

May 5, 2010
5:30 P.M.

Cowles Council Chambers
491 East Pioneer Avenue
Homer, Alaska

WORK SESSION Advisory Planning Commission AGENDA

1. Call To Order, 5:30 P.M.
2. Discussion of Items on the Regular Meeting Agenda
3. Staff Report PL 10-40, Draft Steep Slope Ordinance *(Please refer to page 33 of the regular meeting packet.)*
4. Staff Report PL 10-43, Draft Ordinance Amending Storm Water Requirements and Establishing Standards for Filling Land *(Please refer to page 147 of the regular meeting packet.)*
Carey Meyer, Public Works Director
David Cole, Dowl Engineers-Teleconference
5. Staff Report PL 10-41, Draft Ordinance Amending the Appeal Procedure *(Please refer to page 113 of the regular meeting packet.)*
6. Staff Report PL 10-42, Draft Spit Comprehensive Plan *(Please refer to page 129 of the regular meeting packet.)*
7. Public Comments
The public may speak to the Planning Commission regarding matters on the work session agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
8. Commission Comments
9. Adjournment



**REGULAR MEETING
AGENDA**

1. **Call to Order**
2. **Approval of Agenda**
3. **Public Comment**
The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
4. **Reconsideration**
5. **Adoption of Consent Agenda**
All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.
 - A. Approval of the regular meeting minutes of April 21, 2010 *Page 1*
6. **Presentations**
7. **Reports**
8. **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-10-39, Vacation of 33' access easement west of Kachemak Bay *Page 7*
9. **Plat Consideration**
 - A. Staff Report PL 10-38, John Warren Replat Preliminary Plat *Page 17*
10. **Pending Business**
 - A. Staff Report PL 10-44, Bonny Bluff No. 2 Preliminary Plat *Page 23*
 - B. Staff Report PL 10-40, Draft Steep Slope Ordinance *Page 33*
 - C. Staff Report PL 10-41, Draft Ordinance Amending the Appeal Procedure *Page 113*
 - D. Staff Report PL 10-42, Draft Spit Comprehensive Plan *Page 129*
 - E. Staff Report PL 10-43, Draft Ordinance Amending Storm Water Requirements and Establishing Standards for Filling Land *Page 147*
11. **New Business**
12. **Informational Materials**
13. **Comments of The Audience**
Members of the audience may address the Commission on any subject. (3 minute time limit)
14. **Comments of Staff**

15. Comments of The Commission

16. Adjournment

Meetings will adjourn promptly at 10:00p.m. An extension is allowed by a vote of the Commission. The next Regular Meeting is scheduled for May 21, 2010 at 7:00 p.m. in the Cowles Council Chambers. There will be a work session at 5:30p.m. prior to the meeting.

Session 10-07, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 7:20 p.m. on April 21, 2010 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONER BOS, DRUHOT, HIGHLAND, KRANICH, MINSCH

ABSENT: COMMISSIONER SINN

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK JACOBSEN

APPROVAL OF AGENDA

PUBLIC COMMENT

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

Kevin Walker, Kachemak City resident, commented regarding the steep slope ordinance. Mr. Walker said he made his life reading this type of information and trying to enforce it. He referenced line 218 regarding natural vegetation. As a certified erosion control expert he has never heard of a 16 month grace period to leave open slopes exposed. If someone is building a house maybe it's okay, but to leave over an acre exposed could result in up to millions of dollars in fines. Mr. Walker said the State takes these type of regulations very seriously, and cited a lawsuit in Hawaii. Secondly Mr. Walker pointed out that the Transportation Advisory Committee discussed constructed slopes and back slopes on roads. They are steep slopes at a 50% or 2 to 1 made up of compacted, well graded, stabilized gravel which may support itself at that ratio, but slippery, slimy, clay slopes around Homer's bluff may not support even a 33% slope in his opinion. It may not even support a 4 to 1 slope in certain flood conditions. Instead of a 50% slope, he strongly recommends a geotechnical engineering report for anything steeper than 25%. In western Alaska the DOT often specifies 4 to 1 (25%) on compacted, closely monitored (3 full time inspectors) slopes and they sometimes fail. If you don't make the slope the right grade or monitor it, stabilize it and do all the other things, it costs big bucks if it rains and the slope fails, clogs ditches, and washes out the road. It makes everyone look bad. He encouraged them to think about the 50% number.

RECONSIDERATION

No items were scheduled for reconsideration.

ADOPTION OF CONSENT AGENDA

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

- A. Approval of the April 7, 2010 regular meeting minutes
- B. Draft Decision and Findings for Conditional Use Permit (CUP) 10-04, University of Alaska, Kachemak Bay Campus College Expansion
- C. Draft Decision and Findings for Conditional Use Permit (CUP) 10-05 Fish Factory to allow two caretakers' Residences

The April 7, 2010 Regular Meeting Minutes were moved to New Business and the amended Consent Agenda was approved by consensus of the Commission.

PRESENTATIONS

There were no presentations scheduled.

REPORTS

City Planner Abboud reported that the City Council will be holding a worksession to discuss the Comp Plan at their April 26th meeting. The City is still in negotiations with the junk car removal contract. They are hoping to get 100 cars processed and Council will be looking at it again on May 10. He attended the APA national conference and said there was discussion on economic development focusing on the assets that exist and about non conformity. He said the Planners within the Borough are looking at pooling their resources to purchase tapes of the conference they all could share. He advised the Commission that he will be on vacation May 15 through the 31 and Planning Technician Engebretsen will be attending in his place.

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

A. Staff Report PL 10-35, Bonny Bluff No. 2 Preliminary Plat

City Planner Abboud reviewed the staff report.

There was discussion whether a subdivision could be approved when the lots are not developable because of the slope. City Planner Abboud noted that you can't have a plat note that states whether something can or can't be built on. If a person wants to build on the property they would have to contact staff for regulations as stated in plat note 5. Chair Minsch noted in the staff report requirement 13 states the plat should identify and locate all plat areas in excess of 20 % and staff response that not all areas are completely identified. City Planner Abboud explained that the lines delineated show the slope but when it gets to the bluff the lines get densely packed and would be completely dark on a small copy.

There was no applicant or public comment.

KRANICH/HIGHLAND MOVED TO BRING BONNIE BLUFF NO. 2 PRELIMINARY PLAT TO THE FLOOR FOR DISCUSSION AND APPROVAL.

KRANICH/HIGHLAND MOVED TO CORRECT THE SKYLINE DRIVE TO WEST HILL ROAD ON THE PLAT.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

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, and could very possibly be vegetated it to strengthen the slope far greater than the person than a 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 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.

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
APRIL 7, 2010

- Line 69 add, "and the environment".
- The environment is going to be effect 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.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

INFORMATIONAL MATERIALS

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 staff comments.

COMMENTS OF THE COMMISSION

Commissioners Kranich, Druhot, and Highland had no comment.

Commissioner Bos commented that he has read the Homer Spit Comp Plan and thinks it is a pretty good small town comprehensive plan. He likes the photos as it shows how a small group of people can come together and get things figured out. It adds a little bit of personality and the plan creates a lot of opportunity for the people on the spit, also more business and new business coming in. He thinks it is pretty well written.

Chair Minsch said she agrees, in general, it is a little disjointed in her opinion. She thinks they are doing good work and hopes they don't get frustrated with the steep slope stuff. It is hard, but we all have to get there the same way, and we will.

ADJOURN

Meetings will adjourn promptly at 10 p.m. An extension is allowed by a vote of the Commission. The next Regular Meeting is scheduled for May 5, 2010 at 7:00 p.m. in the Cowles Council Chambers. There will be a work session at 5:30p.m. prior to the meeting.

There being no further business to come before the Commission, the meeting adjourned at 9:33 p.m. The next regular meeting is scheduled for May 5, 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: _____





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 10-39

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: May 5, 2010
SUBJECT: Vacation of a public access easement, Government Lot 37, West of Kachemak Drive

Requested action: Conduct a public hearing and recommend approval of the vacation of a public access easement west of Kachemak Drive.

GENERAL INFORMATION

Applicants:	Roger Imhoff, RLS PO Box 2588 Homer AK 99603	John Warren PO Box 2581 Homer AK 99603	Walt Wrede City of Homer Homer AK 99603
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Requested Action:	Vacation of a public right of way easement
Location:	West of Kachemak Drive, Gov't lot 37
Zoning Designation:	Rural Residential
Existing Land Use:	Single family home with shop

Surrounding Land Use:	North: Residential
	South: Residential/Vacant
	East: Vacant
	West: Residential

Comprehensive Plan:	Continue to encourage infilling of residential areas.
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Public Notice:	Notice was sent to 15 property owners of 20 parcels as shown on the KPB tax assessor rolls.
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ANALYSIS:

This vacation request lies within the Rural Residential zoning district. A preliminary plat also accompanies this request. The plat requires a separate platting action and vote. This staff report will only address the vacation of the right of way. The purpose of the vacation is to get rid of a public access easement, because the main building on the property encroaches into the easement. The easement is also a utility easement, which would be vacated. The plat dedicates a new utility easement along Kachemak Drive.

What is the difference between a dedicated Right of Way, and a public right of way easement? Ownership! When a street is "*dedicated*," that means the ownership of the underlying land is granted to the government. An *easement* exists when the property owner retains ownership to the underlying land, but grants certain surface use privileges to someone else. It might be a driveway easement, an easement to the phone company, or in this case, and allowance for the general public to cross the property in a specific location. In a vacation request, the property owner is petitioning for the public to give up the public's right to cross the property. It is the Commission's role to review the public interest in the easement, and make a recommendation for or against giving up the public's right to cross the property. The Homer City Council makes the final decision on giving up this right.

REVIEW

Kenai Peninsula Borough Code:

20.04.010 Purpose of provisions.

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, safety and general welfare of the people.

Staff Finding: An adequate and safe road system has been provided by the state to serve this area. Kachemak Drive is constructed. The north-south easement is not needed to add to the road system.

20.28.150. Vehicular access provision.

Where a right-of-way is required for logical provision of an existing or future road, the planning commission shall not approve the vacation unless an equal or superior right-of-way will be provided in exchange. Where 2 or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider the ultimate density of habitation or use and maintain sufficient rights-of-way to serve such anticipated use.

Staff finding: Vehicular access is provided via Kachemak Drive. There is an east-west easement to the north to serve the city property to the west.

20.28.160. Other access provisions.

Rights-of-way which provide or could provide access for pedestrians, off-road vehicles, aircraft and similar modes of transport shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available.

Staff finding: The right of way does not provide access for any mode of transportation. Superior access is located along Kachemak Drive. The applicant will dedicate a portion of Kachemak Drive to further increase the right of way width.

PUBLIC WORKS COMMENTS: The Public Works Department had no comments.

FIRE DEPARTMENT COMMENTS: Fire Chief Painter had no problem with the vacation.

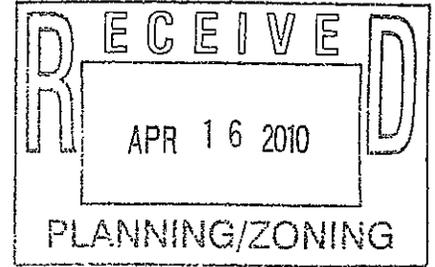
STAFF COMMENTS

Staff recommends the Commission recommend approval of the vacation of the public right of way and utility easement on Government lot 37 lying west of Kachemak Drive, as shown on the John Warren Replat Preliminary Plat.

ATTACHMENTS

1. Vacation Petition
2. Preliminary Plat and vacation map
3. Location map





Kenai Peninsula Borough Planning Department
 144 North Binkley
 Soldotna, Alaska 99669-7599
 Toll free within the Borough 1-800-478-4441, extension 2200
 (907) 714-2200

Petition to Vacate Public Right-of-Way/Section Line Easement Public Hearing Required

Upon receipt of complete application with fees and all required attachments a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

- Fees - \$300 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to vacation fees.
 - City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
 - Name of public right-of-way proposed to be vacated is _____; dedicated by plat of _____ Subdivision, filed as Plat No. _____ in _____ Recording District.
 - Are there associated utility easements to be vacated? < BY PATENT > Yes No
 - Are easements in use by any utility company; if so which? NO
 - Easement for public road or right-of-way as set out in (specify type of document) PATENT as recorded in Book 6 Page 218 of the HOMER Recording District. (Copy of recorded document must be submitted with petition)
 - Section Line Easement. Width of easement must be shown on sketch.
 - Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11 x 17 inches in size. In the case of public right-of-way the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.
- | | | |
|---|---|--|
| Has right-of-way been fully or partially constructed? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Is right-of-way used by vehicles/pedestrians/other? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Has section line easement been constructed? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Is section line easement being used? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Is alternative right-of-way being provided? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

The petitioner must provide reasonable justification for the vacation. Reason for vacating:

There is a substantial building in the easement
adjacent property has access from 66' wide public ROW
easement.

The petition must be signed (written signature) by owners of majority of the front feet of land fronting part of right-of-way or section line easement proposed to be vacated. Each must include mailing address and legal description of his/her property.

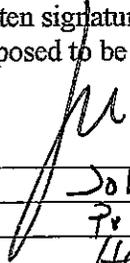
Submitted by: Signature

As: Petitioner Representative

Name

Address

Phone



John Warner

P.O. Box 2581

Homer, AK. 99603

907-299-5567

Petitioners:

Signature

Name

Address

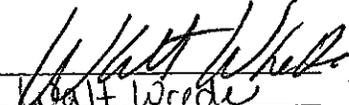
Owner of

Signature

Name

Address

Owner of



Keith Weede

City Manager

City of Homer

491 E. Pioneer Ave, Homer, AK, 99603

Govt. Lot 36

Signature

Name

Address

Owner of

Signature

Name

Address

Owner of

Roger W. Imhoff, RLS
PO Box 2588 * Homer Ak 99603
(907)235-7279 fax (907)235-5254
rogerimhoff@alaska.net

4-15-2010

Julie Engebretsen
COH Planning Dept
Homer Ak 99603

RE: Preliminary Plat
John Warren Replat

This plat is submitted concurrently with a petition to vacate a portion of the 33 ft wide ROW/Utility Easement granted by the Patent (Bk 6 Page 218 HRD). It is intended that both functions (ROW and Utility Easements) be vacated.

