-way; or

48 ii. Reclassify the area to a zoning district that is contiguous to the area
49 or separated from the area only by a street or alley right-of-way.

50 2. The petition represents lots that include more than 50 percent of the area
51 (excluding rights-of-way) that is the subject of the proposed amendment. A lot is represented on
52 the petition only if the petition bears the signatures, and the printed names and addresses, of all
53 record owners of the lot.

54 3. The petition also shall include the following:

55 i. The following statement on each page of the petition: "Each person
56 signing this petition represents that the signer is a record owner of the lot whose description
57 accompanies the signature; that the signer is familiar with the proposed zoning map amendment
58 and the current zoning district of the lot; and that the signer supports the City Council's approval
59 of the amendment."

60 ii. The name of each record owner, the legal description and the
61 Borough tax parcel number of each lot that is the subject of the proposed amendment.

62 iii. A map showing the lots comprising the area that is the subject of
63 the proposed amendment, all lots contiguous to the boundary of that area, and the present zoning
64 and proposed zoning of each such lot.

65 iv. A statement of the justification for the proposed amendment.

66
67 21.95.030 Restriction on repeating failed amendment proposals. No proposal by
68 qualified voters to amend this title, or by property owners to amend the official zoning map, shall
69 be reviewed by the Planning Department, or submitted to the Planning Commission or the
70 Council, if it is substantially the same as any other amendment that the Council rejected within
71 the previous nine months.

72
73 21.95.040 Planning Department review of code amendment. The Planning Department
74 shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010
75 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it
76 finds that the amendment:

77 a. Is consistent with the comprehensive plan and will further specific goals and
78 objectives of the plan.

79 b. Will be reasonable to implement and enforce.

80 c. Will promote the present and future public health, safety and welfare.

81 d. Is consistent with the intent and wording of the other provisions of this title.

82
83 21.95.050 Planning Department review of zoning map amendment. The Planning
84 Department shall evaluate each amendment to the official zoning map that is initiated in
85 accordance with HCC 21.95.020 and qualified under HCC 21.95.030, and may recommend
86 approval of the amendment only if it finds that the amendment:

87 a. Is consistent with the comprehensive plan and will further specific goals and
88 objectives of the plan.

89 b. Applies a zoning district or districts that are better suited to the area that is the
90 subject of the amendment than the district or districts that the amendment would replace, because

91 either conditions have changed since the adoption of the current district or districts, or the current
92 district or districts were not appropriate to the area initially.

93 c. Is in the best interest of the public, considering the effect of development
94 permitted under the amendment, and the cumulative effect of similar development, on property
95 within and in the vicinity of the area subject to the amendment and on the community, including
96 without limitation effects on the environment, transportation, public services and facilities, and
97 land use patterns

98
99 21.95.060 Review by Planning Commission. a. The Planning Commission shall review
100 each proposal to amend this title or to amend the official zoning map before it is submitted to the
101 City Council.

102 b. Within 30 days after determining that an amendment proposal is complete and
103 complies with the requirements of this chapter, the Planning Department shall present the
104 amendment to the Planning Commission with the Planning Department's comments and
105 recommendations, accompanied by proposed findings consistent with those comments and
106 recommendations.

107 c. The Planning Department shall schedule one or more public hearings before the
108 Planning Commission on an amendment proposal, and provide public notice of each hearing in
109 accordance with HCC Chapter 21.94.

110 d. After receiving public testimony on an amendment proposal and completing its
111 review, the Planning Commission shall submit to the City Council its written recommendations
112 regarding the amendment proposal along with the Planning Department's report on the proposal,
113 all written comments on the proposal, and an excerpt from its minutes showing its consideration
114 of the proposal and all public testimony on the proposal.

115
116 21.95.070 Review by City Council. After receiving the recommendations of the
117 Planning Commission regarding an amendment proposal, the City Council shall consider the
118 amendment proposal in accordance with the ordinance enactment procedures in the Homer City
119 Code. The City Council may adopt the proposed amendment as submitted or with amendments,
120 or reject the proposed amendment.

121
122 Section 2. This Ordinance is of a permanent and general character and shall be included
123 in the City Code.

124
125 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
126 _____ 2010.

127
128 CITY OF HOMER

129
130
131 _____
132 JAMES C. HORNADAY, MAYOR
133

134 ATTEST:

135

136

137

138 JO JOHNSON, CMC, CITY CLERK

139

140 YES:

141 NO:

142 ABSTAIN:

143 ABSENT:

144

145 First Reading:

146 Public Hearing:

147 Second Reading:

148 Effective Date:

149

150

151 Reviewed and approved as to form:

152

153

154

155 Walt E. Wrede, City Manager

156

157

158 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____



City of Homer

Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-3106
Fax (907) 235-3118
E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

MEMORANDUM 10-151

TO: Mayor Hornaday and Homer City Council
THRU: Walt Wrede, City Manager
FROM: Rick Abboud City Planner
DATE: December 13, 2010
SUBJ: Ordinance 10-58 Repealing and Reenacting HCC 21.95, Legislative Procedures and amendments, Regarding the Standards and Procedures for Amending Title 21 of the Homer City Code and Amending the Official Zoning Map.

Introduction

This ordinance was produced at the request of the Planning Commission in order to formulize the requirements for a zoning change in map or text in the City Code. Currently, the standards for approving such request lie in the Policy and Procedure Manual. The ordinance before you is based on a compilation of information and experience. We have looked at the standards in the manual, other city's codes and lessons learned from local zoning challenges to guide us. The Commission believes it is in the best interest of the City and potential applicants to have standards adopted in Code.

Recommendation: Adopt Ordinance 10-58 Repealing and Reenacting HCC 21.95, Legislative Procedures and amendments, Regarding the Standards and Procedures for Amending Title 21 of the Homer City Code and Amending the Official Zoning Map.

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**CITY OF HOMER
HOMER, ALASKA**

Planning

ORDINANCE 10-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, REPEALING AND REENACTING HOMER CITY CODE CHAPTER 21.95, LEGISLATIVE PROCEDURES AND AMENDMENTS, REGARDING THE STANDARDS AND PROCEDURES FOR AMENDING TITLE 21 OF THE HOMER CITY CODE AND AMENDING THE OFFICIAL ZONING MAP.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 21.95, Legislative Procedures and Amendments, is repealed and reenacted to read as follows:

CHAPTER 21.95

LEGISLATIVE PROCEDURES AND AMENDMENTS

21.95.010	Initiating code amendment
21.95.020	Initiating zoning map amendment
21.95.030	Restriction on repeating failed amendment proposals
21.95.040	Planning Department review of code amendment
21.95.050	Planning Department review of zoning map amendment
21.95.060	Review by Planning Commission
21.95.070	Review by City Council

21.95.010 Initiating code amendment. An amendment to this title may be initiated by any of the following:

- a. A member of the City Council;
- b. A member of the Planning Commission;
- c. The City Manager;
- d. The City Planner; or
- e. A petition bearing the signatures, and the printed names and addresses, of not less than 50 qualified City voters.

21.95.020 Initiating zoning map amendment. An amendment to the official zoning map may be initiated by any of the following:

- a. A member of the City Council;
- b. A member of the Planning Commission;
- c. The City Manager;
- d. The City Planner; or
- e. A petition of property owners meeting the following requirements:
 1. The proposed amendment would either:

47 i. Apply to an area not less than two acres, including half the width
48 of any abutting street or alley rights-of-way; or

49 ii. Reclassify the area to a zoning district that is contiguous to the area
50 or separated from the area only by a street or alley right-of-way.

51 2. The petition represents lots that include more than 50 percent of the area
52 (excluding rights-of-way) that is the subject of the proposed amendment. A lot is represented on
53 the petition only if the petition bears the signatures, and the printed names and addresses, of all
54 record owners of the lot.

55 3. The petition also shall include the following:

56 i. The following statement on each page of the petition: "Each person
57 signing this petition represents that the signer is a record owner of the lot whose description
58 accompanies the signature; that the signer is familiar with the proposed zoning map amendment
59 and the current zoning district of the lot; and that the signer supports the City Council's approval
60 of the amendment."

61 ii. The name of each record owner, the legal description and the
62 Borough tax parcel number of each lot that is the subject of the proposed amendment.

63 iii. A map showing the lots comprising the area that is the subject of
64 the proposed amendment, all lots contiguous to the boundary of that area, and the present zoning
65 and proposed zoning of each such lot.

66 iv. A statement of the justification for the proposed amendment.
67

68 21.95.030 Restriction on repeating failed amendment proposals. No proposal by
69 qualified voters to amend this title, or by property owners to amend the official zoning map, shall
70 be reviewed by the Planning Department, or submitted to the Planning Commission or the
71 Council, if it is substantially the same as any other amendment that the Council rejected within
72 the previous nine months.
73

74 21.95.040 Planning Department review of code amendment. The Planning Department
75 shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010
76 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it
77 finds that the amendment:

78 a. Is consistent with the comprehensive plan and will further specific goals and
79 objectives of the plan.

80 b. Will be reasonable to implement and enforce.

81 c. Will promote the present and future public health, safety and welfare.

82 d. Is consistent with the intent and wording of the other provisions of this title.
83

84 21.95.050 Planning Department review of zoning map amendment. The Planning
85 Department shall evaluate each amendment to the official zoning map that is initiated in
86 accordance with HCC 21.95.020 and qualified under HCC 21.95.030, and may recommend
87 approval of the amendment only if it finds that the amendment:

88 a. Is consistent with the comprehensive plan and will further specific goals and
89 objectives of the plan.

90 b. Applies a zoning district or districts that are better suited to the area that is the
91 subject of the amendment than the district or districts that the amendment would replace, because
92 either conditions have changed since the adoption of the current district or districts, or the current
93 district or districts were not appropriate to the area initially.

94 c. Is in the best interest of the public, considering the effect of development
95 permitted under the amendment, and the cumulative effect of similar development, on property
96 within and in the vicinity of the area subject to the amendment and on the community, including
97 without limitation effects on the environment, transportation, public services and facilities, and
98 land use patterns

99
100 21.95.060 Review by Planning Commission. a. The Planning Commission shall review
101 each proposal to amend this title or to amend the official zoning map before it is submitted to the
102 City Council.

103 b. Within 30 days after determining that an amendment proposal is complete and
104 complies with the requirements of this chapter, the Planning Department shall present the
105 amendment to the Planning Commission with the Planning Department's comments and
106 recommendations, accompanied by proposed findings consistent with those comments and
107 recommendations.

108 c. The Planning Department shall schedule one or more public hearings before the
109 Planning Commission on an amendment proposal, and provide public notice of each hearing in
110 accordance with HCC Chapter 21.94.

111 d. After receiving public testimony on an amendment proposal and completing its
112 review, the Planning Commission shall submit to the City Council its written recommendations
113 regarding the amendment proposal along with the Planning Department's report on the proposal,
114 all written comments on the proposal, and an excerpt from its minutes showing its consideration
115 of the proposal and all public testimony on the proposal.

116
117 21.95.070 Review by City Council. After receiving the recommendations of the
118 Planning Commission regarding an amendment proposal, the City Council shall consider the
119 amendment proposal in accordance with the ordinance enactment procedures in the Homer City
120 Code. The City Council may adopt the proposed amendment as submitted or with amendments,
121 or reject the proposed amendment.

122
123 Section 2. This Ordinance is of a permanent and general character and shall be included
124 in the City Code.

125
126 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
127 _____ 2010.

128
129 CITY OF HOMER

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132 _____
133 JAMES C. HORNADAY, MAYOR

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ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager

Date: _____

Thomas F. Klinkner, City Attorney



**City of Homer
Planning & Zoning**

491 East Pioneer Avenue
Homer, Alaska 99603-7645

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Fax (907) 235-3118
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Web Site www.ci.homer.ak.us

STAFF REPORT PL 10-93.

TO: Homer Advisory Planning Commission

FROM: Rick Abboud, City Planner

MEETING: October 6, 2010

SUBJECT: Rezone Ordinance

The rezone ordinance is returned for public hearing as requested. No changes have been made to the ordinance since the Planning Commission last looked at it in September.

Recommendation

Receive public comments and recommend that it be forwarded to City Council for adoption.

Commissioner Kranich commented that this is straight forward and the property fronts a dedicated right-of-way even though it is not constructed.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

D. Staff Report PL 10-93, Draft Ordinance 10-xx, Rezones

City Planner Abboud reviewed staff report.

Chair Minsch opened the public hearing. There were no public comments and the public hearing was closed.

KRANICH/HIGHLAND MOVED TO BRING THE DRAFT ORDINANCE TO THE FLOOR TO DISCUSS AND MAKE RECOMMENDATION AND/OR FORWARD TO COUNCIL.

There was no objection expressed and discussion ensued.

Commissioner Kranich commented that what qualifies for rezone is a muddy topic, but doesn't think there is any way to have it clear in black and white from the decisions of several court cases.

Chair Minsch said they have come a long way from a few sentences in their policy and procedures manual to codifying and making a stab at this. It is a moving target but it's a place to start.

KRANICH/HIGHLAND MOVED TO FORWARD THIS DRAFT ORDINANCE TO COUNCIL FOR PUBLIC HEARING AND ADOPTION.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

PLAT CONSIDERATION

A. Staff Report PL 10-98, Dierich Section Line Easement Vacation Preliminary Plat

City Planner Abboud reviewed the staff report.

There were no comments from the applicant or the public.

KRANICH/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 10-98 DIERICH SECTION LINE EASEMENT VACATION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was discussion regarding the section line easement vacation process and the time it takes for it to make the rounds through the City, Borough, and State.



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STAFF REPORT PL 10-90

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: September 15, 2010
SUBJECT: Rezone Ordinance

Introduction

After discussion with the Commission, I requested changes from the attorney to what was version 2 of the proposed draft ordinance.

Changes

The new ordinance seems much clearer. It is broken down into succinct categories that are easier to read and understand. Code amendments and map amendments are delineated.

21.95.050(c) is new and borrowed from Anchorage code. It incorporates the better-than-worse concept giving some direction on particular items that are to be considered for impact. Also, the area for impact is a bit more flexible with the use of the term vicinity instead of some hard numbered distance. No matter how it is phrased, it is expected that we review the proposal for immediate and surrounding impacts. In our case with a newly adopted comprehensive plan, it may be considered that map changes have already been largely justified.

We are still at a 2 acre minimum for map changes that are not contiguous with the same classification.

Recommendation

Review and suggest date for public hearing(s) or schedule time for further review.

Commissioners expressed concern regarding the consultant's changes regarding the comments of the leases, and questioned what else she may have changed.

The Commission agreed they would read through the plan and get comments to staff by the end of the week so they can go ahead and get the plan out for review and public comment.

MINSCH/KRANICH MOVED TO MOVE THE HOMER SPIT COMPREHENSIVE PLAN ON TO THE NEXT STAGE OF PUBLIC INPUT.

There was discussion reiterating that the Commission needs to review and get comments they may have to staff as soon as possible.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 10-90, Draft Rezone Ordinance

City Planner Abboud reviewed the staff report.

BOS/KRANICH MOVED TO BRING TO THE FLOOR FOR DISCUSSION THEN SCHEDULE THIS FOR PUBLIC HEARING.

There was discussion about item c and the way the ordinance ties in with the Comprehensive Plan.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

There were no new business items scheduled.

INFORMATIONAL MATERIALS

A. Ordinance 10-41(A), An Ordinance Amending Sections of Planning Administrative Appeals

COMMENTS OF THE AUDIENCE

Members of the audience may address the Commission on any subject. (3 minute time limit)

Beauregard Burgess, city resident, commented about the steep slope ordinance. He realizes the benefit of the proposed ordinance is to get better controls and address important issues for the community at large. Legislating solution and the process to resolve the problems limits the process and recourse the public has to work within the system. He noted an example of different ways of dealing with waste fill. Mr. Burgess suggested ideas of minimum lot sizes, not having a mandate for specific professionals prepare drawings, as that is costly and can be time consuming, and just adds another layer of bureaucratic process. He also suggested a time line for City Engineer review of a proposal so people can plan their process with a certain amount of guarantee of what to expect. Regarding fill issues he can understand not



City of Homer

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STAFF REPORT PL 10-59

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: July 21, 2010
SUBJECT: Rezone Ordinance

Introduction

Rezoning:

I have been asked to refine our regulations for the incorporation of specific requirements that could be spelled out in code to better define conditions for review. Our policy and procedures manual has some criteria for the subject of the review, but really does not offer much in the way of a guide to measure the review.

Current Review Standards – review to determine:

1. *The public need and justification for the proposed change;*
2. *The effect on the public health, safety and welfare;*
3. *The effect of the change on the district and surrounding property; and*
4. *The relationship to the Comprehensive Plan and purposes of the zoning regulations.*

The decision should not be arbitrary, have legitimate public purpose, and be consistent with the Comprehensive Plan.

After researching the culmination of codes and cases I find that the paramount consideration for a rezone is a justification in the comprehensive plan. The themes below represent legitimate criteria on which a sound decision can be based. Much of the codes that were research resembled ours in the fact that the code did not provide much guidance on review standards. While the current review standards that we use are reflected in the lists below, the list further describes the conditions that should be addressed.

The rezone should:

- Indicate how the rezone (change) would further the goals and objectives and better implement the comprehensive plan (why is it needed?)
 - This could include evidence of how the area has changed
 - Evidence of a error or improper designation
- Demonstrate suitability of how authorized principle and conditional uses are compatible with the newly designated area in consideration of the existing zone and surrounding areas

- Consider the potential effects on nearby uses and structures
- Consider the ability of infrastructure to serve the new designation
 - Water
 - Sewage
 - Transportation
- Consistency with intent and wording of other provisions in this title
- Evaluate existing and proposed permitted and conditional uses
- Constitute an expansion of an existing district or be at least 2 acres.

Spot Zoning

I believe that the proposed ordinance addresses concerns regarding spot zoning. I do believe that the following information should be familiar with all planning commissioners.

Griswold v. Homer (10/25/96), 925 P 2d 1015

- A. Claim of Spot Zoning The classic definition of spot zoning is the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners . . . ; Anderson, supra, sec. 5.12, at 359 (quoting Jones v. Zoning Bd. of Adjustment of Long Beach, 108 A.2d 498 (N.J. Super. 1954)). Spot zoning is the very antithesis of planned zoning; Id. (EN6) Courts have developed numerous variations of this definition. Id. These variations have but minor differences and describe any zoning amendment which a small parcel in a manner inconsistent with existing zoning patterns, for the benefit of the owner and to the detriment of the community, or without any substantial public purpose; Anderson, supra, sec. 5.12, at 362. Professor Ziegler states:

Faced with an allegation of spot zoning, courts determine first whether the rezoning is compatible with the comprehensive plan or, where no plan exists, with surrounding uses. Courts then examine the degree of public benefit gained and the characteristics of land, including parcel size and other factors indicating that any reclassification should have embraced a larger area containing the subject parcel rather than that parcel alone. **No one particular characteristic associated with spot zoning, except a failure to comply with at least the spirit of a comprehensive plan, is necessarily fatal to the amendment. *Spot zoning analysis depends primarily on the facts and circumstances of the particular case.*** Therefore the criteria are flexible and provide guidelines for judicial balancing of interests.

3 Edward H. Ziegler Jr., Rathkoph's The Law of Zoning and Planning sec. 28.01, at 28-3 (4th ed. 1995). In accord with the guidance offered by Professor Ziegler, in determining whether Ordinance 92-18 constitutes spot zoning, we will consider **(1) the consistency of the amendment with the comprehensive plan; (2) the benefits and detriments of the amendment to the owners, adjacent landowners, and community; and (3) the size of the area;**

1. **Consistency with the comprehensive plan** Just as an ordinance which complies with a comprehensive plan may still constitute an arbitrary exercise of a city's zoning power, *Watson v. Town Council of Bernalillo*, 805 P.2d 641, 645 (N.M. App. 1991), nonconformance with a comprehensive plan does not necessarily render a zoning action illegal. *Anderson*, supra, sec. 5.06, at 339-40. However, consistency with a comprehensive plan is one indication that the zoning action in question has a rational basis and is not an arbitrary exercise of the City's zoning power. Homer's comprehensive plan divides the city into several zoning areas. By its own terms, Homer's comprehensive plan is not intended to set specific land use standards and boundaries; specific standards and boundaries are instead implemented through the City's zoning ordinance.
2. **Effect of small-parcel zoning on owner and community** Perhaps the most important factor in determining whether a small-parcel zoning amendment will be upheld is whether the amendment provides a benefit to the public, rather than primarily a benefit to a private owner. See *Anderson*, supra, sec. 5.13- 5.14; *Ziegler*, supra, sec. 28.03, sec. 28.04, at 28-19 (calling an amendment intended only to benefit the owner of the rezoned tract the classic case of spot zoning). Courts generally do not assume that a zoning amendment is primarily for the benefit of a landowner merely because the amendment was adopted at the request of the landowner. *Anderson*, supra, sec. 5.13, at 368. If the owner's benefit is merely incidental to the general community's benefit, the amendment will be upheld. *Ziegler*, supra, sec. 28.04, at 28-19 to 28-20.
3. **Size of rezoned area** Ordinance 92-18 directly affects 7.29 acres. (EN11) The size of the area reclassified has been called more significant [than all other factors] in determining the presence of spot zoning; *Anderson*, supra, sec. 5.15, at 378. The rationale for that statement is that it is inherently difficult to relate a reclassification of a single lot to the comprehensive plan; it is less troublesome to demonstrate that a change which affects a larger area is in accordance with a plan to control development for the benefit of all; *Id.* at 379. We believe that the relationship between the size of reclassification and a finding of spot zoning is properly seen as symptomatic rather than causal, and thus that the size of the area rezoned should not be considered more significant than other factors in determining whether spot zoning has occurred. A parcel cannot be too large per se to preclude a finding of spot zoning, nor can it be so small that it mandates a finding of spot zoning. Although *Anderson* notes that reclassifications of parcels less than three acres are nearly always found invalid, while reclassifications of parcels over thirteen acres are nearly always found valid, *id.*, as *Ziegler* notes, the relative size of the parcel is invariably considered by courts. *Ziegler*, supra, sec. 28.04, at 28-14. One court found spot zoning where the reclassified parcel was 635 acres in an affected area of 7,680 acres. *Chrobuck v. Snohomish County*, 480 P.2d 489, 497 (Wash. 1971). Nor does the reclassification of more than one parcel negate the possibility of finding spot zoning. *Ziegler*, supra, sec. 28.04, at 28-15. In this case, there was some evidence that the reclassified area may have been expanded to avoid a charge of spot zoning. Other courts have invalidated zoning amendments after finding that a multiple-parcel reclassification was a subterfuge to obscure the actual purpose of special treatment

for a particular landowner. Id. See *Atherton v. Selectmen of Bourne*, 149 N.E.2d 232, 235 (Mass. 1958) (holding that the amendment is no less 'spot zoning' by the inclusion of the additional six lots than it would be without them; where proponents of a zoning change apparently anticipated a charge of spot zoning and enlarged the area to include the three lots on either side of the lot in question).

Review

I suggest that any review revolve around three basic premises

1. Must be consistent with comprehensive plan.
-easy, does the plan support it.
2. Must be of minimum size if not contiguous with existing zone of same designation.
-could be debatable. Currently 1 acre, which I am thinking is a bit small. The court has suggested that > 3 acres, in most cases, is too small.
3. Must be at least as beneficial as detrimental (if not more so).
-here is a place where thing can get complicated. It should be better than worse, but this is nearly always debatable. This is where your judgment as commissioners is heavily weighed. The court will not substitute their judgment for yours unless it is obviously unreasoned. This is most often weighed as aspects of health, safety and welfare. I find it most useful when the concepts of health, safety and welfare might be spelled out more specifically (public service, transportation, land use pattern, environment, and etc...). Then things are a bit more measureable and up for less debate.

I have not changed the documents as I have received from the attorney. But I note changes and items of possible debate below.

Notable Changes-Version 1

21.95.010 Amendment initiation

Citizen Petition

I suggest that we measure support in terms of area rather than parcels or number of owners (33-37). In my research, I found a cohesive statement that I recommend for use with all petitions for rezoning (38-43). This will clear up the understanding and commitment of the petitioners.

21.95.020 Restrictions

(57- 60) – This basically addresses the possibility of spot zoning. Currently 1 acre is a standard. I suggest at least 2 (if not contiguous with present classification- see review #2 above).

21.95.060 Standards

This is the wording recommended by our attorney. It addresses the concepts presented in introduction to this report. I take the most issue with the use of the term 'economically relevant' found in line 126. My reply to the attorney on this subject steered the creation of version 2.

Version 2

12.95.030 Review by Planning Department

Includes reference to developing findings (71-72)

(b) and (c) refer to review standards con concerning text and map changes respectively (73-95).

Some debatable things include the future specification of health, safety and welfare found in line 70 and the designation of 1000 feet in line 92. (I really like a specific number which could be greater or smaller or could be less specific like using the word 'vicinity' instead-a little obscure for me) Also sore more thought could lead to the omission or inclusion of other factors found in line 93-95. (Screening is more a quality of zoning than a factor for a map amendment.)

Recommendation

Review and suggest date for public hearing(s) or schedule time for further review.

CITY OF HOMER
HOMER, ALASKA

Planning

ORDINANCE 10-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, REPEALING AND REENACTING HOMER CITY CODE CHAPTER 21.95, LEGISLATIVE PROCEDURES AND AMENDMENTS, REGARDING THE STANDARDS AND PROCEDURES FOR AMENDING TITLE 21 OF THE HOMER CITY CODE AND AMENDING THE OFFICIAL ZONING MAP.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 21.95, Legislative Procedures and Amendments, is repealed and reenacted to read as follows:

CHAPTER 21.95

LEGISLATIVE PROCEDURES AND AMENDMENTS

- 21.95.010 Amendment initiation
- 21.95.020 Restrictions on amendment proposals
- 21.95.030 Review by ~~City Planner~~ Planning Department
- 21.95.040 Review by Planning Commission
- 21.95.050 Review by City Council
- ~~21.95.060 Standards for zoning map amendment~~

21.95.010 Amendment initiation. a. Any of the following may propose an amendment to this title or to the official zoning map:

- 1. A member of the City Council or the Planning Commission.
- 2. The City Manager or the City Planner.

b. An amendment to the official zoning map may be proposed by a petition representing lots having an aggregate area that is greater than fifty percent of the total area (excluding rights-of-way) that is the subject of the proposed amendment, A lot is represented on the petition only if all owners of the lot sign the petition. The petition shall include the following information:

1. The signature, and the printed name and address, of each person signing the petition. Each signature shall appear beneath the following statement. "Each person signing this petition represents that the signer owns the lot whose description accompanies the signature; that the signer is familiar with the proposed zoning map amendment, the current zoning district of the lot, and the zoning district to apply to the lot under the proposed amendment; and that the signer supports the City Council's approval of the amendment."

2. The name of the record owner, the legal description and the Borough tax parcel number of each parcel that is the subject of the proposed amendment.

47 3. A map showing the area that is the subject of the proposed amendment
48 and all parcels contiguous to the boundary of that area, and the present zoning and proposed
49 zoning of each such parcel.

50 4. A description of the justification for the proposed amendment.

51 c. An amendment to this title may be proposed by a petition signed by 50 qualified
52 City voters. The petition shall include the signature, and the printed name and address, of each
53 person signing the petition.

54
55 21.95.020 Restrictions on amendment proposals. a. A property owner proposal to
56 amend the zoning map shall not be submitted to the Planning Commission or the Council unless
57 either:

58 1. The proposed amendment would reclassify an area to a zoning district that
59 is contiguous to the area or separated from the area only by a street or alley right-of-way; or

60 2. The area that is the subject of the proposed amendment is not less than two
61 acres, including the half-width of any abutting street or alley right-of-way.

62 b. No proposal by property owners to amend the official zoning map, or by qualified
63 voters to amend this title, shall be submitted to the Planning Commission or the Council if it is
64 substantially the same as any other amendment that was rejected by the Council within the
65 previous nine months.

66
67 21.95.030 Review by City Planner/Planning Department. a. Each proposal to amend this
68 title or to amend the official zoning map shall be submitted to the City Planner. Within 30 days
69 after determining that an amendment proposal is complete and complies with the requirements of
70 this chapter, the City Planner shall present the amendment to the Planning Commission with the
71 City Planner's comments and recommendations, accompanied by proposed findings consistent
72 with those comments and recommendations.

73 b. The Planning Department shall evaluate each proposal to amend this title, and
74 may recommend approval of the amendment only if it finds:

75 1. The proposed amendment is consistent with the comprehensive plan and
76 will further specific goals and objectives of the plan.

77 2. The proposed amendment will be reasonable to implement and enforce.

78 3. The proposed amendment will promote the present and future public
79 health, safety and welfare.

80 4. The proposed amendment is consistent with the intent and wording of the
81 other provisions of this title.

82 c. The Planning Department shall evaluate each proposal to amend the official
83 zoning map, and may recommend approval of the amendment only if it finds:

84 1. The proposed amendment is consistent with the comprehensive plan and
85 will further specific goals and objectives of the plan.

86 2. The zoning district or districts that would be applied by the amendment
87 are better suited to the district or districts that the amendment would replace, because either
88 conditions have changed since the adoption of the current district or districts, or the current
89 district or districts were not appropriate to the area initially.

90 3. The principal and conditional uses permitted in the zoning district or
91 districts that would be applied by the amendment will be compatible with the principal and
92 conditional uses permitted in the area lying within immediate vicinity of the area that is the
93 subject of the amendment, considering factors such as proximity, topography, vehicular and
94 pedestrian traffic circulation, materials, screening, actual and potential development,
95 comprehensive plan designations, and other relevant factors.

96
97 21.95.040 Review by Planning Commission. a. Each proposal to amend this title or to
98 amend the official zoning map shall be reviewed by the Planning Commission before it is
99 submitted to the City Council.

100 b. The City Planner shall schedule one or more public hearings before the Planning
101 Commission on an amendment proposal, and provide public notice of each hearing in accordance
102 with HCC Chapter 21.94.

103 c. After receiving public testimony on an amendment proposal and completing its
104 review, the Planning Commission shall submit to the City Council its written recommendations
105 regarding the amendment proposal along with copies of minutes of its consideration of the
106 proposal and all public testimony on the proposal, the City Planner's report on the proposal, and
107 all written comments on the proposal.

108
109 21.95.050 Review by City Council. a. After receiving the recommendations of the
110 Planning Commission regarding an amendment proposal, the City Council shall consider the
111 amendment proposal in accordance with the ordinance enactment procedures of the Homer City
112 Code. The City Council may adopt the proposed amendment as submitted or with amendments,
113 or reject the proposed amendment.

114
115 ~~21.95.060 Standards for zoning map amendment. The City Planner, Planning~~
116 ~~Commission and City Council shall apply the following criteria in considering a proposed~~
117 ~~amendment to the zoning map:~~

118 ~~a. Whether the amendment is consistent with the goals and objectives of the~~
119 ~~comprehensive plan, and the comprehensive plan land use recommendations map.~~

120 ~~b. Whether the zoning map amendment is in the best interest of the public,~~
121 ~~considering the following factors:~~

122 ~~1. The effect of development under the amendment, and the cumulative~~
123 ~~effect of similar development, on property in the vicinity of the area subject to the amendment~~
124 ~~and on the community, including without limitation effects on the environment, transportation,~~
125 ~~public services and facilities, and land use patterns; and~~

126 ~~2. The supply of land in the economically relevant area that is in the same or~~
127 ~~similar districts to the district that would be applied by the amendment, in relation to the demand~~
128 ~~for that land.~~

129
130 Section 2. This Ordinance is of a permanent and general character and shall be included
131 in the City Code.

132

133 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
134 _____ 2010.

135
136 CITY OF HOMER

137
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139 _____
140 JAMES C. HORNADAY, MAYOR

141
142 ATTEST:

143
144
145 _____
146 JO JOHNSON, CMC, CITY CLERK

147
148 YES:

149 NO:

150 ABSTAIN:

151 ABSENT:

152
153 First Reading:

154 Public Hearing:

155 Second Reading:

156 Effective Date:

157
158
159 Reviewed and approved as to form:

160
161
162 _____
163 Walt E. Wrede, City Manager

164 Date: _____

Thomas F. Klinkner, City Attorney

B. Staff Report PL 10-58, Draft Spit Comprehensive Plan

HIGHLAND/BOS-MOVED TO CONTINUE DISCUSSION OF STAFF REPORT SR PL 10-58 AT THE NEXT WORK SESSION.

Motion carried.

C. Staff Report PL 10-59, Draft Rezone Ordinance

The commission continued their discussion from the work session.

NEW BUSINESS

INFORMATIONAL MATERIALS

A. City Manager's Report dated June 28, 2010

COMMENTS OF THE AUDIENCE

Members of the audience may address the Commission on any subject. (3 minute time limit)

There were no audience comments.

COMMENTS OF STAFF

There were no comments from staff.

COMMENTS OF THE COMMISSION

There were no comments from the commission.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 9:04 p.m. The next regular meeting is scheduled for August 4, 2010 at 7:00 p.m. in the City Hall Cowles Council Chambers. There is a worksession at 5:30 p.m. prior to the meeting.

Shelly Rosencrans, Planning Clerk

Approved: _____



City of Homer Planning & Zoning

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STAFF REPORT PL 10-56

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: June 16, 2010
SUBJECT: Rezone Ordinance

Introduction

Rezoning:

I have been asked to refine our regulations for the incorporation of specific requirements that could be spelled out in code to better define conditions for review. Our policy and procedures manual has some criteria for the subject of the review, but really does not offer much in the way of a guide to measure the review.

Current Review Standards – review to determine:

1. *The public need and justification for the proposed change;*
2. *The effect on the public health, safety and welfare;*
3. *The effect of the change on the district and surrounding property; and*
4. *The relationship to the Comprehensive Plan and purposes of the zoning regulations.*

The decision should not be arbitrary, have legitimate public purpose, and be consistent with the Comprehensive Plan.

After researching the culmination of codes and cases I find that the paramount consideration for a rezone is a justification in the comprehensive plan. The themes below represent legitimate criteria on which a sound decision can be based. Much of the codes that were research resembled ours in the fact that the code did not provide much guidance on review standards. While the current review standards that we use are reflected in the lists below, the list further describes the conditions that should be addressed.

