

**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.

1. Approval of Minutes of January 19, 2011 *Page 1*
2. Time Extension Requests: Lee Cole 2008 Preliminary Plat Time Extension Request *Page 13*
3. Approval of City of Homer Projects under HCC 1.76.030 g.
4. KPB Coastal Management Program Reports
5. Draft Decision and Findings for Conditional Use Permit (CUP) PL 11-02 to add a petroleum tank at 4755 Homer Spit Road *Page 15*
6. Draft Decision and Findings for Conditional Use Permit (CUP) 11-03, for a day care facility in a single family residence at 4136 Hohe Street *Page 21*
7. Draft Decision and Findings for Conditional Use Permit (CUP) 11-01, Bridge Creek Fire Hazard Mitigation Project *Page 27*

6. Presentations

7. Reports

- a. Staff Report PL 11-14, City Planner's Report *Page 37*

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.

9. Plat Consideration

10. Pending Business

- A. Staff Report PL 11-13, Bridge Creek Exclusion *Page 39*
- B. Staff Report PL 11-18, Draft Ordinance amending the City of Homer Comprehensive Plan to include the Homer Spit Comprehensive Plan and Recommending Adoption to the Kenai Peninsula Borough *Page 41*

11. New Business

- A. Staff Report PL 11-19, Draft Policies and Procedures *Page 49*

12. Informational Materials

- A. City Manager's Report received January 25, 2011 *Page 63*
B. Order Rescinding Decision dated January 25, 2011 regarding Refuge Room
Appeal Hearing *Page 65*
C. Memo from Deputy City Clerk Jacobsen regarding Ex Parte, Conflict of Interest,
and Situations of Bias *Page 67*

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 p.m. An extension is allowed by a vote of the Commission. The next regular meeting will be held on February 16, 2011 at 7:00p.m. There will be a work session at 5:30p.m.

Session 11-02, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 7:01 p.m. on January 19, 2011 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, DOLMA, DRUHOT, HIGHLAND, KRANICH, MINSCH, VENUTI

STAFF: CITY PLANNER ABOUD
DEPUTY CITY CLERK JACOBSEN

Chair Minsch advised that she had to leave the meeting at 9:15 p.m.

APPROVAL OF AGENDA

The agenda was approved by consensus of the Commission.

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).

There were no public comments.

RECONSIDERATION

There were no items 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.

1. Approval of the January 5, 2011 minutes
2. Time Extension Requests
3. Approval of City of Homer Projects under HCC 1.76.030 g
4. KPB Coastal Management Program Reports
5. Determination of Nonconforming Use as a bulk petroleum site loading facility located at 4755 Homer Spit Road

The Consent Agenda was approved by the consensus of the Commission.

PRESENTATIONS

There were no presentations scheduled.

REPORTS

- A. Staff Report PL 11-12, City Planner's Report

City Planner Abboud reviewed his staff report.

PUBLIC HEARINGS

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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 11-10, CUP 11-03, A Request for a Conditional Use Permit (CUP) for a Daycare Facility in a Single Family Residence at 4136 Hohe Street

Commissioner Druhot disclosed that she had spoken to the applicant. She explained that there was a financial issue that she spoke with her about, in their discussion the applicant said she wanted to do a day care that would require a CUP and Commissioner Druhot explained that she couldn't talk to her regarding the CUP.

BOS/KRANICH MOVED THAT COMMISSIONER DRUHOT HAS A CONFLICT OF INTEREST.

Commissioner Bos said he is unclear regarding context of the discussion and the financial issue. He asked if Commissioner Druhot could give further explanation.

Commissioner Druhot explained a few months ago she had an opportunity to purchase something and the applicant would be renting from her. She said she is no longer in a situation where she would be buying a property the applicant would be renting.

VOTE: YES: KRANICH
NO: BOS, MINSCH, HIGHLAND, VENUTI, DOLMA

Motion failed.

Commissioner Venuti disclosed that he spoke to the applicant a couple months ago, she asked him to advise her regarding a property that she was anticipating using for the project. It was not this property and there was no discussion of the CUP. He advised her that she probably needed to get information from the Fire Marshall and that was his extent of involvement.

BOS/HIGHLAND MOVED THAT COMMISSIONER VENUTI HAS A CONFLICT OF INTEREST.

There was brief discussion.

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

Motion failed.

City Planner Abboud reviewed the staff report.

Susannah Webster, applicant, advised that she plans to use the one bedroom single family home at 4136 Hohe Street as a licensed daycare home. She does not plan to live in the home and therefore is required to apply for a CUP. She will be licensed by the State of Alaska for the care of up to eight children, including two of her own. She will meet all code requirements put forth by the DPS fire and life safety permitting for a daycare. A low fence will be built around the yard to create a safe play area, she will ensure parents are mindful of the surrounding homes and neighbors when dropping off and picking up children in her care. The hours of operation will be Monday through Friday 8:30 am to 5:30 p.m. She does not foresee any negative impact on the local area, surrounding homes, and businesses. Ms.