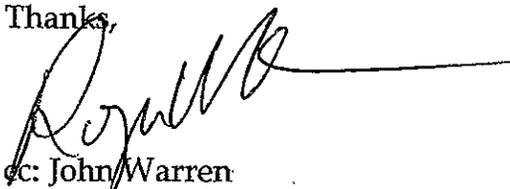
This is similar to the plat "Seekins Replat" recorded Plat No. 2004-8.

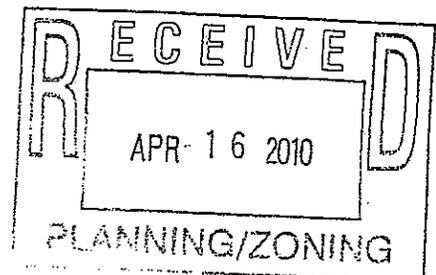
The vacation, if approved, removes the building encroachment. The adjoiner is the City of Homer.

This plat does not subdivide any of the Parent lot. We do ,however, dedicate the applicable 30 ft wide ROW of Kachemak Drive, which has never been formally dedicated into Public Right-of-Way.

you or staff have any questions, comments, or suggestions, please feel free to call or email me.

Thanks,


cc: John/Warren



Vicinity Map

A 33 ft public access easement to be vacated.
Kachemak Drive Right of Way to be dedicated.
See attached plat.

Kachemak Drive

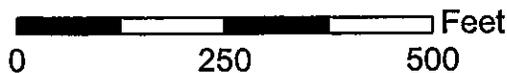
Kachemak Bay



City of Homer
Planning and Zoning Department
December 22, 2009

John Warren Replat Preliminary Plat and public access easement vacation

Property owners within
500 feet (shaded lots) are notified



Disclaimer:
It is expressly understood the City of Homer, its council, board, departments, employees and agents are not responsible for any errors or omissions contained herein, or deductions, interpretations or conclusions drawn therefrom.



City of Homer Planning & Zoning

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 Web Site www.ci.homer.ak.us

STAFF REPORT PL 10-38

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: May 5, 2010
SUBJECT: John Warren Replat Preliminary Plat

Requested Action: A recommendation of preliminary plat approval for the dedication of right of way for Kachemak Drive, and the depiction of a public right of way easement vacation

GENERAL INFORMATION

Applicants:	John Warren PO Box 2581 Homer, AK 99603	Roger Imhoff, RLS PO Box 2588 Homer, AK 99603
Location:	Government lot 37 West of Kachemak Drive	
Parcel ID:	17910002	
Size of Existing Lot(s):	27, 200 square feet	
Size of Proposed Lots(s):	20, 600 square feet	
Zoning Designation:	Rural Residential District	
Existing Land Use:	Single family home with shop	
Surrounding Land Use:	North: Residential South: Residential/Vacant East: Residential West: Vacant	
Comprehensive Plan:	Continue to encourage infilling of residential areas.	
Wetland Status:	The 2005 wetland mapping shows no wetlands.	
Flood Plain Status:	Zone x: Outside the 500 year floodplain.	
BCWPD:	Not within the Bridge Creek Watershed Protection District.	
Utilities:	City water and sewer are not available but are planned as part of the Kachemak Drive Local Improvement District.	
Public Notice:	Notice was sent to 15 property owners of 20 parcels as shown on the KPB tax assessor rolls.	

ANALYSIS:

This subdivision is within the Rural Residential District. The subdivision dedicates 30 feet of right of way to Kachemak Drive, and an additional 35 foot water and sewer utility easement to the City of Homer. This plat depicts the vacation of a public right of way and utility easement, which is the subject

of a separate action and staff report. The current and new lot do not meet the dimensional size requirement of a minimum of forty thousand square feet when served by a well and septic system. However, if a water cistern or a septic holding tank are used, the property would meet the dimensional requirements of a minimum of twenty thousand square feet. City water and sewer are planned to be installed as part of the Kachemak Drive improvements.

Preliminary Approval, per KPB code 20.12.0060 Form and Contents Required. The commission will consider a plat for preliminary approval if it contains the following information at the time it is presented and is drawn to a scale of sufficient size to be clearly legible.

1. Within the title block:
 - a. Names of the subdivision which shall not be the same as an existing city, town, tract or subdivision of land in the borough, of which a map or plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
 - b. Legal description, location, date, and total area in acres of the proposed subdivision;
 - c. Name and address of owner and registered land surveyor;
 - d. Scale.

Staff Response: The plat meets these requirements.

2. North point;

Staff Response: The plat meets these requirements.

3. The location, width and name of existing or platted streets and public ways, railroad rights-of-way and other important features such as section lines, political subdivision or municipal corporation boundaries abutting the subdivision.

Staff Response: The plat meets these requirements.

4. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries and prominent natural and manmade features, such as shorelines or streams.

Staff Response: The plat meets these requirements.

5. All parcels of land including those intended for private ownership and those to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision together with the purposes, conditions or limitation of such reservations.

Staff Response: Private parcels are shown. No public use areas other than Rights of Way and easements are noted.

6. The names and widths of public streets and alleys and easements including drainage easements existing and proposed, within the subdivision. [Additional City of Homer HAPC policy: Drainage easements are normally thirty feet in width centered on the drainage. Final width of the easement will depend on the ability to access the drainage with heavy equipment. An alphabetical list of street names is available from City Hall.]

Staff Response: The plat meets these requirements.

7. The names of adjacent subdivisions or an indication that the adjacent land is not subdivided.
Staff Response: The plat meets these requirements.

8. Approximate location of areas subject to inundation, flooding or storm water overflow. Indicate if a recognized flood plain is present. Identify and locate the major drainage systems.

Staff Response: The plat meets these requirements. Not within a flood hazard area. No major drainage systems present.

9. Approximate locations of areas subject to tidal inundation including the mean high water line.

Staff Response: The plat meets these requirements (not applicable to this area).

10. Block and lot numbering per Section 20.16.110 of the borough subdivision code.

Staff Response: The plat meets these requirements.

11. The general location of existing water and sewer utilities, and the intent and methods of the subdivision to utilize and access such utilities.

Staff Response: Information not provided by the time this report was published.

12. Provide a contour map of the subdivision and road profiles if road grades exceed 6% on arterial and 10% on other streets.

Staff Response: The plat meets these requirements. No new road construction is planned. Kachemak Drive is already constructed.

13. Identify and locate on the plat all areas in excess of 20% grade.

Staff Response: The plat meets these requirements. No areas are in excess of 20% grade.

PUBLIC WORKS COMMENTS: No comments.

FIRE DEPARTMENT COMMENTS: No comments.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission recommend approval of the preliminary plat.

ATTACHMENTS

1. See SR 10-39, Public Right of Way easement vacation attachments.





City of Homer Planning & Zoning

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STAFF REPORT PL 10-44

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: May 5, 2010
SUBJECT: Bonny Bluff No. 2 Preliminary Plat

Additional Information:

Last meeting the PC postponed action on the plat wanting to ask questions of the applicant. I have contacted the surveyor and am scheduled to talk to him Monday, May 3rd. I intend to inform him of the concerns regarding the labeling of areas that may be in excess of 20% slope and the interest of the commission to question him about the possible development plans of the lots.

According to my straight line calculation, the western lot line and panhandle runs nearly 20% and most likely the calculation for the entire lot is over 20%. I believe that showing contour lines gets the point across that the lots are steep and attention certainly needs to be given to plat note number 5, regarding checking with planning and zoning prior to any development (remember that the final plat has no requirement for designating slope). I have to consider the planning purpose of identifying areas over 20%, one of which may be to give indication that a driveway may not be able to be built to meet requirements of access for emergency vehicles. Perhaps, in the future, our code may or may not allow for various developments.

If commissioners feel that this is too much of a deviation from reasonable concern for health, safety and welfare they may not want to recommend approval. This might send a message that Homer frowns upon this action, but is quite unlikely to survive a legal challenge on a ruling of law. Despite all the health, safety and welfare concerns of the Baycrest Plat Waiver, the court has only ruled on the ability to create 5 acre lots. Perhaps we should reflect upon exactly why we do not like this and consider ways that we may be able to form a legal basis supporting our concern.





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STAFF REPORT PL 10-35

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: April 21, 2010
SUBJECT: Bonny Bluff No. 2 Preliminary Plat

Requested Action: A recommendation of preliminary plat approval for the creation of three lots from one existing.

GENERAL INFORMATION

Applicants:	Diane & Clancy Hughes P.O. Box 9 Homer, AK 99603	Roger Imhoff, RLS P.O. Box 2588 Homer, AK 99603
Location:	Northeast of Hunter Road, west of Bidarki Creek	
Parcel ID:	17502095	
Size of Existing Lot(s):	54.85 acres	
Size of Proposed Lots(s):	41.95, 6.1 and 6.8 acres	
Zoning Designation:	Rural Residential District	
Existing Land Use:	Residential/vacant	
Surrounding Land Use:	North: Residential/vacant South: Residential/vacant East: Residential/vacant West: Residential/vacant	
Comprehensive Plan:	Continue to encourage infilling of residential areas.	
Wetland Status:	The 2005 wetland mapping indicates high value wetlands along Bidarki Creek	
Flood Plain Status:	Zone D: Flood Hazards undetermined.	
BCWPD:	Not within the Bridge Creek Watershed Protection District.	
Utilities:	The site is not served by City water or sewer	
Public Notice:	Notice was sent to 57 owners of 78 parcels	

ANALYSIS:

This subdivision is within the Rural Residential District. This plat creates three lots from one existing. The lots meet the dimensional size requirement of a minimum of forty thousand square feet when not served by City water and wastewater.

Background: This is a large bluff tract with some serious slope. It is doubtful that a fire engine will be able to negotiate the proposed panhandle. While staff is hesitant to recommend approval of a subdivision for which emergency service may not be an option, no city code exists that would form the legal basis for denial at the City level. The subject of emergency access is one the Planning Commission may wish to take up in the future. While this plat meets the legal standards, staff is discouraged that designs such as this may preclude current and future owners of the property the potentially life and property saving opportunities other citizens of Homer can expect.

Preliminary Approval, per KPB code 20.12.0060 Form and Contents Required. The commission will consider a plat for preliminary approval if it contains the following information at the time it is presented and is drawn to a scale of sufficient size to be clearly legible.

1. Within the title block:
 - a. Names of the subdivision which shall not be the same as an existing city, town, tract or subdivision of land in the borough, of which a map or plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
 - b. Legal description, location, date, and total area in acres of the proposed subdivision;
 - c. Name and address of owner and registered land surveyor;
 - d. Scale.

Staff Response: The plat meets these requirements.

2. North point;

Staff Response: The plat meets these requirements.

3. The location, width and name of existing or platted streets and public ways, railroad rights-of-way and other important features such as section lines, political subdivision or municipal corporation boundaries abutting the subdivision.

Staff Response: The plat meets these requirements.

4. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries and prominent natural and manmade features, such as shorelines or streams.

Staff Response: The plat meets these requirements.

5. All parcels of land including those intended for private ownership and those to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision together with the purposes, conditions or limitation of such reservations.

Staff Response: Private parcels are shown.

6. The names and widths of public streets and alleys and easements including drainage easements existing and proposed, within the subdivision. [Additional City of Homer HAPC policy: Drainage easements are normally thirty feet in width centered on the drainage. Final

width of the easement will depend on the ability to access the drainage with heavy equipment. An alphabetical list of street names is available from City Hall.]

Staff Response: The plat meets these requirements.

7. The names of adjacent subdivisions or an indication that the adjacent land is not subdivided.

Staff Response: The plat meets these requirements.

8. Approximate location of areas subject to inundation, flooding or storm water overflow. Indicate if a recognized flood plain is present. Identify and locate the major drainage systems.

Staff Response: The plat meets these requirements.

9. Approximate locations of areas subject to tidal inundation including the mean high water line.

Staff Response: The plat meets these requirements (not applicable to this area).

10. Block and lot numbering per Section 20.16.110 of the borough subdivision code.

Staff Response: The plat meets these requirements.

11. The general location of existing water and sewer utilities, and the intent and methods of the subdivision to utilize and access such utilities.

Staff Response: The plat includes plat note (6).

12. Provide a contour map of the subdivision and road profiles if road grades exceed 6% on arterial and 10% on other streets.

Staff Response: The plat meets these requirements.

13. Identify and locate on the plat all areas in excess of 20% grade.

Staff Response: Not all areas are completely identified.

PUBLIC WORKS COMMENTS: The Public Works Department comments were not received.

FIRE DEPARTMENT COMMENTS: Fire Chief Painter – Looks like Tract E may be too steep for us to get a fire engine up to, otherwise there are no other fire department issues.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission recommend approval of the preliminary plat with the following comments:

1. These lots may be too steep to be served by emergency services.

ATTACHMENTS

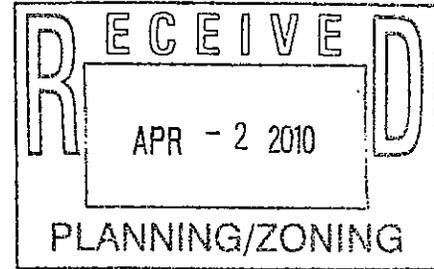
1. Preliminary Plat
2. Letter from surveyor
3. Vicinity Map



Roger Imhoff, RLS
PO Box 2588 * Homer AK 99603
907-235-7279
rogerimhoff@alaska.net

4-01-2010

Julie Engebretsen
City of Homer Planning Dept
Homer Ak 99603



RE Bonny Bluff No. 2 Preliminary Plat

Please find enclosed the preliminary plat for review and consideration by your Planning Dept and Advisory planning Commission.

This plat creates creates 2 lots out of the unsubdivided remainder of Bonny Bluff Subdivision.

We dedicate a partial culdesac at the end of Coyote Avenue for a turnaround. It is not practical to extend the ROW further north because the slopes are too steep to meet a sustained grade under the Homer Design Manual for Roads. At least a portion of the driveway will be shared. If an access easement is in place prior to recording the final plat, we will reference that information.

You can see that most of each lot is greater than 20 percent side slope. However there is a large enough area on each lot of less than 20 percent which may be developed for house site(s).