The rezone should:

- Indicate how the rezone (change) would further the goals and objectives and better implement the comprehensive plan (why is it needed?)
 - This could include evidence of how the area has changed
 - Evidence of a error or improper designation
- Demonstrate suitability of how authorized principle and conditional uses are compatible with the newly designated area in consideration of the existing zone and surrounding areas

- Consider the potential effects on nearby uses and structures
- Consider the ability of infrastructure to serve the new designation
 - Water
 - Sewage
 - Transportation
- Consistency with intent and wording of other provisions in this title
- Evaluate existing and proposed permitted and conditional uses
- Constitute an expansion of an existing district or be at least 2 acres.

Spot Zoning

I believe that the proposed ordinance addresses concerns regarding spot zoning. I do believe that the following information should be familiar with all planning commissioners.

Griswold v. Homer (10/25/96), 925 P 2d 1015

- A. Claim of Spot Zoning The classic definition of spot zoning is the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners . . . ; Anderson, *supra*, sec. 5.12, at 359 (quoting Jones v. Zoning Bd. of Adjustment of Long Beach, 108 A.2d 498 (N.J. Super. 1954)). Spot zoning is the very antithesis of planned zoning; *Id.* (EN6) Courts have developed numerous variations of this definition. *Id.* These variations have but minor differences and describe any zoning amendment which a small parcel in a manner inconsistent with existing zoning patterns, for the benefit of the owner and to the detriment of the community, or without any substantial public purpose; Anderson, *supra*, sec. 5.12, at 362. Professor Ziegler states:

Faced with an allegation of spot zoning, courts determine first whether the rezoning is compatible with the comprehensive plan or, where no plan exists, with surrounding uses. Courts then examine the degree of public benefit gained and the characteristics of land, including parcel size and other factors indicating that any reclassification should have embraced a larger area containing the subject parcel rather than that parcel alone. **No one particular characteristic associated with spot zoning, except a failure to comply with at least the spirit of a comprehensive plan, is necessarily fatal to the amendment. *Spot zoning analysis depends primarily on the facts and circumstances of the particular case.*** Therefore the criteria are flexible and provide guidelines for judicial balancing of interests.

3 Edward H. Ziegler Jr., Rathkoph's The Law of Zoning and Planning sec. 28.01, at 28-3 (4th ed. 1995). In accord with the guidance offered by Professor Ziegler, in determining whether Ordinance 92-18 constitutes spot zoning, we will consider **(1) the consistency of the amendment with the comprehensive plan; (2) the benefits and detriments of the amendment to the owners, adjacent landowners, and community; and (3) the size of the area;**

1. **Consistency with the comprehensive plan** Just as an ordinance which complies with a comprehensive plan may still constitute an arbitrary exercise of a city's zoning power, *Watson v. Town Council of Bernalillo*, 805 P.2d 641, 645 (N.M. App. 1991), nonconformance with a comprehensive plan does not necessarily render a zoning action illegal. *Anderson*, supra, sec. 5.06, at 339-40. However, consistency with a comprehensive plan is one indication that the zoning action in question has a rational basis and is not an arbitrary exercise of the City's zoning power. Homer's comprehensive plan divides the city into several zoning areas. By its own terms, Homer's comprehensive plan is not intended to set specific land use standards and boundaries; specific standards and boundaries are instead implemented through the City's zoning ordinance.
2. **Effect of small-parcel zoning on owner and community** Perhaps the most important factor in determining whether a small-parcel zoning amendment will be upheld is whether the amendment provides a benefit to the public, rather than primarily a benefit to a private owner. See *Anderson*, supra, sec. 5.13- 5.14; *Ziegler*, supra, sec. 28.03, sec. 28.04, at 28-19 (calling an amendment intended only to benefit the owner of the rezoned tract the classic case of spot zoning). Courts generally do not assume that a zoning amendment is primarily for the benefit of a landowner merely because the amendment was adopted at the request of the landowner. *Anderson*, supra, sec. 5.13, at 368. If the owner's benefit is merely incidental to the general community's benefit, the amendment will be upheld. *Ziegler*, supra, sec. 28.04, at 28-19 to 28-20.
3. **Size of rezoned area** Ordinance 92-18 directly affects 7.29 acres. (EN11) The size of the area reclassified has been called more significant [than all other factors] in determining the presence of spot zoning; *Anderson*, supra, sec. 5.15, at 378. The rationale for that statement is that it is inherently difficult to relate a reclassification of a single lot to the comprehensive plan; it is less troublesome to demonstrate that a change which affects a larger area is in accordance with a plan to control development for the benefit of all; *Id.* at 379. We believe that the relationship between the size of reclassification and a finding of spot zoning is properly seen as symptomatic rather than causal, and thus that the size of the area rezoned should not be considered more significant than other factors in determining whether spot zoning has occurred. A parcel cannot be too large per se to preclude a finding of spot zoning, nor can it be so small that it mandates a finding of spot zoning. Although *Anderson* notes that reclassifications of parcels less than three acres are nearly always found invalid, while reclassifications of parcels over thirteen acres are nearly always found valid, *id.*, as *Ziegler* notes, the relative size of the parcel is invariably considered by courts. *Ziegler*, supra, sec. 28.04, at 28-14. One court found spot zoning where the reclassified parcel was 635 acres in an affected area of 7,680 acres. *Chrobuck v. Snohomish County*, 480 P.2d 489, 497 (Wash. 1971). Nor does the reclassification of more than one parcel negate the possibility of finding spot zoning. *Ziegler*, supra, sec. 28.04, at 28-15. In this case, there was some evidence that the reclassified area may have been expanded to avoid a charge of spot zoning. Other courts have invalidated zoning amendments after finding that a multiple-parcel reclassification was a subterfuge to obscure the actual purpose of special treatment

for a particular landowner. Id. See *Atherton v. Selectmen of Bourne*, 149 N.E.2d 232, 235 (Mass. 1958) (holding that the amendment is no less 'spot zoning' by the inclusion of the additional six lots than it would be without them; where proponents of a zoning change apparently anticipated a charge of spot zoning and enlarged the area to include the three lots on either side of the lot in question).

Notable Changes

21.95.010 Amendment initiation

Citizen Petition

I suggest that we measure support in terms of area rather than parcels or number of owners (33-37). In my research, I found a cohesive statement that I recommend for use with all petitions for rezoning (38-43). This will clear up the understanding and commitment of the petitioners.

21.95.020 Restrictions

(57- 60) – This basically addresses the possibility of spot zoning. Currently 1 acre is a standard. I suggest at least 2 (if not contiguous with present classification).

21.95.060 Standards

This is the wording recommended by our attorney. It addresses the concepts presented in introduction to this report.

Recommendation

Review and suggest date for public hearing(s) or schedule time for further review.

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES

~~10/17/2009~~

Mr. Nelson explained that the subdivision has come before to be platted approximately 5 different times so they have had at least 5 opportunities to get all the easements they want. The plat shows the easements they have wanted in the past. He also noted the location of the water and sewer lines.

Planning Technician Engebretsen commented that the applicant has not determined how they are going to provide service in the next phase of their expansion. Point was raised that this is another situation whether it is or is not City policy regarding the number of water sewer hook ups per lot, and when they have to be taken out. Mrs. Engebretsen explained that if a land owner wants multiple hook ups and will use them, they can have them.

It was requested that they look at this issue at the next worksession.

Commissioner Kranich noted the inconsistency that Public Works did not request utility easements on all rights-of-way as they did in the previous preliminary plat.

There was discussion of the drainage easement shown and the East End Road construction which included utility improvements.

HIGHLAND/KRANICH MOVED TO ADOPT STAFF REPORT PL 10-53, AA MATTOX 1968 SELDOVIA VILLAGE TRIBE NO. 2 WITH STAFF COMMENTS AND RECOMMENDATIONS.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS

A. Staff Report PL 10-55, Draft Spit Comprehensive Plan

City Planner Abboud reviewed the staff report.

The Commission resumed their discussion from the worksession and provided feedback to staff.

NEW BUSINESS

A. Staff Report PL 10-56, Rezone Ordinance

KRANICH/HIGHLAND MOVED TO POSTPONE DISCUSSION TO THE NEXT WORKSESSION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion Carried.

INFORMATIONAL MATERIALS

██████████

CITY MANAGER'S REPORT

MANAGERS REPORT
December 13, 2010

TO: MAYOR HORNADAY / HOMER CITY COUNCIL

FROM: WALT WREDE *W. Wrede*

UPDATES / FOLLOW-UP

This report is devoted to discussing the impacts associated with some of the proposed budget amendments offered by members of the Council. At the last Committee of the Whole meeting, the Council discussed some of these proposed amendments, but not all of them. It is hoped that this report will assist in moving the conversation ahead.

The report focuses on major proposed cuts that represent a change in direction or policy and that would have very significant impacts upon the City's ability to carry out its mission and to serve and protect the public. Reports from individual department heads are attached. Department heads will be available to answer questions at the Committee of the Whole.

In-House Legal Department: This topic has been discussed several times over the past few years. It is a good conversation to have periodically to make sure the Council is getting the best value it can for legal services. There are definitely a set of advantages and disadvantages to doing this and I won't take the space to go into that here. As far as the budget goes, I do not see any advantage to taking this step now. First, I am not convinced this would actually save the City money. In house attorneys are often quite skilled at a number of areas of municipal law. However, outside legal experts are often required and you still have the conflict of interest problem which we seem to experience regularly. Also, as Council member Hogan notes in his memo, the Council would have to not only hire an Attorney but also an assistant, perhaps a paralegal. Both of which might be PERS employees. Second, the numbers Mr. Hogan uses for expenses are speculative. We could not know what it would really cost until we draft up a job description, advertise or issue an RFP, and hire someone. That is not a good way to build a budget. In short, this might be a good discussion to have again, but now is not the time because the discussion has little immediate impact upon the budget. I would suggest bringing this up again before the next legal contract expires if the Council wishes.

Outsourcing IT: This proposal would have very serious negative impacts upon all City operations. It would be extremely disruptive and again, I am not sure it saves any money. As I was thinking about this, it occurred to me that the Council probably does not have a good idea of the scope of responsibility that the IT department currently handles. At the last meeting, I brought along the Systems Manager's job description in case I had an opportunity to discuss this. Following is a sample of what is included in the Job Functions and Major Activities:

- Maintaining and improving the City's Wide Area Network (WAN) and Local Area network (LAN).
- Installation and maintenance of the citywide IP Telephone system
- Advises all staff on aspects of computerized information systems as needed
- Install and configure hardware and software and monitors computer resource utilization and performance
- Information systems procurement and third party upgrades and repairs
- Analyze and document information needs; develop solutions that are consistent with the computing environment
- Manage security, backup, and recovery procedures to assure system integrity.
- Monitors networks on a regular basis to insure the integrity of those systems including auditing backup, testing restoration, monitoring virus protection, monitoring network statistics, and overseeing system security.
- Assists the Police Department with investigations of computer related crime, including but not limited to computer theft, fraud, child pornography and computer hacking.
- Assists in development of departmental procedures and policies related to the use of automated systems.
- Technical support for City's web page and certain webmaster functions.
- Installs network cabling and retrofit cabling.
- Develops training classes.
- Troubleshoots and resolves problems relating to both hardware and software in all departments.
- Performs preventative and remedial maintenance of computer equipment such as terminals, modems, printers, microcomputers, disk drives, and cables in all City departments.
- Assist departments with other non-pc computer technologies, including but not limited to, telephone systems, PLC controllers and telemetry monitoring, heating and air conditioning automation, E911 systems, EMS and Police dispatch and radio console systems, network based security systems, and wireless GPS systems and base stations.

As you can see, the scope of responsibilities is probably much broader than many people may realize. It is my view that the City is getting a tremendous value for its money. It is doubtful that an outside consulting firm would be able to do all of this for less money. Further, the IT staff are available 24/7 and are always there when they are needed. The City's systems are critical for public health and safety and need the type of attention that can only be provided by in-house staff. The IT staff have saved the City significant amounts of money through innovative approaches to service delivery and the procurement of services; especially telephone services. I strongly recommend no change here.

Employee Health Care Contribution

I would recommend that the Council not take any action on this at this time. If the Council wishes to do something in this area, I recommend that it delay any action until the following steps are completed:

- The Parity Study. This will give the Council a better overall picture of the employee benefit package as a whole as it compares to other municipalities and hopefully, comparables in the private sector. That way, Council can see the entire compensation package instead of focusing all of its attention on health care.
- Federal Health Care Regulations: The new rules are still being written. The City is consulting with its attorney's and insurance experts regarding potential impacts associated with making changes to the plan and subsequently losing the City's grandfather status. More information is coming in almost every day and we are getting closer being able to making recommendations with some degree of confidence.
- Consultation with Employees: The Council previously adopted a policy that no changes would be made to the health care plan unless the employees had at least 30 days to review and comment. The employees have not had the opportunity to review and comment on Councilmember Hogan's proposed amendment. Further, consultation with the employees is desirable because they would likely come up with and endorse options that are perceived to be more fair and equitable than the one on the table.

As has been noted many times, the City Health Insurance Plan is a pretty good one and it serves as one of the best remaining recruitment and retention tools the City has at its disposal. Making cuts to this plan would reduce benefits further on top of other cuts that have already been made. There would be a real cost to employees, especially young ones with families. It is always good to remember that City employees live here too. They pay taxes and they spend their earnings at local businesses.

That aside, the administration and many employees recognize that health care costs now constitute an unacceptably high percentage of the City budget. The current benefit may be something the City can no longer afford. **If** the Council wants to address the issue this year, I would suggest the following course of action.

- Instruct the City Manager to come up with a plan to reduce health care costs. It would be helpful if a target amount of savings were identified.
- Give the Manager several months to consult with employees to review options and develop a set of recommendations
- The CM will provide a report with a set of recommendations no later than April 1 that could be implemented this year.
- This approach would result in savings toward the end of this year, hopefully result in some buy-in from employees, and would slow the growth of health care costs in future years.

Overtime: The attached reports from department heads address much of what needs to be said about overtime. The Police, Fire, Public Works, and Port and Harbor overtime

budgets go directly in large part to emergency response, public safety, and vital services. It is difficult if not impossible to cut overtime and make it up with part time employees. A very significant amount of training and certifications are necessary to do these jobs and to respond in emergencies. Part time employees with minimal training and compensation cannot even go into the water treatment plant, work on a broken sewer line, or attack a fire. They also can't do a whole lot to reduce the responsibilities of full time employees in the office.

Cutting overtime in these departments would represent a serious cut in services and the public should be forewarned. It is hard to budget for overtime in general. These budgets are based upon experience and past actual expenses. The bottom line is that cutting these budgets is in many ways just a paper exercise. If emergencies arise, we will respond. That is our duty. The Fire Chief is not going to decline to send personnel to a structure fire because it would put him in danger of exceeded his overtime budget. Public Works will send the sanders out if the roads become dangerously icy or the culverts freeze up and cause flooding. We will continue to do this unless the Council tells us to stop. Most overtime expenditures are non-discretionary.

On the administration side, the best way to reduce overtime is to do something about the number of boards, commissions, and committees we have. I am talking specifically about the Planning, City Clerk and City Manager office staff. Committee work takes up a very large percentage of available staff time reducing productivity and increasing overtime and compensation costs. Council could consider a) reducing the number of committees, b) requiring that most meetings take place during the day, and c) relieving the Clerk's office of staffing all committees except standing Commissions like Planning, Port and Harbor, Parks, and Economic Development. Most duties of the committees can be added to the responsibilities of the standing Commissions.

Credit Card Charges: Please refer to the attached memorandum from the Finance Director. While we do not like paying these charges either, there are real benefits associated with allowing customers to pay by credit card. The Finance Department is hot on the trail of ways to reduce these expenses. Also, note that we would lose the discount we already get from the bank on these charges if we start making customers pay a fee for using a credit card.

Uniforms: At the last meeting, the Chief of Police discussed what is included in the uniform budget. Attached is a Memorandum from the Fire Chief in which he addresses the same issue. In my opinion, making police, firefighters, emergency medical responders, and public works employees who are dealing with hazardous wastes or crawling into confined spaces pay for gear that they are required to have either by law or for safety is a really bad idea. No other City does this that we are aware of.

ATTACHMENTS

1. December Employee Anniversaries
2. Memorandum from Port and Harbor Director re: Budget Impacts
3. Memorandum from Fire Chief re: Budget Impacts
4. Memorandum from City Planner re: Budget Impacts
5. Memorandum from Personnel Director re: Budget Impacts
6. Memorandum from Public Works Director re: Budget Impacts
7. Memorandum from Chief of Police re: Budget Impacts
8. Memorandum from Library Director re: Budget Impacts
9. Memorandum from Finance Director re: Budget Impacts
10. Memorandum from Finance Director re: Credit Cards Expenses
11. Memorandum from City Clerk re: Budget Impacts



City of Homer

Memorandum

To: Mayor Hornaday and Homer City Council
From: Walt Wrede, City Manager *W. W. Wrede*
Date: December 1, 2010
Re: December Employee Anniversaries

I want to thank the following employees for the dedication and service they have provided the City and taxpayers of Homer over the years. Each of these employees will have an anniversary this month.

Mark Robl, Police	26 Years
Will Hutt, Police	16 Years
Jim Nelson, Public Works	12 Years
John Berelc, Public Works	11 Years
Bryan Hawkins, Port	11 Years
Todd Cook, Public Works	1 Year
Angie Otteson, Public Works	1 Year

I would also like to thank John Bacher for his 22 + years of service as a Harbor Officer. John will be retiring at the end of this month.



City of Homer

Port / Harbor

4350 Homer Spit Road
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Telephone (907) 235-3160
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E-mail Port@ci.homer.ak.us
Web Site <http://port.ci.homer.ak.us>

MEMORANDUM

TO: Homer City Council

CC: Walt Wrede, City Manager *W. Wrede*

FROM: Bryan Hawkins, Port Director/Harbormaster *BH*

SUBJECT: Proposed Budget Amendments

DATE: December 7, 2010

Overtime: It has been proposed to eliminate the overtime budget line in the Port and Harbor budget. The recommended reduction totals \$29,000 but then \$45,000 is added in for part time employees. A review of the employee job descriptions will show that these positions require extensive training. Training a part time employee to substitute for a full time employee would be time consuming and costly. Also, the turnover rate for these employees would be high because we would not be creating jobs that offer a future.

Credit card expense: Talk to most point-of-sale merchants in this town and although they too are amazed by the numbers, most will say that this expense is just the cost of doing business. In our case our delinquent accounts have dramatically decreased while at the same time sales have increased because of this convenient payment option. In their November meeting, the Port Commission passed a motion recommending the Council amend the 2011 budget to offer an incentive to customers who pay with cash instead of credit cards. Our total credit card sales for 2009 were \$1,540,740.88. If the 2% incentive would have been in place at that time, the Port budget could have seen a loss of nearly \$30,814.80 in revenues.

Water/floats: This proposal recommends eliminating water availability to the harbor floats in 2011. If you agree that our goal is to increase lease revenues/occupancy in the recreational fleet then increasing rather than decreasing the services to the customers would be recommended. This expense is captured in harbor fees and any attempt to meter and bill individuals for water would cost far more to institute and maintain than we would ever recover in individual fees. The water loss issue in the harbor is mostly due to a lack of adequate infrastructure. We need to invest in a system that delivers water to the customers without them having to use garden hoses.

Forklift: I believe that there has been a miscommunication when it comes to this capital expense and I apologize for not making it clearer. At the Port, we have three departments who share equipment: Port Maintenance, Fish Dock, and the Harbor office. I agree that the Fish Dock Department use alone would not justify this expenditure but given that all three departments share the use I believe that this expenditure is necessary. Currently we share the

use of a 30 year old forklift that is located at the Port's maintenance department. It has become nearly impossible to find replacement parts for this piece of equipment and we believe that soon we will have to take it out of service due to safety concerns.

Market director: I thought it may be helpful if I mentioned what is being done and a couple of ideas on short term goals that I believe will increase sales at the harbor. Although there is always room for improvement with technology and networking, sales have steadily increased even during this economic downturn.

Current marketing information/strategies:

- As I mentioned before if we want to increase sales in the small vessel side then improve the facilities. On the big scale, these are not large capital projects but customer satisfaction will show in sales revenue and long term client retention.
- We are working out the details with Fish and Game and will soon bring a project to council to rebuild the entire load and launch ramp which will increase use in that corner of the harbor.
- We are marketing to freight barge operators to use our barge loading facility and a new customer has recently moved into the harbor and has begun operations.
- We have been increasing Cruise ship landings over the past few years.
- Our new web site is a very effective marketing tool!
- We need to push the System 5 electrical upgrade project. This will increase sales to the large vessels in that area of the harbor and will help to create winter employment for local tradesman.
- We need to make improvements to Lot 12B on Fish Dock Road that solves the drainage issues and at the same time we can build a truck loading dock that streamlines the loading process over there. More trucks in, more products out!
- The Association of Alaska Harbormasters has begun a campaign to market to yachts and I'll be manning that booth at the Seattle boat show this January. Our goal is to bring in more yacht trade during the summer while the fleet is away catching salmon and halibut.
- A bigger travel budget would allow me or my harbor staff to attend these functions. This is a proven marketing approach and Homer harbor is moving in that direction.
- I would suggest continued support of the Chamber of Commerce. The Port and Harbor has enlisted the help of Chamber staff in marketing and I feel that this is a very effective strategy towards marketing both the City and Port. This may include funding for Chamber staff from the Port budget for travel and staffing at trade show booths.
- Another marketing opportunity would be to support the local marine trades organization. What can the Port do to create opportunities for this kind of trade and services? For instance, if we could get the large vessels on the uplands then we would see a bloom of skilled labor jobs in the community.
- Another portion of the Port and Harbor economic pie is the contribution from the industrial side that takes place on the 30 acres and our Deep Water Dock. For the past four years, revenues have steadily increased from activities at the Deep Water Dock and the surrounding uplands. Industry confirms that Homer is a viable and affordable option for shipping goods from the Peninsula and that the Port of Homer is open for business!

Employee Health Contribution: Our personnel department is the best source for comments on this subject.

Lobbyist: The Harbor Enterprise is the vehicle that facilitates all activities at the Port. It is also the organization responsible for its maintenance and upkeep and that's the rub. Everyone profits from the accessibility to the fleet by way of our Fish Dock but how are we doing on the maintenance side? These are big ticket items and the Enterprise reserves are in no condition to step up to the plate and fund an Ice Plant engine room overhaul for instance. The rules governing fish landing tax are outdated and have been ever since the IFQ system was instituted. I don't know if anything has changed in Juneau, but our Representatives will be able to tell us if an investment into a lobbyist would be advantageous. The reason this tax was put in place was to support facilities and communities that are impacted by this industry and it is a very fine point that separates the Enterprise from its fair share of this tax.

Homer
Volunteer
Fire
Department

Memo

604 East Pioneer Avenue
Homer, Alaska 99603
907/235-3155
fax 907/235-3157
fire@ci.homer.ak.us

To: **Walt Wrede, City Manager**

From: **Robert Painter, Fire Chief**

CC:

Date: **December 1, 2010**

Re: **Proposed Additional Budget Cut Impacts**

It is my understanding that in addition to the budget cuts already sustained by the fire department it has been further proposed to totally eliminate the Uniform line item (\$4,500) and to reduce our Overtime line item by \$20,000.

Fire Department Uniform: This line item covers that cost of departmentally mandated uniforms for our paid staff including station wear, footwear, and cold weather gear. Many of these items are designed and manufactured under National Fire Protection Association (NFPA) standards specifically for fire department use and are classified as personal protective equipment. NFPA 1500, "Fire Department Occupational Safety and Health Program", 7.1.5 "Where station/work uniforms are worn by members, such station/work uniforms shall meet the requirements of NFPA 1975". In addition 7.1.6 states that while on duty, members shall not wear any clothing that is unsafe due to poor thermal stability. What that means is that these station/work uniforms must be constructed of fire retardant materials, or as a minimum not be constructed of synthetics such as nylon, which melt at relatively low temperatures. I know of no fire department that does not provide station/work uniforms for its members. Unfortunately materials that are inherently fire resistive such as Nomex and Kevlar and even fire retardant cotton are more expensive and less durable than other materials necessitating that they be replaced more frequently (on average every three to four years). The fire department does try to limit uniform expense by not routinely providing the standard fire department Class A (dress uniform) and Class B (shirt, pants, jacket, badge, etc.) uniforms. Our paid staff is provided "soft" uniforms only for comfort and protection from the elements. Footwear (such as are mandated by OSHA for safety) is also provided but usually lasts between 5-7 years is routinely does double duty (station wear as well as being suitable for wildland fire fighting).

Overtime: Reducing overtime expenses for the fire departments 4 paid employees (eligible for overtime) could substantially impact operations and training. All fire department members are required to attend Tuesday night Drill (usually 1830 to 2130 hours) and other mandatory training as deemed appropriate for the maintenance of their firefighter and advanced life support EMS certifications. In addition the 3 ESS employees (some of our most experienced members and

company officers) are only paid overtime when they accumulate over 105 hours in their two-week pay period. They are paid only for hours worked up to 105 hours but their "typical" work period is scheduled 81.25 hours (24.25 hours on duty then 48 hours off duty). They are not paid between the hours of 11 PM and 7 AM unless on a call and are only paid for the entire 8 hours if/when they don't receive at least 5 hours of "uninterrupted sleep time" during this period. In addition, ESS personnel have been directed not to respond to calls when off duty unless the call is paged as an "all call" meaning a working structure fire or other calls requiring additional personnel. Eliminating \$20,000 of overtime (of a total of \$28,808) would require either ordering our paid responders not to respond to calls, or require that we "deficit" spend beyond the \$8,808 that would remain in our budget for this expense. Please note that our 2009 Actual Overtime expense was \$16,994.



City of Homer Planning & Zoning

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MEMORANDUM 10-

TO: Mayor Hornaday and Homer City Council
THRU: Walt Wrede, City Manager *W. Wrede*
FROM: Rick Abboud City Planner
DATE: December 3, 2010
SUBJ: Proposed budget amendments

Comments regarding budget amendments effects on the Planning Office.

Elimination of Membership Budget

Memberships include staff memberships in such things as the Association of State Floodplain Managers and the American Planning Association (APA). These memberships provide professional knowledge in the form of training opportunities, periodicals, access to current policy research, networking opportunities and programs to gain certification and certification maintenance. Every City Planner on the Kenai Peninsula is an active member of APA.

Elimination of Transportation, Subsistence and Training

These items are the budget for training and travel opportunities. The Planning staff and especially the City Planner are involved in the interpretation and application of Title 21. This duty involves everything from Code Enforcement, best practices in erosion and runoff control, evaluating flood plain development, crafting of legally binding conditions, code writing, and maintenance of electronic data and maps, to name a few. Misinterpretation or application of Title 21 responsibilities can easily cost the city tens of thousands of dollars. Training opportunities are an invaluable way to learn from the experience of others and keep legal fees to a minimum.

Elimination of Overtime

If we do not have an overtime budget, we still incur a liability on the books in the form of compensation equal to time and a half. Budgeting for this expense of servicing the various committees and commissions reflects a partial cost of doing so.

Addition of Part Time Personnel

I believe that the idea of a part time person is to compensate for the comp time incurred by staff. While a good idea in theory, I find it impracticable for our application. The positions of the staff incurring comp time use very specialized and technical skills that require extensive training and/or experience. It would not be cost effective, in our case, to provide a part time person with the oversight and training necessary to reduce the work burden of the people incurring comp time.

MEMO

TO: Walt Wrede, City Manager

W. Wrede

FROM: Sheri Hobbs, Personnel

Sheri

DATE: December 7, 2010

RE: Budget Amendments

Regarding the amendment Ms. Howard made to cut the personnel periodicals. I eliminated my travel and training in 2008 due to budget cuts and have not attended a conference or training program since 2007. I rely on publications and online training to keep up to date on new regulations. The \$3,000 periodical budget is for monthly legal updates for FMLA, ADA, Fair Labor Standards, HIPAA, Alaska Law and Supervisor bulletins. I copy the Supervisor bulletins and share with all supervisors city wide. ADA compliance information is shared with Planning and the general public when asking questions about accessibility compliance. The other publications keep me up to date on the latest regulations and employee legal requirements. These are essential for me to do my job and keep the city compliant with new regulations.

In response to the questions regarding car allowances. Each Director was provided with a city vehicle to conduct city business with the exception of the Finance Director. To keep the compensation package fair for all Directors the Finance Director was offered a car allowance. This occurred before the current Finance Director was hired. When advertising the Finance Director position we noted that a car allowance was part of the compensation package. The car allowance was also noted in the hiring paperwork so there is a contractual expectation of this benefit.

The Systems Manager received a car allowance after he was hired. It was difficult and cumbersome to track each individual mile for city use of his personal vehicle and seek reimbursement so we went to a flat rate per month about a year after he was hired. He spends a great deal of time traveling from one city department to another working on city equipment. His position requires him to be available 24/7 365 days per year. The Assistant Systems Manager was also offered a flat rate car allowance for reimbursement of mileage for city business with his personal vehicle.



CITY OF HOMER
PUBLIC WORKS
3575 HEATH STREET HOMER, AK 99603

TELEPHONE (907)235-3170
FACSIMILE (907)235-3145

MEMORANDUM 010-XX

TO: Walt Wrede, City Manager *W. Wrede*
FROM: Carey Meyer, Public Works Director
DATE: December 6, 2010
RE: **Proposed Budget Amendments
Affecting Public Works**

Some thoughts regarding impacts to service if proposed 2011 budget cuts are made:

Overtime (100-170 to 100-178; 200-400 and 401; 200-500 and 501)

The overtime budgets allow for Public Works to respond to service calls and emergencies situations outside of normal working hours. Without overtime budgets:

Equipment Operators would routinely respond to snow plowing, drainage problems, or street sanding needs for eight hours only each day. This could very well leave some residents with unplowed roads, unsafe streets and other emergency situations unattended.

Water and Sewer treatment personnel could not respond to water and sewer treatment plant emergencies outside of normal working hours.

Water Distribution and Sewer Collection personnel cannot respond to main breaks/sewer problems outside of normal working hours. Customers that require emergency service shut-off might have to wait until normal working hours.

Public Works, of course, will respond to emergency situations. If there is no overtime budgeted, employees are eligible for comp time off (at time and a half). This means valuable, skilled employees are not available during normal working hours to respond to the needs of our customers.

Temporary Public Works Employee (200)

The proposal to eliminate overtime for fulltime employees and provide a budget for temporary, part-time help is not practical for much of what Public Works does. As an example: we cannot bring in an untrained part-time worker to respond to emergencies or after hour call-outs at the water or sewer treatment plant, or to work on the water distribution or sewer collection system. These facilities require certified, experienced, trained personnel (required by State statute), that are generally not available on a part-time basis. It would not be effective to bring in (at 4:00 AM) an equipment operator to plow roads during a heavy snow storm, in equipment they are not familiar with and on roads they have not plowed before.

Public Works currently budgets for a temporary employee to accomplish various work tasks that are seasonal or require routine, relatively unskilled labor. These tasks include pumping sewer plant sludge from the lagoon to the drying beds, loading dried sludge for disposal, clearing brush from the face of the Bridge Creek Water Shed dam, and other routine tasks.

Training – Public Works (100-170,171 and 175)

There are numerous reasons organizations establish budgets for employee training. These reasons include:

- Increased employee motivation
- Increased efficiencies in completing work tasks
- Increased capacity to adopt new technologies and methods
- Increased innovation in work strategies
- Reduced employee turnover
- Increased job satisfaction and morale among employees

Many employees are *required* to have special training. Personnel dealing with hazardous waste, operating in confined spaces, or operating and servicing specialized equipment or processes need refresher courses to remain legally capable of doing the job.

Training is especially important for employees using computers. Employees that are expected to use new software intended to increase efficiency and provides new solutions to problems, need training to effectively utilize the new equipment/software. Example: when the City wants to track and analysis energy use, new software and training are required. These days, mechanics cannot repair and maintain vehicles and equipment efficiently without computer diagnostic equipment.

The Public Works training budget has been reduced significantly over the last few years. Further reductions would cripple the ability for Public Works to provide a safe, effective workforce capable of meeting the expectation of regulatory agencies; with the skills normally expected of organizations dealing with public health and safety.



CITY OF HOMER

POLICE DEPARTMENT

4080 HEATH STREET HOMER, AK 99603-7609

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-3151

MEMORANDUM

DATE: December 3rd, 2010
TO: Walt Wrede, City Manager *W. Wrede*
FROM: Mark Robl, Chief of Police
SUBJECT: Proposed Budget Cuts

I have previously addressed proposed budget cuts to the line items for our uniform and overtime expenses. I neglected to address a proposed cut of \$3,000 to line item 100-164-5603. This is the training account for our jail personnel. This proposed cut entirely eliminates the jail training budget and would zero it out for next year. We use these funds to keep our jail officers skills current in many critical areas including suicide prevention and awareness, self defense tactics for close quarters, officer safety, prisoner transport hazards and many others. The relatively low amount of this line item is due to the fact that we are able to utilize in house trainers and on-line training sources to keep our costs down. We also use these funds to send our new jail officers to the state corrections academy in Palmer for their initial training which results in state certification. We just hired a new jail officer that started this week to replace an officer that resigned a few months ago. I had intended to send our new officer to the academy in 2011. Eliminating this line item will cut out all jail officer training next year and will also result in Homer having an un-trained, un-certified jail officer in a full time position. I believe this would increase liability for the city and degrade jail officer safety and prisoner safety in our facility.

**Homer Public Library
500 Hazel Avenue
Homer, Alaska 99603
907-235-3180**

MEMORANDUM

TO: Mayor and Council
THROUGH: Walt Wrede, City Manager *W. Wrede*
FROM: Helen Hill, Library Director
DATE: November 15, 2010
RE: Response to Proposed Amendments to the FY2011 Budget

Introduction

In our effort to serve every member of the Homer community, young and old and everyone in between, we offer a mixture of traditional and technological library programs and services. These days, a member of the library staff must still have a good working knowledge of authors and literature, traditional reference resources, and how to present a good Story Hour program. But they must also know when it is best to answer a reference question using a print or an electronic resource, and how to construct efficient searches. They must also stay at least one step ahead of the public and know how best to help patrons troubleshoot software and hardware problems.

In 2009, we checked out (and checked in!) over 101,000 items, which lets us know that books and reading are still thriving in our community. Computers and technology have enabled us to help the public with their information needs in ways we never dreamed possible, but have also resulted in a higher skill set for library employees. Below are responses to the Council's inquiries of why it is necessary for the library to offer computer access free of charge, maintain its modest book budget of \$20,000, and pursue training and professional membership opportunities.