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Webster said she is a respectful and communicative neighbor and believes an addition of a daycare home to the area will benefit local families as well as the character of the neighborhood. There is a great need for quality child care in Homer and she has spent the majority of her adult life working with children, including owning and operating two licensed daycare homes in Homer more than ten years ago. She respectfully requested the approval of the CUP so she can continue the work she loves.

Chair Minsch opened the public hearing.

Steve Gibson, city resident, commented that as a landlord he has been approached in the past by people who wanted to use his commercial building as a daycare center. Unfortunately his insurance company turned down his request for insurance. It is difficult to find affordable child care in this town and whatever the Commission can do to enhance those opportunities, he would appreciate. He felt bad about having to say that he could not do that.

There were no further comments and the public hearing was closed.

Commissioner Venuti commented regarding his experience in the inspection business has shown that structures of this vintage have electrical issues. He asked staff and the applicant if they are aware if a recent electrical inspection has been done on the property. Ms. Webster responded that she is not aware of any inspections and she would have to defer to the Fire Marshall for consideration of the safety of the property.

BOS/DOLMA MOVED TO BRING THIS TO THE FLOOR FOR DISCUSSION.

There was no objection expressed and discussion ensued.

Commissioner Bos commented that his experience with the Fire Marshall has been that electrical requirements are a pretty major concern of theirs. He believes it is part of their criteria.

Commissioner Kranich added that the staff report has recommended conditions that the Fire Marshall certification has to be received prior to occupancy. He expects they will do what ever inspections are deemed necessary for a structure.

BOS/DRUHOT MOVED TO ADOPT STAFF REPORT PL 11-10, CUP 11-03, FOR A DAYCARE FACILITY IN A SINGLE FAMILY RESIDENCE AT 4136 HOHE STREET WITH STAFF RECOMMENDATIONS AND FINDINGS.

Commissioner Kranich noted the header in the staff report referred to a different CUP number than on the front page and the agenda.

KRANICH/BOS MOVED TO AMEND THE STAFF REPORT AND STAFF COMMENTS AND RECOMMENDATIONS CHANGING THE VERBIAGE CUP 11-04 TO READ CUP 11-03.

There was no discussion.

VOTE: (Primary Amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the main motion as amended.

VOTE: (Main motion as amended): YES: DRUHOT, MINSCH, DOLMA, KRANICH, BOS, HIGHLAND, VENUTI.

Motion carried.

B. Staff Report PL 11-09, CUP 11-02, A Request for a Conditional Use Permit (CUP) to add a Petroleum Tank at 4755 Homer Spit Road

Commissioner Druhot stated that she has a conflict of interest with CUP 11-02

BOS MOVED THAT COMMISSIONER DRUHOT HAS A CONFLICT OF INTEREST IN THIS SITUATION.

Chair Minsch noted that the Commission deemed that Commissioner Druhot had a conflict regarding an action at the last meeting that involved this applicant.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Commissioner Druhot left the table.

City Planner Abboud reviewed the Staff Report.

James Beckham, VP Ops, Harbor Enterprises, Inc, DBA Petro Marine, commented that he was in attendance to answer any questions the Commission may have.

Chair Minsch opened the public hearing.

There were no public comments and Chair Minsch closed the public hearing.

There was brief discussion with staff and the applicant regarding what appears to be a right-of-way. It was clarified that Lands End Way on the drawing is actually a private drive and not a public right-of-way.

It was noted that there is a discrepancy in the size and square footage of the warehouse and office area. City Planner Abboud explained that the applicant will be getting an asbuilt survey to verify the existing square footages. He suggested amending staff recommendation 4 to include all existing improvements on the lot.

BOS/KRANICH MOVED TO BRING CUP 11-02 TO THE FLOOR FOR DISCUSSION.

There was no objection expressed and discussion ensued.

Commissioner Bos expressed that up to this point the applicant has been a good steward of their responsibility in the tanks.

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KRANICH/BOS MOVED ADOPT STAFF REPORT PL 11-09 CUP 11-02 WITH STAFF RECOMMENDATIONS AND FINDINGS, AND AMENDING THE STAFF RECOMMENDATION 4 TO REWORD INCLUDING ALL EXISTING IMPROVEMENTS ON THE LOTS.

There was no further discussion.

VOTE: YES: MINSCH, DOLMA, KRANICH, VENUTI, HIGHLAND, BOS

Motion carried.

Commissioner Druhot returned to the table and Chair Minsch called for short break at 7:40 p.m. The meeting resumed at 7:45 p.m.

C. Staff Report PL 11-06, CUP 11-01, A Request for a Conditional Use Permit (CUP) for the Bridge Creek Fire Hazard Mitigation Project

Planning Technician Engebretsen reviewed the staff report. Planning Technician Engebretsen provided a revised map clarifying the public acreage to be included and private property that is not included. She also clarified that the staff report shows an incorrect total acreage as 410 acres, but not all the City property is being addressed, only what is close to the reservoir. She noted the laydown Public Works Director Meyer that specified that Water/Wastewater Treatment Superintendent Cook will be the City staff person who will be involved in the oversight and participation.