The steep slopes may pose problems for wastewater disposal. It's possible that the systems may need to be designed by an Engineer prior to installation. Mr. Hughes stated to me that he will have soils testing done this spring or summer when he has his contractor back on site to do some additional work.

Since this subdivision is less than 3 lots, we ask Public Works to clarify that no improvement agreement is required prior to recording the plat.

If you or Staff have any questions, comments, or suggestions, please free feel to contact me.

Thanks,

A handwritten signature in black ink, appearing to read "Roger Imhoff". The signature is fluid and cursive, with a long horizontal stroke extending to the right.



PRESENTATIONS

There were no presentations scheduled.

REPORTS

City Planner Abboud reported that the City Council will be holding a worksession to discuss the Comp Plan at their April 26th meeting. The City is still in negotiations with the junk car removal contract. They are hoping to get 100 cars processed and Council will be looking at it again on May 10. He attended the APA national conference and said there was discussion on economic development focusing on the assets that exist and about non conformity. He said the Planners within the Borough are looking at pooling their resources to purchase tapes of the conference they all could share. He advised the Commission that he will be on vacation May 15 through the 31 and Planning Technician Engebretsen will be attending in his place.

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

A. Staff Report PL 10-35, Bonny Bluff No. 2 Preliminary Plat

City Planner Abboud reviewed the staff report.

There was discussion whether a subdivision could be approved when the lots are not developable because of the slope. City Planner Abboud noted that you can't have a plat note that states whether something can or can't be built on. If a person wants to build on the property they would have to contact staff for regulations as stated in plat note 5. Chair Minsch noted in the staff report requirement 13 states the plat should identify and locate all plat areas in excess of 20 % and staff response that not all areas are completely identified. City Planner Abboud explained that the lines delineated show the slope but when it gets to the bluff the lines get densely packed and would be completely dark on a small copy.

There was no applicant or public comment.

KRANICH/HIGHLAND MOVED TO BRING BONNIE BLUFF NO. 2 PRELIMINARY PLAT TO THE FLOOR FOR DISCUSSION AND APPROVAL.

KRANICH/HIGHLAND MOVED TO CORRECT THE SKYLINE DRIVE TO WEST HILL ROAD ON THE PLAT.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

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, and could very possibly be vegetated it to strengthen the slope far greater than the person than a 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 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.



City of Homer

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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





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.

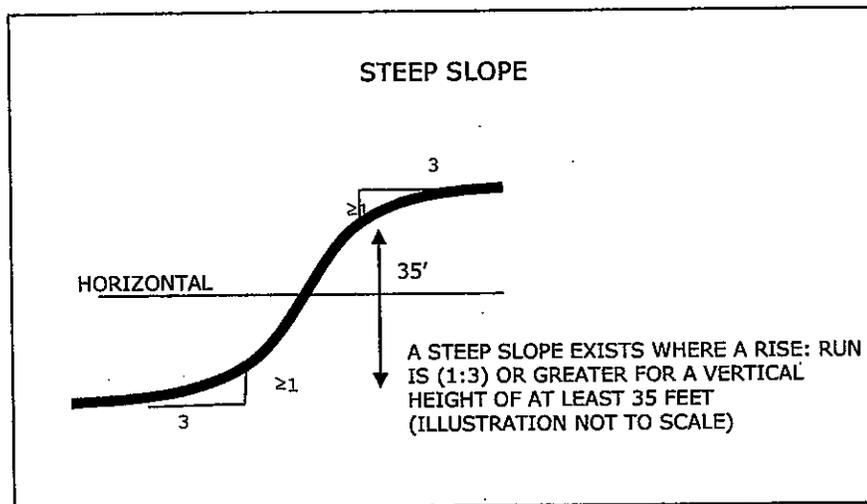
Protected tree. Any living tree of a desirable species having a diameter of eight inches (8") DBH or larger or having an aggregate diameter of fifteen inches (15") DBH or larger.

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

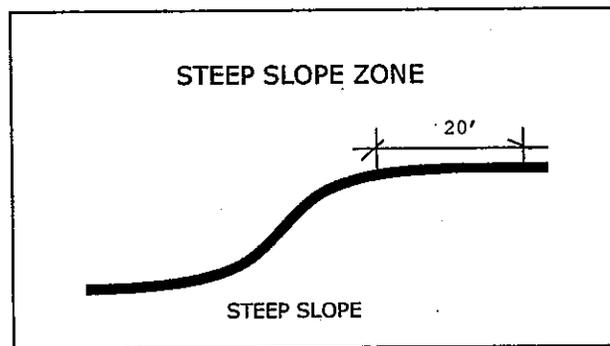
Remove or removal. The actual physical removal of a tree, or the effective removal through intentional damaging, poisoning, or other direct or indirect intentional action resulting in, or likely to result in, the death of a tree.

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"

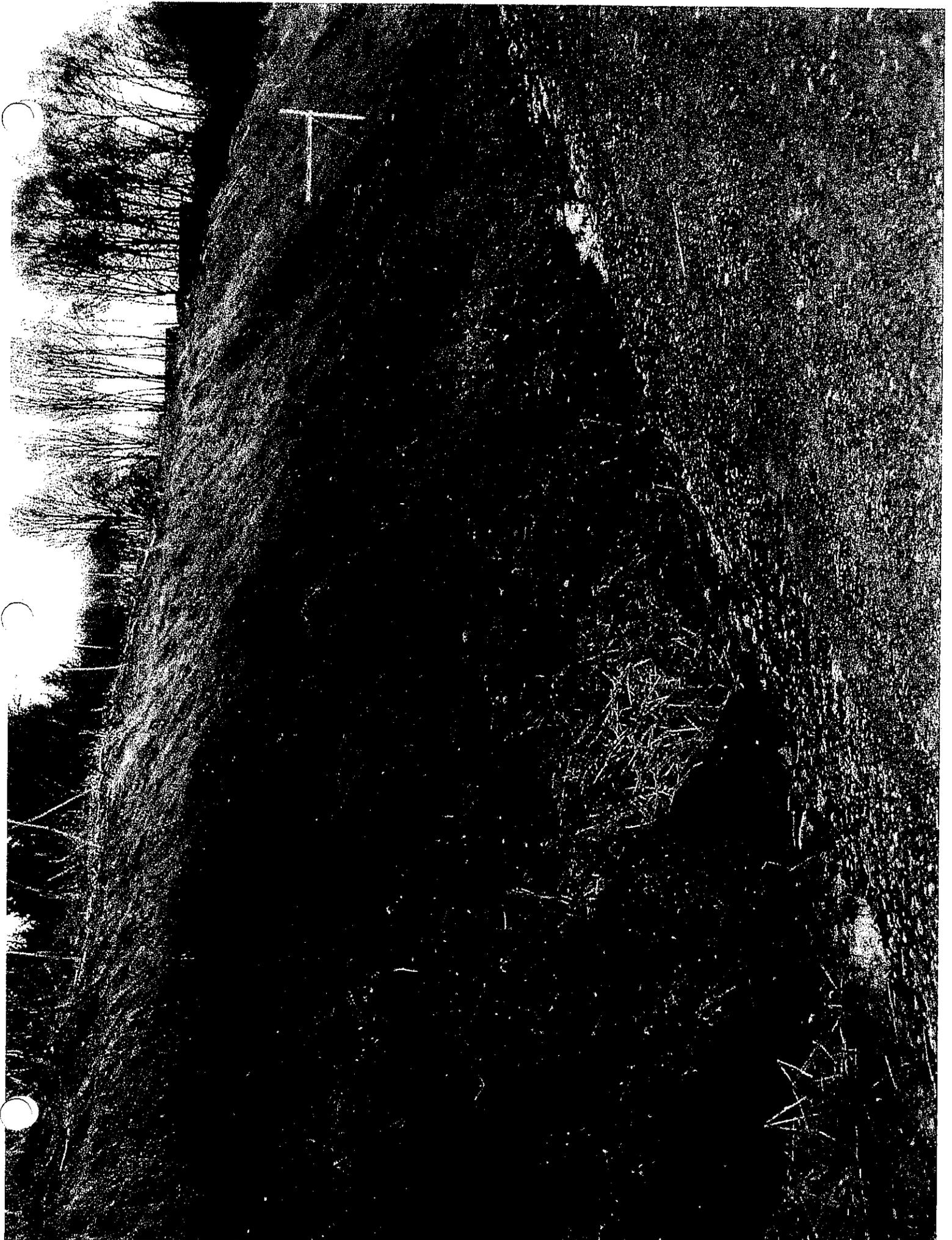
Vertical.

48"

32"

24"









City of Homer Planning & Zoning

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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

CITY OF HOMER
HOMER, ALASKA

April 21, 2010 draft

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

64
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~~
~~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 _____
267 JO JOHNSON, CMC, CITY CLERK

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 _____
284 Walt E. Wrede, City Manager
Date: _____

Thomas F. Klinkner, City Attorney
Date: _____

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



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.

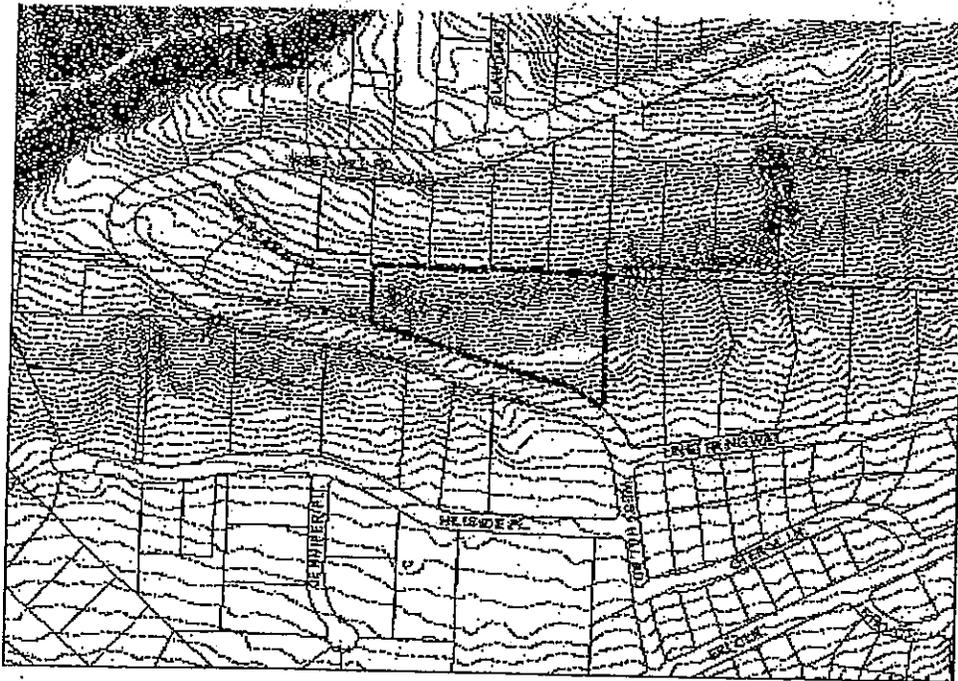
B. Staff Report PL 10-05, Draft Ordinance 10-XX, Amending HCC 21.75, Storm Water Plans

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.



Steep Slope examples

from SR09-42



1. West Hill lot

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

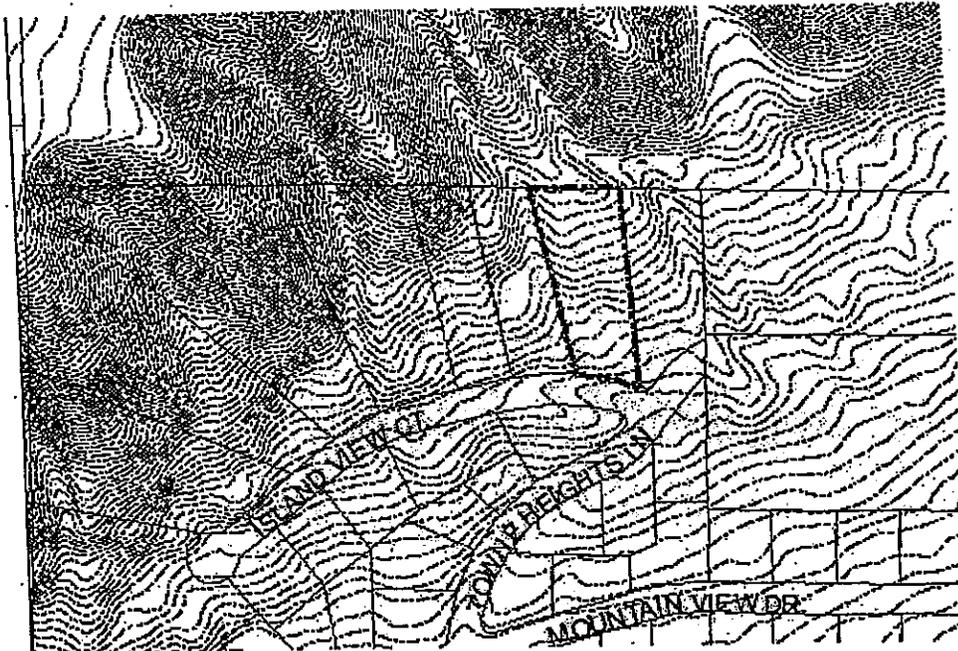
Calculated slope: 32%

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.