Alaska Library Law and Grant Requirements

AS 40.25.140 Public Library Requirements:

"A public library established under this section shall provide at least the following services free of charge to the residents of the municipality or community:

1. Establish and maintain a collection of books and other materials for loaning;
2. Provide access to interlibrary loan services;
3. Provide reading or other educational programs for children; and
4. Provide reference information."

Computer Use in Public Libraries

First, I'd like to clarify my response to the question about charging for computer use at the library. Public use computers have become a standard library service over the past ten years. Computers are

viewed as a basic component of the public library in the same way as a collection of books or a pre-school story hour program. As you'll read below, electronic and print resources have become intertwined, and these days, people must have a combination of print and electronic resources to fulfill their information needs. Many patrons who use computers at the library cannot afford a personal computer, don't have access to anything other than dial-up service due to where they live; or don't have access to a computer while they're in town. Asking patrons to pay to use computers in a public library is a barrier to free and open access to information. The format of information and reference resources might change, but the function of the public library has not, and when we charge for services, it compromises the purpose of the public library as an institution that ensures free and open access to the world's knowledge.

The public library is the community access point for computers and the Internet. Public libraries provide:

- Access to Internet training and related technologies
- Access to E-Government
- Databases and Digital Reference
- Homework Resources
- Digital and Electronic Publications

In 2009, 99 percent of public libraries offered free public access to Internet-enabled workstations. To meet the public's needs, public libraries average 14.2 workstations for public use, a number which has increased from last year. (The Homer Public Library provides 19 public use computers.) Demand for increased community access via public libraries is due to:

- E-Government (see below)
- Shift of educational activities from print to online (for example, online databases)
- Shift of employment activities from print to online (for example, online job applications)

To manage public access demand, 92.3 percent of public libraries have established time limits to ensure equitable access to information needs. The Homer Public Library provides cardholders with two 45-minute sessions per day and visitors with one 45-minute session per day.

Public libraries are experiencing more requests for computer and Internet training, and the Homer Public Library is no exception. The Friends of the Homer Public Library are generously funding basic computer drop-in training for seniors. The free drop-in sessions are so popular that another training session has been added to the schedule.

(Source for statistics in this section is from the "Public Libraries & Access" handout from the Center for Library and Information Innovation)

E-Government

"The irony of the government requiring people to do everything online is that it most affects the people who don't have the resources to go online." (Indiana library director)

The purpose of the E-Government Act of 2002 was "to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public." (Title II, sec. 207). As a result, government services are becoming more digital and in some cases, digital only. A few examples of common online transactions include:

- Filling out disability forms

- Completing Medicare Part D forms
- Making appointments with immigration officials
- Filing court petitions
- Paying fees

State governments are also migrating to online services. The most recent Digital States Survey found that more than 80 percent of states, including Alaska, provide online transactions for:

- Business
- Individual tax filing and payment
- Unemployment insurance applications
- Professional license renewals
- Permanent Fund Dividend applications

In 2010, 79 percent of libraries reported they provide assistance to patrons to access E-Government services, up from 23% in 2009. The Homer Public Library staff has assisted patrons with many State of Alaska transactions such as downloading business licenses, Permanent Fund Dividend applications, divorce certificates, and Public Assistance information.

For the millions of Americans who lack home Internet access, including those in the Homer community who don't own computers or who only have dial-up access due to the location of their homes, the place to conduct government transactions free of charge is at the public library.

(Source for statistics in this section is from the "U.S. Public Libraries & E-Government Services" handout from the ALA Office for Research & Statistics, June 2010)

Bandwidth

More than 50 percent of public libraries nationwide report that bandwidth is not sufficient to meet patron demand. Without high quality broadband connectivity, public libraries are unable to offer essential public access services on which people rely these days to support their employment, E-Government, and education needs.

The maximum speed in most libraries is 200 kilobits (kbps) per second in at least one direction. This speed is lower than broadband in most other technologically advanced nations. In fact, the United States is ranked 19th in required capacity to meet the definition of broadband. Challenges regarding broadband capacity are availability and cost. "The public access service context, combined with the continually increasing bandwidth needs of new technologies, services, and resources, dictate the need for libraries to continually increase their connectivity speeds, modify their networks, and actively manage their connectivity. Not doing so will leave behind the millions of people in communities who rely on public access technologies and Internet connectivity provided through the public library."

(Source for statistics in this section is from the "Public Libraries & Broadband" handout from the Center for Library and Information Innovation)

Alaska Online With Libraries (OWL) Project

In September, the Alaska State Library announced that it had received a \$5.4 million award from the U.S. Department of Commerce to create a broadband network which will unite 104 public library computer centers in a statewide Internet and video conferencing network (Homer Public Library included). The

\$2.9 million in matching funds includes generous support from the Bill & Melinda Gates Foundation and the Rasmuson Foundation.

Some of the specific benefits of the network will include promoting public safety initiatives and providing training offered by a diverse group of public agencies, including those involved in health, education, and public safety. The OWL project will also allow Alaskans of all ages throughout the state to pursue individual educational goals. Increased bandwidth will give students access to online digital resources, including Live Homework Help, the Alaska Digital Archives, and the Digital Pipeline (all available on the Homer Public Library's website).

All public libraries in Alaska will be provided with updated computers and videoconferencing capable equipment. The result of providing increased bandwidth, updated equipment and videoconferencing capabilities will be a network of public libraries that will unite communities and users across the state.

Books

As mentioned above, in 2009 over 101,000 items were checked out from the library's collection. New books are shelved in the "New" area for six months before they are integrated into the main collection. A book can circulate many times before it either falls apart, is lost or damaged, or becomes out-of-date. Standards and classics remain on our shelves and are used for many years after purchase. Also, library staff are trained in book mending and are able to extend the life of a book for many years.

The library usually receives a 20 percent (or even 30 to 40 percent) discount as well as free shipping on book purchases. The average price of a hardbound book is \$25.00; a 20 percent discount will bring the cost of a library book down to \$20.00. A book budget of \$20,000 would cover the cost of about 1,000 new books for the library's collection in the following sections:

- Fiction
- Nonfiction (please see attached General Dewey Decimal Categories)
- Juvenile (Fiction, Nonfiction, Easy Readers, picture books, board books for babies, etc.)
- Young Adult (Fiction and Nonfiction)
- Alaskana
- Biography
- Large Print
- Russian
- Reference

The library is able to use the \$20,000 book budget funded by the City as a match for collection grants awarded by the Rasmuson Foundation and the State Library. Neither will fund a collection grant for the library if the City zeroes out the library's book budget.

Below are a few comments from the two surveys the library has conducted since moving into the new library.

Book-related comments from HPL's Customer Satisfaction Survey (February 8-22, 2010):

- Need more adventure books, more movies (mysteries!!).
- More materials money please – collection is well chosen but thin.
- More books!
- Very good library but needs more funding to be open more and more purchasing power.

Book-related comments from HPL Community Opinion Survey (Summer 2008):

- More books.
- Keep upgrading the collection.
- Need more books!
- Newer books!
- Larger book selections, more new books.
- Surprisingly a small amount of books to be found in such an enormous space.
- The library building is great – the book collection is not. We need more and better books.
- I was disappointed that there weren't many new titles compared to the old library.
- You need newer editions/books on many subjects.
- Wider variety of books.
- Exchange older books.
- ALL! (In response to the categories listed in question 8: Select the areas you would like to see expanded or improved – Fiction Bestsellers, Fiction Classics, Mysteries, Alaskana, Non-Fiction, Business, Poetry, Science Fiction/Fantasy, Westerns, Health/Medical/Self-Help, Magazines/Newspapers, and Literary Fiction).
- The limited amount of books is very sad. I try to get info, but a lot of times there are no books on the subjects I'm researching. Lack of books is awful.
- I would like to see more books that are true and teach you interesting things.
- More modern nonfiction books on history.
- New non-fiction books.
- Keep up with current best sellers.
- Foreign authors and plays.
- Home building and construction books from this century. All your stuff is old and outdated. This area is a common interest in the Homer vicinity and sorely lacking in your library.
- Culturally specific segments.
- Crafts, needlework.
- Current books on knitting, sewing, quilting, and fiber arts. Most of the ones in the collection are from the early 80's and a LOT has happened since then. Travel seems pretty current
- Animal care books.
- Get rid of some of the old outdated nonfiction, especially the "medical" books. They have grossly inaccurate content.
- Some of the children's non-fiction books are pretty old and should be replaced with newer better books as funds allow (We homeschool.) I love the new library.
- More books, especially children's books!
- Could use more training manuals (SAT and GRE etc.).
- Larger variety of books to use for research and school assignments.
- Christian fiction, home organizing (*Real Simple, Better Homes and Gardens*). Thanks for making Karen Kingsbury's books available. She is one of my favorite authors.
- Christian literature.
- More Christian Nonfiction.
- The number and range of topics in your magazine section seems limited.
- Investment Publications (ex. *Investment Business Daily*), Self-Help Audio Books.

Training

State regulations (4 AAC 57.064 under section a. 4.) have an eligibility requirement which requires the library director to complete "every two years at least one continuing education program approved by the state librarian." However, due to rapidly changing technology and to keep up with best practices in the field of librarianship, I believe that the library director and at least one or two staff members (on a rotating basis) should attend a state, regional, or national conference once a year. In many libraries, attending a conference is part of the annual performance evaluation.

The State Library offers many free training opportunities for library directors and staff in Alaska, and we take advantage of all free training that is applicable to our work in Homer. The State Library also encourages training through Continuing Education Grants (one grant available annually to each library in Alaska for any staff member except for the director). They also send out a monthly list of free online training and keep us informed of paid training as well.

Below is a list of training taken by the library staff in 2010:

Conferences

Conferences provide face-to-face educational, networking, and social opportunities for library staff. In Alaska, this is particularly important because libraries are located at great distances from each other and it is difficult to get together with other librarians for monthly brown-bag lunch sessions and local workshops which are common in the Lower 48. Networking is particularly important for library staff due to technological advances that are rapidly changing our profession. For example, Amy Gordon of our staff attended her first AkLA conference in Kodiak in 2009 and met the IT librarian from the Juneau Public Library. When we needed to replace our public computer use software, Amy was able to correspond with the Juneau librarian and receive advice about how to implement the new software. Since the Homer Public Library doesn't have an IT librarian on staff, we were able to use the expertise of another librarian in the State in combination with the expertise and assistance of our City IT staff. Sending Amy to the conference to attend educational sessions and make useful contacts was well worth the travel costs.

The costs below include transportation, subsistence, and registration fees. Travel is expensive in general in Alaska, and more so from Homer. Whenever possible, we apply for training grants, and share hotel rooms and transportation costs (if driving). All social events costs are borne by the employee. Please note that the PLA and PNLA conferences are usually not held every year and rarely are all held in one year; it is unusual for me to attend more than one or two conference in a year, but this year was an exception.

Alaska State Library Conference in Anchorage

- Four-day conference
- Three library staff attended
- Cost of library director was \$1,117.52
- Cost of two library technicians was \$354.00 (Awarded Continuing Education Grant of \$1,000.00 from State Library)

Public Library Association in Portland

- Five-day conference
- Library director attended
- Cost was \$1,816.26

Genealogy Workshop in Anchorage

- One-day workshop
- One library technician attended
- Cost was \$116.19

Serials Cataloging Workshop in Anchorage

- Two-day workshop
- Two library technicians attended
- Cost was \$1,386.48

Pacific Northwest Library Association Conference in Victoria

- Four-day conference
- Library director attended
- Cost was \$1,550.24

Paper Conservation (book mending) Workshop in Anchorage

- One-day workshop
- One library technician attended
- Cost was \$267.00

Paid Training

All training in this category was online.

- MARC 21 In Your Library, Part Two, MARC Coding: The Core Codes and Their Functions (TMQ/OCLC)
- Online Research Strategies for Librarians
- Readers Advisory Services
- Web 2.0 Fundamentals
- General Principles and Practices of Cataloging
- Interpreting the MARC Record
- Copy Cataloging with OCLC Connexion
- Basic MARC Tagging for Serials
- SirsiDynix Reports Lab

Training Paid by Grants

All training in this category was in-person.

- Library Customer Service Workshop for Library Staff of the Kenai Peninsula (AK State Library ILC Grant)
- Serials Cataloging Workshop paid by partial grant from the State Library
- Paper Conservation (book mending) Workshop partially funded by grant from the State Library
- Alaska State Library Continuing Education Grant covered all costs for one employee and partial costs for a second employee to attend the Alaska Library Association conference.
- Directors' Leadership Annual Meeting (AK State Library ILC Grant)

Free Training

All training in this category was online.

- The Scoop on Series Nonfiction: What's New for Fall (Booklist Online)
- Nonfiction Fall Announcements Book Buzz 2010 Webcast (School Library Journal)
- MARC 21 In Your Library, Part One, MARC and Bibliographic Information: The Underlying Fundamentals (TMQ)
- Grolier Online: New Book of Knowledge and America the Beautiful (Scholastic)
- BookFlix University (Scholastic)
- Gadgets: Personal Electronics for Your Library (ALA TechSource/WebJunction)
- Let's Get Graphic: Kids' Comics in Classrooms and Libraries (Booklist Online)
- Best Practices in Policies Directory (OCLC)
- RDA Toolkit: A Guided Tour! (ALA)
- Directions in Metadata (ALA TechSource/SirsiDynix)
- RDA and OCLC Webinar (OCLC)
- Digitize Summer Reading with Wikis and Glogs (Texas State Library & Archives Commission)
- Online Collaboration Tools
- Integrating Social Media into Your Website
- How to Make Your Website More Dynamic
- MARC of Excellent Cataloging
- Using Technology to Move Your Small Library Forward
- Continuing Education with SirsiDynix Mentor
- SirsiDynix Windows Symphony Server Administration
- SirsiDynix Windows Symphony Circulation Module
- SirsiDynix Windows Symphony Cataloging Module
- SirsiDynix Windows Symphony Reports Module
- SirsiDynix Windows Symphony Acquisitions Module
- Leadership Webinar (OCLC)
- SirsiDynix Introduction to WorkFlows
- ListenAlaska Orientation (Overdrive)

All City of Homer employees were required to complete:

- National Incidence Management System courses (online and in-person - FEMA)
- Safety Courses (AMLJIA Online University)
- Sexual Harassment: A Commonsense Approach (video - Kantola Productions)

Attending library conferences, meetings, and training has been invaluable. We couldn't accomplish a fraction of what we do without help from professionals and colleagues in the state, region, and nationwide.

Summary

Public libraries have evolved along with technology while keeping the best of their traditional services and are busier than ever, especially during these tough economic times. A public library is able to maintain an unbiased print collection and free and open access to information because it is funded by public, not private funds. Libraries strengthen communities by offering free access to books, ideas, resources, and information, which are imperative for education, employment, and self-government.



City of Homer

Finance

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-8121
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E-mail Finance@ci.homer.ak.us
Web Site www.ci.homer.ak.us

Date: December 8, 2010
To: City Council Members
Thru: Walt Wrede, City Manager *W. Wrede*
From: *Rog* Regina Harville, Finance Director
Subject: City Council Proposed Amendments Credit Card Expense

Proposed Budget Amendments were made to cut the Credit Card Expenses for Port and Harbor and Water/Sewer.

The credit card expenses are a percentage amount charged by the bank for the processing of credit cards. We have this service not only for the convenience of the end user, but for the City as well. Bad Debt Expenses have decreased throughout the years due to the ability of the City to collect fees via credit card.

Through December 2, 2010, \$3,158,843 was paid by credit card and e-checks. The average costs that we pay for the credit card service is 2.14% for the Water/Sewer customers and 2.31% for the Port and Harbor customers. The City receive a .45% discount from the credit card companies for water/sewer customers only, as long as we DO NOT charge customers a convenience charge.

A study was completed for Utility Companies that showed that customers were 44 times more likely to pay online if they didn't have to pay convenience fees. This study also showed a 235% growth in the number of utility companies using online payment and billing services.

The other great benefit that the City receiving credit card payments is that the payments received through the credit card services are directly downloaded into our accounting software, without our staff having to input each payment.

In the discussions of the credit card expenses, the finance staff has been looking deeply into other credit card services that would save the City monies. We have found other companies that can provide the same service with added benefits that we don't already have available (i.e. payment by telephone, automatic charging of NSF fees, etc).

We believe that we can save almost half of the expenses we are currently paying, but have to follow through with the procurement process which requires us to follow the RFP process. This of course cannot be completed before the adoption of the 2011 budget.





City of Homer

Finance

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-8121
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E-mail Finance@ci.homer.ak.us
Web Site www.ci.homer.ak.us

Date: December 8, 2010
To: City Council Members
Thru: Walt Wrede, City Manager *W. Wrede*
From: Regina *Regina* Narville, Finance Director
Subject: City Council Proposed Amendments Affect on the Finance Department

Proposed Budget Amendments were made to cut certain line items from the Finance Department Budget. The Finance Department lost a Part Time Employee last year due to budget cuts for 2010 Budget. This part-time employee covered employees when they were out sick, vacations, assisted with audit and budget preparation. Although the City has grown throughout the years with an increase to employees in each department, the increase in departments (i.e. Community Recreation), required attendance at committee meetings, and an increase in grants; this is the only department that has not increased in size, though our work load has nearly doubled. The demands put on the Finance Department has also increased due to the ever changing rules and regulations for Medicaid/Medicare (for Ambulance billings), and Governmental Accounting.

In Governmental Accounting, since Sarbanes-Oxley, internal controls have become a key component in all accounting. Audits now take place based on the internal controls in an organization instead of materiality. This is great, but requires a lot more time in maintenance of an Internal Control Manual and the implementation and verification of internal controls.

The finance department has automated many features keeping the Finance Department running more efficiently. This does in no way cover the demanding needs on the finance department.

Overtime is needed for covering when an employee may be absent as the employee covering the absent employee needs to complete their workload as well as the absent employee. Each year audit requirements have grown significantly due to regulatory changes. Employees need to work overtime to get ready for audit, since it is an extra duty that is only performed annually. Lastly overtime is needed on short weeks. Payroll needs to be completed in a shorter time frame as well as Accounts Payable. The overflow of overtime has fallen on the backs of the Finance Director and the Accounting Supervisor to pick-up the slack. As they are the only salaried employees in this department, thus more work is taken home, more weekends worked, and longer work days.



With the ever evolving Governmental Accounting Rules and Regulations and Medicaid/Medicare, a training budget has to be maintained in order to help employees stay informed on all the changes. Most training takes place electronically through webinars, etc. An occasional class may require an employee to travel to a location for in class training.

The Training budget also covers forty hours of CPE (Continuing Professional Education) required by the Finance Director in order to maintain her credentials (CPA, CFE & EA). For the past few years these have been predominantly on line to keep the costs down.

The Membership Dues are for the GFOA (Governmental Finance Officer Association), the AGFOA (Alaska Governmental Finance Officer Association), CPA (Certified Public Accountant), CFE (Certified Fraud Examiner) as well as others. This provides the finance department with readily available sources of data needed in this field of work.

The Car Allowance is paid to the Finance Director, and was an incentive at hire date. This is used in lieu of paying the Finance Director mileage for the use of her vehicle for business trips. Some examples might include going to the Port and Harbor, the Bank, coming into the office during off time (i.e. vacation) to sign checks, etc.



Where the Land Ends and the Sea Begins

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

TO: Mayor and City Council
FROM: Jo Johnson, City Clerk
DATE: December 7, 2010
SUBJECT: Proposed Budget Amendments for FY2011

A proposed budget amendment would eliminate the Clerk's overtime budget of \$5,000. Eliminating overtime compensation and requiring the Deputy Clerks to adjust their schedules to attend the nighttime meetings would:

- Reduce experienced staff in the office during daily hours of operation
- Create a significant reduction in the number of hours for the Deputy Clerks to complete their regular work load; the work load would not diminish
- Place a hardship on the Clerk's office in the event two meetings are scheduled for the same evening, illness, or vacation occurs

A proposed budget amendment would hire a part-time person for the Clerk/Planning/Elections in the amount of \$19,000. It was suggested a part time person could be hired at a lower salary and float between offices and attend evening meetings to eliminate overtime costs.

- A part-time person would be helpful to allow our document scanning process and storage of electronic records to continue
- A part-time person hired specifically to attend nighttime meetings would offer little benefit to the Deputy Clerks other than taking minutes and recording the meeting
- With the hours allotted there would not be sufficient time for the part-time person to transcribe minutes, thus the burden would lie on the Deputy Clerks
- The Deputy Clerks would not be familiar with the business of the commissions and committees without attending the meetings, therefore, requiring added time listening to the audio of the recorded meeting to accurately produce minutes
- Commissions rely on trained clerks for guidance on parliamentary procedures during their meetings
- The City would be at higher risk for violations of the Open Meetings Act with untrained personnel manning the meetings

It is highly unlikely that we will find Commissioners and Boardmembers who can meet during the daytime hours. Most of the volunteers work during the day. In 2009 the

overtime costs were \$4,339 in relation to the 128 meetings we attended. As of October 2010 the Clerks have attended 121 meetings at a cost of \$4,263. Overtime costs equate to an average of \$34 per meeting, inclusive of the Clerk's exempt status.

Eliminating overtime compensation for the sole day the election workers are employed would:

- Require hiring and training 5 part-time election personnel for a 7-hour shift, or 35 man hours
- Cause for 2 chairs of the city's election, posing a challenge, primarily for accountability
- Election workers balance their ballot counts at the end of the day; they often remember events throughout the day that resolve discrepancies
- Starting a new set of election workers mid-day would require the first shift to balance their books before the next group could take over
- Cause for a bigger turnover of election staff, requiring additional training by the clerks

CITY ATTORNEY REPORT

COMMITTEE REPORT

PENDING BUSINESS

**CITY OF HOMER
HOMER, ALASKA**

Lease Committee

RESOLUTION 10-94

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, APPROVING A NEW LEASE FOR BRAD FAULKNER ON LOT 88-4, AND FINDING THAT IT IS IN THE PUBLIC INTEREST TO DO SO WITHOUT A COMPETITIVE BIDDING PROCESS.

WHEREAS, Brad Faulkner's land lease with the City for Lot 88-4 has expired, including all options; and

WHEREAS, Mr. Faulkner has submitted an application for a new lease and has requested that he receive the lease without a competitive bidding process under Section 11.2 (F) of the Lease Policies; and

WHEREAS, The Lease Committee considered Mr. Faulkner's proposal at a Special Meeting on November 3, 2010; and

WHEREAS, The Committee approved a motion recommending that the City Council approve a new lease without competitive bidding because the existing lessee has a substantial investment in the property, there are similar lots available if additional public interest is shown, and the current tenants provide economic advantages; and

WHEREAS, Section 11.2 (F) of the Lease Policies allows the City Council to provide a new lease to the current lessee without a competitive bidding process if it finds that it is in the public interest to do so after reviewing a recommendation from the Lease Committee and evaluating specific relevant facts.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby finds that it is in the public interest to approve a new lease for Brad Faulkner on Lot 88-4 without a competitive bidding process for the following reasons:

- Mr. Faulkner has a substantial investment in the property
- Other lots are available if additional public interest is shown
- The current lessee and tenants offer economic advantages

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to negotiate and execute a new lease with Mr. Faulkner.

PASSED AND ADOPTED by the Homer City council this 22nd day of November, 2010.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Rent at market value

MEMORANDUM 10-143

TO: Mayor Hornaday / Homer City Council

FROM: Walt Wrede

DATE: November 22, 2010

SUBJECT: Lease Committee Recommendation / Brad Faulkner Lease Application

Brad Faulkner's lease on the Homer Spit has expired, including all options. Mr. Faulkner submitted a proposal for a new lease to the Lease Committee and the Committee considered the proposal at a Special Meeting on November 3, 2010. Mr. Faulkner requests a new lease without competitive bidding pursuant to Section 11.2 (F) of the Lease Policies.

Section 11.2 (F) states:

The City Council, after reviewing a recommendation from the Lease Committee, may elect to not require a competitive bidding process for a property whose lease has expired (including all options) if it finds that it is in the best interest of the City to enter into a new lease agreement with the current lessee. If the current lessee is interested in entering into a new lease agreement, he/she must indicate so in writing to the City Manager at least 12 months prior to the expiration of the lease and submit a formal lease application/proposal for evaluation by the Lease Committee. The City will review the application but is under no obligation to enter into a new lease. If the Council chooses to approve such a new lease without a competitive bidding process, it must approve such a new lease by resolution within six months that includes a finding that it is in the public interest to do so, after consideration of relevant facts including, but not limited to, the following:

1. The lessee's past capital investment and binding commitment to future capital investment
2. The lessee's financial condition and prior lease history
3. The number of persons employed and the prospects for future employment
4. Tax revenues and other financial benefits to the City of Homer anticipated in the future if the lease is renewed
5. Consistency of the past use and intended future use with all applicable land use codes and regulations, the Comprehensive Plan, and the Overall Economic Development Plan
6. Other opportunities for use of the property that may provide greater benefits to the City of Homer.
7. Other social, policy, and economic considerations as determined by the Council.

After debate was concluded, the Lease Committee adopted the following motion:

Zimmerman / Yager: Moved to recommend that Council enter into a new lease with Mr. Brad Faulkner on Lot 88-4 without going through the competitive bidding process due to the following: existing lessee with a substantial investment in the property, there are similar lots available for RFP if additional public interest is shown, and the current economic advantages with the existing tenants. It is further

recommended that Council use expediency in concluding the lease process and it is further recommended to stipulate in the new lease performance standards, and a completed application to include all required financial information. The Motion passed 4-2.

MEMORANDUM 10-160

TO: MAYOR AND CITY COUNCIL MEMBERS
FROM: THOMAS F. KLINKNER
RE: RENEWAL OF BRAD FAULKNER LEASE
CLIENT: CITY OF HOMER
FILE NO.: 506,742.1300
DATE: DECEMBER 7, 2010

You have asked whether the Council may accept the recommendation of the Lease Committee that the City enter into a new lease with Brad Faulkner on Lot 88-4 without a competitive process. I conclude that the Council may not proceed in the manner recommended by the Lease Committee unless it finds by resolution that it is in the public interest to grant an exception to competition under Lease Policy Section 4.1(A).

1. Introduction.

The City leased Lot 88-4, Homer Spit No. 2 Subdivision to Katch Canning Co., Inc. under a Lease Agreement dated August 10, 1990 ("Lease"). Mr. Faulkner acquired the leasehold by assignment dated July 1, 1994.

Section Two of the Lease describes the term of the Lease as follows:

The period of this Lease shall be from August 15, 1990, for a period of ten years, through 12:00 midnight August 15, 2000, with an option to renew for additional two-five year periods...No further right or option to renew this lease shall exist.

Assuming that Mr. Faulkner exercised both renewal options under the Lease, and that there has been no other modification of the Lease term, the Lease expired at 12:00 midnight August 15, 2010.

In a letter to City Manager Walt Wrede dated August 22, 2010, Mr. Faulkner claims that he gave notice of his intent to renew the Lease by email messages to Harbor Director Bryan Hawkins on July 29 and 31, 2009. It appears that Mr. Faulkner's next communication regarding the renewal of his lease occurred when he appeared at

the April 29, 2010 meeting of the Lease Committee. Under the Public Comment item on the agenda at that meeting, Mr. Faulkner stated that he would apply to renew his lease upon the Council's adoption of changes to the City's lease policy.

By a letter to City Manager Walt Wrede dated July 13, 2010, Mr. Faulkner requested a one-year extension to his lease, "giving the council time to finish there [sic] work on lease policy." Mr. Faulkner also stated that he had not completed a lease application because he had been called out of town on short notice to assist with the response to the oil spill in the Gulf of Mexico, and requested that the application materials be emailed to him if an extension could not be granted. Mr. Wrede declined to grant Mr. Faulkner a one-year lease extension, but agreed that Mr. Faulkner could continue to occupy the leasehold on a month-to-month basis.

In his August 22, 2010 letter to Mr. Wrede, Mr. Faulkner accepted the offer of month-to-month occupancy, and undertook to submit a lease proposal in time for the October 14, 2010 meeting of the Lease Committee. Mr. Faulkner actually submitted a lease application on October 26, 2010, that Mr. Wrede found to be incomplete.

2. The Applicable Code and Lease Policy Provisions.

HCC 18.08.160 requires the Council to adopt a Property Management Policy and Procedures Manual (commonly referred to as the "Lease Policy"), and conform to the terms of the Lease Policy in the leasing of City property:

a. The City Council shall adopt by resolution a Property Management Policy and Procedures Manual. Leasing and use permits of City land and facilities shall conform to the manual except to the extent it shall be in conflict with this code or any relevant ordinance later adopted, in which case the provisions of this code and later ordinances shall prevail over the provisions of the manual.

Sections 11.2(E) and (F) of the Manual prescribe the procedure upon the expiration of a lease of City property:

- E. It is the policy of the City that equal opportunities should be provided to compete for leasing available public property. A lessee whose initial lease and all options have expired shall have no automatic right of further renewal or extension. In general, it is the policy of the City that the Lease Committee shall offer such properties to the public through the RFP/competitive bidding process described herein.
- F. Lease renewals: The City Council, after reviewing a recommendation from the Lease Committee, may elect to not require a competitive bidding process for a property whose lease has expired (including all options) if it finds that it is in the best interest of the City to enter into a new lease agreement with the current lessee. If the current lessee is interested in entering into a new lease agreement, he/she must indicate so in writing to the City Manager at least 12 months prior to

the expiration of the lease and submit a formal lease application/proposal for evaluation by the Lease Committee. The City will review the application but is under no obligation to enter into a new lease. If the Council chooses to approve such a new lease without a competitive process, it must approve such new lease by resolution within six months that includes a finding that it is in the public interest to do so, after consideration of relevant facts including, but not limited to, the following:

1. The lessee's past capital investment and binding commitment to future capital investment
2. The lessee's financial condition and prior lease history
3. The number of persons employed and the prospects for future employment
4. Tax revenues and other financial benefits to the City of Homer anticipated in the future if the lease is renewed
5. Consistency of the past use and intended future use with all applicable land use codes and regulations, the Comprehensive Plan, and Overall Economic Development Plan
6. Other opportunities for use of the property that may provide greater benefits to the City of Homer
7. Other social, policy, and economic considerations as determined by the Council.

In addition to Section 11.2(E) and (F) regarding procedure upon the expiration of a lease of City property, Section 4.1(A) of the Lease Policy addresses the subject of competition to lease City property generally:

It is the policy of the City of Homer that a request for proposals, or a competitive bidding process be used for the leasing of City owned property. Exceptions to this policy may be made by the City Council as per section 10.2.E of these policies and/or under special or exceptional circumstances. The Council shall review recommendations of the Lease Committee and, if an exception is granted, adopt a resolution finding that it is in the public interest and approving the exception.

3. Compliance with the Requirements to Renew under the Lease Policy.

Section 11.2(E) of the Lease Policy states that when an existing lease of City property expires and is subject to no additional renewal options, it is the general policy of the City that the Lease Committee shall offer such properties to the public through the RFP/competitive bidding process. However, Section 11.2(F) of the Lease Policy authorizes the Council, after reviewing a recommendation from the Lease Committee, "to not require a competitive bidding process for a property whose lease has expired (including all options) if it finds that it is in the best interest of the City to enter into a new lease agreement with the current lessee."

Section 11.2(F) does not grant the Council unlimited discretion to extend an existing lease without competition. It subjects the Council's discretion to several limitations. First, the lessee must have notified the City Manager of the lessee's intent to renew the lease "at least 12 months prior to the expiration of the lease and submit a formal lease application/proposal for evaluation by the Lease Committee." Second, the Council must find by resolution that it is in the public interest to renew the lease without competition, after consideration of factors listed in Section 11.2(F).

Mr. Faulkner claims in his July 13 and August 22, 2010 letters that he gave timely notice (i.e., at least one year before the lease expired on August 15, 2010) of his intent to renew his lease to Harbor Director Bryan Hawkins. However, Mr. Faulkner acknowledges that he did not submit a timely lease application as required by Lease Policy Section 11.2(F). Thus, he has not satisfied the prerequisites for the Council to consider his renewal application without competition under Section 11.2(F) of the Lease Policy.

HCC 18.08.160(a) requires leases of City property to conform to the provisions of the Lease Policy unless the provisions conflict with the City Code or are superseded by a later ordinance. Section 11.2(F) of the Lease Policy does not provide any authority for the Council to waive its requirements. However, Section 4.1(A) of the Lease Policy does authorize the Council to make exceptions to the requirement for competition to lease City property. Thus, if the Council found the "special or exceptional circumstances" referred to in Section 4.1(A) of the Lease Policy, it could grant an exception to the requirement for a competitive process to renew the Lease by resolution finding that it was in the public interest to do so. Although Lease Policy Section 4.1(A) does not identify factors that the Council should consider in determining whether to grant an exception, I recommend that the Council consider the factors listed in Lease Policy Section 11.2(F), and any other factors that it considers relevant for this purpose.

In conclusion, unless the Council finds by resolution that it is in the public interest to grant an exception to competition under Lease Policy Section 4.1(A), the Council should return the matter of the renewal of the Lease to the Lease Committee with instructions that the Lease Committee solicit bids or proposals to lease the affected property under HCC 18.08.140.

CITY MANAGER

AUG 16 2010

CITY OF HOMER

Monday, October 25, 2010

City of Homer
City Manager

Ref: Lease Application for Lot 88-4

Dear Mr. Wrede,

Attached is a lease application to re-lease my existing lease. I believe my history of doing business with the City and the amount of economic activity my lease has annually generated should allow this renewal to fall under City of Homer Property Management and Procedures 11.2 F and not be required to enter a competitive bidding process.

I am going to continue with fish dock office space and yard space for the harbor side of my lot. I have the number 1 halibut buyer in the world and the number 1 cod producer in Kachemak Bay doing business here. The economic benefits to the City are enormous.

The plot plan shows four new buildings and a boardwalk fronting the highway. These are intended for sub-lease to galleries and shops. I intend to repeat the architectural style of the Hillstrand/Fish and Chips boardwalk. I will permit them all this year and build one a year minimum. If they lease out, I will build them all the first year. I require a lease that allows sub-leasing. I will pay "fair market rent".

This project should finally draw pedestrian traffic past the Salty Dawg. It will serve as the critical mass to get people past Happy Face and South Central Radar. The vendors who sub-lease from Billy Sullivan and Mike Yourkowski will all benefit.