Commissioner Highland disclosed that a few months ago she was involved with a group that brought up the discussion of the Bridge Creek Fuel Mitigation. It wasn't discussing the CUP and it was discussing the original way they were going to do it, which was logging.

BOS/KRANICH MOVED THAT COMMISSIONER HIGHLAND HAS A CONFLICT OF INTEREST.

Chair Minsch asked for clarification of what was addressed in the discussions. Commissioner Highland explained that a few months ago there was a plan that it would be a logging operation. The subject came up in a group conversation, and since then it has changed so that it won't be a logging operation, so the discussion was not about what is in front of them now. At that time she was told that it was dropped and nothing was going to happen.

Commissioner Dolma asked if she felt anything in the conversation she had would prejudice her against fairly considering the CUP on the table. Commissioner Highland responded that she would not with what is in front of the Commission. If it had been the one that was going to be logging, she just had questions.

Commissioner Bos commented that it is still a logging procedure, just a different type of procedure.

Chair Minsch asked her to clarify, the depths of their conversation were whether or not the project should or would be allowed, and she was told it wouldn't be happening.

Commissioner Highland responded yes, and it was from some people that had been involved in talking about this previously to the Spruce Bark Beetle Mitigation group. Ms. Highland noted that the plan is very different from the original one being discussed.

Commissioner Kranich commented that this creates an interesting situation where people in our community are active in many facets of our community life where something can come up and be discussed, and then several months later it comes up in a totally different venue. It can cause problems. He is inclined to vote that she does have a conflict although he could be persuaded otherwise if there is more feedback. It just brings forward the degree of care we have to have in our daily lives as to potential conflict when we are sitting on a board that deals with land management and land use that can result in impacts on the community and property owners. The Commission does this every meeting.

Chair Minsch expressed her agreement. Any land use issue in Bridge Creek has to come before the Commission and she thinks the public perception of the Commission making decisions about issues before they are in front of the Commission is very important.

Commissioner Highland added that she was surprised to see it as a CUP because she didn't realize it could come to them as a CUP.

VOTE: YES: BOS, DRUHOT, MINSCH, KRANICH
NO: VENUTI, DOLMA

Motion carried.

Commissioner Highland left the table.

City Manager Wrede, applicant, addressed the Commission. He explained that City has been concerned about the situation around Bridge Creek Watershed (BCWS) and have talked to the Division of Forestry and others about forest health, fire danger, and what could be done up there. It came to a head recently when the Borough Spruce Bark Beetle program got some stimulus money which has enabled them to do mitigation projects in communities. He references the report that analyzes the forest health, how quickly it is regenerating, how quickly it could regenerate if selectively replanted, and the fire danger if one was to occur. City Council reviewed the report and decided that it was worthwhile to explore this further and move ahead, as noted in the resolution included in the packet. That action prompted applying for the CUP and working together with the agencies outlined in code, including the Soil and Water Conservation District (SWCD) and others listed in the application. The two main concerns of the City are long term water quality and public health and safety. City Manager Wrede pointed out that the report shows that a wildfire would move very rapidly through that area, burn pretty hot, and flames would be high. It would be almost impossible to fight it with hand crews because once the flames are over a certain height crews can't walk in. This area is listed in the State's Fire Management Plan as an area where fires would be fought very aggressively because they are close to structures and people. Very aggressively means use of bulldozers, chemicals, and things of that type, things we do not want in the water shed. In terms of fire danger, it can't be eliminated, but the rate at which it spreads could be slowed, and it can be made so hand crews may be able to get in and slow it down. The area is close enough to subdivisions along Skyline Drive and upper West Hill Road that could be in danger very quickly as shown on the maps. The City Administration feels that they have a responsibility to address this safety issue. Another concern is the impact a fire could have on water quality and the reservoir. He noted reference to other instances in the country where forest fires went through watersheds, burned hot enough to get down into the mineral soils, then rains brought siltation and erosion problems. Our reservoir is already showing

problems with climate change, particulate matter, and organics getting into the reservoir. It isn't a deep body of water and could silt up rather quickly. We just spent \$11 million on a new water treatment plant, and it is only as good as the reservoir that serves it. The City thinks efforts to mitigate a forest fire in that area to the extent that we can, and also help the forest regenerate more quickly is the best thing to do. As noted in the report, most of the forest is dead and is not regenerating quickly. The application the City is open to the idea of not scarifying and replanting immediately based on the concerns included from the SWCD, but the City thinks there is real benefit to planting next year, and code prefers replanting. From a long term water quality perspective, the healthier the forest is and quicker it regenerates the better.