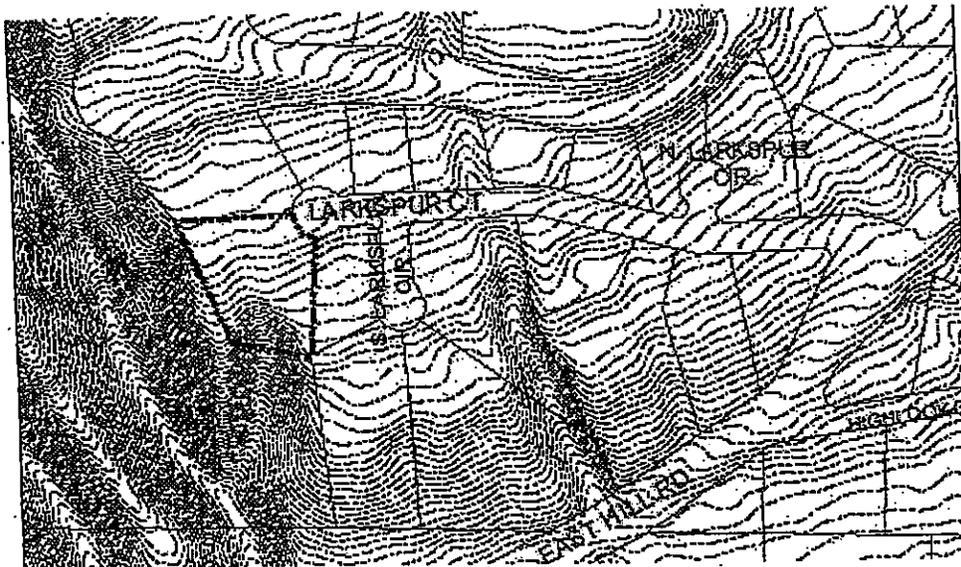


2. Island View Court

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)



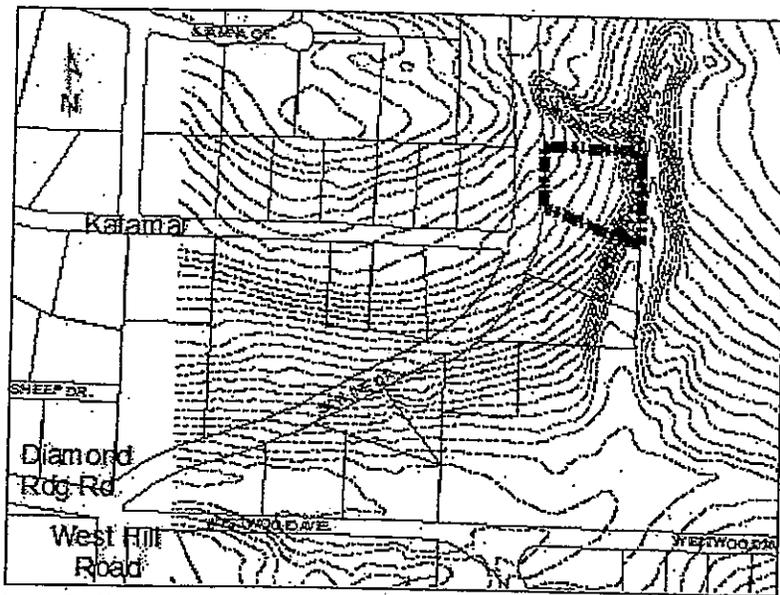
3. Larkspur Court

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, and could very possibly be vegetated it to strengthen the slope far greater than the person than a 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 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 effect 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.

VOTE: NON OBJECTION: UNANIMOUS CONSENT



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STAFF REPORT PL 08-43

TO: Homer Advisory Planning Commission
FROM: Beth McKibben, City Planner *BMA*
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.

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.

5

5



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.



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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

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JAMES C. HORNADAY, MAYOR

191

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



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 09-42

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:

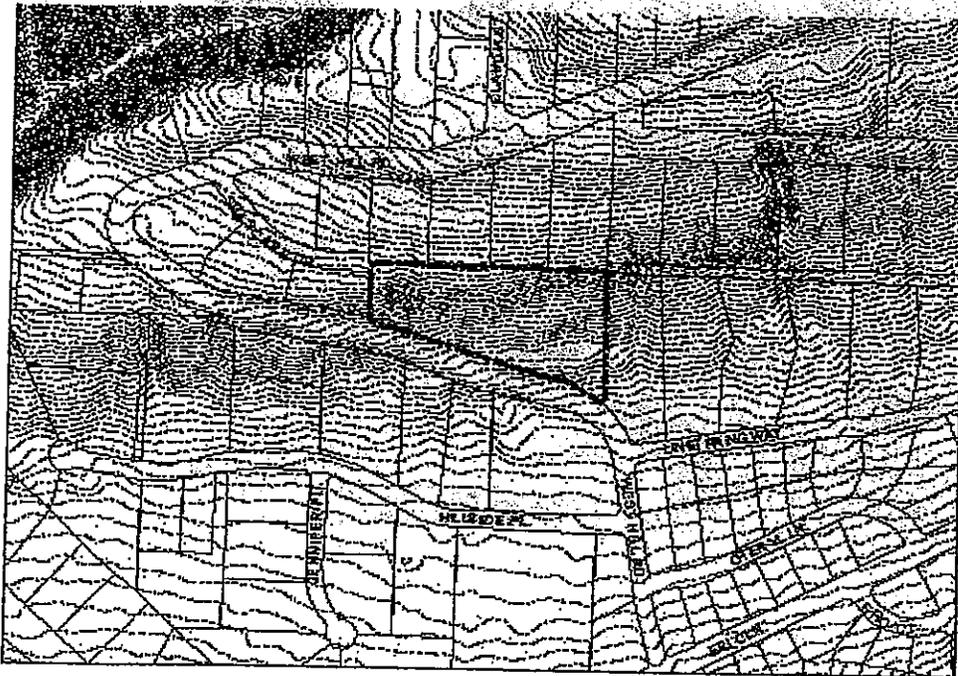
Planning Commission

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.

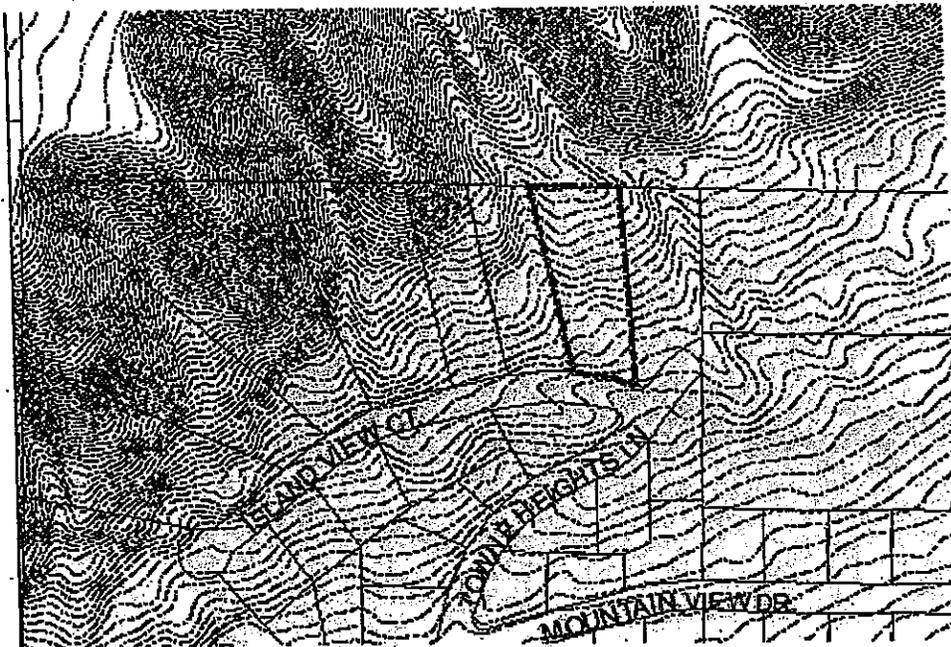
Calculated slope: 32%

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.

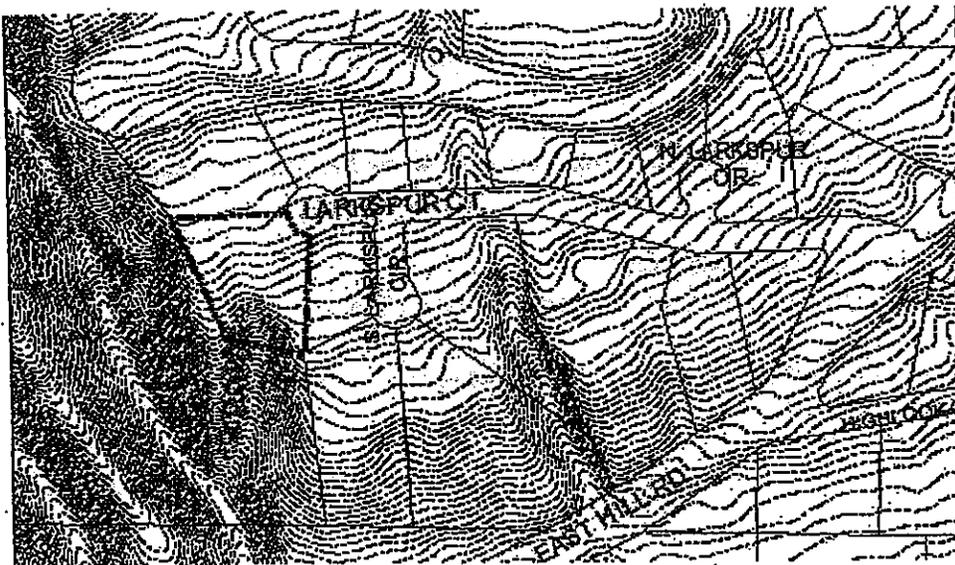


2. Island View Court

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)



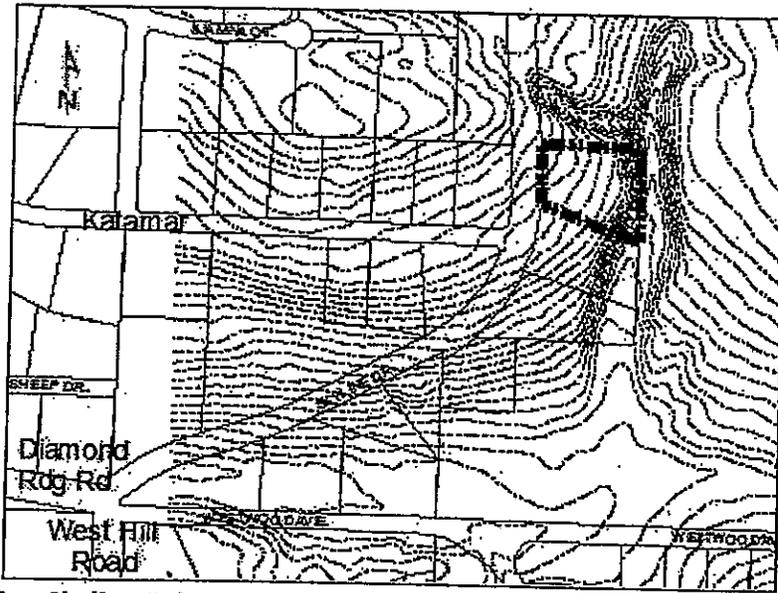
3. Larkspur Court

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.

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May 6, 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,.

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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 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.

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- 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.

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.

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ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this _____ day of _____, 2009.

CITY OF HOMER

 JAMES C. HORNADAY, MAYOR

ATTEST:

 Jo Johnson, CMC, CITY CLERK

214
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

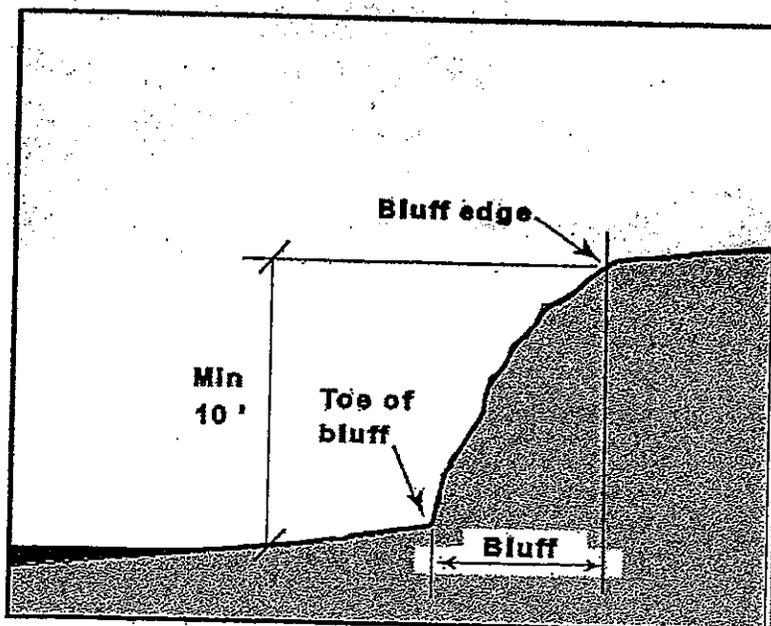
For each of the following terms, the definition is repeated (in italics) from **Chapter 11, Article 3, Division 1, Land Development Terms**, followed by additional information intended to clarify the definitions. The additional information provided is not part of the definition.

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

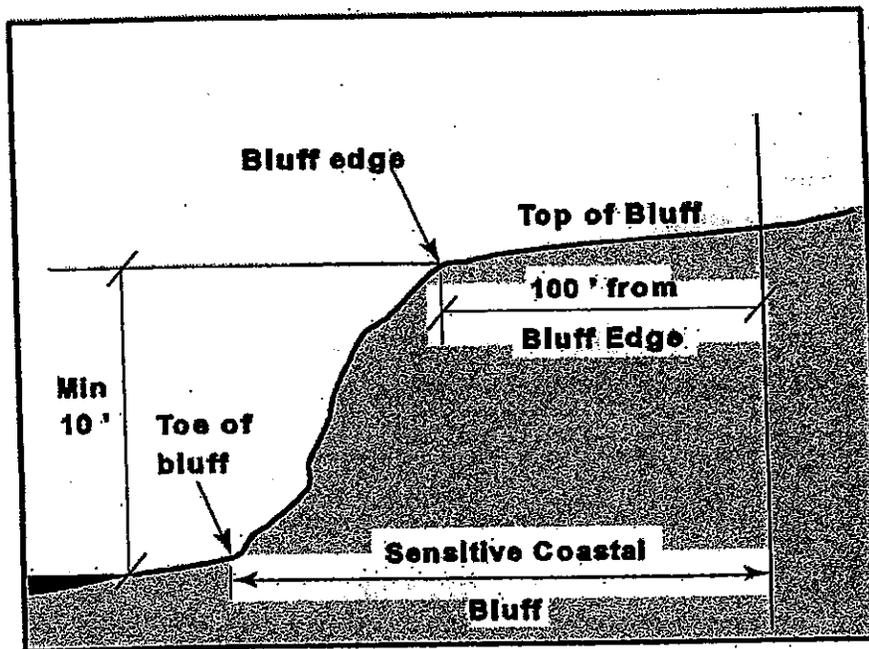


B. Sensitive Coastal Bluff

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.