I have done 120days x 12 plus hours on the BP spill leading Task Force 1, Grand Isle and have been home less than a week. The package is not perfect. I will put it all through planning, build it to code and make it look good, really good.. I know the Spit. I have over \$250,00,00 invested in this lot and I am ready to invest another \$250,000. I am asking you and the Council to let me make it happen.

Respectfully,



Brad Faulkner

Economic Benefit to the City

For the first twelve years of the fifteen I have had this lease I bought fish. During that time all my fish taxes went into the City. I also purchased all my ice from the City. Direct payments to the City were often \$100,000 a year not including fish taxes. When I chose to get out of the fish business I leased my office to my biggest competitor. Dana Besicker buys four to five million pounds of halibut out of Homer every year. He is probably the biggest client of both the Auction Block and the Fish Factory. He needs to be somewhere and he is very happy with his current location. The economic benefit of this alone is enormous.

Glen Carroll is also currently doing business from my lot. He fishes two boats in the local cod fishery. He does his own buying and selling and keeps his equipment and totes on my lot. This was close to two million pounds of cod last year in the typically slow time of year for the dock and the economy. This is feeding at least 6 families on the boats alone. He needs to be somewhere and he is happy where he is.

Historically, I have accommodated any legitimate fish buyer that shows up in Homer and needs space for totes and forklifts. Over the years this has included the Auction Block, Deep Creek, and Inlet Salmon. If it is good for the fish dock I find space for it to happen. I will continue this policy.

The new retail buildings proposed are designed for retail shops and or charter offices. By building them all the same style and building a boardwalk something like the Hillstrand boardwalk, I hope to pull more of the walking traffic past the Salty Dawg. Currently, walk in traffic east of the Dawg is as little as 25% as it is west of the Dawg. By making it visible and attractive it can only help the vendors on the Yourkowski and Sullivan leases. The Spit runs seven days a week so four new businesses should mean eight new employees employed on the Spit.

Unlike Yourkowski, I plan to build these buildings myself and sub-lease the building not the ground.

Financial Ability

I have been paying the City close to a thousand dollars a month for fifteen years. I hope that makes me viable. During that time I did over 60 million dollars in fish deals without a NMFS violation or a bad deal . I hope that makes me viable.

What really makes this deal financially viable is already setting on the lease. The current building is a 3000 square foot residential building. It is double rocked, with fire doors and soundproofing. Everything is built to code and was inspected. I put over \$200,000 cash into this building. It had to be all cash because the old lease specifically disallowed any liens on any of the property. This building is 100% free and clear with no liens or attachments. With a new lease the existing building is more than enough equity to finance the project.

Schedule

Kevin Strong will be doing the planning and construction. We will get it permitted and through planning this winter. I will be hustling this winter to get tenants. We will build as many as I can hustle legitimate business tenants for, hopefully ready by tourist season. Regardless of tenants or lack of tenants, we will permit the project this winter and start at least one building in the spring.

City of Homer-Lease Application/Assignment Form

Directions:

1. Please type.
2. Please submit this application form to the City Clerk's Office, 491 Pioneer Avenue, Homer, Alaska 99603.
3. Please answer all questions on this form, or put "N/A" in the space if it is non applicable.

Applicant Name: Social Security No.s	Brad FaylKner 574-24-3741
Mailing Address:	Box 996
City, State, ZIP code:	Homer, AK 99603
Business Telephone No.	907-299-1871
Representative's Name:	
Mailing Address:	
City, State, ZIP code:	
Business Telephone No.	
Property Location:	Lot 88-4 Homer Spit Rd
Legal Description:	
Type of Business to be placed on property:	Retail
Size of Buildings to be placed or leased:	4 - 16x24
Duration of Lease requested:	20
Options to re-new:	2 - 5
Special lease requirements:	Ability to sub-lease
Number of parking spaces required, per code:	6

**The following materials must be submitted when applying for a lease of
City of Homer real property**

1.	Plot Plan	<p>A drawing of the proposed leased property showing:</p> <p><input checked="" type="checkbox"/> Size of lot - dimensions and total square footage. - to scale, please.</p> <p><input checked="" type="checkbox"/> Placement and size of buildings, storage units, miscellaneous structures planned - to scale, please.</p> <p><input checked="" type="checkbox"/> Water and sewer lines - location of septic tanks, if needed.</p> <p><input checked="" type="checkbox"/> Parking spaces - numbered on the drawing with a total number indicated - please refer to Homer City Code _____</p>																
2.	Development Plan	<p><input checked="" type="checkbox"/> List the time schedule from project initiation to project completion, including major project milestones.</p> <table border="1" data-bbox="500 695 1528 972"> <thead> <tr> <th data-bbox="500 695 792 730">Dates</th> <th data-bbox="797 695 1528 730">Tasks</th> </tr> </thead> <tbody> <tr> <td data-bbox="500 730 792 766">6/11</td> <td data-bbox="797 730 1528 766">Project design & permitting</td> </tr> <tr> <td data-bbox="500 766 792 802">7/11</td> <td data-bbox="797 766 1528 802">First bldg & boardwalk</td> </tr> <tr> <td data-bbox="500 802 792 837">6/12</td> <td data-bbox="797 802 1528 837">Second bldg</td> </tr> <tr> <td data-bbox="500 837 792 873">6/13</td> <td data-bbox="797 837 1528 873">Third bldg</td> </tr> <tr> <td data-bbox="500 873 792 909">6/14</td> <td data-bbox="797 873 1528 909">Fourth bldg.</td> </tr> </tbody> </table> <p>For each building, indicate:</p> <table border="1" data-bbox="500 1024 1528 1115"> <thead> <tr> <th data-bbox="500 1024 987 1060">Building Use</th> <th data-bbox="992 1024 1528 1060">Dimensions and square footage</th> </tr> </thead> <tbody> <tr> <td data-bbox="500 1060 987 1115">4 - 16 x 24</td> <td data-bbox="992 1060 1528 1115">1-story Retail</td> </tr> </tbody> </table>	Dates	Tasks	6/11	Project design & permitting	7/11	First bldg & boardwalk	6/12	Second bldg	6/13	Third bldg	6/14	Fourth bldg.	Building Use	Dimensions and square footage	4 - 16 x 24	1-story Retail
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3.	Insurance	<p><i>Prion to signing</i></p> <p><input type="checkbox"/> Attach a statement of proof of insurability of lessee for a minimum liability insurance for combined single limits of \$1,000,000 showing the City of Homer as co-insured. Additional insurance limits may be required due to the nature of the business, lease or exposure. Environmental insurance may be required. If subleases are involved, include appropriate certificates of insurance.</p>																
4.	Subleases	<p><input checked="" type="checkbox"/> Please indicate and provide a detailed explanation of any plans that you may have for subleasing the property. The City of Homer will generally require payment of 25% of proceeds paid Lessee by subtenants. Refer to chapter 13 of the Property Management Policy and Procedures manual.</p>																
5.	Health Requirements	<p><input type="checkbox"/> Attach a statement documenting that the plans for the proposed waste disposal system, and for any other necessary health requirements, have been submitted to the State Department of Environmental Conservation for approval. Granting of this lease shall be contingent upon the lessee obtaining all necessary approvals from the State DEC.</p>																
6.	Agency Approval	<p><input type="checkbox"/> Attach statement(s) of proof that your plans have been inspected and approved by any agency which may have jurisdiction of the project; i.e. Fire Marshall, Army Corps of Engineers, EPA, etc. The granting of this lease shall be contingent upon lessee obtaining approval, necessary permits, and/or inspection statements from all appropriate State and/or Federal agencies.</p>																

7.	Fees	<p>All applicable fees must be submitted prior to the preparation and/or execution of a lease.</p> <p><input checked="" type="checkbox"/> Application fee - \$30.00. Covers costs associated with processing the application.</p> <p><input type="checkbox"/> Lease fee - \$300.00. Covers the costs of preparing and processing the actual lease.</p> <p><input type="checkbox"/> Assignment fee - \$250.00. Covers the costs of preparing and processing the lease transfer.</p>
8.	Financial Data	<p>Please indicate lessee's type of business entity:</p> <p><input checked="" type="checkbox"/> Sole or individual proprietorship.</p> <p><input type="checkbox"/> Partnership.</p> <p><input type="checkbox"/> Corporation.</p> <p><input type="checkbox"/> Other – Please explain: _____</p> <hr/> <p><input checked="" type="checkbox"/> Financial Statement – Please attach a financial statement showing the ability of the lessee to meet the required financial obligations.</p> <p><input checked="" type="checkbox"/> Surety Information – Has any surety or bonding company ever been required to perform upon your default or the default of any of the principals in you organization holding more than a 10% interest <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. If yes, please attach a statement naming the surety or bonding company, date and amount of bond, and the circumstances surrounding the default or performance.</p> <p><input checked="" type="checkbox"/> Bankruptcy information - Have you or any of the principals of your organization holding more than a 10% interest ever been declared bankrupt or are presently a debtor in a bankruptcy action? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. If yes, please attach a statement indicating state, date, Court having jurisdiction, case number and to amount of assets and debt.</p> <p><input checked="" type="checkbox"/> Pending Litigation – Are you or any of the principals of your organization holding more than a 10% interest presently a party to any pending litigation? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. If yes, please attach detailed information as to each claim, cause of action, lien, judgment including dates and case numbers.</p>
9.	Partnership Statement	<p><input type="checkbox"/> If the applicant is a partnership, please provide the following:</p> <p>Date of organization: <u>NA</u></p> <p>Type: <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership</p> <p>Statement of Partnership Recorded? <input type="checkbox"/> Yes <input type="checkbox"/> No Where _____ When _____</p> <p>Has partnership done business in Alaska? <input type="checkbox"/> Yes <input type="checkbox"/> No Where _____ When _____</p> <p>Name, address, and partnership share. If partner is a corporation, please complete corporation statement.</p> <p>Limited/ General Name Address Share %</p>

N/A

Please attach a copy of your partnership agreement.

10. Corporation Statement

If the applicant is a corporation, please provide the following:

Date of Incorporation: _____

State of Incorporation: _____

Is the Corporation authorized to do business in Alaska?

No Yes. Is so, as of what Date? _____

Corporation is held? Publicly Privately If publicly held, how and where is the stock traded? _____

Officers & Principal Stockholders [10%+]:

<u>Name</u>	<u>Title</u>	<u>Address</u>	<u>Share</u>
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_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____
_____	_____	_____	_____

Please furnish a copy of Articles of Incorporation and By-laws.

Please furnish name and title of officer authorized by Articles and/or By-laws to execute contracts and other corporate commitments.

<u>Name</u>	<u>Title</u>
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_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
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_____	_____
_____	_____

11. Applicant References

Please list four persons or firms with whom the Applicant or its owners have conducted business transactions with during the past three years. Two references named shall have knowledge of your financial management history, of which at least one must be your principal financial institution. Two of the references must have knowledge of your business expertise.

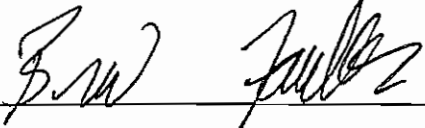
Name: Kevin Hogan
 Firm: Auction Block
 Title: _____
 Address: _____
 Telephone: 907-299-8090
 Nature of business association with Applicant: Fish buying

Name: Eric Olsen
 Firm: Bosicker Company
 Title: _____
 Address: _____
 Telephone: 299-1161
 Nature of business association with Applicant: Fish buying

Name: Glen Carroll
 Firm: Carroll Corp
 Title: _____
 Address: _____
 Telephone: 399-7219
 Nature of business association with Applicant: Fish buying

Name: Kevin Strong
 Firm: Strong Construction
 Title: Will be the contractor
 Address: _____
 Telephone: 399-2671
 Nature of business association with Applicant: Contracting

I hereby certify that the above information is true and correct to the best of my knowledge.

Signature: 

Date: 10/26

November 2, 2010

To: Homer City Manager
Homer Leasing Committee

From: Brad Faulkner

Ref: Staff Report Faulkner Lease Application

Mr. Wrede and Members of the Leasing Committee,

The staff report pointed out some deficiencies in my lease application. I would like to offer some supplemental information in time for your consideration at the November 3rd meeting. I appreciate the time and consideration you have given me.

Building History

The Building is the old Icicle Ice House. It was barged down from Ninilichik after the 1979 Icicle fire. For twenty years it existed on the Icicle Lot. It has been on my lot since late 1999. I have not altered the outside dimensions of the building except to add a porch. I did a complete makeover in 2000 to bring everything up to multiple use code. It has existed on the Spit for over 30 years. It really is a wonderful building.

Moving the Building

This is a large tall building no denying that. It will be difficult and expensive to move. Realistically the only place it can be situated is somewhere else on the Spit. Even then the costs will be in the \$25,000 plus range and I will have to come up with a site. Because of its size, if I move it off the Spit, the costs would soon become prohibitive.

Future Uses for the Big Building

I built this building for one reason; I needed a place to raise my son while working a seven day a week business on the dock. I built it to multiple use code for both residential and commercial with future uses in mind. It would make great office space for NMFS. They could house their itinerant officers up stairs and have office space with a dock overview. It would also make one of the best B&B's in Homer. If my residency is the problem, once this projected is completed I will find a commercial use for the big building also.

Two summers ago, with the volcano spewing, I took my first wage job in fifteen years as a captain on the North Slope. My duties included teaching the Captain and Crew courses and Spill Response Teams. Homer's Fall and Spring seasons can be much like the Artic in the summer making it a natural location for this kind of training. It could be done here

far cheaper when the waters are traditionally closed up there and people have more time. Every whaling captain affected by the Shell drilling plans should enjoy coming to Homer to receive spill recovery training. The downstairs is a classroom size. The second floor has two double occupancy bedrooms with bath. Five of the skippers that teach the course for Alaska Clean Seas have boats in the harbor. I explained this to Bryan and was actively pursuing this when the BP spill happened. I left to train 922 fishermen from the Gulf Coast. The timing is better now than ever but this project is tabled pending lease negotiations. It is what I really want to do and will mean five well paying off season jobs plus hotel and restaurant occupancy.

Lease History

The lease I assumed came with a \$35,000 tax lien which I paid. It also came with an over market lease rate, an automatic escalator, a specific no liens what-so-ever clause and a mandate to operate a fish plant only. For twelve years I complied pretty well with tremendous benefit to the City. Things change. Unfortunately the lease I had did not allow any development that was not defined by a bankrupt company twenty years ago. I have always felt that I was one of the few leases out here to really be in compliance with building codes and signage and parking.

Zoning

The referenced report says there is some issue of non-compliance. If so, I was not aware of it and will attempt to bring it into compliance.

Lease Rates

I proposed market lease rates. For the entire 15 years I have had the lease I have been paying over assessed value rates. My current lease has a 25% of all sub-leases to the City clause. My arguments against are several: 1) If I have to pay 25% more than Mike Yourkowski to ever lease a building the market will dictate that I never get to lease a building till he is full up. This summer one of his buildings was empty, the burrito place is up for sale, and the water taxi business that the City caused to be relocated onto his lot never recovered to open their doors for business. 2) If any real estate investor could build a project and realize a 25% return annually, they are going to build the project. A 25% annual return and a fair return on invested capital is unrealistic killing any project before it gets off the ground. 3) A number of leases have this clause. To my knowledge the City has never enforced it on any of the other leases.

I am willing to pay 25% of any sub-leases on bare ground leases only.

Economic Value Proposed New Development

My target market is retail shops and businesses. They should employ a minimum of 8-10 full time equivalent employees for the tourist season. Increased sales tax revenue to the City should be in the \$8-10,000 range. Increased property tax revenue should be @\$1500 - \$2,000. These numbers should be conservative. If I get to turn the big building into a B&B or offices the sales tax revenue will increase by an additional @\$1500.

Economic Value Current Sub-Leases

I currently sub-lease bare ground to Glen Carroll for \$300 a month or \$10 a day when he is actually using the lot. It is a hand shake deal. Our business relationship goes back to the fall of 1994. I renovated and brought into DEC compliance the plant in order to pack his cod that winter. Packing Glen's cod kept me alive the first few winters. Because he buys and sells the cod his boats catch he needs totes and equipment next to the dock like any other buyer. This was close to two million pounds last year and supported three people on the dock as well as Glen's family and the six people on the boats.

I sub-lease office space to Eric Olsen. Eric and my business relationship goes back to the Spring of 1996 when he was my dock foreman. Eric represents Dana Besicker who has been the #1 halibut buyer in Homer for years. A conservative guesstimate for this year is over \$25 million in fish dollars in Homer fish buys providing dozens of dock and plant jobs at both plants. The economic benefit to Homer is enormous. Eric has recently gotten divorced and remarried. He now lives in Anchorage. He asked me to build some living space over his office so he would have a place to stay in Homer. I would love to accommodate him and it would be really good for Homer for this reason: Eric can turn a boat from Homer to Seward, often with less travel time for the boat. With Eric based in Anchorage, his travel time is halved turning them to Seward. We want him feeling at home in Homer. The economic benefit is truly huge.

The Fish Business

The fish business is a fast changing business. The first IFQ program in the country is fifteen years old. The markets have consolidated to where there the same 3 or 4 significant buyers buy in all the major landing ports. Margins in halibut got driven to nothing. After a ten year run as the number one independent I exited the halibut business with honor. Every deal I did was good. Everybody always got paid in a timely manner. The usual way to exit the fish business is chapter 7 or 11 and some fishermen holding the bag.

Besicker, Pacific Seafoods, and Icicle Seafoods are the big three buyers in that order. I think both Bryan and Walt have only recently come to understand the economic impact of the big 3 and most especially Besicker. Icicle has stepped up shipping fish straight to their Seattle plant. Pacific is invested into Kodiak, Cordova and Seward. Besicker is still everywhere. Snug is concentrating more on Kodiak and Seward. If the fish are not on local boats they do not have to come here. Homer's #1 spot is not a foregone conclusion, it is a delicate balance. For 10-12 years my contribution was really aggressive pricing. Recently, my contribution to this balance is in making space easily available for legitimate buyers. When the Auction Block moved on to my lot Kevin was several years into lease negotiations with the City and was close to pulling the plug and walking. The space allowed him the extra couple of years to actually get his lease negotiation done. The staff report totally undervalues my continued contribution. I am well tuned in to this dock and could very well become involved as an active buyer again in a different form. In the mean time, I have accommodated every company that needed space.

Match Clause

The staff report recommends going out to bid. I have spent the last four years in limbo over this and it is so counter productive. I ask that you allow the lease proposal to go through as requested. If you follow the staff recommendation I would ask that the existing lessee be given the right to match any offers. I believe this was afforded the Sportsman's marine and Bob's Trophy leases.

Proposed Schedule

The proposed schedule is phased in, guaranteeing one building a year. This is so I could do one of the buildings out of pocket per year if necessary. I would have to keep grinding the slope for four years or more likely go back to buying fish to make it happen out of pocket. Everything on my old lease had to be out of pocket. My preferred schedule is to obtain financing and build the project. Financing requires signed sub-leases and a lease from the City that allows sub-leasing and further allows a bank to take a lien hold interest. Interest is cheap but money is really tight right now. The phased in schedule is doable with hard work and no financing.

Financial Capability

I took a beating getting out of the fish business standing tall. My balance sheet is not what it used to be, but it is clean. Thank God for the slope and BP. I am 100% debt free. I have no payments other than the basic utilities, this lease, insurance and modest child support. I have no credit card debt or other payments. I am current with everything. My cash and cash equivalents is at \$33,000. After the first of the year I will make some equipment sales that should add another \$17,000. This buys me time and all costs to get the proposed plan bankable. Eric Olsen has stated that his company is interested in a long term sub-lease especially if he can get some living quarters. I have one really good anchor tenant in mind that would be willing to sign a long term lease if I build to his dimensions. The key is signed lease agreements and letters of intent. I have enough cash and assets to put on the table to make it happen.

Assets Used to Support the Project

The tax value on the existing building is \$124,400. I have over \$200,000 in the remodel alone. It is almost 3000 feet of well finished space and, with a lease, would appraise much higher than tax value.

Angel in the Wings

My good buddy for life owns ten acres adjacent to six acres I own on Aurora Lagoon. He offered to loan me up to \$168,200 secured by my acreage. This is twice the tax value and probably about fair market value for a buddy deal if I were to sell him this property. He is my last resort, but he knows what kind of hit I took my last two years in the fish business and he will make his interest or add some really nice acreage to his own. He wants nothing to do with anything secured by a City Lease.

Credit Report

I sent to Visa for credit report more than a week ago. As of yesterday's mail, it had not arrived.

Serendipity

The buildings on the front and side of the big building will bring the site lines down and help it look a lot better. Anyone thinking I am cutting a fat hog on this deal has no clue how tough it is to do business on the Homer Spit. I am risking a great deal of money with any return five or six years down the line. I will not be sitting back and clipping coupons at the expense of the City.

*Pat
Brad
7925*

2010 TAX BILL

Kenai Peninsula Borough
144 N. Binkley Street
Soldotna, AK 99669
907-262-4441
800-478-4441 - Toll Free Within Borough
www.borough.kenai.ak.us



Year: 2010 PIN: 18103444
TAG: 20 - HOMER CITY
Revenue ID: 208367 Bill Number: 201014451
Billing Date: 07/01/2010
Balance good until: 10/15/2010

#BWBBJDD
#A000000181034446#

FAULKNER BRADFORD W DBA ALASKA CUSTOM SE
PO BOX 996
HOMER AK 99603-0996

LEGAL DESCRIPTION

T 7S R 13W SEC 1 Seward Meridian HM 0920050 HOMER SPIT
SUB NO TWO AMENDED LOT 88-4 4474 HOMER SPIT RD

Value Type	Value	Exemption Type	Amount
LAND	11,500	BOROUGH EXEMPTION VALUE	20,000
IMPROVEMENT	124,400	HOMER EXEMPTION VALUE	20,000

Taxes, Credits, and Other Charges:

Charge Description	Total Value	Exemption	Taxable	Rate/1000	Tax Dist	Boats	Aircraft	Credits	Total
BOROUGH	135,900	20,000	115,900	4.500000	521.54	0.00	0.00	0.00	521.54
HOMER	135,900	20,000	115,900	4.500000	521.56	0.00	0.00	0.00	521.56
SOUTH HOSPITAL	135,900	20,000	115,900	2.300000	266.58	0.00	0.00	0.00	266.58
2010 Total				11.300000	1,309.68	0.00	0.00	0.00	1,309.68

Bill Summary	2010 Total	Interest	Penalty	Fees	Subtotal	Prev Due	Paid	Total Due
	1,309.68	0.00	0.00	0.00	1,309.68	0.00	0.00	1,309.68

TAX BILLS ARE MAILED TO PERSONS LISTED AS OWNERS OF RECORD ON JANUARY 1, 2010 AND TO OTHER PERSONS WHO MAY HAVE AN INTEREST IN THE PROPERTY AND MAY BE PAYING THE TAXES. IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER TO ENSURE TAXES ARE PAID WHEN DUE IN ORDER TO AVOID PENALTY AND INTEREST CHARGES. TO ENSURE PROMPT PAYMENT YOU CAN VIEW THE STATUS OF YOUR BILL AND MAKE PAYMENT VIA THE WEB.

Please Return This Coupon with the Second Installment Payment. No second installment statement will be mailed.

Year: 2010 Bill No: 201014451 2nd Installment Amount: 654.84 2nd Installment Due Date: 11/15/2010
 Make check Payable to Kenai Peninsula Borough Change of Address
 PO Box 3040, Soldotna, AK 99669 Name: FAULKNER BRADFORD W DBA ALASKA
 FAULKNER BRADFORD W DBA ALASKA CUSTOM SE CUSTOM SEAFOODS INC
 SE Mailing Address
 PO BOX 996 City, State, Zip
 HOMER AK 99603-0996 Disregard if total is paid with first coupon by 10/15 Signature: _____

CHECKS WILL BE DEPOSITED ON THE DAY THEY ARE RECEIVED

3232323232323232495649485152525200000000000000000000654844

2010 TAX BILL

Kenai Peninsula Borough
 144 N. Binkley Street
 Soldotna, AK 99669
 907-262-4441
 800-478-4441 - Toll Free Within Borough
www.borough.kenai.ak.us



Year: 2010 PIN: 19301204
 TAG: 52 - SOUTH HOSPITAL
 Revenue ID: 222314 Bill Number: 201016049
 Billing Date: 07/01/2010
 Balance good until: 10/15/2010

#BWBBJDD
 #A000000193012042#

FAULKNER BRADFORD W
 PO BOX 996
 HOMER AK 99603-0996

LEGAL DESCRIPTION

T 5S R 11W SEC 35 Seward Meridian HM 0830011 AURORA SUB
 LOT 4

Value Type	Value	Exemption Type	Amount
LAND IMPROVEMENT	79,100 0		

Taxes, Credits, and Other Charges									
Charge Description	Total Value	Exemption	Taxable	Rate/1000	Tax Dist	Boats	Aircraft	Credits	Total
BOROUGH	79,100	0	79,100	4.500000	355.94	0.00	0.00	0.00	355.94
SOUTH HOSPITAL	79,100	0	79,100	2.300000	181.94	0.00	0.00	0.00	181.94
2010 Total				6.800000	537.88	0.00	0.00	0.00	537.88
Bill Summary	2010 Total	Interest	Penalty	Fees	Subtotal	Prev Due	Paid	Total Due	
	537.88	0.00	0.00	0.00	537.88	0.00	0.00	537.88	

***** TAX BILLS ARE MAILED TO PERSONS LISTED AS OWNERS OF RECORD ON THE TAX ROLLS AND TO OTHER PERSONS WHO MAY HAVE AN INTEREST IN THE PROPERTY AND MAY BE PAYING THE TAXES. TAXPAYERS SHOULD KNOW IF THEY ARE RESPONSIBLE TO PAY THE TAXES OR IF THERE IS A LENDER WHICH INTENDS TO PAY. HOWEVER, IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER TO ENSURE TAXES ARE PAID WHEN DUE IN ORDER TO AVOID PENALTY AND INTEREST CHARGES. IF YOU ARE NOT CLEAR AS TO WHO SHOULD BE PAYING THE TAXES, PLEASE CONTACT YOUR LENDER. THE BOROUGH CANNOT GUARANTEE PAYMENT BY ANOTHER PARTY. TO ENSURE PROMPT PAYMENT YOU CAN VIEW THE STATUS OF YOUR BILL AND MAKE PAYMENT VIA THE WEB. *****

Please Return This Coupon with the Second Installment Payment. No second installment statement will be mailed.

Year: 2010 Bill No: 201016049

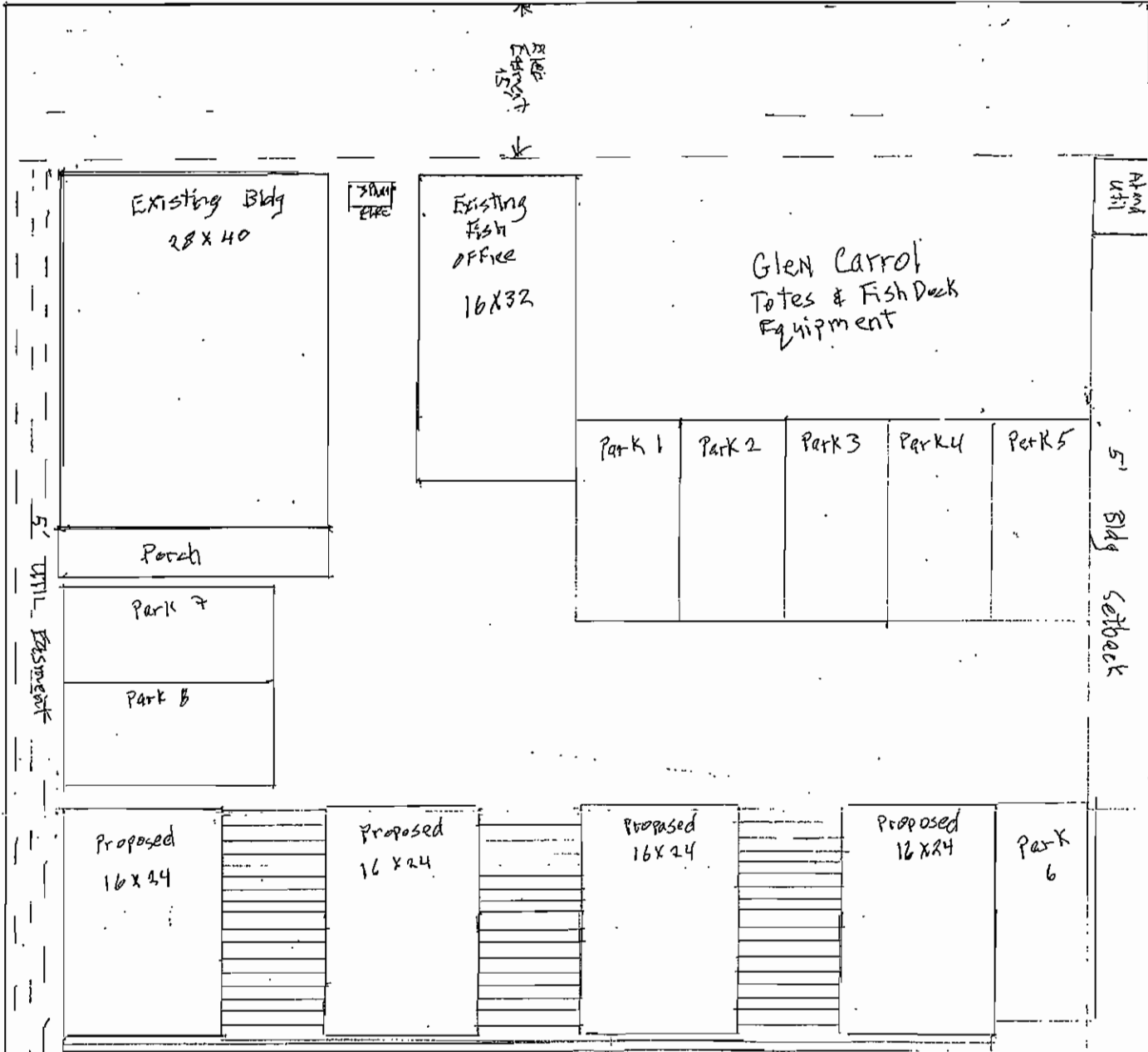
2nd Installment Amount: 268.94 2nd Installment Due Date: 11/15/2010

Make check Payable to Kenai Peninsula Borough
 PO Box 3040, Soldotna, AK 99669
 FAULKNER BRADFORD W
 PO BOX 996
 HOMER AK 99603-0996

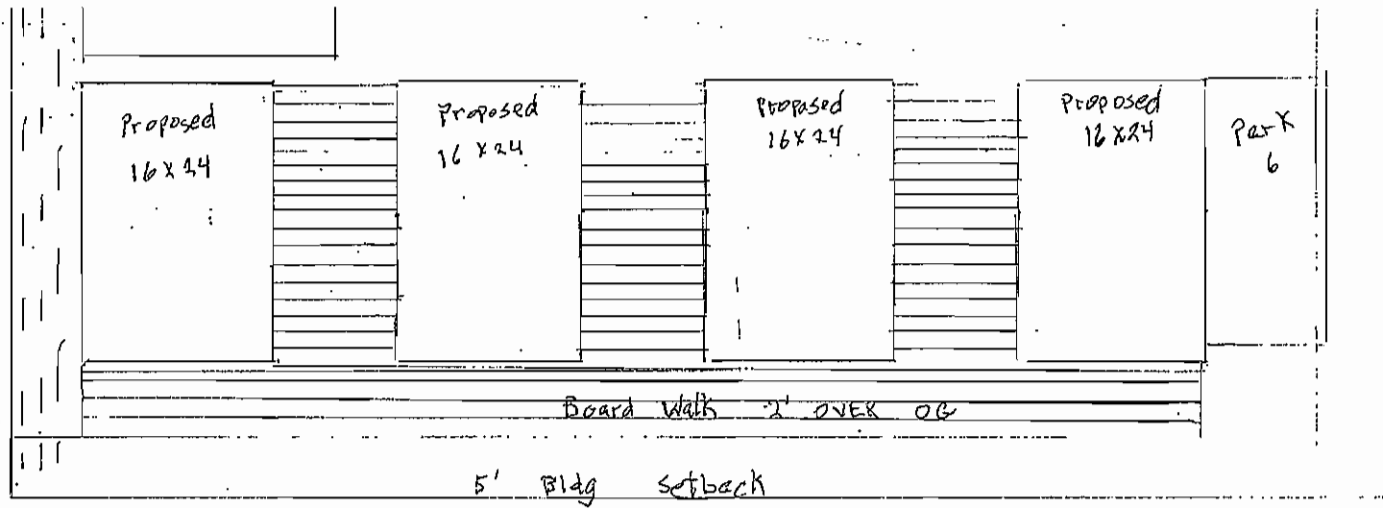
PIN: 19301204

Change of Address
 Name: FAULKNER BRADFORD W
 Mailing Address

Harbor overslope



Lot 88-3
Bill Sullivan



City Parking Easement

Edge of ROW

Edge of Pavement

c/L spit Road

Plot Plan Lot 88-4

scale 3/32 = 1'

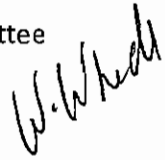
STAFF REPORT

BRAD FAULKNER LEASE APPLICATION

TO: Lease Committee

FROM: Walt Wrede

DATE: November 3, 2010



Mr. Bradford Faulkner has submitted an application to secure a new lease from the City without a competitive bidding process pursuant to Section 11.2 F of the Lease Policies. Section 11.2 (F) requires that the applicant submit a formal lease application / proposal for evaluation by the Lease Committee. Chapter 5.2 (A) of the Policies addresses the information that must be included in the application in order for it to be responsive. A review of those criteria is contained in the attached checklist. We have concluded that the application package is incomplete.

Chapter 6.2 B contains the evaluation criteria for evaluating an application/proposal. While it is not normal practice to review an application that is incomplete, we do so in this case because of the time sensitive nature of this proceeding. There are significant gaps in the required information here as well which make this application both non-responsive and not as worthy of support as it might be.

Following is an analysis of the nine criteria contained in 6.2 (B):

1. Compatibility with neighboring uses and consistency with applicable land use regulations including the Comprehensive Plan.

Upon initial review, it appears that the proposed development plan could be, or made to become, consistent with applicable land use plans and codes. The plan appears to be consistent with neighboring uses. It should be noted the applicant is currently out of compliance with the zoning code and would have to rectify those issues before a lease could be issued. These questions will be determined through the normal planning and permitting process.