Duane Bannock, Kenai Peninsula Borough Program Manager of the Spruce Bark Beetle Mitigation Program (SBB), commented that they are in attendance to answer questions and address concerns. He introduced Wade Wahrenbrock, SBB Fire & Fuels Specialist, and Michael Fastabend, SBB Coordinator. Mr. Bannock commented that the proposal in front of the Commission is a great project for the City. He expects the cost of the effort will be in the area of \$150,000 which will be spent in private contracts and SBB staff oversight and management of the project. The cost to the City is zero. The cost of not doing anything carries a great risk. He noted the Public Works comment in the staff report that wildfire is a hazard to the water quality of the public drinking water source. Reducing the fire risk is less detrimental than what the effects of a fire would be on water quality.

Chair Minsch opened the public hearing.

Rachel Lord, commented on behalf of Cook Inletkeeper, summarized the letter provided as a laydown item and said they are not convinced that the risk associated with a potential fire in the BCWS outweighs the considerable risks associated with this project. Felling trees will not eliminate the risks associated with fire and the proposed project area surrounds the City's sole drinking water source. There are known risks to water quality and watershed functioning when felling all but three to six dead trees per acre across the project area. While a hot and severe fire in the area may cause soil erosion and impaired water quality, we know that mismanaged timber projects do result in soil compaction and erosion, especially in an area like this with fast moving streams, sensitive soil types, and steep slopes. Other risks include increased establishment of highly flammable grasses in the understory, establishment of invasive weed species that are costly and sometimes impossible to eradicate, and increased access to an already heavily used area for recreation. Humans are the primary source of ignition for wild fires in the area, and although steps may be taken to discourage use they still believe the risk of increased access and therefore increased fire danger should not be underestimated. Placing the City's drinking water source at risk for a demonstration project such as this does not seem to be in the City's best interest. Based on suggestions from Natural Resources Conservation Service (NRCS), SWDC, and the Inletkeeper's review of the application they suggest that if the Commission decides to grant the CUP:

- Project activity when soils are frozen to reduce compaction and erosion potential.
- 50 foot stream buffers maintained with no felling.
- Hand felling done within the reservoir buffer, wetlands, slopes steeper than 10%, and vulnerable soil types.
- Invasive weed control plan.
- Re-vegetation, especially by mechanical scarification, should not be performed.
- Project plans should protect, not compromise the existing re-vegetation which has been noted as adequate.

- City appointments of a qualified on-site supervisor that will ensure all points of the contract are followed during daily operations.

Ms. Lord encouraged the Commission to take the most conservative route of operations to accomplish project goals. The risk of this project should be weighed as potential future fire risks in the water shed. Inletkeeper does not believe that the known risks to water quality and watershed functioning in the BCWD associated with this project outweigh the potential benefits in the case of a future wildfire.

Question was raised regarding the height of the slash piles. Ms. Lord referred to the NRCS suggested practices of within 4 ½ feet of the ground.

Steve Gibson, city resident, commented on his own behalf that the idea of fire hazard mitigation in this particular location at this time is a poor idea. He said he has no particular credentials and has been a logger and saw miller for the last 45 years. In his logging experience he has found that even the constraints they are working with in the plan qualify it as a logging operation, it may be with the purpose of mitigating fire hazard, but it is logging none the less. If it were hand felled in the areas outlined in the CUP he thinks it would go a long way toward mitigating damages. He believes Ms. Lord was referring to the height of timber after it is laid down. If a machine is taken in to cut it to make it lie within a foot of the ground a different environment is being created than if it was left at a 4 ½ foot height. If there is any fire hazard advantage that can be maintained it would be that by felling the trees you aren't removing the fuel, you are making it rot faster. Essentially you are moving it away from the tower aspect where you can have flying debris. Mr. Gibson referenced the aerial photo and pointed out and suggested how a fire might be inclined to travel.

Question was raised if cutting it lower to the ground would increase the break down and if it would be more desirable. Mr. Gibson responded initially it would a lower hazard, but it also changes the entire regeneration ecosystem of the woods. There hasn't been a regeneration survey of these lands, but there should be before saying if they are going scarify to replanting. It is his feeling regeneration is well afoot in these areas, and some areas would meet the State's standards. There are an awful lot of young trees doing well and bringing in the machinery, the fewer that are apt to survive.

Joel Cooper, resident in the BCWS district, commented that he doesn't feel like the fire mitigation is necessary for the area and agrees with most of the comments from Cook Inletkeeper. He pointed out that the plan refers to maps to show access to the routes and he did not see any, which concerns him if access is to go across his property. He thinks they should consider the SWCD report first question of the nature, extent, and degree of the fire threats of the area and how much is the threat reduced by the project. He doesn't feel that there is weight one way or another, but he knows coming in with heavy machinery will have an impact on the soils. His experience with another project through the SBB project was logging on Easy Street, further east of this area, but in the BCWS district. There was some logging done and he spoke several times with the logger and watched some of the stuff. He was concerned when he found out that the logger wasn't aware of the BCWS ordinance. Nor was he aware of hand logging and limbing the natives had done to their 40 acre parcel a few years ago, and was about to go in with heavy equipment onto the land. He is concerned about the lack of oversight that seemed to be at that particular project, and what kind of oversight will there be for this project.

There were no further comments and Chair Minsch closed the public hearing.