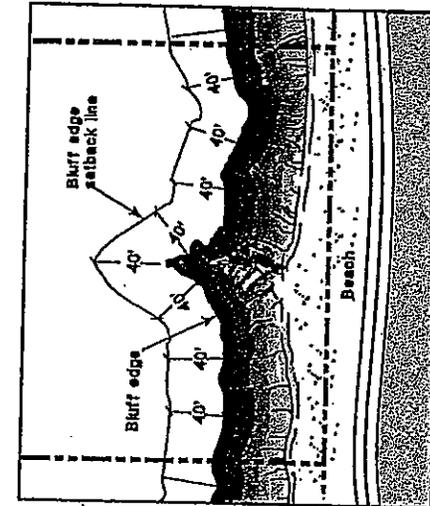
DIAGRAM I-2: SENSITIVE COASTAL BLUFF



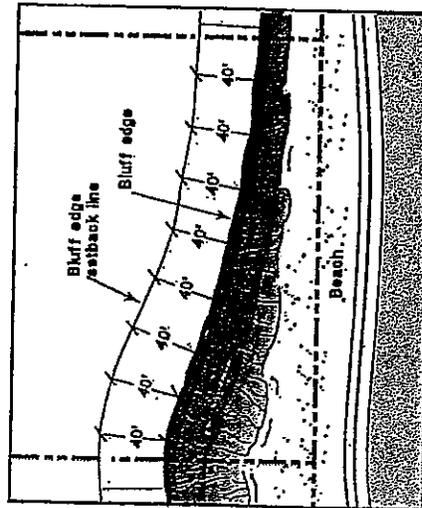
B. Measurement of Distance from Coastal Bluff Edge for Sensitive Coastal Bluffs

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

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 if it 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 TO 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.



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Web Site www.ci.homer.ak.us

STAFF REPORT PL 10-41

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: May 5, 2010
SUBJECT: Amendment to Planning Appeal Procedure

The Planning Commission asked for some additional information from the attorney which is included in this packet.

Action

The commission should review the proposed amendments suggest any areas for further review or revision and set a date for a public hearing.



Shelly Rosencrans

From: Rick Abboud
Sent: Tuesday, April 27, 2010 9:16 AM
To: Shelly Rosencrans
Subject: FW: Planning Appeal Procedure
Attachments: 00120642.DOC\$

Please include in packet under appeals.
Thanks,

Rick

From: Thomas Klinkner [mailto:tklinkner@BHB.com]
Sent: Thursday, April 22, 2010 9:20 AM
To: Rick Abboud
Subject: Planning Appeal Procedure

Rick,

The following is a more complete response to the Commission's questions that we discussed this morning.

1. Vote on Appeal. The ordinance's amendment of HCC 21.93.110(a) adopts the procedure presently used by the Board of Adjustment for recording its vote on an appeal: the decision states the number of members of the body who participated, the number who voted in favor of the decision, and the number who voted against the decision. This does not require that the vote of each member be recorded. The following is an example of the language currently used in Board of Adjustment decisions, and that would be used under this code amendment: "ADOPTED by the Board of Adjustment by a vote of 4 in favor and 0 opposed, with two excused."

2. Cross-examination. Cross-examination would be an issue in an appeal only in instances where the appellate body takes new evidence. This could occur (i) in an appeal to the commission under HCC 21.93.310(d) which permits the Commission in an appeal to take new evidence and other testimony; (ii) in an appeal to the Board of Adjustment under HCC 21.93.510(b) where the Board takes evidence on the issue of a person's standing to appeal; and (iii) in an appeal to the Board of Adjustment under proposed HCC 21.93.510(c) where the Board takes evidence regarding a member's disqualification.

Various methods may be used to regulate cross-examination. One example is the attached regulation of the Anchorage Planning Commission, which permits cross-examination questioning only through the chair of the Commission. This approach can be cumbersome and time consuming. I would recommend instead that the person desiring to cross-examine be able to pose questions to the witness directly, with the chair of the Commission or Board retaining the authority to regulate cross-examination to avoid irrelevance, redundancy or harassment. If the Commission wants me to proposed specific language on this subject, I will do so.

<<00120642.DOC\$>>

Thomas F. Klinkner
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Anchorage, AK 99501-3399
(907) 263-7268 Telephone
(800) 478-1550 Toll Free in Alaska
(907) 276-3680 Fax

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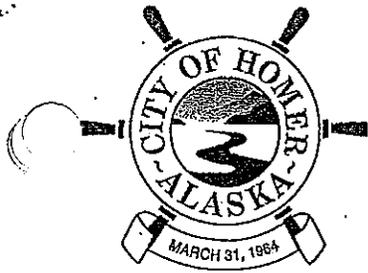
21.10.302 Testimony and cross examination.

A. Formal rules of evidence shall not apply to any proceeding before the commission. The chair may exclude or terminate testimony not deemed to be relevant in the case before the commission. On opening a public hearing the petitioner shall present his/her oral evidence or waive the oral presentation.

B. Testimony of persons appearing before the commission shall be limited as follows: petitioner (including all his/her representatives), ten minutes; representatives of groups, five minutes; individuals, three minutes. The petitioner may reserve a maximum of five minutes for rebuttal at the end of the public hearing. The commission may extend the time period for any person where it deems the additional testimony to be new and necessary to its decision on the case.

C. Cross examination shall be permitted only through the chair. Municipal staff and members of the commission may, through the chair, question the applicant and other persons who have testified. Any interested party may direct questions to the staff or any person testifying by submitting the question to the chair. The chair shall redirect the question to the appropriate person unless he/she determines it to be irrelevant or that presenting the question will unreasonably disrupt or delay the proceeding. The presiding officer of the commission may modify or restrict the scope, extent or method of cross examination in order to assure the fundamental fairness of the proceedings before the commission, to prevent undue delay, irrelevant cross examination or harassment of persons offering testimony to the commission.





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STAFF REPORT PL 10-31

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: April 7, 2010, April 21, 2010
SUBJECT: Amendment to Planning Appeal Procedure

Introduction

After gaining experience with the City's ordinances governing appeals in planning administrative matters, the City Attorney has developed a series of Code amendments that address various lessons learned. I would summarize the amendments as clearing up some areas where guidance is somewhat ambiguous or unclear and those which ease formalistic requirements that may hinder an unrepresented litigant lacking experience.

Section 1. HCC 21.93.500(b) requires parties to an appeal to the Board of Adjustment to file an entry of appearance. This requirement appears unduly formalistic and restrictive in the case of the applicant for the action or determination that is the subject of the appeal and the owner of the property that is the subject of the action or determination, particularly if they are participating pro se. Such persons clearly have standing to participate in the appeal, and allowing them to participate without the formality of an entry of appearance reduces the burden on their participation without prejudicing the Board or other participants.

Another reason for relaxing this requirement is that some provisions of the general appeal procedures in Subchapter 1 of HCC Chapter 21.93 assume an entry of appearance is required in all appeals, although there is no such requirement in appeals to the Planning Commission. Under this circumstance, confining notices in appeals to the Planning Commission to persons who have entered an appearance may conflict with parties' rights to due process.

Amendments to implement this change begin with HCC 21.93.100(b), regarding notice of an appeal hearing. Under the amendment, notice of the appeal hearing shall be sent to the applicant for the action or determination that is the subject of the appeal and the owner of the property that is the subject of the action or determination, regardless of whether those persons have entered an appearance in the appeal.

Section 2. HCC 21.93.110(a) is amended to require appeal decisions to state the vote on the decision. While this appears to be the practice, making it a requirement will assure that it is done in every case. In addition, HCC 21.93.110(c) is amended to provide that notice of the decision shall be sent to the

applicant for the action or determination that is the subject of the appeal and the owner of the property that is the subject of the action or determination, regardless of whether those persons have entered an appearance in the appeal.

Section 3. A recent appeal presented the question of how many votes are required for the Planning Commission to reverse a decision of the City Planner. A new HCC 21.93.300(f) is added to apply the same rule on this subject to the Planning Commission as governs decisions of the Board of Adjustment under HCC 21.93.550. The amendment also applies to Planning Commission appeal decisions the form that is prescribed for Board of Adjustment decisions in HCC 21.93.550.

Section 4. HCC 21.93.500 is amended to delete the requirement of an entry of appearance for the applicant for the action or determination that is the subject of the appeal and the owner of the property that is the subject of the action or determination, for the reasons discussed under Section 1, above.

Section 5. A question has arisen in several Board of Adjustment appeals regarding the presentation of evidence related to the disqualification of a member of the Board of Adjustment for conflict of interest, ex parte contact, partiality or other cause. HCC 21.93.510(c) is added to provide that evidence can be presented before the Board on these issues.

Section 6. The City Clerk does not have staff resources to prepare transcripts for appeals, but HCC 21.93.520 appears to allow preparation by the City Clerk's office as one option for providing a transcript. This amendment substantially rewrites HCC 21.93.520 to clarify that a party desiring a transcript must arrange and pay for its preparation by a court reporter. The amendment also eliminates a redundant provision regarding obtaining copies of transcripts, and provides for notice of the preparation of the record to the applicant for the action or determination that is the subject of the appeal and the owner of the property that is the subject of the action or determination, regardless of whether those persons have entered an appearance in the appeal.

Section 7. HCC 21.93.530(a) is amended to provide that parties to an appeal may file briefs, but are not required to do so. This accommodates the pro se party who may simply wish to present oral argument to the Board of Adjustment, without filing a brief.

Section 8. HCC 21.93.300(d) specifically provides for oral argument in appeals to the Planning Commission. HCC 21.93.540(b) is amended to make a similar specific provision for oral argument before the Board of Adjustment, and authorizes the chair of the Board to prescribe the order of presentation and time limits for oral argument.

Action

The commission should review the proposed amendments suggest any areas for further review or revision and set a date for a public hearing.

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CITY OF HOMER
HOMER, ALASKA

City Attorney

ORDINANCE 10-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FOLLOWING SECTIONS OF THE HOMER CITY CODE REGARDING APPEALS OF PLANNING ADMINISTRATIVE DECISIONS: 21.93.100, GENERAL APPEAL PROCEDURE; 21.93.110, APPEAL DECISIONS; 21.93.300, APPEALS TO THE PLANNING COMMISSION; 21.93.500, PARTIES ELIGIBLE TO APPEAL TO BOARD OF ADJUSTMENT; NOTICE OF APPEARANCE; 21.93.510, NEW EVIDENCE OR CHANGED CIRCUMSTANCES; 21.93.520, PREPARATION OF RECORD; 21.93.530, WRITTEN BRIEFS; AND 21.93.540, APPEAL HEARING.

WHEREAS, HCC Chapter 21.93 provides procedures for appeals to the Homer Advisory Planning Commission and the Board of Adjustment; and

WHEREAS, experience has demonstrated the need to improve and clarify certain appeal procedures to support the fair and expeditious processing of appeals.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.93.100, General appeals procedure, is amended to read as follows:

21.93.100 General appeals procedure. a. All appeals must be heard within 60 days after the appeal record has been prepared. The body hearing the appeal may for good cause shown extend the time for hearing. The decision on appeal must be rendered within 60 days after the appeal hearing.

b. The appellant, **the applicant for the action or determination that is the subject of the appeal, the owner of the property that is the subject of the action or determination,** and all parties who have entered an appearance shall be provided not less than 15 days written notice of the time and place of the appeal hearing. Neighboring property owners shall be notified as set forth in HCC § 21.94.030.

c. An electronic recording shall be kept of the entire proceeding. Written minutes shall be prepared. The electronic recording shall be preserved for one year unless required for further appeals. No recording or minutes shall be kept of deliberations that are not open to the public.

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

41 Section 2. Homer City Code 21.93.110; Appeal decisions, is amended to read as follows:

42
43 21.93.110 Appeal decisions. a. All final decisions on appeals shall be in writing, and
44 shall state the number of members of the body hearing the appeal who participated in the
45 appeal, who voted in favor of the decision, and who voted against the decision.

46 b. A decision shall include an official written statement of findings and reasons
47 supporting the decision. This statement shall refer to specific evidence in the record and to the
48 controlling sections of the zoning code. Upon express vote, the body may adopt, as its statement
49 of findings and reasons, those findings and reasons officially adopted by the body or officer
50 below from which the appeal was taken.

51 c. Copies of the written decision shall be promptly mailed to the appellant, the
52 applicant for the action or determination that is the subject of the appeal, the owner of the
53 property that is the subject of the action or determination, and all parties who entered a
54 written notice of appearance in the appeal proceeding.

55
56 Section 3. Homer City Code 21.93.300, Appeals to the Planning Commission, is
57 amended to read as follows:

58
59 21.93.300 Appeals to the Planning Commission. a. Within 30 days after receipt of a
60 timely notice of appeal to the Planning Commission, the City Planner will prepare an appeal
61 record consisting of all relevant documents submitted to or used by the Planning Department in
62 making the decision under appeal, including any staff reports, correspondence, applications, or
63 other documents. The appeal record shall be paginated. The appellant shall be notified by mail
64 when the appeal record is complete. Any person may obtain a copy of the appeal record from
65 the Planning Department upon payment of the costs of reproduction.

66 b. An appeal hearing shall be scheduled within the time specified in HCC §
67 21.93.100. The hearing will be open to the public.

68 c. The Commission may prescribe rules of procedure for additional public
69 notification in cases where the Commission determines its decision would have a substantial
70 effect on the surrounding neighborhood.

71 d. The Commission may accept new testimony and other evidence, including public
72 testimony, and hear oral arguments as necessary to develop a full record upon which to decide an
73 appeal from an act or determination of the City Planner. Any person may file a written brief or
74 testimony in an appeal before the Commission.

75 e. The Commission may undertake deliberations immediately upon the conclusion
76 of the hearing on appeal or may take the matter under advisement and meet at such other time as
77 is convenient for deliberations until a decision is rendered. Deliberations need not be public and
78 may be in consultation with an attorney acting as legal counsel to the Commission.

79 f. The Commission may affirm or reverse the decision of the City Planner in
80 whole or in part. A majority vote of the fully constituted Commission is required to
81 reverse or modify the action or determination appealed from. For the purpose of this

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

82 section the fully constituted Commission shall not include those members who do not
83 participate in the proceedings due to a conflict of interest or disqualifying ex parte
84 contacts, disqualifying partiality, or other disqualification for cause. A decision affirming,
85 reversing, or modifying the decision appealed from shall be in a form that finally disposes
86 of the case on appeal, except where the case is remanded for further proceedings.