2. The development plan including all proposed phases and timetables.

Mr. Faulkner has provided basic site plans and information about development timetables. More detail would be needed for the permitting and lease negotiations processes however, the information provided is sufficient in that it provides a minimal, baseline sketch of the development and investment plan.

3. The proposed capital investment.

Information is provided about the proposed capital investment sufficient to evaluate the proposal. The applicant proposes to invest approximately \$250,000 in a boardwalk and small retail/commercial structures. Again, more detail would be needed during the lease negotiation process.

4. Experience of the Applicant in the proposed business or venture.

The applicant essentially proposes to be a landlord. His proposal states that he will continue to live on the property as his primary residence and that he will sub-lease land, and structures to other business ventures. He is doing that presently and simply proposes to expand that activity. In other words, Mr. Faulkner is not jumping into a new business venture for which he has no experience.

5. Financial capability or backing of the applicant including credit history, prior lease history, assets that will be used to support the proposed development.

Mr. Faulkner provides minimal information here. He states that his historic ability to pay the rent and the equity value of his building/residence should be enough to guarantee that he can finance the proposed development. He provides no other information that would be useful in evaluating his proposal such as credit history, available capital, financial backing, line of credit, and so on. More information is required in order to be responsive.

6. The number of employees anticipated.

The applicant provides no information regarding his employees, those of the businesses he sub-lets to, or projections regarding new commercial buildings. Without this information, it is hard to review this application. More information is required in order to be responsive.

7. The proposed rental rate.

The applicant states that he will pay "market" rates. We assume that means whatever an appraiser determines to be the fair market rent. He does not propose anything beyond that and makes no statements regarding the sharing of rental revenues from sub-leases.

8. Other financial impacts such as tax returns, stimulated or spin-off economic development, or the value of the improvements left behind upon termination of the lease.

Again, very little is provided here beyond references to how important to the economy the businesses are that sub-lease from Mr. Faulkner. It should be noted that those businesses are highly mobile and could locate almost anywhere close to the Fish Dock. We presume that this proposal has some positive fiscal impacts but Mr. Faulkner does little to make the case. As such the proposal is not as attractive as it perhaps could be.

9. Other long term social and economic development.

Mr. Faulkner provides almost no information here which could convince viewers that this application is worthy of support. Again, more information is necessary in order for this application to be responsive

As noted earlier, Mr. Faulkner submitted an application to secure a new lease from the City without a competitive bidding process under Section 11.2 F of the Policies.

Section 11.2 F states:

The City Council, after reviewing a recommendation from the Lease Committee, may elect to not require a competitive bidding process for a property whose lease has expired (including all options) if it finds that it is in the best interest of the City to enter into a new lease agreement with the current lessee. If the current lessee is interested in entering into a new lease agreement, he/she must indicate so in writing to the City Manager at least 12 months prior to the expiration of the lease and submit a formal lease application/proposal for evaluation by the Lease Committee. The City will review the application but is under no obligation to enter into a new lease. If the Council chooses to approve such a new lease without a competitive bidding process, it must approve such new lease by resolution within six months that includes a finding that it is in the public interest to do so, after consideration of relevant facts including, but not limited to, the following:

1. The lessee's past capital investment and binding commitment to future capital investment.

In his application, Mr. Faulkner states that he has invested approximately \$250,000 in the property during his tenure there. Most of that investment is in the building / residence. He states that he is prepared to invest another \$250,000 in the proposed boardwalk and commercial buildings. His commitment to do so is not binding at this time but would be later if a lease were awarded to him.

2. The lessee's financial condition and prior lease history.

Mr. Faulkner provides incomplete and insufficient information about his financial condition. He states that the record shows he can afford the rent and that the building on the property provides sufficient equity. However, the question is not whether Mr. Faulkner can afford to continue paying the rent, the question is whether he has the financial capacity to follow-through with his proposed development plan. His proposal would benefit if he provided more information such as an appraisal of his building, financial statements, financial backing, available capital, a line of credit etc. The City has a responsibility to make sure leases are awarded to parties who have the capability of doing what they say they are going to do on the leased property. The City has no reason to believe Mr. Faulkner does not have that capability, it just needs to be better documented.

Mr. Faulkner's prior lease history with the City is mixed. The City appreciates the amount of fish tax that was generated and the number of people employed during the years Mr. Faulkner was purchasing and/or processing fish. It also appreciates the fact that Mr. Faulkner accommodated important Fish Dock related businesses over the years and the positive economic impacts associated with that. These things benefitted the City significantly. On the other hand, Mr. Faulkner has consistently had problems with violations of the zoning code and the adhering to the terms and conditions of his lease. He has not been in the fish buying/ processing business for several years which is in itself, a violation of his lease. He has requested an amendment to his lease on several occasions but never followed-through with the required process and paperwork.

3. The number of persons employed and the prospects for future employment.

Mr. Faulkner does not indicate that he employs anyone at this time. He does not provide any projections on the number of people who might be employed as a result of his proposed development. As he notes in his application, there are several fish buyers who lease from him and operate from that location. However, no employment information about them is provided either.

4. Tax revenues and other financial benefits to the City of Homer anticipated in the future if the lease is renewed.

Mr. Faulkner does not provide projections on anticipated tax revenues if a lease is awarded. We can assume that there will be some increases in sales and property taxes if the new commercial development is successful. There is no doubt that the businesses leasing from him generate economic activity and revenue at the Fish Dock and throughout the local economy. But there is no information provided on this. It is unknown what these businesses might generate in fish taxes or sales taxes.

5. Consistency of the past use and intended future use with all applicable land use codes and regulations, the Comprehensive Plan, and Overall economic Development Plan.

As noted above, Mr. Faulkner has not always been in compliance with Title 21, the Homer Zoning Code. Identified problems have included, but are not limited to, ROW encroachments and hosting structures and business without the required permits. He is presently not in compliance with all land use codes. It does appear that his proposed new development and use of the property could be consistent with the Comprehensive Plan, the Economic Development Plan, and the zoning code. However, before a new lease could be issued, Mr. Faulkner would have to come into compliance with all land use regulations and make a successful application for a Conditional Use Permit (multiple primary uses on the same lot). Adequate consideration would also have to be given to parking, new traffic flow patterns, drainage, pedestrian safety, etc.

6. Other opportunities for use of the property that may provide greater benefits to the City of Homer.

At this time, there are no other potential lessees knocking on the City's door asking to lease this land and offering a more attractive development plan. At the same time, not too many people realize that this lot may be available for lease. This is a potentially a very valuable property strategically located at the corner of Fish Dock Road and Spit Road. It is also close to the fish dock and will have frontage on the new Spit Trail extension. This might be one of the most valuable commercial lots in Homer and the development potential is large. On the other hand, the current state of the economy could limit the number of private sector investors. The bottom line is that the City won't know if there are opportunities to obtain greater benefits or what the highest and best use of the property might be unless it seeks competitive bids.

7. Other social, policy, and economic considerations as determined by the Council.

At this time, the staff is not aware of any special social, policy, and economic considerations that would come into play with respect to this application. However, this is a determination that will ultimately be made by the Council, after considering the recommendations of this Committee.

ANALYSIS

The Homer Lease Policies adopted by the City Council strongly favor competitive bidding, equal opportunity for all parties interested in leasing City land, maximizing the benefits of leasing to the City as a whole, and leasing for the highest and best use of the land. For example:

Section 1.1 (B) states: "It is the policy of the City of Homer to lease property when it is in the overall best interest of the City to do so. The City will seek to maximize the value of its assets and lease property for the highest and best use."

Section 3.1 (B) states "It is the policy of the City that public land shall be leased in a way that maximizes the value of City assets, promotes activities and uses that are in the overall best interest of the City, and are consistent with the Comprehensive Plan."

Section 4.1 (A) states: "It is the policy of the City of Homer that a request for proposals, or a competitive bidding process be used for the leasing of City owned property. Exceptions to this policy may be made by the City Council as per Section 10.2 E of these policies and/or under special circumstances. The Council shall review recommendations of the Lease Committee and, if an exception is granted, adopt a resolution finding that it is in the public interest and approving the exception."

Section 11.2 (E) states: "It is the policy of the City that equal opportunities should be provided to compete for leasing available public property. A lessee whose initial lease and all options have expired shall have no automatic right of further renewal or extension. In general, it is the policy of the City that the Lease Committee shall offer such properties to the public through the RFP/competitive bidding process described herein."

Mr. Faulkner has not submitted a complete application to lease as required under 11.2 (F). There is information and detail missing which he acknowledges in his submittal. If this were a proposal submitted in response to an RFP, it would likely either be rejected as non-responsive or the applicant would be asked to provide additional supplemental information. However, the applicant has submitted sufficient information about his proposed development and use of the lot to permit an analysis of his request that the Committee recommend to the Council that he receive a new lease without competitive bidding under Section 11.2 (F).

Section 11.2 (F) sets a pretty high standard for the City Council to meet if it wishes to provide a new lease to the current lessee without a competitive bidding process. The Council must make a specific finding in a resolution that doing so is in the public interest. The evaluation criteria for making such a finding are addressed above.

This reviewer has concluded that Mr. Faulkner's proposal does not meet that standard. I have reached that conclusion for the following reasons:

- The strong preference in the Lease Policies for competitive bidding, equal opportunity to lease public land, maximizing the benefits of leasing to the City, and leasing for the highest and best use of the land.
- Mr. Faulkner does not completely address the standards/criteria contained in 11.2 (F) and consequently, does not make a compelling case for renewal without competitive bidding.
- Mr. Faulkner's proposal is essentially to continue the current use (including use as his primary residence) and to make a relatively modest investment in new, probably seasonal, commercial development similar to what already exists in that area. But he provides little information regarding how that use will benefit the City in terms of taxes, other revenues, jobs, and other social and economic benefits. While there is no objection to this proposal from this reviewer, the City, as trustee and manager of this public land, has an obligation to the landlord, the residents of this town, to seek competitive bids and maximize the benefits generated by the asset. This is particularly true given the location and potential value of this lot.
- Section 11.2 F was written in large part to provide a mechanism by which the Council could renew a lease for a lessee who had an established business which was very successful and provided good returns to the City in terms of taxes, revenues, and jobs. In short, it has to be clearly in the public interest to renew that lease and continue that particular use. It is about the use of the property, not the individual lessee. Mr. Faulkner's case is a little different. His original lease was for fish buying and fish processing. He stopped doing that several years ago but is subleasing to others conducting similar activities. He proposes to continue that use and also to lease land and buildings for other types of commercial activity related to the visitor industry. This is a new proposed use of the land. As such, it is my conclusion that it should have to go through all of the normal review and permitting processes and that it should have to compete against other proposals.

Mr. Faulkner's proposal may turn out to be the highest and best use of the land at this point in time. As noted above, this proposed development appears, upon initial review, like it could be consistent with the Comprehensive Plan, the Draft Spit Land Use Plan, the Draft Comprehensive Economic Development Strategy, and Title 21. However, those determinations will have to be made by the planning staff and the Planning Commission when more detailed plans are submitted and zoning applications are applied for. It also appears on the surface that there might be benefits to the City associated with this proposal but they are not adequately described. In the end, the market will determine if there are more attractive development proposals out there. If the Committee determines that this lot should be made available for competitive bidding, Mr. Faulkner should be encouraged to submit a proposal.

RECOMMENDATION:

It is recommended that the Lease Committee advise the Homer City Council by memorandum that Lot 88-4 be made available for competitive bidding through the RFP process.



CITY OF HOMER
PROPERTY MANAGEMENT
LEASE APPLICATION CHECKLIST

Applicant Name: BRAD FAULKNER

Date Application Received: OCT. 26, 2010

CHAPTER 5: LEASE APPLICATION PROCESS

5.1: POLICY

- A. It is the policy of the City of Homer to provide for a streamlined, standardized, and easily understood lease application process. A full and complete application packet shall be provided to all applicants. Applicants must be qualified under Section 18.08.50 of the Homer City Code:
 - (a) a natural person and is responsible, meaning the applicant has sufficient skill, experience and financial capability to perform all the obligations of the lessee under the proposed lease; and
 - (b) a person who is at least nineteen years of age; or
 - (c) a group, association or corporation which is authorized to conduct business under the laws of the State of Alaska. (Ord. 92-10 (part), 1992). 183 (Homer 06/04)

- B. The City administration will provide for pre-application meetings with all potential applicants to provide relevant information on things like land use regulations, lease policies, the permitting process, and other relevant topics.

5.2 PROCEDURES

A. A responsive lease application / proposal shall include:

- 1. A completed application form provided by the City

YES	NO	N/A	INCOMPLETE
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NOTES:

INFORMATION MISSING. SEE # 7 BELOW.

- 2. Any applicable fees

YES	NO	N/A	INCOMPLETE
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NOTES:

3. A clear and precise narrative description of the proposed use of the property

YES	NO	N/A	INCOMPLETE
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NOTES:

MINIMAL NARRATIVE

4. A specific time schedule and benchmarks for development

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

NOTES:

5. A proposed site plan drawn to scale that shows at a minimum property lines, easements, existing structures and other improvements, utilities, and the proposed development including all structures and their elevations, parking facilities, utilities, and other proposed improvements.

YES	NO	N/A	INCOMPLETE
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NOTES:

PLOT PLAN PROVIDED SHOWING LOCATION OF EXISTING & PROPOSED BUILDINGS & USES. OTHER INFO LIKE UTILITIES, ELEVATIONS NOT PROVIDED.

6. Any other information that is directly pertinent to the proposal scoring criteria contained herein

YES	NO	N/A	INCOMPLETE
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NOTES:

INCOMPLETE INFO ON SCORING & EVALUATION CRITERIA CONTAINED IN CHAPTER SIX, LEASE POLICIES.

7. All other required attachments requested on the application form including, but not limited to, the following documentation: applicant information, plot plan, development plan, insurance, proposed subleases, environmental information, agency approvals and permits, fees, financial information, partnership and corporation statement, certificate of good standing issued by an entity's state of domicile, and references.

- Applicant information
- Plot Plan
- Development Plan
- Insurance
- Proposed Subleases
- Environmental Information
- Agency approvals and permits *N.A AT THIS TIME*
- Financial Information (Financial Statement **REQUIRED**, Surety, bankruptcy, pending litigation are situational.
- Partnership information and a copy of the partnership agreement OR
- Corporation information and a copy of the Articles of Incorporation and Bylaws
- Certificate of good standing issued by the entity's state if domicile
- Appropriate References (Total of 4 persons or firms with whom the applicant or its owners have conducted business transactions with during the past three years. Two references must have knowledge of your financial management history (One of which **MUST** be your principal financial institution) and two must have knowledge of your business expertise).

YES	NO	N/A	INCOMPLETE
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NOTES:

MISSING INFO ON REFERENCES, FINANCIAL INFORMATION, CERTIFICATE OF GOOD STANDING, INSURANCE, COMPANY INFO. IF APPLICABLE.

8. Any other information required by the solicitation or request for proposals.

YES	NO	N/A	INCOMPLETE
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NOTES:

NOT RESPONDING TO AN RFP

Application review completed by *W-WHENE* on *10/28/10*
(date)

Session 10-05 A Special Meeting of the Lease Committee was called to order at 3:05 pm on November 3, 2010 by Chair Shelly Erickson at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMITTEEMEMBERS ERICKSON, HAWKINS, ABOUD, HARVILLE,
ZIMMERMAN AND YAGER

STAFF: CITY MANAGER WALT WREDE
ADMINISTRATIVE ASSISTANT TERRY FELDE
PORT AND HARBOR ADMINISTRATIVE SUPERVISOR LISA ELLINGTON
DEPUTY CITY CLERK RENEE KRAUSE

APPROVAL OF THE AGENDA

HARVILLE/ABOUD – MOVED TO APPROVE THE AGENDA.

The agenda was approved by consensus of the Committee.

PUBLIC COMMENT REGARDING ITEMS ON THE AGENDA (3 Minute Time Limit)

Chair Erickson invited comments from the public for items on the agenda reminding them of the three minute time limit.

Eric Olson, tenant of Brad Faulkner, representative for a large halibut and black cod buyer especially in Homer. He has a long history of renting from Brad and would like to continue doing so. He travels quite extensively between Seward, Anchorage and Homer. Brad has indicated he would provide living facilities if his lease is renewed. He buys a lot of ice and crane time. He is a big supporter of the Auction Block and the Fish Factory who require their business very bad, including the fisherman. He rents year round.

Glen Carroll performs a similar function, a tenant for approximately three years, small mom & pop cod buying operation that deals with one million and one and a half million pounds of product each year. He does no processing on site. The property is ideally located. The location provides the storage he needs. Mr. Carroll further commented that his business provides employment for several people, and keeps a couple of trucks rolling during the time of year there isn't much going on. He rents year round. The cod buying is September through March.

Kevin Hogan, city resident, he has a tremendous respect for Mr. Faulkner they have been fierce competitors but have been able to remain good friends. The concerns he has regarding the staff memorandum and the approach that Brad has had to deal with in renewing his lease, well there appears to be different rules for different fools around here. The last four leases that have come up for renewal, three of them went out to RFP the lessees were allowed to match any bid that came forward and the last one, the Fed-Ex lease was just renewed. Given the track record of Mr. Faulkner's business and what he has done out there in the Harbor I don't think there are many that can actually come close to generating the economic impact that he has had out on the Spit. Most people from town do not realize that just looks like a lot with a bunch of stuff parked on it. It has been a hugely successful venture for the city. Mr. Faulkner has had differences with the City and is not shy of voicing them. One thing about Brad that he has found is that Brad is usually right. He would like to see the same considerations given to Bob's Trophy Charters and Sportsman got by getting the provision to match any bid. No one else bid on those RFP's, it was a courtesy to those businesses. He does not see a lot of people beating down the doors to start a business here and we need to stop running off the ones that we have here. He urges everyone to recommend a renewal for Mr. Faulkner and make it as smooth and effortless as possible.

Chair Erickson thanked them for their testimony.

There was no further discussion.

RECONSIDERATION

There were no items for reconsideration.

APPROVAL OF MINUTES

(Minutes are approved during regular meetings)

None.

VISITORS

There were no visitors scheduled.

STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS

(Chair set time limit not to exceed 5 minutes)

- A. Memorandum from the City Clerk dated October 28, 2010
Re: Meeting Structure of the Lease Committee

Chair Erickson summarized the memorandum regarding time limits for comments and testimony.

There was no discussion on the memorandum.

- B. Staff Report from City Manager Wrede dated November 3, 2010
Re: Brad Faulkner Lease Application
- C. Lease Application Checklist – Faulkner Lease Application

Chair Erickson noted that there was a supplement forwarded via email and a paper copy is available. She inquired if all present had read the information and if there was any questions.

There was no discussion on the reports.

PUBLIC HEARING *(3 minute time limit)*

There were no public hearings scheduled.

PENDING BUSINESS

- A. Lease Proposal for Lot 88-4, Homer Spit Subdivision #2 – Brad Faulkner

Mr. Brad Faulkner thanked the committee for postponing the meeting as he has been out of town all summer. He stated he tried to answer some the questions and concerns listed in the staff report. He believes that his proposal has the perfect mix in development with tourism and commercial fishing. He considers that the three who spoke on his behalf and himself have accomplished more for the City of Homer in the commercial fishing industry over the last 15 years or more than any four guys. He understands the commercial fishing industry needs for office space for support services such as fish buyers. He took his biggest competitor and put them in his building when he got out of the fish buying business. He would like to build a small fish processing building on the lot. He is here mostly to answer any questions from the committee.

Mr. Abboud asked about the lay-down drawing of the proposed site plan whether this was what he was proposing. He asked for clarification of his proposal.

Mr. Faulkner stated he has not changed or added any new information other than some financial information. He further explained that his lease is a one of a kind lease prohibiting him from having any lien against any building, for a fish plant only, which has bumed down. There has never been the opportunity to come in and work a new lease in the middle of existing lease. So he continued with the fish buying, and fish processing in the winter and that has continued.

Mr. Abboud questioned what would be done with the existing structure if Mr. Faulkner proposes a new business or the same use. Mr. Faulkner responded additional structures would be built for subleasing if a new lease is approved. Right now nothing can be done because of the lease. The two story structure is currently being used as his residence. This was the only option available to him under his current lease. Mr. Faulkner responded that he would like to use the highest and best use for the building which may not be a residence. He further stated that he has been in compliance with his lease. He may use the existing building as office space or a B & B, for the immediate few years it would remain as his residence.

Mr. Yager informed those present that with only minimal time to review all the information in the packet, he believed for this committee to make a decision, they would like to know Mr. Faulkner's specific plan for the property. It seems to be pretty up in the air or open ended.

Chair Erickson responded that most of that will be determined during the negotiation process. The Lease Committee reviews the whole package presented and then make a recommendation to Council who then makes the decision to direct the City Manager to enter into negotiations.

Mr. Faulkner responded that the specifics may not be known until the structures are built. He has been approached by a number of people over the years. He does intend to make the property presentable and visually pleasing with adequate parking, a possible boardwalk, etc. He went on further to cite the trouble and time spent by Mr. Hogan with his business. He further commented that the City staff has had a lack of understanding and knowledge on exactly how the fish docks work. His intention is to pull the tourist past the Salty Dawg to visit the businesses situated toward the end of the Spit.

Mr. Hawkins stated that there is question to the Lease Committee whether to send this property out for RFP. Chair Erickson agreed with that but wanted to make sure there were no more questions of Mr. Faulkner.

Mr. Zimmerman questioned if Mr. Faulkner has checked to see if he would be able to obtain a CUP to do what he wanted to do since the zoning was Marine Industrial and his ideas presented may not be allowed. Mr. Faulkner responded that he has not since almost every use would need a CUP. He did not believe that he could responsibly drag a tenant/business through a long process then be turned down.

There were no further questions from the committee.

Chair Erickson then summarized that a recommendation to City Council to send out to RFP or that this was a business, in good standing and in the City's best interest to enter into a new lease with Mr. Faulkner without going through the RFP process.

Chair Erickson explained some of the prior leases and the lots going to RFP with an opportunity for the current lessee to match any bids received.

HAWKINS/ABBOUD - MOVED TO RECOMMEND THAT LOT 88-4 BE MADE AVAILABLE FOR COMPETITIVE BIDDING THROUGH THE CITY OF HOMER'S REQUEST FOR PROPOSAL PROCESS.

Mr. Abboud pointed out that the option to match is stated in the policy and he would be willing to make this amendment and is what was done for the other lessees. The Clerk distributed an excerpt of minutes she requested on the Sport Shed lease proposal. She inquired if the date was known for the RFP because it was a short window of time to submit a proposal for this lot. It was surmised that RFP was sent out between the January and February meetings in 2009.

There was a detailed discussion on the following points by the committee:

- Points of a short term proposal submittal period
- Preventing delays in obtaining a new lease
- Making a motion to allow Mr. Faulkner to match bids received should be specific to the same kind of use as proposed by Mr. Faulkner.
- Allowing a current lessee to match bids presents a deterrent to possible new lessees
- The uniqueness of the previous lots being part of the deciding factors in the previously issued RFPs.
- The lessee is current at this time.

- The highest and best use of the property is arbitrary depending on the person's interest
- The availability of land adjacent or nearby Mr. Faulkner's lot that has had no interest when sent out for RFP on several occasions.
- The property would require a new appraisal

VOTE. NO. ERICKSON, ZIMMERMAN, YAGER.

VOTE. YES. ABBOUD, HAWKINS, HARVILLE

Motion failed.

Mr. Zimmerman would like to make a recommendation to enter into a new lease but include some stipulations to include timelines so this is not drawn out and performance standards regarding development plans.

There was a brief discussion regarding clarification of the previous motion, concern regarding the considerable investment Mr. Faulkner has in the property, possible misuse of the bids by persons with an agenda adverse to the City and Mr. Faulkner, allowing the City to negotiate a new lease with an appraisal and the Council is required to present good reasons why it is in the public interest to enter into a new lease without going through the RFP process.

Further dialogue on what the motion, and issues should be addressed within the new lease or negotiations, discouraging interruption of existing multi-million dollar businesses that are tenants, location to have access to trail, taking an incomplete proposal or business plan and recommending a lease, the duties of the City Manager to negotiate those aspects not the lease committee, consider recommendation made in staff report, no financial statements included; there is and hasn't been interest in surrounding parcels that have been let for RFP; current track record of the lessee and a viable existing business.

Mr. Hawkins read an excerpt from Chapter 4 of the Lease Policy regarding the Public's best interest; he did not see an exception to the lease policy with the proposal.

ZIMMERMAN/YAGER - MOVED TO RECOMMEND COUNCIL ENTER INTO A NEW LEASE WITH MR. BRAD FAULKNER ON LOT 88-4 WITHOUT GOING THROUGH THE RFP PROCESS DUE TO THE FOLLOWING: EXISTING LESSEE WITH A SUBSTANTIAL INVESTMENT IN THE PROPERTY, THERE ARE SIMILAR LOTS AVAILABLE FOR RFP IF ADDITIONAL PUBLIC INTEREST IS SHOWN, AND THE CURRENT ECONOMIC ADVANTAGES WITH THE EXISTING TENANTS. IT IS FURTHER RECOMMENDED THAT COUNCIL USE EXPEDIENCY IN CONCLUDING THE LEASE PROCESS AND IT IS FURTHER RECOMMENDED TO STIPULATE IN THE NEW LEASE PERFORMANCE STANDARDS, AND A COMPLETED APPLICATION TO INCLUDE ALL REQUIRED FINANCIAL DOCUMENTATION.

There was no further discussion.

VOTE. NO. HAWKINS AND ABBOUD.

VOTE. YES. YAGER, ZIMMERMAN, HARVILLE, ERICKSON.

Motion carried.

City Manager Wrede will draft a resolution to go before City Council at the next meeting on November 22, 2010 listing the reasons as cited in the motion above.

NEW BUSINESS

A. Memorandum dated October 21, 2010 from the City Clerk Re: 2011 Meeting Schedule

Chair Erickson read the meeting dates for 2011 as shown in the memorandum.

HAWKINS/ZIMMERMAN – MOVED TO APPROVE THE 2011 MEETING SCHEDULE.

There was no discussion.

The 2011 Meeting Schedule was approved by consensus of the committee.

There was no further discussion.

Chair Erickson then stated that it was not listed on the agenda but informed the committee that a proposal was received for Lot 13B and that a special meeting for November 15, 2010 at 3:00 p.m. if everyone was available she would like to schedule that meeting.

There was a brief discussion on staff performing a compliance review of the proposal and letting the Clerk know so an alternate date can be scheduled if needed. The packet deadline is next Wednesday if they will be meeting on Monday it was determined that if the proposers are not in compliance notice can be sent to them to provide any missing information prior to that date to make it available to the Committee for review prior to the meeting. It was noted that the process went much smoother this time around. The current lessee is on a month to month rental basis.

There was no further discussion.

INFORMATIONAL MATERIALS

- A. Letter dated October 29, 2010 from City Clerk Re: Notification of Appointment
- B. Letter dated October 22, 2010 from City Manager Wrede to Brad Faulkner Re: Special Meeting November 3, 2010
- C. Property Management Policy and Procedures, Chapter 7 – Lease Rental Rates, Item 7.2.A.4
- D. Homer City Code Title 18, Section 18.08.030 Approval of Lease, Paragraph (b)
- E. Section 4: The Open Meetings Act as It Applies to Planning Commissions excerpt from City Attorney Training for the Homer Advisory Planning Commission.

Chair Erickson explained that she requested items C and D as it is relevant information for dealing with the proposal from the Kachemak Bay Wooden Boat Society. It explains what is required for a proposed lease for less than the fair market value.

She attended the training session for the Planning Commission and felt that the section on meetings was very interesting and offered some explanation what meetings fall under the open meetings act and require notification.

There was no further discussion.

COMMENTS OF THE AUDIENCE

Mr. Kevin Hogan welcomed Mr. Yager to the committee. He felt he was a wonderful addition to the committee. He commented, "Hats Off to Renee, she's amazing as usual."

Mr. Faulkner thanked the Committee for their time and postponing the meeting for him and the consideration shown to him.

COMMENTS OF THE CITY STAFF

City Manager Wrede commented that during a discussion with Mr. Abboud about providing a staff support for the committee. The discussion included establishing some processes such as staff report with reviews of the submitted proposals for compliance. There should be a deadline when the proposals are due prior to packet day. He noted the trouble Mr. Chapple had trying to ferret out what documentation was required has brought it to light that process improvement is needed.

Chair Erickson commented that a city liaison would be great to assist new businesses navigate the Lease process in the future.

A brief discussion on establishing an area or areas designated specifically for short term, temporary businesses without having to go through the whole lease proposal process would be extremely beneficial; the authority of the city manager signing short term, up to six month leases without council approval; amending the lease policies and other documents the dictate the established processes; establishing a summer or transient lease, for set fees, with no approval by lease committee or council required.

Chair Erickson requested this discussion to be added to the agenda for the special meeting.

COMMENTS OF THE COUNCILMEMBER *(If one is appointed)*

There were no comments.

COMMENTS OF THE CHAIR

Chair Erickson thanked everyone for their hard work and announced the next regular meeting will be Thursday January 13, 2010 at 3:00 p.m. There will be a Special Meeting on Monday November 15, 2010, at 3:00 p.m. unless changed.

COMMENTS OF THE COMMITTEE

Mr. Hawkins stated that the Proposal for Lot 13B was supposed to be on this agenda and it got dropped from the agenda so he wanted to let the other members know they were not showing special considerations to the proposer. He welcomed Terry and thanked him for serving, pleasure having him here.

Mr. Yager is glad to be here and hope he is not slowing down anybody during his learning period. It is a daunting responsibility.

Mr. Abboud explained his voting when he has been on a body it is generally put out to RFP and to have a person out there with a very successful business, and assuming it gets approved he looks forward to working with Mr. Faulkner to make it happen.

Mr. Zimmerman welcomed Terry and thanked everyone for putting up with his inarticulate motion and voting in favor of it.

ADJOURN

There being no further business before the Lease Committee Chair Erickson adjourned the meeting at 4:45 p.m. A special meeting is scheduled for 3:00 p.m. on November 15, 2010 and the next regular meeting is scheduled for 3:00 p.m. January 13, 2011 at City Hall, Cowles Council Chambers, 491 E. Pioneer Avenue, Homer, Alaska.

Renee Krause, Deputy City Clerk I

Approved: _____

NEW BUSINESS

RESOLUTIONS

CITY OF HOMER
HOMER, ALASKA

City Manager/
Public Works Director

RESOLUTION 10-92

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, AUTHORIZING THE PURCHASE OF A 2-STAGE SNOW BLOWER ATTACHMENT, UTILIZING GENERAL FUND MONIES PREVIOUSLY APPROPRIATED IN THE AMOUNT OF \$124,105.

WHEREAS, In 2009, \$125,000 was approved for the purchase of a replacement 2-stage snow blower attachment to replace one of the City's 25+ year old units (Ord. 09-16); and

WHEREAS, Due to 2009 General Fund cash flow concerns, this equipment purchase was put on hold last year; and

WHEREAS, The ability to dependably provide for snow removal is jeopardized by continued deterioration of the City's existing old snow blowers; and

WHEREAS, Public Works has secured competitive quotes from three manufacturers for the replacement equipment; and

WHEREAS, Public Works has reviewed these bids and determined that the lowest quote provides a blower best suited for the City's needs.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, authorizes the purchase of a new 2-stage snow blower attachment in the amount of \$124,105, and authorizes the City Manager to execute all appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 22th day of November, 2010.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: 156-395; \$124,105



**CITY OF HOMER
PUBLIC WORKS DEPARTMENT**

Jan C. Jonker, Superintendent
3575 Heath St.
Homer, Alaska 99603

Telephone: (907)235-3170
Fax: (907)235-3145

EMAIL: jjonker@ci.homer.ak.us

MEMORANDUM 10-140

To: Walt Wrede, City Manager

From: Jan Jonker, Public Works Superintendent

Jan CSM

Thru: Carey Meyer, PW Director

Date: Monday, November 01, 2010

Subject: Snow Blower Attachment Purchase

Discussion

In 2009 \$125,000.00 was approved for the purchase of a replacement large snow blower attachment to replace one of our 25+ years old existing units. Due to General Fund shortages in 2009 this equipment purchase was put on hold for 2009.

On October 08, 2010 three heavy equipment dealers were contacted and requested to provide written quotes for this equipment. Quotes for the base unit were requested and received from;

Craig Taylor Equipment, Soldotna, AK	\$117,905.00
Construction Machinery, Inc., Anchorage, AK	\$152,249.00
Yukon Equipment, Inc., Anchorage, AK	\$217,000.00

These proposals were reviewed for conformity with our request, available budget and which unit will best fit our needs. A comparison spreadsheet of these units is attached.

Review Results

- Craig Taylor Equipment
 - D50 Larue
 - Machine meets specifications and is within budget.
- Construction Machinery, Inc.
 - Tenco TCS-172
 - Machine is too small. Not heavy duty for our needs.
 - Tenco TCS-202
 - Machine meets specifications.
 - Exceeds budget by \$27,000+

- Yukon Equipment, Inc.
 - M-B H-2000
 - Machine exceeds specifications.
 - Machine is too heavy for our front end loaders @ 14,000 lbs
 - Exceeds budget by \$92,000

Recommendation

Based upon review of the proposals and available budget the following recommendations are made.