Mr. Fastabend and Mr. Wahrenbrock provided the following comments and responses to questioning from the Commission:

- They are here in their role to work with communities to reduce hazards as identified.
- Part of their project planning and understanding since the beginning is that any mechanical activity in this area needs to be on frozen ground and hand felling taking place when there is no snow level.
- There is a map that shows treatment zones showing what will be done mechanically and what will be requiring hand treatment felling, specifically around the lakeshore, the two drainages that come in from the north side, and anywhere that soils are such that would require hand felling.
- There is natural alder/willow along the streams providing a buffer and they do not foresee any problems maintaining a buffer. Stream buffers are part of the best management practices.
- The acreage is approximately 125 acres of City and Borough land and about 20 acres of University land that will encompass this project.
- They have used the NRSC soil maps as part of their project layout. Within the project area there is about 10% of the soils that are not well draining. Most are on silty loams which are well drained.
- Invasive species are primarily transported in by vehicles and are not an issue they have had with their logging machineries or contractors to date within the SBB program.
- Access to the hand felling areas near roads will allow crews to walk in and out. Further away from the road system moving crews to the shoreline by boat so they can walk in from the shore will be most effective.
- Forest Service reports regarding natural regeneration coming in after beetle kill isn't expected to occur until 30 to 40 years post beetle mortality. Without any active management the only substrate for tree seedlings to land and sprout is logs, which provide nurse homes for tree seedlings. Active regeneration can accelerate establishment of next forest by 30 to 40 years. They advise when doing fuel treatment is to get a healthy forest growing as fast as you can.
- The option for areas for firewood salvage has been eliminated from the plan because of the desire to eliminate skidding on the project.
- With the ice and frost on the ground normally there is very little surface disturbance of vegetation, and when operating on top of snow there is almost zero.
- The purpose of the scarification is to create a micro site for seedlings to have an opportunity to start growing. The area scarified will begin to re-vegetate that same summer. The seedlings planted will have more time to get better established.
- In the event of a fire, the 4 ½ foot slash height could produce enough heat intensity to involve the full canopy left out there. One foot would be advantageous of reducing the fuel height to a point where you wouldn't produce as much heat to have a canopy fire.
- Their intention is to do the public lands this year and hope the private land owners will participate soon after. In the event private property owners choose not to, there is still a benefit to do the small areas on the south side as once a fire got into those areas it would likely be a surface fire and not a crown fire. There is a much greater chance that live green trees would stay un-impacted by fire if treated.

Chair Minsch called for a break at 9:13 p.m. to pass the gavel to Vice Chair Bos and leave. The meeting came back to order at 9:19 p.m. and discussion resumed. City Manager Wrede joined the discussion.

- Slash piles 4 feet high would be too high to get hand crews in for fire fighting, especially with the apparatus fire fighters have to use.
- Reforestation was initially included in the project and the City wrote the application in such a way to show flexibility in an effort to be sensitive to the feedback that had been received initially. It was done with reservations because the City would like see the forest become healthy as quickly as possible. Reforestation can be added if the Commission chooses.

Mr. Bannock joined the discussion emphasizing SBB's sense of urgency for moving forward with the project because of the timing to use the federal funding and the notion that we are on the down side of the winter season. The project is best done in the winter and they are lining things out to get started as soon as the CUP is approved. Reforestation is not against the clock for funding and can be done from other funds, but it would be more cost effective to include it in this project.

There was discussion of a need to take time for consideration of information received and to consider possible amendment and also the time frame that the SBB representatives have to do this project before they risk losing the funding to do it.

VENUTI/KRANICH MOVED FOR THE APPROVAL OF CONDITIONAL USE PERMIT FOR THIS PROJECT WITH THE FINDINGS AND CONDITIONS.

Commissioner Venuti commented that the issue of fire safety is very valid and they should move forward with the project.

In response to further questions from the Commission there was discussion with the SBB representatives regarding tree surveys, reforestation, and a possible amendment for establishing a condition for reforestation.

KRANICH/DRUHOT MOVED TO AMEND CONDITION 3 TO CHANGE THE LAST WORD IN THE EXISTING CONDITION FROM DEPARTMENT TO COMMISSION. THEN ADD: IF THE RESULTS OF THIS SURVEY INDICATE A NEED FOR REPLANTING TO REACH OPTIMUM REFORESTATION, THIS PLANTING SHALL BE ACCOMPLISHED WITHIN THE NEXT GROWING SEASON OR SOONER.

There was brief discussion that there is a need to get the forest back to green as soon as we can.

VOTE: (Primary amendment): KRANICH, DRUHOT, BOS, VENUTI, DOLMA

Motion carried.

There was no further discussion of the main motion as amended.

VOTE (Main motion as amended): YES: BOS, DRUHOT, VENUTI, KRANICH, DOLMA
Motion carried.

Commissioner Highland returned to the table.

PLAT CONSIDERATION

There were no plats for consideration.