87 gf. The Commission may seek the assistance of legal counsel, city staff, or parties in
88 the preparation of a decision or proposed findings of fact.

89
90 Section 4. Homer City Code 21.93.500, Parties eligible to appeal to Board of Adjustment;
91 notice of appearance, is amended to read as follows:

92
93 21.93.500 Parties eligible to appeal to Board of Adjustment; notice of appearance. a.
94 Only persons who actively and substantively participated in the matter before the Commission
95 and who would be qualified to appeal under HCC § 21.93.060 may participate as parties in an
96 appeal from the Commission to the Board of Adjustment.

97 b. Any person so qualified who desires to participate in the appeal as a party, other
98 than the appellant, the applicant for the action or determination that is the subject of the
99 appeal and the owner of the property that is the subject of the action or determination,
100 must, not less than 14 days before the date set for the appeal hearing, file with the City Clerk a
written and signed notice of appearance containing that party's name and address, and proof that
the person would be qualified under HCC § 21.93.060 to have filed an appeal.

103
104 Section 5. Homer City Code 21.93.510, New evidence or changed circumstances, is
105 amended to read as follows:

106
107 21.93.510 New evidence or changed circumstances. a. Except as provided in
108 subsections (b) and (c) of this section, the Board of Adjustment shall not consider allegations of
109 new evidence or changed circumstances and shall make its decision based solely on the record.
110 If new evidence or changed circumstances are alleged, the Board may, in its discretion, either
111 hear the appeal without considering the allegations or may remand the matter to the appropriate
112 lower administrative body or official to rehear the matter, if necessary.

113 b. When the standing of a person is in issue, the Board of Adjustment may take
114 additional evidence for the limited purpose of making findings on the question of the person's
115 standing. No evidence received under this subsection shall be considered for purposes other than
116 determining standing.

117 c. When the disqualification of a member of the Board of Adjustment for
118 conflict of interest, ex parte contact, partiality or other cause is in issue, the Board of
119 Adjustment may take additional evidence for the limited purpose of making findings on the
120 question of disqualification. No evidence received under this subsection shall be considered
121 for purposes other than determining disqualification.

122
[Bold and underlined added. Deleted language stricken through.]

123 Section 6. Homer City Code 21.93.520, Preparation of record, is amended to read as
124 follows:

125
126 21.93.520 Preparation of record. a. The appeal record shall be completed within 30
127 days after receipt of a timely and complete notice of appeal to the Board of Adjustment, shall
128 consist of the items, and shall be prepared in the manner, described in this subsection.

129 1. ~~The Clerk will assemble and paginate~~ prepare an appeal record
130 consisting of all relevant documents involved in the original decision, including any staff reports,
131 minutes, exhibits, notices, and other documents considered in making the original decision. The
132 appeal record shall be paginated.

133 2b. A party may elect to include a verbatim transcript of the testimony
134 before the Planning Commission in the appeal record by making ~~will be included only if a~~
135 ~~party makes a written request to the City Clerk for a recording of the testimony~~ within 14 days
136 after the clerk mails copies of the notice of appeal to the parties pursuant to HCC § 23.90.080(d).
137 The requesting party shall arrange and pay for the preparation of the full cost of preparing the
138 transcript. ~~All arrangements for preparation of the transcript are the responsibility of the party~~
139 ~~desiring the transcript, subject to the prior written approval of the City Clerk.~~ Only a transcript
140 prepared and certified as accurate by the City Clerk's Office or a qualified court reporter shall be
141 accepted. The original transcript must be filed with the City Clerk to be provided to the Board of
142 Adjustment with the record on appeal. ~~Any person may obtain a copy of the transcript upon~~
143 ~~payment of the cost of reproduction and any applicable mailing costs.~~

144 be. The appellant, the applicant for the action or determination that is the subject
145 of the appeal, the owner of the property that is the subject of the action or determination,
146 and other parties who have entered an appearance shall be notified by mail when the record and
147 transcript, if ordered, are complete. Any person may obtain a copy upon payment of the costs of
148 reproduction and any applicable mailing costs.

149
150 Section 7. Subsection (a) of Homer City Code 21.93.530, Written briefs, is amended to
151 read as follows:

152
153 21.93.530 Written briefs. a. Each party to the appeal (each appellant, cross-appellant,
154 and respondent) may ~~shall~~ file with the City Clerk one opening brief not later than twenty days
155 after the date of mailing the notice of the completion of the record on appeal. The brief shall be
156 typed on 8 1/2 x 11 inch paper and shall include a statement of relevant facts contained in the
157 record on appeal, with citations to the page numbers in the record, a clear statement of the party's
158 position regarding the allegations of error specified in the notice of appeal, and arguments citing
159 points and legal authorities in support of such position.

160

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

161 Section 8. Homer City Code 21.93.540, Appeal hearing, is amended to read as follows:

162
163 21.93.540 Appeal hearing. a. The meeting at which the Board of Adjustment hears an
164 appeal shall be open to the public. The City Attorney or another attorney acting as legal counsel
165 to the Board shall be present.

166 b. Each party (each appellant, cross-appellant, and respondent) may present
167 oral argument at the appeal hearing, subject to the order of presentation and time
168 limitations that the chair adopts at the commencement of the hearing. The taking of
169 testimony or other evidence is limited by HCC § 21.93.510.

170 c. The Board of Adjustment may undertake deliberations immediately upon the
171 conclusion of the hearing on appeal or may take the matter under advisement and meet at such
172 other time as is convenient for deliberations until a decision is rendered. Deliberations need not
173 be public and may be in consultation with the legal counsel to the Board.

174 d. The Board of Adjustment may exercise its independent judgment on legal issues
175 raised by the parties. "Legal issues" as used in this section are those matters that relate to the
176 interpretation or construction of the zoning code, ordinances or other provisions of law.

177 e. The Board of Adjustment shall defer to the findings of the lower administrative
178 body regarding disputed issues of fact. Findings of fact adopted expressly or by necessary
179 implication by the lower body shall be considered as true if they are supported by substantial
180 evidence. But findings of fact adopted by less than a majority of the lower administrative body
181 shall not be given deference, and when reviewing such findings of fact the Board of Adjustment
182 shall exercise independent judgment and may make its own findings of fact. If the lower
183 administrative body fails to make a necessary finding of fact and substantial evidence exists in
184 the record to enable the Board to make the finding of fact, the Board may do so in the exercise of
185 its independent judgment, or, in the alternative, the Board may remand the matter for further
186 proceedings. "Substantial evidence", as used in this section, means such relevant evidence as a
187 reasonable mind might accept as adequate to support a conclusion.

188
189 Section 9. This Ordinance is of a permanent and general character and shall be included
190 in the City Code.

191
192 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
193 _____ 2010.

194
195 CITY OF HOMER

196
197
198 _____
199 JAMES C. HORNADAY, MAYOR
200

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

201 ATTEST:

202

203

204

205 JO JOHNSON, CMC, CITY CLERK

206

207 YES:

208 NO:

209 ABSTAIN:

210 ABSENT:

211

212 First Reading:

213 Public Hearing:

214 Second Reading:

215 Effective Date:

216

217

218 Reviewed and approved as to form:

219

220

221

222 Walt E. Wrede, City Manager

223 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

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

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
APRIL 7, 2010

- Line 69 add, "and the environment".
- The environment is going to be effect 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.

VOTE: NON OBJECTION: UNANIMOUS CONSENT





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 10-42

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: May 5, 2010
SUBJECT: Spit Comp Plan

GENERAL INFORMATION

On Wednesday April 28, 2010, staff had a teleconference with Dwayne Adams and Sarah Wilson Doyle of USKH about the Spit Comprehensive Plan. One item that was discussed is it's hard to work on a document that is as 'drafty' as the current draft, especially with new maps and additional pages. Amongst other things order of the document needs some work. The consultants recognized the need to further refine the language to be more specific about our goals and objects along with more specific implementation plans. The consultant has offered to do two things immediately:

1. Clean up the existing draft; possibly in time for the meeting.
2. Create a new draft, without pictures etc. so it's easier to get through the meat of the plan. The format will also be changed so it's more like the 2008 Comprehensive Plan. Dwayne was concerned that the Commission would spend too much time and effort on the January 29th document.

The goal is for the Commission to finish reviewing the plan. The consultant will then make a public review draft, which can be used at public meetings and for public hearing at the Planning Commission. Staff would like to keep the ball rolling on this project. It would be helpful if the Commission set a timeframe for the next public workshop/open house.

We should be receiving a revised draft shortly before the meeting, so there will not be much time for consideration of specifics. I would advise doing all that is necessary to have the document reviewed and revised before the end of May, with special meeting(s) if necessary. Things are going to get quite busy toward July (we have only one PC meeting scheduled in July) and before we know it, the summer will be over. To keep momentum moving I propose to set a goal of having a public meeting by the third week of June.

Recommendation:

1. Perhaps make comments of a general nature regarding direction.
2. Agree upon a time frame for PC review and public meeting.



Homer Spit Comprehensive Plan comments

To: Planning Advisory Commission, City Council
From: Kevin Walker, PO Box 1542, Homer, AK 235-5304

I strongly disagree with more residential housing on the spit. I have yet to meet a Homer resident who thinks the Land's End condos are an asset to the spit. Several people – maybe dozens – think they are ugly and totally out of place.

Incorporate all multi-use path connections, including colored pavement crossings and other enhancements as detailed in Homer's Non-Motorized Transportation and Trail Plan

Include a transportation center and bus stops for future bus. Fee – not Free - parking for RV's – not in prime parking lots.

Discourage parking – keep what is there but organize it for boaters with slips and short term shoppers, low price or free for long term and a short walk. Charge enough for "convenient, more than 4 hour parking" to encourage other forms of transportation.

Utilize some of the beachfront for low cost beach camping with minimal facilities (restrooms) so all visitors can afford to tent camp on the beach.

Definitely screen industrial and storage areas. The painted retaining wall behind Homer High School is an example of an attractive artwork screen. Have height limitations for industrial areas to preserve the view.

I strongly support the saw grass landscaping.

There are existing passenger ferries to Seldovia that are not government subsidized. The new Seldovia ferry should NOT get any more free perks at taxpayer expense (page 5, Traffic & Transportation).

I strongly support all parts of the Parks & Recreation section.

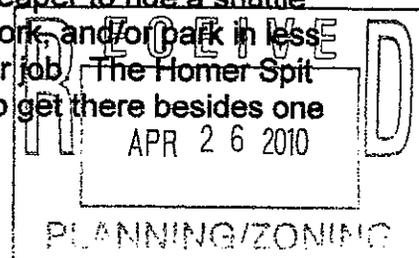
Totally agree with NO ATV's on the spit.

Design the boat trailer parking area to fit the typical maximum requirement, 100 vehicles with trailers. While more parking is required for the winter king salmon derby, other parking areas around the harbor are not utilized at that time of the year and overflow parking is easily available.

I do NOT believe in "Need more parking", but "NEED MORE PUBLIC TRANSPORTATION".

Plan for public transportation and non-motorized transportation, which will naturally happen if people know that they have to pay to park and it is cheaper to ride a shuttle bus. Employees will car pool more often, and/or ride bikes to work, and/or park in less accessible parking spots and walk a couple hundred feet to their job. The Homer Spit shouldn't look like a big parking lot! And there are other ways to get there besides one person in one car or pickup.

Thanks



Faint, illegible text covering the majority of the page, appearing to be a document or report.

- Line 69 add, "and the environment".
- The environment is going to be effect 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.

VOTE: NON OBJECTION: UNANIMOUS CONSENT





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STAFF REPORT PL 10-33

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: April 7, 2010, April 21, 2010
SUBJECT: Draft Homer Spit Comprehensive Plan Revised

Introduction

Pat Coleman of USKH has electronically participated in a Port Commission meeting and the joint work session of the Planning and Port Commission meeting March 3rd. He was to revise the plan according to comments received for your review and adoption. At the March 17th meeting the Commission discussed bringing the plan to a workshop for additional thought.

Action

The commission should adopt the appropriate changes and then we will make any changes and advertise for a public open house meeting to present the draft plan.



VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

KRANICH/HIGHLAND MOVED TO RECOMMEND THE CITY COUNCIL HOLD A PUBLIC HEARING AND ADOPT THE DRAFT ORDINANCE 10-XX AMENDING HOMER CITY CODE 21.75 STORM WATER PLANS AS AMENDED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PLAT CONSIDERATION

No plats were scheduled for consideration.

PENDING BUSINESS

A. Staff Report 10-33, Homer Spit Comprehensive Plan

Chair Minch stated that the Commission received information from the Consultant that was discussed during the worksession.

KRANICH/BOS MOVED TO MOVE THIS TO THE NEXT WORKSESSION ON APRIL 21 AS THE MAIN TOPIC OF DISCUSSION.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report 10-34, HAPC Worklist

Chair Minsch stated that the Commission discussed this at the worksession.

KRANICH/BOS MOVED TO SEND THE COMMISSION WORKLIST BACK TO STAFF FOR UPDATES AND RETURN IT TO THE COMMISSION AT A LATER DATE.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

Julie Engebretsen

From: Angie Otteson
Sent: Wednesday, April 07, 2010 5:49 PM
To: Julie Engebretsen
Subject: RE: Spit comp plan review

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Julie,

Overall ok as far as parks and rec goes. I think it's important to keep a balance of camping facilities to the proposed "resort/residential" as there are so few camping areas in Homer to start with, and with the Spit being sort of the center in the summer season because of fishing/tours/etc. Actually I would rather not see any more development out there!!! It should be the Spit Park!! OK that probably wouldn't fly. I'll look it over some more tomorrow...and give you some better feedback.

Angie

From: Julie Engebretsen
Sent: Wednesday, April 07, 2010 3:46 PM
To: Angie Otteson
Subject: Spit comp plan review

<< File: draft plan revisions and additions (2).pdf >>

Hi Angie,

Here is the latest on the spit comp plan. I'll send a map in a minute. Any comments?

julie

Comments from Parks Maintenance
Coordinator Angie Otteson on the draft
Spit Comp Plan

Julie Engebretsen

From: Angie Otteson
Sent: Thursday, April 08, 2010 9:50 AM
To: Julie Engebretsen
Subject: Spit plan

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning, Julie,

Some additional comments now that I'm fresh in the am!!!