1. Approve the purchase of this base equipment to Craig Taylor Equipment, 44170 K-Beach Rd., Soldotna, AK 99669 in for the base unit in the amount of \$117,905.00.
2. In addition to the base unit purchase, also include the following optional items.
 - a. Torque limiter override for augers - \$4,950.00
 - b. Carbide scraper blade - \$1,250.00

The total award and purchase for this equipment for the base unit and options is **\$124,105.00.**

Fiscal Note

Account No. 156-395 Public Works Reserves includes \$125,000.00 for this equipment purchase

2010 Front End Loader Mounted Snow Blower Comparison Summary

	Yukon Equipment Anchorage, AK Roger Morris - 677-5730	Craig Taylor Equip. Soldotna, AK Steve Irvine - 262-5977	Construction Machinery Anchorage, AK Kirk Currey - 244-7154	Construction Machinery Anchorage, AK Kirk Currey - 244-7154
Make	M-B Companies, Inc. Chilton, WI	J.A. Larue Inc. Lenoir, Quebec	Tenco Machinery Ltd. St.-Valerien-de-Milton, Quebec	Tenco Machinery Ltd. St.-Valerien-de-Milton, Quebec
Model	M-B H-2000	D50 Larue	Tenco TCS-172 LMM	Tenco TCS-202 - LM
Engine	Caterpillar C-7 / 300 HP	Caterpillar C-7 / 300 HP	Cat C-7 / 250 HP	Caterpillar C-7 / 275 HP
Exhaust	Residential muffler	Residential muffler	Residential muffler	Residential muffler
Capacity	2000 TPH	2400 TPH	1800 TPH	2750 TPH
Operating Weight	14,000 lbs	9,500 lbs	7,950 lbs	9,300 lbs
Fuel Capacity	100 gal tank / 8-10 hours operation	90 gal tank - 10 hours operation	90 gal tank - 10 hours operation	90 gal tank - 10 hours operation
Cast Distance	120 feet side chute / 40 feet truck chute	150 feet side chute / 40 feet truck chute	150 feet side chute / 40 feet truck chute	150 feet side chute / 40 feet truck chute
Cutting Height	58 in.	58 in.	50 in.	54 in.
Cutting Width	113 in. (9.4')	112 in. (9.3')	102" (8.5')	102" (8.5')
Drive Type	hydrostatic / reversible ribbon & impellar	mechanical drive w/ 2-disc clutch, roller	over-center clutch / chain & gear reduction	
Auger Type	38" single ribbon	2-20" serated / shear pin	2-16" serated / shear pin	2-20" serated / shear pin
Impeller Type	46" single w/ replacable blades	40" single w/ 5 blades	34" single w/5-bolt on impellar blades	38" single w/5-bolt on impellar blades
Impeller Protection	shear bolt	shear bolt	2-set shear bolts	2-set shear bolts
Skid Shoes	carbide available	carbide available	carbide available	carbide available
Truck Load Chute	optional	standard 139" height	13"d hydraulic	17" d hydraulic
Work Lights	2 each	4 - each (2-chute/2-front)	2 each	2 each
Master Switch	yes	yes w/ emergency stop	yes	yes

Female Quick Coupler	yes	included	yes	yes
Cab Controls	yes	yes / joystick	yes	yes
Delivery Est.	120 days ARO	8 weeks ARO	45 days ARO	4 weeks ARO
Warranty	1-year / on-site install, start up and factory training			
	1-year blower / 2-years Cat	1-year from delivery	1-year from delivery	1-year from delivery
Basic Cost	\$ 218,000.00	\$ 117,905.00	\$ 125,431.00	\$ 152,249.00
	Yukon Equipment	Craig Taylor Equip.	Construction Machinery	Construction Machinery
	too heavy / over budget	meets specs / within budget	too small/light / not heavy duty	meets specs / over budget
Options Add				
18" telescope chute	\$	6,745.00		
Carbide scraper blade	\$	1,250.00		
Load chute w/ carbide wear plates	\$	2,850.00		
Impeller case carbide wear plates	\$	2,950.00		
Torque limiter override for augers	\$	4,950.00		
Control box for 2nd loader	\$	4,350.00		
	\$	<u>23,095.00</u>		



**CITY OF HOMER
PUBLIC WORKS DEPARTMENT**

Jan C. Jonker, Superintendent
3575 Heath St.
Homer, Alaska 99603

Telephone: (907)235-3170
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EMAIL: jjonker@ci.homer.ak.us

MEMORANDUM 10-152

To: Walt Wrede, City Manager
From: Jan Jonker, Public Works Superintendent
Thru: Carey Meyer, PW Director *CSM*
Date: Monday, November 29, 2010
Subject: PW Snow Blower Purchase

Discussion

As you are aware Public Works has recommended the purchase of a replacement snow blower. This blower will replace our old 1986 blower.

Our recommendation was based upon soliciting bids from three (3) qualified heavy equipment dealerships. These dealerships are well established in Alaska and have successfully done business with the State and other municipalities. There are a limited number of manufacturers and a limited number of Alaska dealerships that can provide and service this type of equipment. Public Works contacted these dealerships with an RFP (per COH Procurement Policy & Procedures Manual, Section 3.16.110 – Competitive Sealed Proposals – Negotiated Procurement). This RFP included minimum specifications and requested that they provide written quotes for this purchase. The successful low bidder provided a government discount as a part of their bid.

The equipment proposed by each dealership is produced by a different manufacturer and has different capabilities, design and cost. Public Works introduced a competitive aspect to the procurement by soliciting three bids through a RFP process. In the end, this is a sole-source procurement, as there is only one available source for each piece of equipment.

The Procurement Policy & Procedures Manual, Section 3.16.060, Exceptions to Bidding Requirements, authorizes an exception to public advertising under 3.16.060 I, Sole Source Procurement. There are no local dealerships that can provide and service this type of equipment.

This is the same procedure that we have followed for several of our other large equipment purchases including the road grader in 2002 and our recent purchase of the new street sweeper in 2009.

Recommendation

Approve the sole source purchase of the new snow blower to Craig Taylor Equipment Co., Soldotna, AK in the total amount of \$124,105. This purchase includes the base machine at \$117,905.00 plus the torque limiter override for augers; \$4,950 and carbide scraper blade: \$1,250.

Craig Taylor Equipment Company

44170 K-Beach Road
Soldotna, Alaska 99669



907-262-5977 / 800-254-5977
Fax: 907-262-9516

PROPOSAL

To:	City Of Homer / Public Works Dept.	Date	October 21, 2010
	3575 Heath St.	F.O.B.	Homer, AK
	Homer, AK. 99603	Delivery	Approximately 8 weeks
	Aftn: Jan Jonker	Terms	Cash Or Approved Credit

WE ARE PLEASED TO OFFER THIS PROPOSAL AS FOLLOWS, SUBJECT TO APPROVED TERMS AND CONDITIONS

Quantity	Description	Each	Total
1	New Larue D50 Snowblower Powered by Cat C7 275 HP diesel engine Operating capacity up to 2,750 tons per hour Minimum casting distance of 150' Cutting width of 112" Standard loading chute 139" height Control panel located inside of cab Fuel / water separator Female quick coupler to match City of Homer loader 90 gallon fuel tank for 10 hours of operation Impeller and auger protection- shear pin 2 work lights on chute and 2 on front (halogen) Master switch Emergency stop button in cab and on cowling Residential muffler Standard side casting operated by hydraulic cylinder Purchase price.....		\$ 117,905.00
	See attached page 2 for optional items that are available		
		Total:	\$ 117,905.00

ENTER OUR ORDER FOR THE ABOVE:

PURCHASER _____
 BY: _____
 TITLE _____
 DATE _____

CONDITIONS:

Prices are subject to change and will be those in effect at time of delivery.
 Delivery date is based upon our existing stock or a promise given by our supplier and is subject to delay for conditions beyond our control.

CRAIG TAYLOR EQUIPMENT COMPANY

By Steve Irvine
 Steve Irvine / Sales Rep.

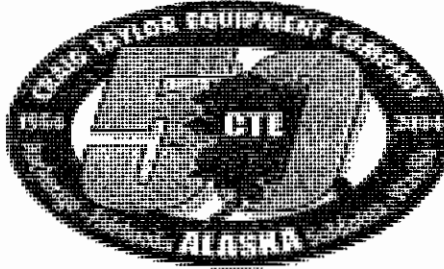
THANK YOU FOR YOUR BUSINESS!

email: sol.sales@craigtaylorequipment.com

www.craigtaylorequipment.com

Craig Taylor Equipment Company

44170 K-Beach Road
Soldotna, Alaska 99669



907-262-5977 / 800-254-5977
Fax: 907-262-9516

PROPOSAL

To: City Of Homer / Public Works Dept.	Date	October 21, 2010
3575 Heath St.	F.O.B.	Homer, AK
Homer, AK. 99603	Delivery	Approximately 8 weeks
Attn: Jan Jonker	Terms	Cash Or Approved Credit

WE ARE PLEASED TO OFFER THIS PROPOSAL AS FOLLOWS, SUBJECT TO APPROVED TERMS AND CONDITIONS

Quantity	Description	Each	Total
	New Larue D50 Snowblower available options:		
	18" telescoping chute. Raises chute up to 154" loading height.....	\$ 6,745.00	\$ 6,745.00
	Carbide scraper blade.....	\$ 1,250.00	\$ 1,250.00
	Loading chute with chromium carbide wear plates.....	\$ 2,850.00	\$ 2,850.00
	Impeller casing with chromium carbide wear plates.....	\$ 2,950.00	\$ 2,950.00
	Torque limiter device that overrides when debris, overload or impact of foreign objects are obstructing the front augers. Torque limiter replaces sheer flange.....	\$ 4,950.00	\$ 4,950.00
	Extra control panel and brackets to go in second loader..... Installation not included in price	\$ 4,350.00	\$ 4,350.00
		Total:	\$ 23,095.00

ENTER OUR ORDER FOR THE ABOVE:

PURCHASER _____
BY: _____
TITLE _____
DATE _____

CONDITIONS:

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CITY OF HOMER
HOMER, ALASKA

City Clerk/
Parks and Recreation
Advisory Commission

RESOLUTION 10-96

A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA, AMENDING THE PARKS AND RECREATION
ADVISORY COMMISSION BY-LAWS TO ESTABLISH THE
TIME OF 5:30 P.M. AS THE REGULAR MEETING TIME.

WHEREAS, The Parks and Recreation Advisory Commission acts in an advisory capacity to the City Manager and the City Council; and

WHEREAS, The Parks and Recreation Advisory Commission meetings regularly start at 6:30 p.m. and depending on the Agenda the meeting can run late into the evening; and

WHEREAS, The Parks and Recreation Advisory Commission recommend adjusting the regular meeting times in order to provide a more consistent and efficient meeting schedule; and

WHEREAS, The Parks and Recreation Advisory Commission introduced the amendment at a Special Meeting held October 25, 2010 and took final action to approve the amendment at the Regular Meeting on November 18, 2010; and

WHEREAS, The Parks and Recreation Advisory meetings will be held monthly May through September and bi-monthly October through April with regular meetings the third Thursday of each month at ~~6:30 p.m.~~ **5:30 p.m.**

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, amends the Parks and Recreation Advisory Commission to establish 5:30 p.m., as the Regular Meeting time.

PASSED AND ADOPTED BY THE HOMER CITY COUNCIL this 13th day of December, 2010.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: N/A

Office of the City Clerk

Jo Johnson, CMC, City Clerk

Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM 10-162

TO: MAYOR HORNADAY AND CITY COUNCIL
FROM: PARKS AND RECREATION ADVISORY COMMISSION
DATE: NOVEMBER 18, 2010
RE: REGULAR MEETING TIME CHANGE

Background

The Parks and Recreation Advisory Commission discussed changing the regular meeting time from 6:30 p.m. to 5:30 p.m. at the Special Meeting held October 25, 2010 and their Regular Meeting on November 18, 2010. Following is excerpts from those meetings.

Special Meeting
October 25, 2010

NEW BUSINESS

A. Proposed Change in Meeting Time

A brief discussion was held regarding the proposed meeting time change from 6:30 p.m. to 5:30 p.m. it was noted that this proposed change to the bylaws is to be introduced at a meeting then action taken at the next meeting of the commission.

The commissioners present expressed comments in favor of changing the time of the regular meetings.

There was no further discussion.

Regular Meeting
November 18, 2010

PENDING BUSINESS

- C. Change in Meeting Time
1. Staff Report dated November 8, 2010
 2. Draft By-Laws showing Meeting Time Change
 3. Draft Resolution 10-XX, Amending the Meeting Time

Chair Bremicker introduced the materials. Planning Technician Engebretsen stated that the Commissioners discussed the meeting time change at the last meeting and a motion is required to make the change and submit to Council for final approval.

CARLINSCHAUER/LILLIBRIDGE - MOVED TO CHANGE THE REGULAR MEETING TIME OF THE PARKS AND RECREATION ADVISORY COMMISSION TO 5:30 P.M.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Recommendation

Recommend approval of the proposed time change to the regular meeting schedule of the Parks and Recreation Advisory Commission.

Session 10-03, a Special Meeting of the Parks and Recreation Advisory Commission was called to order by Chair Bremicker at 5:30 p.m. on October 25, 2010 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BREMICKER, HARRALD, BRANN, CARLINSCHAUER, CUMMING

ABSENT: COMMISSIONER ARCHIBALD (EXCUSED), DICKERSON (RESIGNED)

STAFF: PLANNING TECHNICIAN JULIE ENGBRETSSEN
RECREATION SPECIALIST/COMMUNITY SCHOOLS COORDINATOR MIKE ILLG
PARKS MAINTENANCE COORDINATOR ANGIE OTTESON
DEPUTY CITY CLERK I RENEE KRAUSE

APPROVAL OF THE AGENDA

BRANN/HARRALD - MOVED TO APPROVE THE AGENDA.

The agenda was approved by consensus of the Commission.

APPROVAL OF MINUTES

(Minutes are approved during Regular Meetings.)

There were no minutes for approval.

PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA

There were no public comments.

VISITORS

The Kachemak Bay Wooden Boat Society is postponed to November 18, 2010 Regular Meeting.

RECONSIDERATION

There were no items scheduled for reconsideration.

STAFF AND COUNCIL REPORTS/COMMITTEE REPORTS/BOROUGH REPORTS

Mike Illg updated the Commissioners on the following:

1. A Memorandum of Agreement is being drawn up between the City and Jack Gist Park Association, comprised of Adult Softball League, Homer High School Softball, Homer Little League and Disc Golf. This is a work in progress.
2. The gate and drainage is in progress, there were monies appropriated by Council along with Grant monies received. The gate is to be placed at the entrance to the park to control entry into the park to control vandals. There has been vandalism already done to the water holding tank that was purchased by the Adult Softball League had purchased this to water the field. Due to the isolated conditions the park will be off limits when not in use to vehicle traffic. Keys will be distributed to members of the association and the city personnel. There is a turn-around access for vehicles who do visit the park when it is closed. It was recommended to install signage that will indicate whether the park is open or closed. Drainage will probably be addressed in the spring.
3. Karen Hornaday Park - he is working on organizing an informal meeting to include all users to discuss what is actually wanted for the playground in the park, fundraising efforts, volunteer base to establish a new playground. The current funds have been allocated to drainage issues and parking lot which is ADA Accessible. There are minimal funds available as seed money to parlay into grants for new equipment. Mr. Illg commented on the work done by Soldotna on Riverfront Park.

4. He has been given the green light by the City Manager to perform a Parks and Recreation Needs Assessment. He would like the participation of the commission and additional entities and the public as required. He would like the support from the Commission to perform this assessment. This will be a comprehensive project that will be very important to the future of parks, recreation, trails and sports organizations in this area. The Needs Assessment will cover all aspects of parks and recreation to include:

- a. what the city currently has
- b. how it operates
- c. how is it funded
- d. what we would like to have
- e. what are the funding options
- f. what are people willing to pay for
- g. would the assessment cover just city residents or encompass the surrounding area
- h. establishment of a recreational service area if supported
- i. he would coordinate the assessment - he has never done this type of thing but he will be starting a graduate program in public administration and he has consulted the instructor on conducting this assessment.
- j. there may be some minimal costs conducting this assessment; much will be conducted with volunteers and donations.
- k. requires participation and support including advertisement for this assessment

Commissioner Brann inquired what the proposed timeline would be for this project. Mr. Illg responded that 12-18 months from inception to completion including formulating a survey, compiling results, etc.

There was a brief discussion regarding additional participation by members of the different groups that would be approached; and multiple ways to perform a needs assessment. Mr. Illg acknowledged that it is not always recommended to impose a special tax in a down economy but when times are tough the budget to get reduced first is the parks and recreation budgets. It was agreed that the time frame is realistic for conducting the assessment. However, it would be great if it happened quicker.

The structure of how to handle or establish a committee was discussed and the action or participation required of the Commission. Planning Technician Engebretsen suggested a Steering Committee organized by Mr. Illg. Chair Bremicker requested that the term or phrase "stakeholder" not be used when soliciting for volunteers or members. Further discussion included the need to have a good core group of people involved in the project and naming the project.

HARRALD/CARLINSCHAUER - MOVED TO SUPPORT A PARKS AND RECREATION NEEDS ASSESSMENT FOR THE CITY OF HOMER AND SURROUNDING AREAS. THE CONTENT OF WHICH TO BE UNDER THE OVERSIGHT OF RECREATION COORDINATOR MIKE ILLG.

At this time since it is not formally on the agenda but done under Staff Reports and the green light has been given by the City Manager no formal motion of support is required. Mr. Illg just felt it would be better to include the Commission since they are advisory to the Council on these matters.

The motion to fully support the Parks and Recreation Needs Assessment by Approved by Consensus of the Commission.

There was further discussion regarding a hand out distributed by Commissioner Brann of recreational related entities and businesses. The listing can be added and the commissioners were encouraged to add to the listing. It was suggested to contact those on the list and see if they would like to appear and speak to the Commission and since there are limited meetings schedule up to 3 and allow 5 minutes or so of time to present the Commission with information, wants, needs, etc. Commissioner Harrald will get that in motion. Notice of attendance must be provided to Staff or the Clerk so the agenda can be prepared appropriately.

There was no further discussion.

Parks Maintenance Coordinator Angie Otteson reported on the following:

1. She inquired about the status of the gate for Jack Gist Park with Public Works and they are waiting on the contractor to perform some work but installation is scheduled to be completed before the ground freezes.
2. A Park Walk Through was discussed and the Commissioners agreed to meet November 18, 2010 at 4:00 p.m. Karen Hornaday Park and Bayview Park prior to the regular meeting. It was noted that Karen Hornaday was in dire need of attention. The playground was community built several years ago and most of the driftwood has rotted and been removed. Bayview Park is excellent for small children since it was fenced. Ms. Otteson mentioned that there was interest and grants available to install equipment that is user friendly to younger children. All funding and installation must be accepted by City Council.
3. The new website will have information for all the parks in the City.
4. Camping Revenues increased by \$7700 for the Spit Camping and \$2400 for Karen Hornaday. There were actually fewer campers but they stayed longer. It was noted that parking fees on the spit were the Port & Harbors. This Commission actually has no budget and if any monies are needed they must solicit City Council for funding.
5. The Spit Plan comments have been improving the facilities and adding more. Plus keeping the open and green spaces. The park/campground near the Lagoon is a big revenue maker.
6. A tree inventory was conducted by a firm out of Anchorage. Most of the species are mountain ash and blue Colorado spruce in the City parks. They are approximately worth \$300,000.00. The workshop held covered how to prune and plant trees.

There was no further discussion.

PUBLIC HEARINGS

No public hearings were scheduled.

PENDING BUSINESS

- A. Spit Comprehensive Plan - Draft dated September 15, 2010
Review and Discussion on the Proposed Recreational and Park Goals for the Spit.

The draft plan in the packet was incorrect a newer draft dated September 28, 2010 was distributed by Planning Technician Engebretsen.

Commissioner Brann opened discussion by giving an overall view of the plan is quite good, lots of vision to it. He would like to see added interpretive signage where it would explain what a Tsunami is, not just warning signs, explaining what the sirens are; examples of what city he visited has a "cow siren" that is used as the practice or testing siren. That way residents can tell the difference. He then addressed developing bike trail further down the Spit in the heavily populated section. He noted the wide shoulder from Mariner Park to the Light House.

A discussion regarding the hazards of pedestrian crossing in that area where line of sight is extremely limited. A designated crosswalk at the entrance, and relocating the entrance to Mariner Park. It was noted that constructing a tunnel or expanding the bike path was not looked upon favorably by the Public however they did approve of moving the entrance. Discussion ensued on the benefits of moving the entrance, DOT approving a crosswalk, and installation of signage to make visibility to motorists and reducing the speed in that area. Commissioner CarlinSchauer would fully support a reduction in speed after the entrance was relocated. Chair Bremicker noted the hazards at the intersection of Spit Road and Kachemak Drive and to just extend the 35 mph speed to past the entrance. It was noted that reduction in speed may be a revenue producer if monitored when changed.

Additional topics discussed were the following:

1. Restrooms in Mariner Park - regular restroom would require lift station since uphill for sewer.
2. The plan is a guideline for the future development of the Spit it is not a detailed document that would address such details as discussed for restrooms.

3. Relocating the Harbormasters Office to the other side of the Harbor. This would allow the start of developing the required infrastructure for that side of the spit.
4. Developing the area around Pier One Theater as a park and gathering place and a landmark plaza and drop-off zone on the current Harbormaster's Office site is a really good idea.

A brief discussion on the City of Seward outdoor pavilion is really nice modeled after an old fashion train station. It was noted by Staff that a new harbor office is high on the CIP listing and they may be willing to have it relocated. Commissioners discussed the benefits of relocating the harbor office would generate the infrastructure needed to develop that side of the spit.

Commissioner Cumming arrived at 6:32 p.m.

Commissioner Harrald was concerned that there was more focused on the parking in comparison to the green and open spaces. She noted that the same people came to the meetings and she was surprised that even the businesses on the Spit did not come to the public meetings. She has researched other beach parks in the Lower 48 and even accepting that the City does not have the funding, but to not even consider it for the future is a bit discouraging for her. Commissioner Harrald noted that the existing parks are downplayed. None are prioritized.

Chair Bremicker noted that the Spit in other towns would be mostly industrial, but here it is a mix of marine industrial, commercial, residential, and recreational. The public walking on the beach do not come to the meetings but you visit the spit and they are walking the beach under the assumption that it will always be available. People come here for the fish and view, any harm and it would cut the city's throat.

It was noted that parks and recreation is not a high priority on the city's list. When looking to save money they look to parks and recreation first. The City of Seward implemented a plan to make parks and recreation a priority. They purchased land and made it available for camping providing revenue for the city. Doing this generates close to half a million dollars each year which provides revenue and jobs for Seward. This also encourages people to visit Seward and to come back each year too. If Homer addresses this especially in this economy it would benefit the city. The more money that comes into Homer provides for the residents who live here year round also.

It was noted that public comments received were in favor of keeping the existing parks and camping on the spit. But here was a proposal to giving up some campsites to the Wooden Boat Society. A brief discussion on the areas suitable for RV camping on the Spit and increased problems with safety hazards and congestion this would promote followed. As time goes on and the city budget gets smaller the City wants to know where the revenue comes from to support the parks and recreation for locals and visitors alike. It is apparent that this Commission should support keeping a hold on all revenue producing areas.

A dialogue was held on the benefits to the city to leasing the land or operating the campgrounds themselves.

Commissioner CarlinSchauer commented on the need to clean up the Spit before trying to increase revenue. This is a priority to him being a newcomer to the city. He strongly believes that cleaning the Spit up would bring more revenue. He compared the area to Switzerland in beauty but the junk that has been allowed to accumulate and not addressed is unbelievable. The junk cars and boats should be addressed.

Additional dialogue on the following:

- a. designation on the city owned land around the ice rink is owned by English Bay.
- b. creating a destination feel to the cruise ship area
- c. constructing a pedestrian trail/walking path from the cruise ships

- d. connecting the different boardwalks making that an experience in itself gets the cars off the road and keeps the people out of traffic.
- e. making the walkways themed, interesting - such as Homer is cited as the Art Community so put art there.
- f. this would reduce safety issues.

NEW BUSINESS

A. Proposed Change in Meeting Time

A brief discussion was held regarding the proposed meeting time change from 6:30 p.m. to 5:30 p.m. it was noted that this proposed change to the bylaws is to be introduced at a meeting then action taken at the next meeting of the commission.

The commissioners present expressed comments in favor of changing the time of the regular meetings.

There was no further discussion.

B. Kachemak Drive Bike/Pedestrian Path

Chair Bremicker stated he had to leave to attend a prior commitment and left the meeting at 6:55 p.m.

Commissioner CarlinSchauer stated he actually had another commitment and would have to leave which would leave them with no quorum.

HARRALD/CUMMING - MOVED TO POSTPONE THE NEW BUSINESS ITEM B. KACHEMAK DRIVE BIKE/PEDESTRIAN PATH TO THE NEXT REGULAR MEETING.

There was no discussion.

The motion to postpone to the next regular meeting was approved by consensus.

INFORMATIONAL MATERIALS

- A. Letters of Congratulations and Appointment to Thomas CarlinSchauer, Robert Archibald and Dave Brann dated September 15, 2010.
- B. City Council Budget Schedule

There was no discussion on the informational materials.

COMMENTS OF THE AUDIENCE

There were no audience comments.

COMMENTS OF STAFF MEMBERS

There were no staff comments.

COMMENTS OF THE COUNCIL MEMBER *(if one is assigned)*

None.

COMMENTS OF THE COMMISSION

Commissioner Brann, Harrald, and CarlinSchauer had no comments.

Commissioner Cumming expressed why she arrived late to the meeting. She attended the Council meeting that started at 6:00 p.m. and she thought their meeting started at 6:30 p.m. She additionally felt that there was going to be a lot things on the agenda next month and expressed concerns about be able to address all the items.

COMMENTS OF THE CHAIR

None.

ADJOURN

There being no further business to come before the Commission Vice Chair HarraId adjourned the meeting at 7:15 p.m. The next regular meeting is Thursday, NOVEMBER 18, 2010 at 6:30 p.m. at the City Hall Cowles Council Chambers.

RENEE KRAUSE, CMC, DEPUTY CITY CLERK I

Approved: _____

PARKS AND RECREATION ADVISORY COMMISSION

The Homer Parks and Recreation Advisory Commission is established with those powers and duties as set forth in Title 1, Section 74, of the Homer Municipal Code.

The Commission is established to act in an advisory capacity to the City Manager and the City Council on the problems and development of parks and recreation facilities and public beaches within the City.

The Commission's jurisdiction is limited to the area within the City Boundaries except for those extra territorial interests, such as trails and city properties, subject to city jurisdiction.

The Homer Parks and Recreation Advisory Commission consists of seven members; up to three members may be residents from outside the city limits, preference shall be given to City resident applicants.

Members will be appointed by the Mayor for three-year terms (except to complete terms) subject to confirmation by the City Council.

One Homer area High School student selected by his or her student body shall serve as a consulting member of the Commission in addition to the seven appointed members, and may attend and participate in all meetings as a consultant, but shall have no vote. (Ord. 99-04, 1999)

There will be regular monthly meetings of the Commission May through September and every other month meetings October through April. Permanent records or minutes shall be kept of the proceedings. The minutes will record the vote of each member upon every question. Every decision shall be filed in the office of the City Clerk and shall be public record open to inspection.

History

The By-laws were passed by the Parks and Recreation Advisory Commission on October 20, 1983 by the Homer City Council on February 13, 1984, and shall be in effect and govern the procedures of the Commission.

The duties and responsibilities of the Commission are:

A. Act in advisory capacity to the City Manager and the City Council on the problems and development of park and recreation facilities and public beaches in the city. Consideration may include existing facilities, possible future developments and recommendations on land use.

B. Consider any specific proposal, problem or project as directed by the City Council.

BY-LAWS

- A. To abide by existing Alaska State Law, Borough Code of Ordinance, where applicable, and Homer Municipal Code;
- B. To abide by Robert's Rules of Order, current edition, in so far as this treatise is consistent with Homer Municipal Code.

C. Regular Meetings:

1. Third Thursday of each month May through September and every other month October through April at ~~6:30~~ **5:30** p.m. (Ord.09-32).
2. Items will be added to the agenda upon request of staff, the Commission or a Commissioner.
Agenda deadline is the Wednesday of the week preceding the meeting date at 5:00 p.m. (Resolution 06-95).
3. Removing items from the published agenda will be by consensus of the Commission. No items may be added.

D. COMMITTEES

1. The Chair shall appoint committees for such specific purposes as the business of the Commission may require. Committee membership shall include at least two Commissioners. Other Committee members may be appointed from the public.
2. One Committee member shall be appointed Chair and be responsible creating an agenda and notifying the City Clerk of meetings so they may be advertised in accordance with Alaska State Law and Homer City Code.
3. One Committee member shall be appointed responsible for furnishing summary notes of all Committee meetings to the City Clerk.
4. Committees shall meet in accordance with Commission bylaws and Robert's Rules.
5. All committees shall make a progress report at each Commission meeting.
6. No committee shall have other than advisory powers.
7. Per Roberts Rules, upon giving a final report, the Committee is disbanded.

E. COMMISSION MEETING PUBLIC COMMENT/TESTIMONY AND AUDIENCE COMMENT TIME LIMITS

The meeting Chair shall note for the audience's benefit that there is a three minute time limit each time there is a place in the agenda for public comment/testimony or audience comments.

Any individual wishing to address the Commission shall adhere to a three minute time limit. It is the responsibility of the Chair to announce under Public Comments, Public testimony on public hearing items and Audience Comments that there is a 3 minute time limit.

Time limits may be adjusted by the 2 minutes up or down with the concurrence of the body in special circumstances only such as agenda content and public attendance.

F. SPECIAL MEETINGS:

1. Called by Chair or majority of the Commission.

G. DUTIES AND POWERS OF THE OFFICERS:

1. A Chair and Vice-Chair shall be selected annually (November meeting) by the appointive members.
2. The Chair shall preside at all meetings of the Commission, call special meetings in accordance with the by-laws, sign documents of the Commission, see that all actions and notices are properly taken, and summarize the findings of the Commission for the official record.
3. The Vice-Chair shall perform all duties and be subject to all responsibilities of the Chair in his/her absence, disability or disqualification of office.
4. The Vice-Chair will succeed the Chair if he/she vacates the office before the term is completed, to complete the unexpired term.
5. A new Vice-Chair shall be elected at the next regular meeting.

H. MOTIONS TO RECONSIDER:

1. Notice of reconsideration shall be given to the Chair or Vice-Chair, if the Chair is unavailable, within forty-eight hours from the time the original action was taken.
2. A member of Commission who voted on the prevailing side on any issue may move to reconsider the Commission's action at the same meeting or at the next regular meeting of the body provided the above 48-hour notice has been given.
3. Consideration is only for the original motion to which it applies.

I. CONFLICT OF INTEREST:

1. A member of the Commission shall disqualify himself/herself from participating in any official action in which he/she has a substantial financial interest.
2. Should the Commission member not move to disqualify himself/herself after it has been established that he/she has a substantial financial interest, the Commission may move to disqualify that member by a majority vote of the body.

J. QUORUM; VOTING:

1. Four Commission members shall constitute a quorum.
2. Four affirmative votes are required for the passage of a resolution or motion.
3. Voting will be by verbal vote, the order to be rotated. The final vote on each resolution or motion is a recorded roll call vote.
4. The City Manager, Mayor and High School student shall serve as consulting members of the Commission but shall have no vote.

K. CONSENSUS:

The Commission may, from time to time, express its opinion or preference concerning a subject brought before it for consideration. Said statement, representing the will of the body and meeting of the minds of the members, may be given by the presiding officer as the consensus of the body as to that subject without taking a motion and roll call vote.

L. ABSTENTIONS:

1. All Commission members present shall vote unless the Commission, for special reasons, permits a member to abstain.
2. A motion to excuse a member from voting shall be made prior to the call for the question to be voted upon.
3. A member of the Commission requesting to be excused from voting may make a brief, oral statement of the reasons for the request and the question of granting permission to abstain shall be taken without further debate.
4. A member may not be permitted to abstain except upon the unanimous consensus of members present.
5. A member may not explain a vote, may not discuss the question while the roll call vote is being taken and may not change his/her vote thereafter.

M. VACANCIES:

A Commission appointment is vacated under the following conditions and upon the declaration of vacancy by the Commission.

The Commission shall declare a vacancy when the person appointed:

- A. fails to qualify to take office within 30 days after his/her appointment;
- B. resigns and the resignation is accepted;
- C. is physically or mentally unable to perform the duties of his/her office;
- D. misses three consecutive regular meetings unless excused; or
- E. is convicted of a felony or of an offense involving a violation of his/her oath of office.

N. GENERAL ORDER OF BUSINESS:

Call to Order

Approval of Agenda

Public Comments Regarding Items on the Agenda. 3 Minute time limit

Reconsideration

Approval of Minutes

Visitors (Chair set time limit not to exceed 20 minutes. Public may not comment on the visitor or the visitor's topic until audience comments. No action may be taken at this time.)

Staff, Council and Committee Reports

Public Hearing (3 minute time limit)

Pending Business

New Business

Informational Materials

Comments of the Audience

Comments of the City Staff

Comments of the Commission

Adjournment. List time, date and location of the next meeting.

O. PROCEDURE FOR CONSIDERATION OF AGENDA ITEMS:

The following procedure will normally be observed pursuant to Robert's Rules:

1. A motion is made to discuss the item OR to approve the staff recommendation. The item may then be discussed, amended or voted on.
2. If there are questions of staff or an appropriate audience member, a Commissioner may request permission from the Chair to ask the question. The Chair, upon consensus approval, may grant the request.

P. Bylaws Amended:

1. The bylaws may be amended at any meeting of the Commission by a majority plus one vote of the members, provided that notice of said proposed amendment is given to each member in writing.
2. The proposed amendment shall be introduced at one meeting and action shall be taken at the next commission meeting.

Q. TELECONFERENCE:

Teleconference meetings.

1. The preferred procedure for a Commission meeting is that all members be physically present at the designated time and location within the City for the meeting. However, physical presence may be waived by the Chair or Commission and a member may participate in a meeting by Teleconference when it is not essential to the effective participation or the conduct of business at the meeting. A Commission member participating by teleconference shall be deemed to be present at the meeting for all purposes. In the event the Chair participates telephonically, the Vice-Chair shall run the meeting.
2. Teleconference procedures.
 - A. A Commission member who cannot be physically present for a regularly scheduled meeting shall notify the recording clerk at least five days prior to the scheduled time for the meeting of his/her intent to appear by telephonic means of communication.
 - B. The recording clerk shall notify the Commission members three days prior to the scheduled time for the Commission meeting of Commission members intending to appear by teleconference.
 - C. The means used to facilitate a teleconference meeting of the Commission must enable each Commission member appearing telephonically to clearly hear all other Commission members and members of the public attending the meeting as well as be clearly heard by all other Commission members and members of the public.
 - D. The recording clerk shall note in the attendance record all Commission members appearing telephonically.

Legislative History

Amendment to the first paragraph was passed by the Commission on April 19, 1990 and passed by Homer City Council on May 14, 1990 via Resolution 90-34.

New section M, Alternate Voting Members was passed by Homer City Council on June 8, 1998 via Resolution 98-41.

Amendment to include Teleconference Procedures was approved by the Commission on February 15, 2001 and adopted by the City Council on February 26, 2001 via Resolution 01-09. This amendment changed the edition of Robert's Rules of Order from seventh to current and added new sections N. and O.