PENDING BUSINESS

- A. Staff Report PL 10-111 Draft Ordinance Amending the City of Homer Comprehensive Plan to Include the Homer Spit Comprehensive Plan and Recommending Adoption to the Kenai Peninsula Borough

BOS/KRANICH MOVED TO TAKE THIS UP AT THE NEXT MEETING.

There was brief discussion. Planning Technician Engebretsen said she would bring the amendments brought up in the worksession back in memorandum that the Commission could adopt.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

There were no New Business items scheduled.

INFORMATIONAL MATERIALS

- A. City Manager's Report

COMMENTS OF THE AUDIENCE

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

City Manager Wrede thanked the Commission for their consideration of the application for Bridge Creek. He knows it wasn't an easy one and appreciates their thoughtful consideration.

Bill Smith commented that he spent seven or so years sitting where they were and he wanted to observe that when Ms. Highland declared a conflict she should have declared ex parte communication which is far different. Under those circumstances she should have been allowed to participate.

COMMENTS OF STAFF

There were no staff comments.

COMMENTS OF THE COMMISSION

Commissioner Highland and Druhot had no comments.

Commissioner Kranich commented regarding the Commissioner's use of staff and staff time. All Commissioners have access to staff to get information and have staff accomplish certain functions for them. That is something all Commissioners should have an equal footing on. He

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doesn't think it's appropriate to staff come in on the weekends to send an email to the seven of them. We would be having staff come in quite often on weekends. The Chair gave instruction that the email should be sent on Monday and nothing was accomplished by having it over the weekend, but staff was requested to come in, which they did. He doesn't know what they put on their time card, and if that venue is open to all Commissioners, that's fine. When the Chair gives input he doesn't think the Commissioners should circumvent that advice and information and ask staff to come in on the weekend. It shouldn't happen again and it shouldn't be tolerated by staff either.

Commissioner Venuti thanked Commissioner Highland for the pizza.

Commissioner Dolma said thanks for the pizza.

Vice Chair Bos thanked everyone who supports the Commission and Commissioners.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 8:31 p.m. The next regular meeting is scheduled for February 2, 2011 at 7:00 p.m. in the City Hall Cowles Council Chambers.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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DAVID CAREY
BOROUGH MAYOR

January 6, 2011

City of Homer
491 East Pioneer Avenue
Homer Alaska 99603

RE: Lee Cole 2008
KPB File 2009-025

The proposed subdivision, located within the City of Homer received preliminary approval by KPB Planning Commission on February 23, 2009.

A time extension request will be a 'consent agenda item' before the Planning Commission at the meeting of February 14, 2011. No action is needed from the city.

The borough staff is recommending the approval be extended through February 14, 2012.

Thank You,

Sylvia Vinson-Miller
Platting Technician

GENERAL MEMORANDUM FOR THE DIRECTOR

MEMORANDUM FOR THE DIRECTOR
SUBJECT: [Illegible]

DATE: [Illegible]



[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible signature and text]

City of Homer Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

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HOMER ADVISORY PLANNING COMMISSION Meeting of January 19, 2011

RE: Application for Conditional Use Permit (CUP) 11-02
Address: 4755 Homer Spit Road
Legal: Tract A and Lot 22A Lands End Subdivision

DECISION

Harbor Enterprises Incorporated dba Petro Marine applied to the Homer Advisory Planning Commission (the "Commission") under:

HCC 21.30.030(f). "Bulk petroleum storage"

HCC 21.30.040(d). "No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area without an approved conditional use permit."

This site has been used for bulk petroleum storage and loading facility since before the 1960's. The applicants sought approval to add a 44 foot in diameter by 30 foot high petroleum tank. The nonconforming use as a bulk petroleum storage and loading facility was approved at the January 5, 2011 HAPC meeting. In order to expand, a Conditional Use Permit was needed.

The application was scheduled for a public hearing as required by Homer City Code 21.94 before the Commission on January 19, 2011. Notice was sent to 31 property owners of 55 parcels as shown on the KPB tax records which included condominium owners.

At the January 19, 2011 meeting of the Commission, the Commission voted to approve the request with seven (7) Commissioners present, one (1) commissioner was excused due to a conflict of interest. The remaining six (6) Commissioners voted in favor of the conditional use permit.

Background: In 1982, Ord. 82-15 “Bulk petroleum storage” became a Condition Use Permit in the MI district. In 2004, Ord. 04-11(A)) required a Conditional Use Permit for any “lot contain(ing) more than 8,000 square feet of building area, nor shall any lot contain building area in excess of 30% of the lot area without an approved conditional use permit.”

The containment area is approximately 29,000 square feet. When combined with the office/warehouse building (5,480 square feet) the total building area is 34,480 square feet which is approximately 60% of the larger lot area.

After due consideration of the evidence presented, the Homer Advisory Planning Commission, hereby makes the following findings of fact and conclusions of law.

EVIDENCE PRESENTED

The criteria for granting a Conditional Use Permit are set forth in HCC 21.61.020.