Mariner Park is probably the best area to improve/expand camping opportunities. There's still easy access to the rest of the Spit and quick egress in the event of an emergency. Actually this to me is a better place for a community gathering park than out by Pier One. There are already a couple festival/events that attract a number of people: the Kite-surfing Festival in June and the Basket Burning in September; and a lot of locals use this area year round...almost as much as Bishops Beach.

Since most of the west side of the Spit is already in conservation/beach access, I'll just support that it should remain that way. The area now used as a tent area across from the Fishing Hole (between CampFee office and Castaway RV park should also be recreation/beach access. I noticed on the map it is recommended commercial and wasn't sure if the city tent camping fell under that. Actually both the city camping areas on the west side of the spit should be tent camping only, and kept as open as possible.

As long as we are not losing any parks or green space/recreation areas, that's what is important to me. Too often we end up developing our green space out of existence. The Fishing Hole area definitely needs some work...the concept is ok (glad it's only a concept, though!). The park area along the beach is great...any open space.

Moving down the Spit...! Coal Point Park is a great little park, the main problem here is that it's tucked away behind the industrial area. The first draft had a small park next to the ferry terminal with the access to Coal Point along the beach which I'd prefer over the revision which puts the access between industrial areas.

As far as the "opportunity area" ...where the Spit Campground is presently located....keep as a camping area, at least part. I'd rather not see a lot of ugly condos that block the view. If it is decided to rezone, my recommendation would be that the area along the beach should be conservation/beach access with part used for the expansion of the Seafarer's Memorial. Part of the triangular section closest to the road could be used for parking.

That's all for now...if I think of anything else I'll pass it on.

Angie



P.O. Box 2994
Homer, AK 99603

April 7, 2010

Homer Planning Commission
City of Homer
Homer, AK 99603

Dear Planning Commission Members:

The Homer Spit Comprehensive Plan Introduction fairly well captures the present, diverse nature of the Homer Spit. It is a vital part of Homer-- a main attraction, part of Homer's essence, and central to its economy. However, very careful planning is needed so as not to tip the balance too far in the direction of over development.

If increased commercial use of Homer as a port is planned, I recommend careful planning and oversight of pollution. According to a report "Harboring Pollution: The Dirty Truth about U.S. Ports," *U.S. seaports are the largest and most poorly regulated sources of urban pollution in the country.* To protect all the other competing and diverse uses on the Spit and to protect our marine environment and air quality, the City of Homer must be sure that regulations and oversight are in place to reduce air and water pollution and noise and light pollution. Unfortunately, most U.S. marine ports have been very poorly regulated and thus are heavy polluters. We don't want to invite more traffic and industrial use and then make the mistake of not having good regulations. Working with local water quality monitoring groups would be a good way to help develop needed oversight, regulation, and monitoring.

The traffic capacity of the Spit Road, especially in peak summer months, is something that should be determined before more big development plans are implemented. If we don't, we may set ourselves up for gridlock on the Spit because it is so darned popular for residential use, recreation, and commercial or marine uses.

Parking is a major concern. In town parking with a shuttle bus is certainly a way to cut down on numbers of vehicles on the Spit. Perhaps businesses, like restaurants, could work out a way to provide a token for a free shuttle ride for their patrons. Or maybe they could offer some sort of bus pass that a business could stamp if someone makes a purchase at their shop. Five stamps and the customer gets a free ride, or however it is worked out might encourage more folks to ride the bus.

Additional study needs to be made to see how to make parking more efficient. I see a lot of wasted space on the east side of the harbor, particularly with all the boat trailers. A better system would help with the parking.

I would like to put in a word for open space as economic infrastructure. There are lots of birders who spend substantial time on the Spit and who spend their money around town. Open space, particularly areas where the shoreline is accessible and viewable from the road is particularly valuable for this economic asset. Shorebird Festival is a time when the Spit is a birder's paradise.

Commercial and marine industrial development would be best kept in a concentrated area near the docks. I do not think we should create a staging area for the Pebble Mine. Port development should be done with careful market analysis to see what might work here for the long term without degrading our environment or damaging the balance with the other uses. Screening storage or industrial areas to prevent unsightly commercial projects from affecting nearby recreation areas is a good idea. However, these areas should not be made into totally off limits places. Visitors and residents have a natural curiosity of what a working port is like and enjoy seeing fish off loaded or the bustle of local commercial activity.

I agree with developing standards and design guidelines for new development on the Spit. This is an incredibly popular place and how we design new development sets the tone for one of our community's best assets. The design criteria needs to be developed and implemented before overslope development leases are signed.

On page 5, one strategy suggested is closing Fish Dock Road to public through traffic for safety in the industrial zone. This is one access to the harbor's breakwater entrance and Coal Point Park. Perhaps there should be a designated public viewing area since some folks are fascinated by big fishing boats and the fish unloading process. It is part of the fabric of knowing where local fish comes from. Might be a tourist attraction if done right. Who knows, a walking tour?

Also, the plan needs to take into account potential impacts from more cruise ship dockings. Large ships burning dirty bunker oil will have an impact on air quality. There needs to be an oversight plan to make sure that visiting ships are not dumping sewage anywhere in Kachemak Bay. Plans will need to be made to accommodate the influx of so many people all at once. Certainly, there should be some way to recoup the costs from cruise ships of necessary infrastructure to provide enough bathrooms and other facilities. These problems are faced by all ports that invite the cruise industry in. There is a balance point to minimize

impacts. Perhaps the balance is to woo the smaller eco-tour ships of roughly 100-200 passengers rather than the industrial-sized ones.

Also on page 5, I fully support the need to preserve important wildlife and bird sanctuary areas throughout the length of the Spit. Some of these areas are world renowned and are important for the shorebirds. Working with knowledgeable agencies or groups to develop state-of-the-art storm water control as more areas are paved or developed is essential for protecting the marine environment around the harbor and along the Spit. It would be good to involve the local birding group to gather needed information as developments are proposed so we protect essential habitat and minimize impacts to our resources.

Any proposed dredging needs to have a pre-dredging assessment of the muds that will be removed to make sure that heavy metals or other pollutants that may have settled will be contained.

Under Traffic and Transportation on page 5, I would urge the City to use economic studies to determine appropriate strategies in developing port facilities. These strategies should also be in keeping with the concept residents have of our unique Spit. Building a huge facility to be a Pebble Mine staging area would have a big impact on other uses and would require a large indebtedness that may not pay off in the long run. Industrial development on the Spit should be responsible, sustainable, and compatible. Over building the industrial part of the Spit will have noise and congestion consequences that will affect the other uses. Another question that needs to be answered is how much heavy truck traffic can be safely accommodated on the Spit Road?

I do support the goals of extending the bike/pedestrian path. Creating a more walkable or bikeable Spit makes it more inviting and enjoyable to visitors. At the same time, the use of off-road vehicles on the Spit, particularly its beaches, should be phased out as soon as possible. The noise and pollution from these vehicles, particularly in the area proposed for an expanded park near the fishing lagoon detract from the concept of this area. Furthermore, there is already enough noise and pollution on the Spit. Making the beach areas a quiet place to walk and enjoy the surf and bird calls would enhance the area for the majority.

On page 24, the discussion of Resort/Residential Development indicates that citizen concerns about height of buildings and tsunami safety can be overcome with design. Additional residential development on the Spit is not a good direction to go. Over and over in Lower 48 coastal areas, residential development on the most desirable island shorelines has destroyed the ocean views, severely limited access to beaches, and cost taxpayers millions in insurance payouts for loss of property due to coastal erosion from storms. Yes,

there are people presently living in parts of the Spit where under current regulations they are not supposed to be living. Yes, there are people camping. Should we add more? I would say no. In the event of a tsunami warning, evacuating the Spit may not be feasible on a peak summer day. Packing more people out on the Spit is not a good idea.

Overall, the goals, objectives, and strategies for Parks and Recreation are good. The small campground next to Lands End should either remain a campground or be converted to an open space area with picnic tables and beach access. In my view, one of the worst things that happened on the end of the Spit was the building of the Lands End condos. The beautiful scenic vistas at the terminus of the Spit are now cut off. It is just like all the other barrier islands elsewhere-- buildings cut people off from the ocean and the views.

This campground has been an open space/recreation area for a long time and should continue to be used for recreation since places for the public near the end of the Spit are very limited. If we are mixing uses throughout the Spit, let's leave something in this area for the average person and not make the end of the Spit some exclusive resort/condo area with limited access for the average person. Personally, I agree with the workshop participant who said, "No more residential development" and I add, "on the Spit."

Coal Point Park is a hidden jewel on the Spit. Expanding the park into the vacant lot is a good idea. This is a lovely place to watch birds resting on the breakwater and enjoy the passing boats.

I like the concept on page 26 regarding a community park and gathering place. This has long been a home for Pier One Theater and since Homer is known as an arts community, a park centered around this idea is ideal. The concept as envisioned conjures up a quiet, walkable area, where outdoor performances would be presented. Clearly, this concept would need to include a ban on ORV use to make the area as quiet as possible. Providing electrical hookups for RVs so generators are not used would also help quiet the area. Very slow speed limits would increase the ambience of the area. As much as possible, this should be a walking/recreation area. This would be a great improvement to this part of the Spit.

On page 27, in the discussion of Mariner Park, the plan mentions expanding the park to the north. I have concerns about filling the wetland for parking. Even though there once was a permit for fill, filling wetlands should not be taken lightly. A new study should be undertaken to see what wildlife are presently using this area, whether there would be consequences to valuable shorebird habitat and whether filling would have repercussions for other areas. I recommend involving

the local birders group as they have extensive knowledge of local birding habitat. Wetlands along the Spit are very limited and very valuable for wildlife, so we should not take filling this area lightly.

Improving access and viewing areas along the conservation zones is a good idea, especially as it would allow for more public education about these important areas. Page 28 has a brief discussion of realignment of the Spit Road. This may be a laudable strategy, but is it practical if it moves the road closer to spray and erosion? What will be the cost? Slowing traffic here is a good idea but more discussion is probably needed to see if this is the best option. "Traffic calming devices" aka "speed bumps" will more cheaply calm traffic but not consolidate the extra space to make a larger separation from the road for the park.

Overall, balance is the key to protecting the Homer Spit. We have the mix we have now, but to maintain an acceptable balance, we cannot let industrial/ economic development overwhelm other uses. Homer is special because of our unique environment and because residents care so deeply about our environment. Balance this plan for sustainability and protection of what we have so in the future people will say our community was farsighted and wise in protecting all these resources.

Sincerely,

Nina Faust

Nina Faust





City of Homer Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

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E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

STAFF REPORT PL 10-43

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: May 5, 2010
SUBJECT: Draft ordinance amending storm water requirements and establishing standards for filling land

GENERAL INFORMATION

The Commission last discussed this ordinance on March 17, 2010. At that time it was forwarded to the City Attorney for review. The Attorney has reviewed and revised the draft ordinance, and it is attached. The purpose of the ordinance is to require storm water plans city wide for certain developments, and to regulate the placement of fill on lots. Public Works Director Meyer has been invited to the work session if the Commission has questions about this ordinance. Staff will also present a very short power point presentation with pictures of various development scenarios that would fall under the new regulations.

This ordinance is intended to address the following problems:

1. Lack of storm water regulation for large dirt moving projects outside of the commercial districts, or projects with a large impervious surface area.
2. Lack of regulation of fill, such as stump or dumping lots, and the affect of runoff on adjacent lots when fill is placed over a large area of a lot.

This ordinance creates the following rules:

1. Requires storm water plans in all districts. See Attached Table!

2. Creates standards for the filling of land, city wide

- A. Fill standards are set – i.e. no garbage or hazardous material may be used as fill.
- B. Tree stumps and organic materials may be used as fill ONLY on the lot where they originated, and in locations where a building is not planned.
- C. City wide, a grading plan will be required when fill will be placed at a depth of 3 feet or more, over 25% or more of the lot.

PC questions

Line 165: “in situ” means “in place” soil tests. (As opposed to offsite laboratory tests). In situ tests include measuring shear strength, cone penetration, etc. This is a common technical term and is appropriately used in this ordinance under the geotechnical engineering report.

Next steps

Staff and the Commission have been working on this ordinance off and on for over three years. Staff recommends inviting local contractors to a PC meeting to talk about this ordinance either prior to or at a public hearing. Staff recommends the Commission continue to work on this ordinance until it is 'finalized' (and you are very familiar with it), and then schedule a meeting to invite contractors and interested public.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission review and amend the draft ordinance, and continue to a future meeting.

ATTACHMENTS

1. Storm Water Triggers Table
2. Draft Ordinance, April 27, 2010
3. March 17, 2010 HAPC minutes

Storm Water Plan Triggers

Existing Code - Commercial Zones	Staff comment	New Code - rest of city
When the lot becomes 60% impervious, a SWP is required.	Staff dislikes the % requirement. A small lot that is 59% impervious and wants to add a 200 sq ft addition needs an SWP. A big lot might be able to create 20,000 sq ft impervious and not need an SWP.	No lot percentage requirement
The cumulative addition of 25,000 square feet or greater of impervious surface area	This is about half an acre	SAME
Grading an acre or more	There are no area based requirements in these other districts. (state/fed rules now require a SWPPP, or storm water pollution prevention plan at 1 acre. This rule as not in effect when the original storm water plan was written into city code)	no city rules (state/fed rules still apply)
Grading involving the movement of 10,000 cubic yards or more of material	In commercial districts, a development activity plan is required when moving a lot of dirt. But the PC did not want to require a DAP in the residential districts. However, PC still wanted to regulate when lots of dirt is moving around. 100 dump trucks is a lot of material and is what the new residential rules are based on.	Grading/excavation/filling of 1,000 cubic yards, (that's about 100 dump trucks.)
Grading that will result in a temporary or permanent slope having a steepness of 3:1 or greater and having a total slope height, measured vertically from toe of slope to top of slope, exceeding ten feet; or		SAME
Any land clearing or grading on a slope steeper than 25 percent, or within ten feet of any wetland, watercourse, or water body.	If the Commission wants to talk about clearing on slopes lets do that at the work session. The second part regulates based on distance to wetlands; that is not real useful in the less dense parts of town. Lots of Homer is wetland, and this requirement would trigger an SWP for most new home construction, even if ACOE had already required a storm water pond or otherwise permitted the project.	No new rules for clearing on slopes or near water/wetlands



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April 27, 2010 Draft

CITY OF HOMER
HOMER, ALASKA

Planning

ORDINANCE 10-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, ENACTING SUBSECTION (d) OF HOMER CITY CODE 21.50.020, SITE DEVELOPMENT STANDARDS – LEVEL ONE, AND HOMER CITY CODE 21.50.150, FILL STANDARDS, REGARDING THE REQUIREMENT OF A STORM WATER PLAN, AND ESTABLISHING STANDARDS FOR FILLING LAND.