Amendment to the meeting time was passed by Homer City Council on February 14, 2005 via Resolution 05-17.

Amendment Revising the Agenda Layout and Content, Regular meeting procedures, Special Meeting procedures; adding Commission Meeting Public Comment/Testimony and Audience Comment Time limits, Public Beaches, Procedure for Consideration of Agenda Items; Removing Alternative Voting Members was passed by Homer City Council via Resolution 07-22(A).

Amendment to the meeting frequency was passed by Homer City Council on September 28, 2010 via Ordinance 09-32.

Revised 09/2009

**CITY OF HOMER
HOMER, ALASKA**

City Clerk

RESOLUTION 10-97

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, ESTABLISHING THE 2011 REGULAR MEETING SCHEDULE FOR THE CITY COUNCIL, ECONOMIC DEVELOPMENT ADVISORY COMMISSION, LIBRARY ADVISORY BOARD, PARKS AND RECREATION ADVISORY COMMISSION, ADVISORY PLANNING COMMISSION, PORT AND HARBOR ADVISORY COMMISSION, LEASE COMMITTEE, PERMANENT FUND COMMITTEE, PUBLIC ARTS COMMITTEE AND TRANSPORTATION ADVISORY COMMITTEE.

WHEREAS, Pursuant to Homer City Code Section 1.14.020, the City Council annually sets the schedule for regular and some special meetings, noting the dates, times and places of the City Council, Advisory Commissions, and the Library Advisory Board meetings; and

WHEREAS, The public is informed of such meetings through the kiosks located at Captain's Coffee, Harbormaster's Office, Redden Marine Services of Homer, and the City Clerk's Office, Clerk's Calendar on KBBI, the City Clerk's Home Page on the Internet, and postings at the Clerk's Office at City Hall, and the Public Library; and

WHEREAS, HCC 1.14.020 - 040 states that meetings may be advertised in a local paper of general circulation at least three days before the date of the meeting and that special meetings should be advertised in the same manner or may be broadcast by local radio at least twice a day for three consecutive days or two consecutive days before the day of the meeting plus the day of the meeting; and

WHEREAS, HCC 1.14.010 notes that the notice of meetings applies to the City Council and all commissions, boards, committees, subcommittees, task forces and any sub-unit of the foregoing public bodies of the City, whether meeting in a formal or informal meeting; that the failure to give the notice provided for under this chapter does not invalidate or otherwise affect any action or decision of a public body of the City; however, this sentence does not change the consequences of failing to give the minimum notice required under State Statute; that notice will ordinarily be given by the City Clerk; and that the presiding officer or the person or persons calling a meeting are responsible for notifying the City Clerk of meetings in sufficient time for the Clerk to publish notice in a newspaper of general circulation in the City; and

WHEREAS, This Resolution does not preclude additional meetings such as emergency meetings, special meetings, worksessions, and the like; and

WHEREAS, Council adopted Resolution 06-144 on October 9, 2006 establishing the Regular Meeting site for all bodies to be the City Hall Cowles Council Chambers.

NOW, THEREFORE, BE IT RESOLVED by the Homer City Council, that the 2011 meeting schedule is established for the City Council, Economic Development Advisory Commission, Library Advisory Board, Parks and Recreation Advisory Commission, Advisory Planning Commission, Port and Harbor Advisory Commission, Lease Committee, Permanent Fund Committee, Public Arts Committee and Transportation Advisory Committee of the City of Homer, Alaska, as follows:

Holidays - City Offices closed:

January 1*, New Year's Day, Saturday so will be observed on Friday, December 31, 2010	February 21*, Presidents' Day, the third Monday	March 28*, Seward's Day, last Monday	May 30*, Memorial Day, last Monday	July 4**, Independence Day, Monday	September 5*, Labor Day, first Monday
October 18*, Alaska Day, Tuesday	November 11*, Veterans Day, Friday	November 24* Thanksgiving Day, Thursday	November 25*, Friday, the day after Thanksgiving	December 25**, Christmas, Sunday so will be observed on Monday, December 26	

*Indicates holidays - City offices closed.

**If on a Sunday, the following Monday is observed as the legal holiday; if on a Saturday, the preceding Friday is observed as the legal holiday pursuant to the City of Homer Personnel Rules and Regulations.

CITY COUNCIL (CC)

January 10, 24	February 15*, 28	March 14, 28	April 11, 25	May 9, 23***	June 13, 27
July 11**, 25	August 8, 22	September 12, 26	October 4 Election	October 10, 24, for Oath of Office, 17	Canvass Board October 7 or 10
November 1 Run- Off Election	November 14**, 28	December 12****	December 19**** if needed		

City Council's Regular Committee of the Whole Meetings at 5:00 p.m. to no later than 5:50 p.m. prior to every Regular Meeting which are held the second and fourth Monday of each month at 6:00 p.m. *** The City Council traditionally reschedules regular meetings that fall on holidays or High School Graduation days, for the following Tuesday. Council will not conduct a First Regular Meeting in July.

AML Annual Conference Week is tentatively scheduled for November 7 - 11, 2011.

*Tuesday meeting due to Valentine's Day.

**There will be no First Regular Meeting in July or November.

**** The City Council traditionally cancels the last regular meeting in December and holds the first regular meeting and one to two Special Meetings as needed. Generally the second Special Meeting the third week of December, will not be held.

ECONOMIC DEVELOPMENT ADVISORY COMMISSION (EDC)

January 11	February 8	March 8	April 12	May 10	June 14
July 12	August 9	September 13	October 11	November 8	December 13

Economic Development Advisory Commission Regular Meetings are held on the Second Tuesday of each Month at 6:00 p.m.

LIBRARY ADVISORY BOARD (LAB)

January 4	February 1	March 1	April 5	May 3	June 7
July 5	August 2	September 6	October 4	November 1	December 6

Library Advisory Board Regular Meetings are held on the first Tuesday of each month at 6:00 p.m.

PARKS AND RECREATION ADVISORY COMMISSION (P/R)

January 20	March 17	May 19	June 16
July 21	August 18	September 15	November 17

Parks and Recreation Advisory Commission Regular Meetings are held on the third Thursday of the months of January, March, May, June, July, August, September, and November at 6:30 p.m.

PLANNING COMMISSION (P/C)

January 5, 19	February 2, 16	March 2, 16	April 6, 20	May 4, 18	June 1, 15
July 20**	August 3, 17	September 7, 21	October 5, 19	November 2, 16	December 7**

Advisory Planning Commission Regular Meetings are held on the first and third Wednesday of each month at 7:00 p.m. **There will be no First Regular Meeting in July or Second Regular Meeting in December.

PORT AND HARBOR ADVISORY COMMISSION (P/H)

January 26	February 23	March 23	April 27	May 25	June 22
July 27	August 24	September 28	October 26	November 16	December 14

Port and Harbor Advisory Commission Regular Meetings are held on the fourth Wednesday of each month at 5:00 p.m. The Regular Meetings in the months of November and December are traditionally scheduled for the third Wednesday of the month.

LEASE COMMITTEE (LC)

January 13	April 14	July 14	October 13
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Lease Committee Regular Meetings are held quarterly on the second Thursday of each month at 3:00 p.m.

PERMANENT FUND COMMITTEE (PFC)

January 13	April 14	July 14	October 13
------------	----------	---------	------------

Permanent Fund Committee Regular Meetings are held quarterly on the second Thursday of the month at 5:15 p.m.

PUBLIC ARTS COMMITTEE (PAC)

February 17	May 19	August 18	November 17
-------------	--------	-----------	-------------

Public Arts Committee Regular Meetings are held quarterly on the third Thursday of the months of February, May, August, and November at 11:00 a.m.

TRANSPORTATION ADVISORY COMMITTEE (TAC)

February 15	May 17	August 16	November 15
-------------	--------	-----------	-------------

Transportation Advisory Committee Regular Meetings are held quarterly on the third Tuesday of the months of February, May, August, and November at 5:30 p.m.

PASSED AND ADOPTED by the Homer City Council this 13th day of December, 2010.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Impact: Adverting of meetings in regular weekly meeting ad and advertising of any additional meetings.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM - 10-155

TO: MAYOR HORNADAY AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK
DATE: DECEMBER 2, 2010
SUBJ: ECONOMIC DEVELOPMENT ADVISORY COMMISSION 2011 MEETING
SCHEDULE

At the November 9, 2010 special meeting of the Economic Development Advisory Commission the following action was taken:

C. 2011 Meeting Schedule

DAUPHINAIS/RAVIN MOVED TO APPROVE THE 2011 MEETING SCHEDULE.

There was brief discussion that meetings can be cancelled if they know there will not be a quorum.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM - 10-156

TO: MAYOR HORNADAY AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK
DATE: DECEMBER 2, 2010
SUBJ: HOMER ADVISORY PLANNING COMMISSION 2011 MEETING SCHEDULE

At the November 3, 2010 special meeting of the Homer Advisory Planning Commission the following action was taken:

B. Staff Report PL 10-108, 2011 Meeting Schedule

MINSCH/ BOS MOVED TO APPROVE THE 2011 MEETING SCHEDULE.

HIGHLAND/BOS MOVED TO CANCEL THE SECOND MEETING IN NOVEMBER.

The Commission considered whether to cancel the second meeting in November or leave it as schedule and can cancel it if their workload allows.

VOTE: YES: HIGHLAND, VENUTI
NO: MINSCH, KRANICH, BOS, DOLMA

There was no further discussion on the main motion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Office of the City Clerk

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MEMORANDUM - 10-157

TO: MAYOR HORNADAY AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK
DATE: DECEMBER 2, 2010
SUBJ: TRANSPORTATION ADVISORY COMMITTEE 2011 MEETING SCHEDULE

At the November 15, 2010 special meeting of the Transportation Advisory Committee the following action was taken:

B. 2011 Meeting Schedule

SMITH/HIGHLAND MOVED TO APPROVE THE 2011 MEETING SCHEDULE.

There was brief discussion whether amending the schedule would help with attendance in the summer, but it was agreed that this schedule was good.

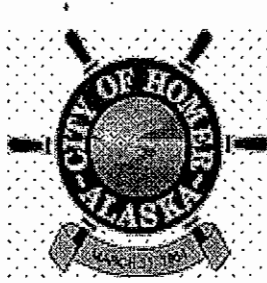
VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Office of the City Clerk

Jo Johnson, CMC, City Clerk

Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM 10-158

TO: MAYOR HORNADAY AND CITY COUNCIL MEMBERS
THROUGH: CITY CLERK
FROM: PORT AND HARBOR ADVISORY COMMISSION
DATE: NOVEMBER 17, 2010
RE: 2011 MEETING SCHEDULE

Introduction :

The Port and Harbor Advisory Commission amended the proposed 2011 Meeting Schedule to change the December 21, 2011 meeting day to December 14, 2011 as the regular meeting day to accommodate for the holiday.

The excerpt from the regular meeting minutes of November 17, 2010 follows:

New Business

C. 2011 Meeting Schedule

HARTLEY/HOTTMANN – MOVED TO APPROVE THE 2011 MEETING SCHEDULE AS AMENDED.

There was a brief discussion regarding the schedule. It was noted that the December 21, 2011 date should be changed to December 14, 2011.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

There was no further discussion.

Recommendation:

No action required. Informational in nature.

Office of the City Clerk

Jo Johnson, CMC, City Clerk

Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM 10-159

TO: MAYOR HORNADAY AND CITY COUNCIL
FROM: LEASE COMMITTEE
DATE: December 7, 2010
RE: 2011 MEETING SCHEDULE

Background

During the special meeting held on November 3, 2010 the Lease Committee approved the meeting schedule for 2011. An excerpt from the minutes of that meeting follows:

NEW BUSINESS

A. Memorandum dated October 21, 2010 from the City Clerk Re: 2011 Meeting Schedule

Chair Erickson read the meeting dates for 2011 as shown in the memorandum.

HAWKINS/ZIMMERMAN – MOVED TO APPROVE THE 2011 MEETING SCHEDULE.

There was no discussion.

The 2011 Meeting Schedule was approved by consensus of the committee.

There was no further discussion.

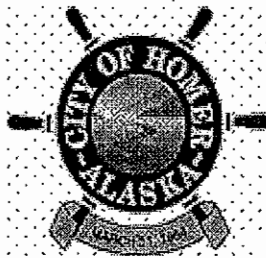
Recommendation

Informational Only. No Action Required.

Office of the City Clerk

Jo Johnson, CMC, City Clerk

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MEMORANDUM 10-163

TO: MAYOR HORNADAY AND CITY COUNCIL
FROM: PARKS AND RECREATION ADVISORY COMMISSION
DATE: NOVEMBER 18, 2010
RE: 2011 MEETING SCHEDULE

Background

The Parks and Recreation Advisory Commission discussed the 2011 Meeting Schedule at their Regular Meeting on November 18, 2010. Following is excerpt from that meeting.

NEW BUSINESS

A. 2011 Meeting Schedule

A brief discussion regarding the frequency of the meetings and if they should change it. It was determined to keep the regular schedule as outlined and hold special meetings as required. Then at the end of the year if they have held meetings every month they should address changing the frequency of the meeting schedule.

LILLIBRIDGE/BRANN - MOVED TO APPROVE THE 2011 MEETING SCHEDULE AS PRESENTED WITH THE AMENDMENT TO THE MEETING TIME FROM 6:30 P.M. TO 5:30 P.M.

There was no further discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

There was no further discussion.

Recommendation

Informational Only. No Action Required.

Office of the City Clerk

Jo Johnson, CMC, City Clerk

Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM 10-164

TO: MAYOR HORNADAY AND CITY COUNCIL MEMBERS
FROM: PUBLIC ARTS COMMITTEE
DATE: NOVEMBER 29, 2010
RE: 2011 MEETING SCHEDULE

Introduction :

During the Special Meeting on November 29, 2010 the Public Arts Committee approved the 2011 Meeting schedule as presented with the understanding that the proposed regular meeting time of 5:00 p.m. would reflected once approved by Council.

Following is an excerpt of the minutes from that meeting:

NEW BUSINESS:

B. 2011 Meeting Schedule

WOLFE/MILLER - MOVED TO APPROVE THE 2011 MEETING SCHEDULE WITH THE CAVEAT THAT ONCE THE PROPOSED MEETING TIME AND DAY CHANGE IS APPROVED IT WILL BE REFLECTED IN THE MEETING SCHEDULE.

There was no further discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM

TO: COUNCIL'S ADVISORY BODIES
FROM: JO JOHNSON, CMC, CITY CLERK
DATE: OCTOBER 21, 2010
SUBJECT: 2011 MEETING SCHEDULE

A handwritten signature in black ink, appearing to read "Jo Johnson", is written over the "FROM:" line of the memorandum.

Please review the 2011 meeting schedule and approve, making amendments if needed. The entire 2011 meeting schedule is included in the Draft Resolution. The Resolution will be presented to Council on December 13, 2010 for adoption.

You should prepare a memorandum indicating the action taken, or an excerpt of the minutes. Please return to the City Clerk prior to December 3, 2010.

"WHERE THE LAND ENDS AND THE SEA BEGINS"

To access City Clerk's Home Page on the Internet: <http://clerk.ci.homer.ak.us>

**CITY OF HOMER
HOMER, ALASKA**

City Clerk

DRAFT RESOLUTION 10-XXX

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, ESTABLISHING THE 2011 REGULAR MEETING SCHEDULE FOR THE CITY COUNCIL, ECONOMIC DEVELOPMENT ADVISORY COMMISSION, LIBRARY ADVISORY BOARD, PARKS AND RECREATION ADVISORY COMMISSION, ADVISORY PLANNING COMMISSION, PORT AND HARBOR ADVISORY COMMISSION, LEASE COMMITTEE, PERMANENT FUND COMMITTEE, PUBLIC ARTS COMMITTEE AND TRANSPORTATION ADVISORY COMMITTEE.

WHEREAS, Pursuant to Homer City Code Section 1.14.020, the City Council annually sets the schedule for regular and some special meetings, noting the dates, times and places of the City Council, Advisory Commissions, and the Library Advisory Board meetings; and

WHEREAS, The public is informed of such meetings through the kiosks located at Captain's Coffee, Harbormaster's Office, Redden Marine Services of Homer, and the City Clerk's Office, Clerk's Calendar on KBBI, the City Clerk's Home Page on the Internet, and postings at the Clerk's Office at City Hall, and the Public Library; and

WHEREAS, HCC 1.14.020 - 040 states that meetings may be advertised in a local paper of general circulation at least three days before the date of the meeting and that special meetings should be advertised in the same manner or may be broadcast by local radio at least twice a day for three consecutive days or two consecutive days before the day of the meeting plus the day of the meeting; and

WHEREAS, HCC 1.14.010 notes that the notice of meetings applies to the City Council and all commissions, boards, committees, subcommittees, task forces and any sub-unit of the foregoing public bodies of the City, whether meeting in a formal or informal meeting; that the failure to give the notice provided for under this chapter does not invalidate or otherwise affect any action or decision of a public body of the City; however, this sentence does not change the consequences of failing to give the minimum notice required under State Statute; that notice will ordinarily be given by the City Clerk; and that the presiding officer or the person or persons calling a meeting are responsible for notifying the City Clerk of meetings in sufficient time for the Clerk to publish notice in a newspaper of general circulation in the City; and

WHEREAS, This Resolution does not preclude additional meetings such as emergency meetings, special meetings, worksessions, and the like; and

WHEREAS, Council adopted Resolution 06-144 on October 9, 2006 establishing the Regular Meeting site for all bodies to be the City Hall Cowles Council Chambers.

NOW, THEREFORE, BE IT RESOLVED by the Homer City Council, that the 2011 meeting schedule is established for the City Council, Economic Development Advisory Commission, Library Advisory Board, Parks and Recreation Advisory Commission, Advisory Planning Commission, Port and Harbor Advisory Commission, Lease Committee, Permanent Fund Committee, Public Arts Committee and Transportation Advisory Committee of the City of Homer, Alaska, as follows:

Holidays - City Offices closed:

January 1*, New Year's Day, Saturday so will be observed on Friday, December 31, 2010	February 21*, Presidents' Day, the third Monday	March 28*, Seward's Day, last Monday	May 30*, Memorial Day, last Monday	July 4**, Independence Day, Monday	September 5*, Labor Day, first Monday
October 18*, Alaska Day, Tuesday	November 11*, Veterans Day, Friday	November 24* Thanksgiving Day, Thursday	November 25*, Friday, the day after Thanksgiving	December 25**, Christmas, Sunday so will be observed on Monday, December 26	

*Indicates holidays - City offices closed.

**If on a Sunday, the following Monday is observed as the legal holiday; if on a Saturday, the preceding Friday is observed as the legal holiday pursuant to the City of Homer Personnel Rules and Regulations.

CITY COUNCIL (CC)

January 10, 24	February 14, 28	March 14, 28	April 11, 25	May 9, 23***	June 13, 27
July 11**, 25	August 8, 22	September 12, 26	October 4 Election	October 10, 24, for Oath of Office, 17	Canvass Board October 7 or 10
November 1 Run- Off Election	November 14**, 28	December 12****	December 19**** if needed		

City Council's Regular Committee of the Whole Meetings at 5:00 p.m. to no later than 5:50 p.m. prior to every Regular Meeting which are held the second and fourth Monday of each month at 6:00 p.m. *** The City Council traditionally reschedules regular meetings that fall on holidays or High School Graduation days, for the following Tuesday. Council will not conduct a First Regular Meeting in July.

AML Annual Conference Week is tentatively scheduled for November 7 - 11, 2011.

**There will be no First Regular Meeting in July or November.

**** The City Council traditionally cancels the last regular meeting in December and holds the first regular meeting and one to two Special Meetings as needed. Generally the second Special Meeting the third week of December, will not be held.

ECONOMIC DEVELOPMENT ADVISORY COMMISSION (EDC)

January 11	February 8	March 8	April 12	May 10	June 14
July 12	August 9	September 13	October 11	November 8	December 13

Economic Development Advisory Commission Regular Meetings are held on the Second Tuesday of each Month at 6:00 p.m.

LIBRARY ADVISORY BOARD (LAB)

January 4	February 1	March 1	April 5	May 3	June 7
July 5	August 2	September 6	October 4	November 1	December 6

Library Advisory Board Regular Meetings are held on the first Tuesday of each month at 6:00 p.m.

PARKS AND RECREATION ADVISORY COMMISSION (P/R)

January 20	March 17	May 19	June 16
July 21	August 18	September 15	November 17

Parks and Recreation Advisory Commission Regular Meetings are held on the third Thursday of the months of January, March, May, June, July, August, September, and November at 6:30 p.m.

PLANNING COMMISSION (P/C)

January 5, 19	February 2, 16	March 2, 16	April 6, 20	May 4, 18	June 1, 15
July 20**	August 3, 17	September 7, 21	October 5, 19	November 2, 16	December 7**

Advisory Planning Commission Regular Meetings are held on the first and third Wednesday of each month at 7:00 p.m. **There will be no First Regular Meeting in July or Second Regular Meeting in December.

PORT AND HARBOR ADVISORY COMMISSION (P/H)

January 26	February 23	March 23	April 27	May 25	June 22
July 27	August 24	September 28	October 26	November 16	December 21

Port and Harbor Advisory Commission Regular Meetings are held on the fourth Wednesday of each month at 5:00 p.m. The Regular Meetings in the months of November and December are traditionally scheduled for the third Wednesday of the month.

LEASE COMMITTEE (LC)

January 13	April 14	July 14	October 13
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Lease Committee Regular Meetings are held quarterly on the second Thursday of each month at 3:00 p.m.

PERMANENT FUND COMMITTEE (PFC)

January 13	April 14	July 14	October 13
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Permanent Fund Committee Regular Meetings are held quarterly on the second Thursday of the month at 5:15 p.m.

PUBLIC ARTS COMMITTEE (PAC)

February 17	May 19	August 18	November 17
-------------	--------	-----------	-------------

Public Arts Committee Regular Meetings are held quarterly on the third Thursday of the months of February, May, August, and November at 11:00 a.m.

TRANSPORTATION ADVISORY COMMITTEE (TAC)

February 15	May 17	August 16	November 15
-------------	--------	-----------	-------------

Transportation Advisory Committee Regular Meetings are held quarterly on the third Tuesday of the months of February, May, August, and November at 5:30 p.m.

PASSED AND ADOPTED by the Homer City Council this _____ day of December, 2010.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Impact: Adverting of meetings in regular weekly meeting ad and advertising of any additional meetings.

**CITY OF HOMER
HOMER, ALASKA**

Lease Committee

RESOLUTION 10-98

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, APPROVING A FIVE YEAR LEASE WITH TWO ONE YEAR OPTIONS ON ONE HALF OF LOT 13B FOR SNUG HARBOR SEAFOODS AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE DOCUMENT.

WHEREAS, The short term, "a-typical" lease for the current tenant of Lot 13B (Snug Harbor Seafoods) expired on September 30, 2010; and

WHEREAS, The Lease Committee recently issued a Request for Proposals for Lot 13B and received one proposal from the current occupant; and

WHEREAS, The Lease Committee reviewed the proposal from Snug Harbor Seafoods at its special meeting on November 30, 2010; and

WHEREAS, The proposal was for a five year lease with two one year options and the applicant committed to installing a permanent building affixed to a foundation that was connected to the City water and sewer system and complied with the City zoning code; and

WHEREAS, The Lease Committee has recommended in the past that the City make property available for leases with a shorter term to companies which provide a large economic impact to the community but are not in a position to make a long term capital investment; and

WHEREAS, The Lease Committee adopted the following amended motion: "That after reviewing the proposal from Snug Harbor Seafoods, the Lease Committee recommends that a five year lease with two one year options be approved and that the City Manager be authorized to negotiate the lease rate with a minimum monthly fee set at appraised value and that the applicant provide a current business license."

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves a five year lease with two one year options on one half of Lot 13B for Snug Harbor Seafoods and authorizes the City Manager to negotiate and execute the lease document consistent with the recommendations of the Lease Committee.

PASSED AND ADOPTED by the Homer City Council this 13th day of December, 2010.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Revenue, approximately \$10,000 per year.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
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Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM 10-161

TO: MAYOR HORNADAY AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK
DATE: DECEMBER 2, 2010
SUBJ: LEASE COMMITTEE RECOMMENDATION FOR LEASE OF LOT 13B

At the November 30, 2010 special meeting of the Lease Committee the following action was taken:

HAWKINS/ABBOUD MOVED THAT AFTER REVIEWING THE PROPOSAL FROM SNUG HARBOR SEAFOOD'S, THE LEASE COMMITTEE RECOMMENDS THAT A FIVE YEAR LEASE WITH TWO ONE YEAR OPTIONS BE APPROVED AND THAT THE CITY MANAGER BE AUTHORIZED TO NEGOTIATE THE RATE WITH A MINIMUM MONTHLY FEE SET AT THE RATE CURRENTLY BEING USED FOR LOT 13B.

Mr. Abboud questioned what the current rate is base on as there is no information in the packet. There was brief discussion that there is not a current appraisal, only what they are paying now.

MAURAS/YAGER MOVED TO AMEND TO HAVE THE RATE BASED ON THE APPRAISED VALUE.

Discussion ensued that the amendment is consistent with the current lease policy and the appraisal probably should have been done before the RFP. The proposal includes the current lease rate and City Manager Wrede commented his intention is to start at the appraisal and fair market rent when negotiating the lease.

VOTE: (Amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Mrs. Mauras reiterated that the applicant needs to have a business license.

VOTE: (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Session 10-06, a Special Meeting of the Lease Committee was called to order by Chair Erickson at 3:03 p.m. on November 30, 2010 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

COMMITTEE MEMBERS: Abboud, Erickson, Hawkins, Mauras, Yager

ABSENT: Zimmerman

STAFF: City Manager Wrede
Administrative Assistant Felde
Deputy City Clerk Jacobsen

APPROVAL OF AGENDA

MAURAS/YAGER MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA

There were no public comments.

APPROVAL OF MINUTES

No minutes were scheduled for approval.

VISITORS

There were no visitors scheduled.

STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS

City Manager Wrede briefly reviewed the staff report included in the meeting packet and noted the laydown information regarding economic impact from Snug Harbor. He added that this longer lease puts Snug Harbor in the position to bring their improvements up to code to meet zoning requirements and there has been some discussion about the City trying to get some improvements down there that would make it easier to load and improve safety.

Mrs. Mauras noted a discrepancy in ownership percentages and a business license for Snug Harbor was not included in the packet. She performed a search on the State website and did not find a valid business license listed. These will need to be addressed if we choose to enter into negotiations. City Manager Wrede said they had discussed the ownership issue and they are both 50% owners. It changed when they got married. He said staff will look into the business license issue.

PUBLIC HEARING

There were no public hearings scheduled.

PENDING BUSINESS

There was no pending business scheduled.

NEW BUSINESS

A. Snug Harbor Lease

Mr. Yager noted for the record that he had a business relationship over 20 years ago with Mr. Dale. He is no longer in business with him, has not seen him since, and has no financial gain regarding this lease proposal.

There was no objection expressed to Mr. Yager's participation.

There was discussion of the proposed paving. City Manager Wrede said there isn't a time table for this but hopes to attach to a broader project the City is considering to fix drainage problems on lot 12B. The project could include paving lot 12B and a loading ramp to make it better for all the users loading there. The paving could be tied in to lot 13 and the parking area so everyone in that area would have a better work environment. A commitment hasn't been made to do these improvements, but a packet will be put together for City Council to consider for this capital project. When asked about assessments to lessees, he explained it will be a broader benefit to users and he wasn't considering it as an assessment.

HAWKINS/ABBOUD MOVED THAT AFTER REVIEWING THE PROPOSAL FROM SNUG HARBOR SEAFOOD'S, THE LEASE COMMITTEE RECOMMENDS THAT A FIVE YEAR LEASE WITH TWO ONE YEAR OPTIONS BE APPROVED AND THAT THE CITY MANAGER BE AUTHORIZED TO NEGOTIATE THE RATE WITH A MINIMUM MONTHLY FEE SET AT THE RATE CURRENTLY BEING USED FOR LOT 13B.

Mr. Abboud questioned what the current rate is base on as there is no information in the packet. There was brief discussion that there is not a current appraisal, only what they are paying now.

MAURAS/YAGER MOVED TO AMEND TO HAVE THE RATE BASED ON THE APPRAISED VALUE.

Discussion ensued that the amendment is consistent with the current lease policy and the appraisal probably should have been done before the RFP. The proposal includes the current lease rate and City Manager Wrede commented his intention is to start at the appraisal and fair market rent when negotiating the lease.

VOTE: (Amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Mrs. Mauras reiterated that the applicant needs to have a business license.

VOTE: (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Short Term Lease - Bruin Bay- Discussion

City Manager Wrede reported to the Committee that there has been an increasing amount of interest in using the chip pad for people to pull boats and work on them in the winter months. Bruin Bay is the first the City has done this with. An agreement was executed with them and the fees were based on the published tariff. As far as liability coverage to the City they used the lease documents and the terminal use permit guidelines. He said this is something for the Lease Committee to look at on a future agenda and consider amending the lease policy for flexibility of short term leases on the chip pad.

There was discussion that this could be a good opportunity for the City to rent out the space on less formal month to month basis with a set rate.

Chair Erickson asked that short term leases be an agenda item for the next meeting. She also asked for the Committee to discuss ideas for better ways to score existing businesses when they are coming to the Committee for lease renewal.

INFORMATIONAL ITEMS

There were no informational items included.

COMMENTS OF THE AUDIENCE

There were no audience comments.

COMMENTS OF THE STAFF

There were no staff comments.

COMMENTS OF THE COUNCILMEMBER

There were no Councilmember comments.

COMMENTS OF THE CHAIR

Chair Erickson had no additional comments.

COMMENTS OF THE COMMITTEE MEMBERS

There were no additional comments from the Committee members.

ADJOURN

There being no more business to come before the Committee the meeting adjourned at 3:31 p.m. The next regular meeting is scheduled for January 12, 2011 at 5:30 p.m. in the City Hall Cowles Council Chambers.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

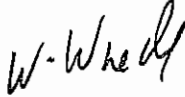
Approved: _____

STAFF REPORT

SNUG HARBOR SEAFOODS LEASE APPLICATION / LOT 13B

TO: Lease Committee

FROM: Walt Wrede



DATE: November 30, 2010

Introduction

Snug Harbor Seafoods has been conducting business on Lot 13B under a one year "a-typical" lease which expired on September 30, 2010. Snug Harbor continues to occupy the leased parcel under the lease "holdover clause" on a month to month basis.

The City recently issued a Request for Proposals to lease Lot 13B. One proposal was received from Snug Harbor Seafoods; the current lessee. The original proposal was not complete and it lacked some important information. A request was made by the staff to reschedule the Lease Committee meeting in order to provide adequate time for Snug Harbor to submit the additional information and for the City to review the proposal and provide the committee with a report prior to the meeting.

During the interim, the City and Snug Harbor Seafoods had an opportunity to talk about the needs and desires of both parties. The result is a revised and supplemented proposal that I believe is much improved. It clearly benefits both parties. The original proposal requested a one year lease for part of Lot 13B or a five year lease for the entire lot. Snug Harbor proposed no changes to current operations or to development of the site. The new proposal is for a five year lease for one half of Lot 13 B and it includes a new building set on a permanent foundation which is hooked up to water and sewer. This benefits the City because it brings the development into compliance with zoning codes, including the requirement that permanent facilities be connected to water and sewer. It also allows the City to continue with its relationship with an important business partner. The proposal benefits Snug Harbor because it will receive the security of a longer term lease, have better accommodations for staff and customers, can legally have watchman's quarters, and it has a commitment from the City to seek financing to pave the road in front of the lot which would improve safety and business operations.

The staff has reviewed the application packet under Section 5.2 (A) of the Lease Policies and found that the required information has been substantially submitted. The required financial information has been reviewed but it is not included in the packet for privacy reasons. The staff has determined that Snug Harbor Seafoods has adequate resources at its disposal to follow-through with its development proposal.

Section 6.2 B of the Lease Policies provides the criteria to be used to evaluate lease proposals. Following is an analysis of this proposal using those criteria.

Compatibility with neighboring uses and consistency with applicable land use regulations including the Comprehensive Plan.

The proposed use is a fish buying station which includes an office, watchman's quarters, and staging, loading and storage areas for equipment. The proposed use is consistent with neighboring uses and is consistent with both the Comprehensive Plan and the Draft Spit Land Use Plan. This proposal, if implemented, would bring the present development and use into compliance with the zoning code because it would include a permanent building that sits on a foundation and is connected to City water and sewer. Zoning requirements generally would be addressed in detail during the lease negotiation process.

The development plan including all proposed phases and timetables. The applicant proposes to remove the current trailer from the parcel and replace it with a more permanent building that is plumbed and has utilities including water and sewer. The applicant proposes to accomplish these Improvements by June of next year. The 8 by 10 foot crew quarters would remain on the lot. A proposed plot plan is attached. The lease would include development timetables which follow the proposal. Any site plan proposal issues that emerge would be resolved during the lease negotiation process in consultation with the Planning Department.

The proposed capital investment.

The applicant does not provide an exact figure in terms of proposed investment. However, acquiring a permanent structure that is wired and plumbed, moving the structure to the site, affixing it to a permanent foundation, and hooking it up to utilities represents a significant investment. In my view, this level of investment definitely justifies a lease with a term longer than 1 year.

Experience of the applicant in the proposed business or venture.

Snug Harbor Seafoods has been in the fish buying business and has conducted operations at the Homer Fish Dock for many years. They clearly have the expertise to conduct the activity they are proposing.

Financial capability or backing of the applicant including credit history, prior lease history, assets that will be used to support the proposed development. The applicant has submitted a corporate balance sheet which has been reviewed by the staff. The staff concluded that Snug Harbor has the financial resources available to accomplish the development plan. The financial information is proprietary and not provided in the packet.

The number of employees anticipated. The applicant did not provide exact employment numbers and we will attempt to get them prior to the meeting. However, we do know Snug Harbor has employees and that they hope to expand operations at the Fish Dock. We are also aware that Snug Harbor's presence at the Fish Dock generates a significant amount of jobs and revenue for the community. This economic activity, in my view, justifies a lease longer than one year.

The proposed rental rate. The applicant proposes to rent at the current rate. They understand that with a longer term lease, the rent will be adjusted based upon an appraisal and fair market rent. The actual rent will be fixed during the lease negotiation process.

Other financial impacts such as tax revenues, stimulation of related or spin off economic development, or the value of improvements left behind upon termination of the lease. Again, the applicant did not provide much information here but we will request that it be provided prior to the meeting. We know that Snug Harbor is responsible for a significant amount of economic activity.

Other long term social and economic development.

There are no other long term social or economic development special considerations that the staff is aware of at this time. The Lease Committee has requested in the past that the City make space available for lessees that want shorter term leases. This is an attempt to do that in a way that benefits all parties.

RECOMMENDATION

It is recommended that the Lease Committee forward this proposal to the City Council with a recommendation that it approve a five year lease with two one year options for Snug Harbor Seafoods and that the City Manager be authorized to negotiate and execute the lease.



**CITY OF HOMER
PROPERTY MANAGEMENT
LEASE APPLICATION CHECKLIST**

Applicant Name: SNUG HARBOR SEAFOODS

Date Application Received: 09/30/2010

CHAPTER 5: LEASE APPLICATION PROCESS

5.1: POLICY

- A. It is the policy of the City of Homer to provide for a streamlined, standardized, and easily understood lease application process. A full and complete application packet shall be provided to all applicants. Applicants must be qualified under Section 18.08.50 of the Homer City Code:
 - (a) a natural person and is responsible, meaning the applicant has sufficient skill, experience and financial capability to perform all the obligations of the lessee under the proposed lease; and
 - (b) a person who is at least nineteen years of age; or
 - (c) a group, association or corporation which is authorized to conduct business under the laws of the State of Alaska. (Ord. 92-10 (part), 1992). 183 (Homer 06/04)

- B. The City administration will provide for pre-application meetings with all potential applicants to provide relevant information on things like land use regulations, lease policies, the permitting process, and other relevant topics.

5.2 PROCEDURES

A. A responsive lease application / proposal shall include:

- 1. A completed application form provided by the City

YES	NO	N/A	INCOMPLETE
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NOTES:

- 2. Any applicable fees

YES	NO	N/A	INCOMPLETE
------------	-----------	------------	-------------------

NOTES:

Submitted \$30 lease application fee

3. A clear and precise narrative description of the proposed use of the property

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

NOTES:

4. A specific time schedule and benchmarks for development

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

NOTES:

5. A proposed site plan drawn to scale that shows at a minimum property lines, easements, existing structures and other improvements, utilities, and the proposed development including all structures and their elevations, parking facilities, utilities, and other proposed improvements.

YES	NO	N/A	INCOMPLETE
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NOTES:

6. Any other information that is directly pertinent to the proposal scoring criteria contained herein

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

NOTES:

7. All other **required attachments** requested on the application form including, but not limited to, the following documentation: applicant information, plot plan, development plan, insurance, proposed subleases, environmental information, agency approvals and permits, fees, financial information, partnership and corporation statement, certificate of good standing issued by an entity's state of domicile, and references.

- Applicant information
- Plot Plan
- Development Plan
- Insurance
- Proposed Subleases
- Environmental Information
- Agency approvals and permits
- Financial Information (Financial Statement **REQUIRED**, Surety, bankruptcy, pending litigation are situational).

NA Partnership information and a copy of the partnership agreement OR
 Corporation information and a copy of the Articles of Incorporation and Bylaws
 Certificate of good standing issued by the entity's state of domicile
 Appropriate References (Total of 4 persons or firms with whom the applicant or its owners have conducted business transactions with during the past three years.
 Two references must have knowledge of your financial management history (One of which **MUST** be your principal financial institution) and two must have knowledge of your business expertise).

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

NOTES:

8. Any other information required by the solicitation or request for proposals.

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

NOTES:

Application review completed by Levy Felde on 11/22/10
 (date)

City of Homer-Lease Application/Assignment Form

Directions:

1. Please type.
2. Please submit this application form to the City Clerk's Office, 491 Pioneer Avenue, Homer, Alaska 99603.
3. Please answer all questions on this form, or put "N/A" in the space if it is non applicable.

Applicant Name: Social Security No.s	Snug Harbor Seafoods EIN 920133626
Mailing Address:	PO Box 701
City, State, ZIP code:	Kenai, AK. 99611
Business Telephone No.	907 283 6122 x31
Representative's Name:	Brenda Dale
Mailing Address:	same
City, State, ZIP code:	
Business Telephone No.	
Property Location:	Lot 13b
Legal Description:	Lot 13B, Port Industrial Subdivision No.2
Type of Business to be placed on property:	Seafood Buying
Size of Buildings to be placed or leased:	10x20 Office
Duration of Lease requested:	1/2 Lot 13B for 1 year, All Lot 13B for 5 year
Options to re-new:	yes
Special lease requirements:	For consideration: 1/2 Lot 13B maintaining .79/sq ft 1 Year All Lot 13B .70/sq ft 5 Year
Number of parking spaces required, per code:	One per employee

The following materials must be submitted when applying for a lease of
City of Homer real property

1.	Plot Plan Attached	<u>A drawing of the proposed leased property showing:</u> <input type="checkbox"/> Size of lot - dimensions and total square footage. – to scale, please. <input type="checkbox"/> Placement and size of buildings, storage units, miscellaneous structures planned – to scale, please. <input type="checkbox"/> Water and sewer lines – location of septic tanks, if needed. <input type="checkbox"/> Parking spaces -- numbered on the drawing with a total number indicated – please refer to Homer City Code _____																				
2.	Development Plan N/A	<input type="checkbox"/> <u>List the time schedule from project initiation to project completion, including major project milestones.</u> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Dates</th> <th style="text-align: left;">Tasks</th> </tr> </thead> <tbody> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> </tbody> </table> <p>For each building, indicate:</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Building Use</th> <th style="text-align: left;">Dimensions and square footage</th> </tr> </thead> <tbody> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> </tbody> </table>	Dates	Tasks	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	Building Use	Dimensions and square footage	_____	_____	_____	_____	_____	_____
Dates	Tasks																					
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Building Use	Dimensions and square footage																					
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_____	_____																					
_____	_____																					
3.	Insurance Attached	<input type="checkbox"/> Attach a statement of proof of insurability of lessee for a minimum liability insurance for combined single limits of \$1,000,000 showing the City of Homer as co-insured. Additional insurance limits may be required due to the nature of the business, lease or exposure. Environmental insurance may be required. If subleases are involved, include appropriate certificates of insurance.																				
4.	Subleases N/A	<input type="checkbox"/> Please indicate and provide a detailed explanation of any plans that you may have for subleasing the property. The City of Homer will generally require payment of 25% of proceeds paid Lessee by subtenants. Refer to chapter 13 of the Property Management Policy and Procedures manual.																				
5.	Health Requirements N/A	<input type="checkbox"/> Attach a statement documenting that the plans for the proposed waste disposal system, and for any other necessary health requirements, have been submitted to the State Department of Environmental Conservation for approval. Granting of this lease shall be contingent upon the lessee obtaining all necessary approvals from the State DEC.																				
6.	Agency Approval N/A	<input type="checkbox"/> Attach statement(s) of proof that your plans have been inspected and approved by any agency which may have jurisdiction of the project; i.e. Fire Marshall, Army Corps of Engineers, EPA, etc. The granting of this lease shall be contingent upon lessee obtaining approval, necessary permits, and/or inspection statements from all appropriate State and/or Federal agencies.																				

7.	Fees	<p><u>All applicable fees must be submitted prior to the preparation and/or execution of a lease.</u></p> <p><input checked="" type="checkbox"/> Application fee - \$30.00. Covers costs associated with processing the application.</p> <p><input type="checkbox"/> Lease fee - \$300.00. Covers the costs of preparing and processing the actual lease.</p> <p><input type="checkbox"/> Assignment fee - \$250.00. Covers the costs of preparing and processing the lease transfer.</p>								
8.	<p>Financial Data</p> <p>OnFile</p>	<p><u>Please indicate lessee's type of business entity:</u></p> <p><input type="checkbox"/> Sole or individual proprietorship.</p> <p><input type="checkbox"/> Partnership.</p> <p><input checked="" type="checkbox"/> Corporation.</p> <p><input type="checkbox"/> Other - Please explain: _____</p> <hr/> <p><input type="checkbox"/> Financial Statement - Please attach a financial statement showing the ability of the lessee to meet the required financial obligations.</p> <p><input type="checkbox"/> Surety Information - Has any surety or bonding company ever been required to perform upon your default or the default of any of the principals in you organization holding more than a 10% interest</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. If yes, please attach a statement naming the surety or bonding company, date and amount of bond, and the circumstances surrounding the default or performance.</p> <p><input type="checkbox"/> Bankruptcy information - Have you or any of the principals of your organization holding more than a 10% interest ever been declared bankrupt or are presently a debtor in a bankruptcy action?</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. If yes, please attach a statement indicating state, date, Court having jurisdiction, case number and to amount of assets and debt.</p> <p><input type="checkbox"/> Pending Litigation - Are you or any of the principals of your organization holding more than a 10% interest presently a party to any pending litigation?</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. If yes, please attach detailed information as to each claim, cause of action, lien, judgment including dates and case numbers.</p>								
9.	Partnership Statement	<p><input type="checkbox"/> <u>If the applicant is a partnership, please provide the following:</u></p> <p><u>Date of organization:</u> _____</p> <p><u>Type:</u> <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership</p> <p><u>Statement of Partnership Recorded?</u> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Where _____ When _____</p> <p><u>Has partnership done business in Alaska?</u> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Where _____ When _____</p> <p><u>Name, address, and partnership share. If partner is a corporation, please complete corporation statement.</u></p> <p>Limited/ <table border="0"> <tr> <td><u>General</u></td> <td><u>Name</u></td> <td><u>Address</u></td> <td><u>Share %</u></td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table> </p>	<u>General</u>	<u>Name</u>	<u>Address</u>	<u>Share %</u>				
<u>General</u>	<u>Name</u>	<u>Address</u>	<u>Share %</u>							

Please attach a copy of your partnership agreement.

10. Corporation Statement

If the applicant is a corporation, please provide the following:

Date of Incorporation: 1990

State of Incorporation: Alaska

Is the Corporation authorized to do business in Alaska?

No Yes. Is so, as of what Date? Jan 1990

Corporation is held? Publicly Privately If publicly held, how and where is the stock traded? _____

Officers & Principal Stockholders [10%+]:

<u>Name</u>	<u>Title</u>	<u>Address</u>	<u>Share</u>
Paul Dale	President	PO Bx 2725 Kenai	50%
Brenda Dale	V. President	Po Bx 2725 Kenai,	50%

Please furnish a copy of Articles of Incorporation and By-laws.

Please furnish name and title of officer authorized by Articles and/or By-laws to execute contracts and other corporate commitments.

Name Title

Already on File

<p>11. Applicant References</p> <p>Reference already on file</p>	<p>Please list four persons or firms with whom the Applicant or its owners have conducted business transactions with during the past three years. Two references named shall have knowledge of your financial management history, of which at least one must be your principal financial institution. Two of the references must have knowledge of your business expertise.</p>
	<p>Name: _____</p> <p>Firm: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>Telephone: _____</p> <p>Nature of business association with Applicant: _____</p>
	<p>Name: _____</p> <p>Firm: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>Telephone: _____</p> <p>Nature of business association with Applicant: _____</p>
	<p>Name: _____</p> <p>Firm: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>Telephone: _____</p> <p>Nature of business association with Applicant: _____</p>

I hereby certify that the above information is true and correct to the best of my knowledge.

Signature:

[Handwritten Signature]

Date:

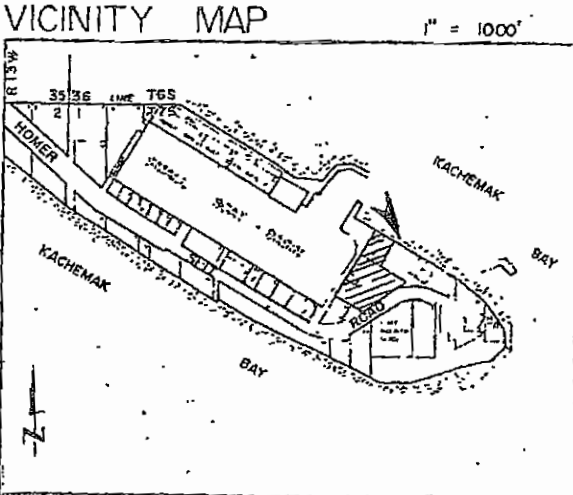
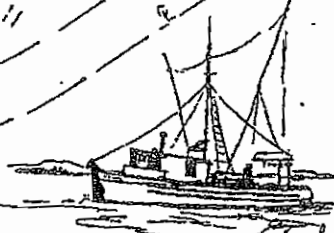
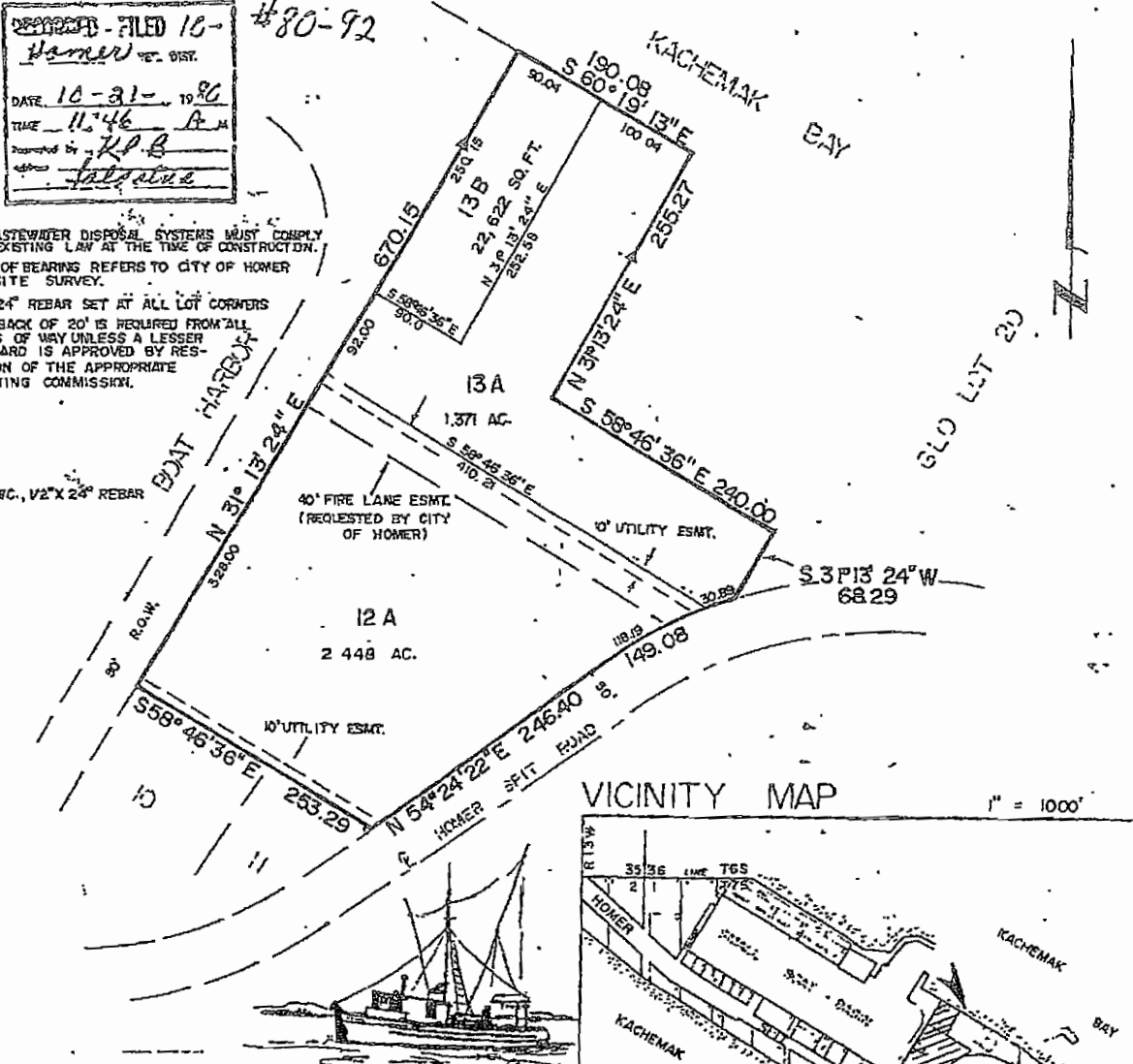
10/26/10

PROJECT - FILED 10-
 Homen, AK. DIST.
 DATE 10-31-1980
 TIME 11:46 A.M.
 DRAWN BY J.P.B.
 SURVEYOR J. Anderson

#80-92

- NOTES:
1. ALL WASTEWATER DISPOSAL SYSTEMS MUST COMPLY WITH EXISTING LAW AT THE TIME OF CONSTRUCTION.
 2. BASIS OF BEARING REFERS TO CITY OF HOMER TOWNSITE SURVEY.
 3. 1/2" X 24" REBAR SET AT ALL LOT CORNERS
 4. A SETBACK OF 20' IS REQUIRED FROM ALL RIGHTS OF WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.

LEGEND:
 Δ SET WC, 1/2" X 24" REBAR



CERTIFICATE OF OWNERSHIP
 I hereby certify that I am the owner of the property shown and described hereon. I hereby request approval of this plat showing such easements for public utilities and roadways dedicated by me for public use.

Larry Farnen
 CITY OF HOMER
 BY LARRY FARNEN, CITY MANAGER
 BOX 335
 HOMER, AK. 99603

NOTARY'S ACKNOWLEDGEMENT
 Subscribed and sworn to before me this 26th day of Dec. 1979.
William A. Wilson 7/11/80
 Notary Public for Alaska My commission expires

SURVEYOR'S CERTIFICATE
 I, the undersigned registered surveyor, hereby certify that a land survey has been completed by me or under my direct supervision and that corners and monuments have been located and established and that dimensions shown hereon are true and correct.

Jerry Anderson 9/24/79
 JERRY ANDERSON, RLS 3686-S DATE

PLAT APPROVAL
 This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of August 20, 1979.

KENAI PENINSULA BOROUGH
Richard Warming
 BY Authorized Official

DATE: AUGUST, 1979
 SCALE: 1" = 100'
 DRAWN BY: S.W.
 DESIGNED BY: J.A.
 JOB NO.: 1110, 1103
 FLD. BK NO.: 73, 78



CITY OF HOMER PORT INDUSTRIAL NO 2
 WITHIN THE CITY OF HOMER
 BEING A REPLAT OF LOTS 12 & 13 OF CITY OF HOMER REPLAT OF THE HOMER SPIT, AND PORTIONS OF GLO LOT 18 B 19, S.1, T 7 S, R 13 W, S.M.
 CONTAINING 4.338 ACRES

Ability-Surveys
 REGISTERED SURVEYORS
 ENGINEERS - PLANNERS
 Jerry Anderson, Marvin Henson
 Box 1263, Homer, Alaska 99603 (907) 335-8440

Terry Felde

From: Walt Wrede
Sent: Thursday, November 18, 2010 3:08 PM
To: Terry Felde
Subject: Fw: Snug Harbor - Supplement to Lease Application
Attachments: CCE11172010_00000.jpg; CCE11172010_00000.jpg; CCE11172010_00000.jpg

FYI. Walt

From: Brenda Dale [<mailto:snug@alaska.net>]
Sent: Wednesday, November 17, 2010 04:22 PM
To: Walt Wrede
Subject: Snug Harbor - Supplement to Lease Application

Re: RFP ½ Lot 13B Port Industrial Subdivision No.2

<<...>> <<...>> <<...>>

Plot Plan Insurance Corporate Signature

Attachement #3

1. Plot Plan attached
2. Development Plan

It is Snug Harbor 's intent to remove the temporary 10x20 office structure currently on site, replacing it with either a like size or larger Atco type building or modular structure with facilities. Snug Harbor will affix this structure to a permanent foundation enabling us to hook up to both City water and sewer facilities. It is likely additional crew quarters of 8x10 will remain on site, but may very well roll into the office/crew layout. Snug Harbor envisions work on the foundation to begin sometime after spring thaw and completion before mid June 2011.

For these planned improvements, we would ask the City of Homer to consider;

- 1) Five year renewable lease
- 2) Permitting for watchman's quarters on the premises
- 3) Improved access to the frontage road of Lot 13B with paving, not only easing all forklift and loading operations but making the premises safer for everyone.

3. Certificate of Insurance on file and attached for your records

6. Agency Approval: Fish Dock use Permit is on file with the City and expires the end of December. Our intent is to renew our permit at that time.

10. Corporate Signature attached

Best regards,

Brenda Dale

Snug Harbor Seafoods
ph. 907.283.6122 x31
fax 907.283.6127
snug@alaska.net

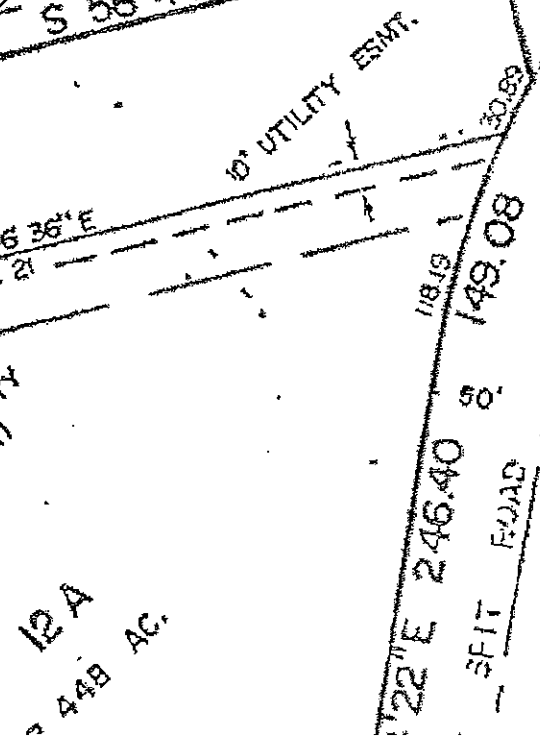
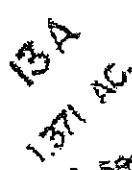
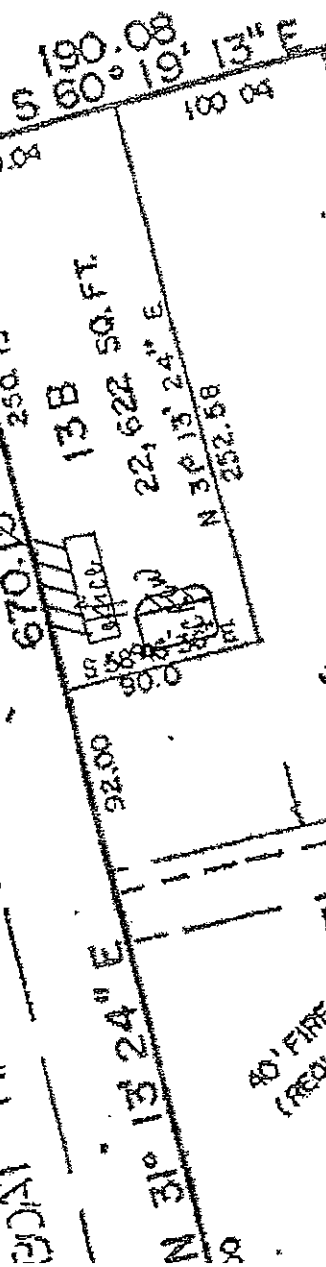
ATTACHMENT #1

KACHEMAK BAY

GLD LOT 20

COMPLY WITH
STRUCTURAL
OF HOMER
CORNERS
FROM ALL
BY RES.
APPROPRIATE

BOAT HARBOUR



35 FT ROAD

<p>11. Applicant References</p> <p>Reference already on file</p>	<p>Please list four persons or firms with whom the Applicant or its owners have conducted business transactions with during the past three years. Two references named shall have knowledge of your financial management history, of which at least one must be your principal financial institution. Two of the references must have knowledge of your business expertise.</p> <p>Name: <u>Tim Rooder</u> Firm: <u>Wills Fargo</u> Title: <u>Business Relationship Manager</u> Address: <u>11216 Kilauea Blvd. Ho. 101 Kilauea</u> Telephone: <u>283-7584</u> Nature of business association with Applicant: <u>Primary financial institution</u></p> <p>Name: <u>Earl Bennett</u> Firm: <u>NOAA/NRFS</u> Title: _____ Address: _____ Telephone: <u>301-713-2390</u> Nature of business association with Applicant: <u>Secondary financial institution</u></p> <p>Name: <u>City of Kilauea</u> Firm: <u>for Ho. 1010</u> Title: <u>Asst. City Manager</u> Address: _____ Telephone: _____ Nature of business association with Applicant: <u>Tidlands lease</u></p> <p>Name: <u>Lettyok & Lettyok</u> Firm: <u>Estate of Donald Fredrickson</u> Title: _____ Address: <u>301 E. Fremont Lane. Ste 101 Chicago, Ill.</u> Telephone: _____ Nature of business association with Applicant: <u>Key Dock property lease</u></p>
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I hereby certify that the above information is true and correct to the best of my knowledge.

Signature:

Date:

[Handwritten Signature]

 Paul Rabe

 11/17/10



- Search
- ✓ By Entity Name
 - ✓ By AK Entity #
 - ✓ By Officer Name
 - ✓ By Registered Agent
 - Verify
 - ✓ Verify Certification
 - Biennial Report
 - ✓ File Online
 - ✓ Initial Biennial Report
 - LLC
 - ✓ File Online
 - Business Corporation
 - ✓ File Online
 - Online Orders
 - ✓ Register for Online
 - Orders
 - ✓ Order Good Standing
 - Name Registration
 - ✓ Register a Business
 - Name Online
 - ✓ Renew a Business Name

Date: 11/1/2010

Filed Documents

(Click above to view filed documents that are available.)

Entity Name History

Name	Name Type
SNUG HARBOR SEAFOODS, INC.	Legal

Business Corporation Information

AK Entity #:	46603D
Status:	Active - Good Standing
Entity Effective Date:	10/01/1990
Primary NAICS Code:	
Home State:	AK
Principal Office Address:	PO BOX 701 KENAI AK 99611
Expiration Date:	Perpetual
Last Biennial Report Filed	12/4/2009
Date:	
Last Biennial Report Filed:	2010

Registered Agent

Agent Name:	PAUL DALE
Office Address:	PO BOX 701 KENAI AK 99611
Mailing Address:	
Principal Office Address:	PO BOX 701 KENAI AK 99611

Officers, Directors, 5% or more Shareholders, Members or Managers

Name: Paul D Dale

Address: PO Box 2725
Kenai AK 99611

Title: President

Owner Pct: 100

Name: Paul D Dale

Address: PO Box 2725
Kenai AK 99611

Title: Vice President

Owner Pct: 100

Name: Paul D Dale

Address: PO Box 2725
Kenai AK 99611

Title: Secretary

Owner Pct: 100

Name: Paul D Dale

Address: PO Box 2725
Kenai AK 99611

Title: Treasurer

Owner Pct: 100

Name: Paul D Dale

Address: PO Box 2725
Kenai AK 99611

Title: Director

Owner Pct: 100

Officers & Directors

E-mail the Corporations Staff (907) 465-2550



State of Alaska
 Department of Commerce, Community, and Economic Development
 Division of Corporations, Business and Professional Licensing
 Corporations Section
 PO Box 110808
 Juneau, AK 99811-0808

AK Entity #: 46603D
 Date Filed: 12/04/2009 10:16 AM
 State of Alaska
 Department of Commerce

Business Corporation
Online 2010 Biennial Report
 For the period ending December 31, 2009

Alaska Entity # 46603D	Entity Mailing Address
SNUG HARBOR SEAFOODS, INC.	PO Box 701 Kenai, AK 99611

Name and Mailing Address of Registered Agent:	Physical Address of Agent if mailing Address is a PO Box or Mail Stop
Paul Dale PO Box 701 Kenai, AK 99611	

Check this box if there are no changes to the entity information listed below:

Title	Name	Mailing Address	City, State, Zip	<input checked="" type="checkbox"/> if Director	% Shares Held	<input checked="" type="checkbox"/> if alien affiliate
President	Paul D Dale	PO Box 2725	Kenai AK 99611	<input checked="" type="checkbox"/>	100	<input type="checkbox"/>
Vice President	Paul D Dale	PO Box 2725	Kenai AK 99611	<input checked="" type="checkbox"/>	100	<input type="checkbox"/>
Secretary	Paul D Dale	PO Box 2725	Kenai AK 99611	<input checked="" type="checkbox"/>	100	<input type="checkbox"/>
Treasurer	Paul D Dale	PO Box 2725	Kenai AK 99611	<input checked="" type="checkbox"/>	100	<input type="checkbox"/>
Director				<input type="checkbox"/>		<input type="checkbox"/>

Please note that this report may not be filed for the record if the required information is not provided. All corporations must have a president, secretary, treasurer and at least one director. The secretary and the president cannot be the same person unless the president is 100% shareholder. The entity must also list any alien affiliates and those shareholders that hold 5% or more of the issues shares.

Enter any changes to the officer/director information listed above:

Title	Name	Mailing Address	City, State, Zip	<input type="checkbox"/> if Director	% Shares Held	<input type="checkbox"/> if alien affiliate
President				<input type="checkbox"/>		<input type="checkbox"/>
Vice President				<input type="checkbox"/>		<input type="checkbox"/>
Secretary				<input type="checkbox"/>		<input type="checkbox"/>
Treasurer				<input type="checkbox"/>		<input type="checkbox"/>
Director				<input type="checkbox"/>		<input type="checkbox"/>

If necessary, attach a list of additional officers, directors, shareholders, and alien affiliates on a separate 8 1/2 X 11 sheet of paper.

This report is public information. Please do not list confidential information such as date of birth or Social Security Numbers.

Note: The registered agent information, name of the entity and the information in the boxes below cannot be changed using this form. You can request the necessary form to change the information by calling (907) 465-2530 or visit our website at <http://www.corporations.alaska.gov>

State of Domicile	Alaska				
Total Number of Authorized Shares	10000	Class:	Common	Series:	
Description of Business Activities in Alaska	COMMERCIAL FISHERIES			NAICS Code	

We have converted from SIC codes to NAICS codes. If the NAICS does not appear in the field above, it indicates that the SIC code did not have an exact match at the time of conversion. We will be updating the database as the new NAICS codes are identified.

12/04/2009	paul dale	president
Date	Signature	Title

This report is due on January 2nd and must be received with the applicable fees in U.S. funds.

Domestic Entity - \$100.00 If postmarked after February 1, 2010 - \$137.50	Foreign Entity (State of Domicile not Alaska) - \$200.00 If postmarked after February 1, 2010 - \$247.50
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ACORD - CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/22/10

PRODUCER
Parker Smith & Feek
Anchorage (907-562-2225)
70 Old Seward Hwy., Ste. 200
Anchorage, AK 99503-6067

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Mt. Hawley Insurance Company	
INSURER B: Liberty Northwest Ins. Corp.	
INSURER C: American States Insurance Co.	
INSURER D:	
INSURER E:	

INSURED
Snug Harbor Seafoods, Inc.
P.O. Box 701
Kenai, AK 99611

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

NSR ADD'L LTR	INSURANCE	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY	MGL0157527	02/15/10	02/15/11	EACH OCCURRENCE	\$1,000,000
	X	COMMERCIAL GENERAL LIABILITY	**See Surplus			DAMAGE TO RENTED PREMISES (Ea occurrence)	\$50,000
		CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	Wording Below			MED EXP (Any one person)	\$5,000
						PERSONAL & ADV INJURY	\$1,000,000
						GENERAL AGGREGATE	\$2,000,000
						PRODUCTS - COMP/OP AGG	\$1,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER:					
		<input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC					
C		AUTOMOBILE LIABILITY	01C11545892	02/15/10	02/15/11	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
		ANY AUTO				BODILY INJURY (Per person)	\$
		ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	X	SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	X	HIRED AUTOS					
	X	NON-OWNED AUTOS					
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
		ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
A		EXCESS/UMBRELLA LIABILITY	MXL0414055	02/15/10	02/15/11	EACH OCCURRENCE	\$1,000,000
	X	OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$1,000,000
							\$
		DEDUCTIBLE					\$
		RETENTION \$					\$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC41NC014117010	02/15/10	02/15/11	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$500,000
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$500,000
		OTHER				E.L. DISEASE - POLICY LIMIT	\$500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

**THIS IS EVIDENCE OF INSURANCE PROCURED AND DEVELOPED UNDER THE ALASKA SURPLUS LINES LAW, AS 21.34. IT IS NOT COVERED BY THE ALASKA INSURANCE GUARANTY ASSOCIATION ACT, AS 21.80.

**Surplus Lines Broker for Company A: CRC
Evidence of Insurance

CERTIFICATE HOLDER

For Information Purposes Only

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Oliver L. Rosier

Terry Felde

From: Walt Wrede
Sent: Tuesday, November 30, 2010 11:46 AM
To: Terry Felde
Subject: Fw: Lease Application

Terry

Please print and give to Melissa for meeting laydown.

Thanks. Walt

From: Brenda Dale [<mailto:snug@alaska.net>]
Sent: Tuesday, November 30, 2010 10:08 AM
To: Walt Wrede
Subject: RE: Lease Application

Operating in the Kenai Borough since 1990, Snug Harbor purchases longline product from a local fleet of 62 vessels and salmon from an additional 187. Snug Harbor currently employees 15 employees in Homer March through November with a payroll of \$235,000 . Longline product is our primary focus until July of each year at which time our Homer facility provides a port of delivery for our CI Salmon tender as well as our 22 vessel Homer drift fleet. Raw fish tax generated from Snug Harbor's Homer operations equate to \$400,000 annually and provide an additional 185 processing jobs in the borough and a \$1.4 million processing payroll. Snug Harbor supported 148 local businesses in 2010 and will continue to support the following in Homer;

On Demand
Printers Ink
AIH
Petro Marine
AK Boats and Permits
HEA
Spenard Builders Supply
In Demand Marine
Homer Stage Line
Kachemak Auto Parts
Redden Marine
Kachemak Shellfish Growers
Alaska Ice and Bait
Homer News
Nomar
NAPA Auto
Northland Services
Rocky Point Surveys
South Central Radar

Brenda Dale

Snug Harbor Seafoods
ph. 907.283.6122 x31

COMMENTS OF THE AUDIENCE
COMMENTS OF THE CITY ATTORNEY
COMMENTS OF THE CITY CLERK
COMMENTS OF THE CITY MANAGER
COMMENTS OF THE MAYOR
COMMENTS OF THE CITY COUNCIL
ADJOURNMENT