WHEREAS,

WHEREAS,

THE CITY OF HOMER ORDAINS:

Section 1. Subsection (d) of Homer City Code 21.50.020, Site development standards – level one, is enacted to read as follows:

d. A Storm Water Plan approved under HCC Chapter 21.75 is required for development that:

1. Creates more than 25,000 square feet of new impervious surface area on a lot;
2. Increases the total impervious surface area of a lot beyond one acre;
3. Includes grading, excavation or filling that cumulatively moves 1,000 cubic yards or more of material; or
4. Includes grading, excavation or filling that creates a permanent slope of 3:1 or more, and that has a total height, measured vertically from toe of slope to top of slope, exceeding ten feet.

Section 2. Homer City Code 21.50.150, Fill standards, is enacted to read as follows:

21. 50.150 Fill standards. a. Except as permitted in (b) of this section, fill material shall be free of large organic debris (including without limitation stumps), construction or demolition debris (including without limitation concrete and asphalt), garbage and any material that is categorized as hazardous or toxic under federal or state law.

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

43 b. Fill material that will not support a structure may include large organic debris that
44 originated on the lot where the fill is placed, provided that it is capped with clean fill for future
45 landscaping or driveway use.

46 c. The placement of fill to a depth greater than three feet over 25% or more of a lot
47 is subject to following requirements:

48 1. Before any fill is placed, a grading plan for the lot must be approved by
49 the City Engineer. The grading plan shall show the following:

50 i. The existing grade and finished grade of the lot using contour
51 intervals sufficiently small to show the nature and extent of the work, and its compliance with
52 the requirements of this title; and

53 ii. The existing grade on adjoining properties in sufficient detail to
54 identify how grade changes will conform to the requirements of this title.

55 2. Best management practices such as retention ditches, silt fencing, and or a
56 storm water settling pond shall be installed before fill is placed on the lot. *Staff comment: staff*
57 *recommends different language here and will bring forward a recommendation. Something like:*
58 *Best management practices shall be used to limit sedimentation and storm water runoff, and*
59 *shall be installed prior to the placement of fill on the lot.*

60 3. All corners of the lot shall be flagged before fill is placed on the lot.

61 4. The slope between the existing grade of the lot adjacent to the fill and the
62 top of the fill shall not exceed 50%. *(Add description of 50% here, for ease of reference)*

63 5. No fill may be placed closer than five feet to a side or rear lot line.

64 6. The placement of fill shall be completed within 24 months after its
65 commencement.

66 7. When the placement of fill has been completed, the filled area shall be
67 capped and seeded. *(Staff: Ask Carey of input here: better language might be, by August 31st of*
68 *the second year of the permit. The commission wanted a time limit on how long the filling was*
69 *going on, and for the site to be seeded and cleaned up. Staff work on language to help ensure*
70 *regs will accomplish that.)*

71
72 Section 3. This ordinance shall be effective upon adoption, except that land development
73 plans that received final approval prior to the effective date of this ordinance shall not be subject
74 to the amendments in this ordinance.

75
76 Section 4. This Ordinance is of a permanent and general character and shall be included
77 in the City Code.

78
79 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
80 _____ 2010.

81
82 CITY OF HOMER

83
[**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:

4 Reviewed and approved as to form:

105
106
107
108
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Walt E. Wrede, City Manager
Date: _____

Thomas F. Klinkner, City Attorney
Date: _____

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



There was no objection and discussion ensued.

Chair Minsch noted that the Commission talked about the Land Allocation Plan at tonight's worksession.

The Commission agreed that they would not forward a recommendation because they do not appear to have a unified position. Other comments included:

- Council does not give the Commission information to make decisions on; they are presented with a hundred pages of properties and their designations. They could spend hours on the plan, but the Commission has seen that Council doesn't do much if anything with the Commissions input.
- The current structure of the review isn't effective and is not a valuable use of the Commission's time.

Commissioner Kranich said he plans to attend the meeting. It was noted that any of the other Commissioners could attend if they are interested in the process.

NEW BUSINESS

A. Staff Report PL 10-22, State of Alaska Right-of-way Acquisition for East End Road

Planning Technician Engebretsen reviewed the staff report and discussed the process of the acquisition with the Commission.

The Commission had no recommendations and no action was taken.

B. Staff Report PL 10-25, Dirt Work Ordinance

City Planner Abboud reviewed the staff report.

KRANICH/BOS MOVED TO BRING THIS TO THE FLOOR FOR DISCUSSION AND POSSIBLE REVISION:

There was no objection and discussion ensued. Points discussed included:

- Homer has no building regulations, why regulate the fill.
- Line 17, how do you define a large rock.
- Most excavators aren't going to be filling with large rocks, stumps, or garbage.
- The ordinance needs to be enforceable.
- Line 29/30 "retention ditches, silt fencing, and storm water settling ponds" change "and" to "or" so it does not seem all inclusive.
- When developing in mapped wetland area the proper documentation is required by the City.
- Clarify garbage on lines 17 and 44.
- If the City Engineer is going to be responsible for reviewing, a fiscal note should be included so Council will be aware of the impact.

KRANICH/BOS MOVED TO REQUEST STAFF SEND THE DRAFT DIRT WORK ORDINANCE TO LEGAL FOR REVIEW AND THEN RETURN TO THE COMMISSION FOR REVIEW.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

INFORMATIONAL MATERIALS

- A. Letter Dated March 10, 2010 to Darren Williams, Refuge Room from Rick Abboud, City Planner regarding Use of Refuge Room/Enforcement Order

COMMENTS OF THE AUDIENCE

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

No audience was present to comment.

COMMENTS OF STAFF

Staff had no comments.

COMMENTS OF THE COMMISSION

Commissioners Sinn and Druhot had no comment.

Commissioner Bos wished everyone Happy St. Patrick's Day. He said it was a good meeting.

Commissioner Kranich said it was a good meeting and they covered a lot.

Commissioner Highland said she would like to see about getting the storm water management plan on the agenda for ordinance work to begin. There was discussion of the process for the worklist. She will make a list to bring for the worklist discussion. It was requested that she be provided with a copy of the worklist. She thanked everyone.

Chair Minch commended the group on their work tonight.

ADJOURN

Meetings adjourn promptly at 10 p.m. An extension is allowed by a vote of the Commission. Notice of the next regular or special meeting or work session will appear on the agenda following "adjournment".

There being no further business to come before the Commission, the meeting adjourned at 9:07 p.m. The next Regular Meeting is scheduled for April 7, 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: _____



City of Homer Planning & Zoning

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E-mail Planning@ci.homer.ak.us

Web Site www.ci.homer.ak.us

STAFF REPORT PL 10-

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: May 5, 2010
SUBJECT: Planning Director's Report

April 26th City Council Meeting

Worksession

Ordinance 09-40(S), An Ordinance of the Homer City Council Adopting the 2008 Homer Comprehensive Plan and Recommending Adoption by the Kenai Peninsula Borough. City Manager.

REGULAR MEETING AGENDA

PUBLIC HEARING(S)

Ordinance 10-21, An Ordinance of the City Council of Homer, Alaska, Authorizing the Purchase of Property Within the Bridge Creek Watershed, Kenai Peninsula Borough Parcel No. 17307031 (N 663 ft. of NE 1/4, SE 1/4, East of Skyline Drive, T 6S R 13W SEC 7), in the Amount of \$90,000 from the Water Depreciation Reserve Account for the Purpose of Protecting the Watershed and Providing Alternate Access to Property North of the City's Water Treatment Plant. City Manager/Public Works Director. Introduction April 12, 2010, Public Hearing and Second Reading April 26, 2010.

Memorandum 10-58 from Public Works Director as backup.

There was no public testimony.

ADOPTED without discussion.

Ordinance 09-40(S), An Ordinance of the Homer City Council Adopting the 2008 Homer Comprehensive Plan and Recommending Adoption by the Kenai Peninsula Borough. City Manager. Introduction September 14, 2009, Public Hearings October 12 & 26, November 23, 2009, January 25, February 8 & 22, March 8, 2010 and April 12, 2010. Worksession November 9, 2009. Hearing March 22, 2010 and Second Reading April 26, 2010.

Memorandum 10-11, 10-56, and 10-62 from City Planner and Planning Technician as backup.

COMPREHENSIVE PLAN AMENDED:

Chapter 10 pg. 10-1 a new sentence was added as the last sentence under Process for Revising the Comprehensive Plan: The time frames in the implementation tables are not binding, but are suggested sequential steps.

Chapter 4 pg. 4-5 under Commercial and Mixed Use Districts the paragraph NC Neighborhood Commercial West Hill was deleted.

Chapter 4 pg. 4-16 under Implementation Strategies delete the last sentence: "The neighborhood commercial areas on West Hill ...".

Appendix B pg. B8 under Development standards delete references to the West Hill NC area.

ADOPTED with discussion.

Memorandum 10-60, from City Clerk, Re: Vacate a Portion of Hough Road and Associated Utility Easement Adjacent to Tract B-1C, Dedicated by Christensen Tracts No. 3 (Plat HM 2003-90); and Vacate a Portion of Hough Road Adjacent to Tract B-2-A, Dedicated by Stream Hill Park Unit 1 (Plat HM 2006-54); Within Section 16, Township 6 South, Range 13 West; Seward Meridian, Alaska, Within the City of Homer and the Kenai Peninsula Borough; KPB File No. 2010-025.

May 10th City Council Meeting

Ordinance 10-, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.75.010 Storm Water Plan – When Required, Amending Homer City Code 21.75.020 Standards for Storm Water Plan, and Repealing and Reenacting Homer City Code 21.75.030 Financial Responsibility, Regarding Storm Water Plan Requirements. City Planner. Recommended dates: Introduction May 10, 2010, Public Hearing and Second Reading May 24, 2010.

Memorandum 10- from City Planner as backup.

Resolution 10-36, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for Disposal of Junk Cars to the Firm of Moore and Moore Services Inc., dba Quick Sanitation, and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/City Planner. (Postponed from April 12, 2010.)

Memorandum 10-57 from City Planner and Planning Technician as backup.

Activities:

Dotti held sign workshops at the Chamber of Commerce 4/22/10@12:10 and 4/27/10@5:10. They were well attended and included many people that had the most to benefit from information.

The comprehensive plan amendments are being incorporated and are heading to the borough for adoption.

I will be on vacation May 17th through May 31st, Julie will be at the May 19th PC meeting.

CITY OF HOMER

2010 PUBLIC SIGN IN SHEET

Homer Advisory Planning Commission Regular Meeting May 5, 2010 **

Check one of the following:

PRINT YOUR NAME!!!

ADDRESS

CITY RESIDENT

NON RESIDENT

example:

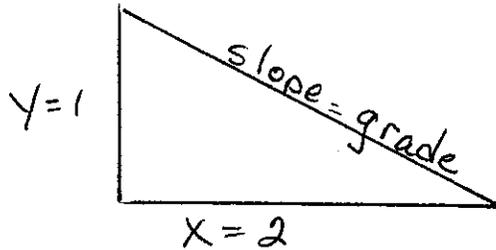
1. JAMES HORNADAY	491 E. PIONEER AVENUE	<input type="checkbox"/> ✓	<input type="checkbox"/>
2. Patricia Cue		<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Questions David Cole will address via teleconference

1. What are some ways of regulating development on slopes between 30 and 50%?
2. It has been said that generally speaking, a 1:2 or 50% slope is generally stable. Is this true for Homer? Is 50% a reasonable number to use in Homer?
3. Is it appropriate to use a minimum height of 15 feet for steep slopes/coastal bluffs - is that an adequate number to provide adequate safety? Should it be some other number?

Slope, grade, ratio, %, degrees and \neq

Ratio = Rise to Run

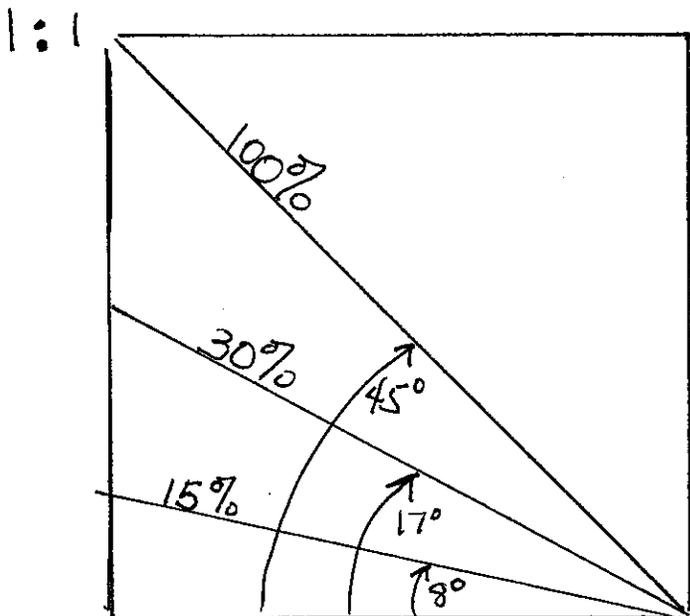


Ratio = $y : x$

$1 : 2$

Fraction = $\frac{1 \text{ (rise)}}{2 \text{ (run)}} = \frac{y}{x} = \frac{1}{2}$

Percent $\frac{0.50}{2} = 50\%$



%	Ratio	Degree
1.0	1:100	0.6
10	1:10	5.7
20	1:5	11.3
25	1:4	14.0
33.3	1:3	18.4
50.0	1:2	26.6
100	1:1	45.0