- a. The applicable code authorizes each proposed use and structure by conditional use permit in that zoning district.**

Finding 1: HCC 21.30.030(f) authorizes “Bulk petroleum storage” as a conditional use and structures in the Marine Industrial district.

Finding 2: HCC 21.30.040(d) requires a CUP when lots contain more than 8,000 square feet of building area (all buildings combined), or have a building area that covers more than 30 percent of the lot area.

- b. The proposed use(s) and structure(s) are compatible with the purpose of the zoning district in which the lot is located.**

Finding 3: Adding a 44 foot in diameter by 30 foot high petroleum tank within the existing containment area is compatible with the Marine Industrial district. Fuel stored in the tanks service water-dependent users such as the fishing, marine transportation and tourism industries.

Finding 4: The majority of the fuel deliveries to the petroleum storage facility are ship to shore. HCC 21.30.010 gives priority to water-dependent uses.

- c. The value of the adjoining property will not be negatively affected greater than that anticipated from other permitted or conditionally permitted uses in this district.**

Finding 5: No evidence has been presented indicating that adjoining properties have been, or will be negatively affected by the addition of a 44 foot diameter by 30 foot high fuel tank.

- d. The proposal is compatible with existing uses of surrounding land.**

Finding 6: Adding a 44 foot in diameter by 30 foot high petroleum tank within the existing containment area is compatible with the ferry terminal, port maintenance buildings, municipal water tank, and fish processing plants.

e. Public services and facilities are or will be adequate to serve the proposed use and structure.

Finding 7: Public services and facilities are adequate to serve the project. Public water and sewer serve the property. Homer Spit Road is state maintained.

f. Considering harmony in scale, bulk, coverage and density, generation of traffic, the nature and intensity of the proposed use, and other relevant effects, the proposal will not cause undue harmful effect upon desirable neighborhood character.

Finding 8: The proposed tank, 44 foot in diameter by 30 foot high, is similar to the other tanks and located in the existing containment area. The scale, bulk coverage and density are similar to the existing tanks.

Finding 9: Majority of the fuel deliveries are ship to shore, so the traffic generation is not expected to change.

Finding 10: No evidence has been presented that indicates the bulk petroleum storage and loading facility causes harmful or undesirable effects to the Marine Industrial area.

g. The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area or the city as a whole.

Finding 11: Harbor Enterprise is waiting for Fire Marshal approval. All other agencies have reviewed and accepted the proposal. The reviews include evaluation for health and safety standards. The bulk petroleum facility is not detrimental to the health, welfare or safety of the surrounding area or the city as a whole.

h. The proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan.

Finding 12: This proposal meets the goals and objectives of the 2010 Comprehensive Plan.

i. The proposal will comply with all applicable provisions of the Community Design Manual.

Finding 13: The facility is completely surrounded with a security fence so outdoor furnishings are not appropriate. The project complies with the applicable provisions of the Community Design Manual.

In approving a conditional use, the Commission may impose such conditions on the use as may be deemed necessary to ensure the proposal does and will continue to satisfy the applicable review criteria. Such conditions may include, but are not limited to, one or more of the following:

- 1. Special yards and spaces.** No conditions deemed necessary.
- 2. Fences, walls and screening.** For security reasons the entire site is fenced.
- 3. Surfacing of vehicular ways and parking areas.** No conditions deemed necessary.
- 4. Street and road dedications and improvements (or bonds).** No conditions deemed necessary.
- 5. Control of points of vehicular ingress and egress.** No conditions deemed necessary.
- 6. Special restrictions on signs.** No conditions deemed necessary.
- 7. Landscaping.** No conditions deemed necessary.
- 8. Maintenance of the grounds, buildings, or structures.** No conditions deemed necessary.
- 9. Control of noise, vibration, odors, lighting or other similar nuisances.** No conditions deemed necessary.
- 10. Limitation of time for certain activities.** No conditions deemed necessary.
- 11. A time period within which the proposed use shall be developed and commence operation.** No conditions deemed necessary.
- 12. A limit on total duration of use or on the term of the permit, or both.** No conditions deemed necessary.

Based on the foregoing findings of fact and law, Conditional Use Permit 11-02 located at 4755 Homer Spit Road, Tract A and Lot 22A Lands End Subdivision is approved with Findings 1-13 to allow:

1. "Bulk petroleum storage" per HCC 21.30.030(f).
2. The addition of a fuel tank that is 44 foot in diameter by 30 foot high and located within the existing containment area.
3. The lot may contain more than 8,000 square feet of building area (including the containment area), and contain building area in excess of 30 percent of the lot area per HCC 21.30.030(f).
4. Include all existing improvements on the lots.

Date: _____

Chair, Sharon Minsch

Date: _____

City Planner, Rick Abboud

NOTICE OF APPEAL RIGHTS

Pursuant to Homer City Code, Chapter 21.93.060, any person with standing that is affected by this decision may appeal this decision to the Homer Board of Adjustment within thirty (30) days of the date of distribution indicated below. Any decision not appealed within that time shall be final. A notice of appeal shall be in writing, shall contain all the information required by Homer City Code, Section 21.93.080, and shall be filed with the Homer City Clerk, 491 East Pioneer Avenue, Homer, Alaska 99603-7645.

CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to the below listed recipients on _____, 2011. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk on the same date.

Date: _____
Shelly Rosencrans, Planning Assistant

Walt Wrede, City Manager
491 E Pioneer Avenue
Homer, AK 99603

Thomas Klinkner
Birch, Horton, Bittner & Cherot
1127 West 7th Ave
Anchorage, AK 99501

Harbor Enterprises dba Petro Marine Services
4755 Homer Spit Road
Homer, AK 99603

THE STATE OF TEXAS

County of ... State of Texas, I, the undersigned, Clerk of the County, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County Clerk.

CERTIFICATE OF THE CLERK OF THE COUNTY

I hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County Clerk.

Witness my hand and seal of office this ... day of ... 19...

My Commission Expires ...

Notary Public in and for the State of Texas



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HOMER ADVISORY PLANNING COMMISSION Meeting of January 19, 2011

Re: Application for Conditional Use Permit (CUP) 11-03

Address: 4136 Hohe Street

Legal: FAIRVIEW SUB REPLAT LOTS 7 & 8 BLOCK 3 LOT 7-A BLK 3

DECISION

Susannah Webster, lessee and Carol Cordes, property owner applied to the Homer Advisory Planning Commission (the "Commission") under Homer City Code 21.16.030(g) for approval of day care facility located at 4136 Hohe Street.

This single family residence on the corner of Hohe Street and Danview Avenue is not the principal dwelling of the applicant, so by definition this is a "day care facility" not a "home day care." A "day care facility" in the Residential Office district requires a Conditional Use Permit per HCC 21.16.030(g) and must provide a fenced play area.

The application was scheduled for a public hearing as required by Homer City Code 21.94 before the Commission on January 19, 2011. Notice of the public hearing was published in the local newspaper and sent to 34 property owners of 39 parcels.

At the January 19, 2011 meeting of the Commission, the Commission voted to approve the request with seven (7) Commissioners present, seven (7) Commissioners voted in favor of the conditional use permit. At the public hearing one city resident spoke in favor of quality, affordable child care in Homer.

After due consideration of the evidence presented, the Homer Advisory Planning Commission hereby makes the following findings of fact and conclusions of law.

EVIDENCE PRESENTED

FINDINGS OF FACT

The criteria for granting a Conditional Use Permit is set forth in HCC 21.61.020, General conditions, and establishes the following conditions:

a. The applicable code authorizes each proposed use and structure by conditional use permit in that zoning district;

Finding 1: HCC 21.16.030(g) authorizes day care facilities as a conditional use in the Residential Office District.

b. The proposed use(s) and structure(s) are compatible with the purpose of the zoning district in which the lot is located.

Finding 2: Day care facilities meet the purpose of the Residential Office District which is to provide a mix of low to medium density residential uses with mix of professional offices and services per HCC 21.16.010.

c. The value of the adjoining property will not be negatively affected greater than that anticipated from other permitted or conditionally permitted uses in this district.

Finding 3: No evidence has been presented that indicates that a day care facility would have a negative impact on the adjoining properties greater than permitted or conditional permitted uses such as museums and offices.

d. The proposal is compatible with existing uses of surrounding land.

Finding 4: The proposed day care facility is compatible with the existing homes and offices.

e. Public services and facilities are or will be, prior to occupancy, adequate to serve the proposed use and structure.

Finding 5: Existing public, water, sewer, and fire services are adequate to serve the proposed day care facility.

f. Considering harmony in scale, bulk, coverage and density, generation of traffic, the nature and intensity of the proposed use, and other relevant effects, the proposal will not cause undue harmful effect upon desirable neighborhood character.

Finding 6: The building scale, bulk, coverage, and density will not change. Traffic is comparable to other permitted uses such as homes and clinics. Traffic will be significantly less than other permitted uses such as office or museum.

g. The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area or the city as a whole.

Finding 7: The State of Alaska licenses childcare facilities. The licensing process includes background checks and on-site inspections for health. State Fire Marshal review is also required. The day care facility will not negatively affect the health, welfare or safety of the surrounding area or the city as a whole.

h. The proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan.

Finding 8: A day care facility in a single family detached home is compatible with residential/office uses and meets the goals and objectives of the Comprehensive Plan.

i. The proposal will comply with the applicable provisions of the Community Design Manual (CDM).

Finding 9: Outdoor lighting must be down lit per HCC 21.59.030 and the CDM.

HCC 21.71.040(b). b. In approving a conditional use, the Commission may impose such conditions on the use as may be deemed necessary to ensure the proposal does and will continue to satisfy the applicable review criteria. Such conditions may include, but are not limited to, one or more of the following:

1. **Special yards and spaces:** A fenced play area will be located on the south side of the house.
2. **Fences and walls:** The play area will be fenced.
3. **Surfacing of parking areas:** No specific conditions deemed necessary.
4. **Street and road dedications and improvements:** No specific conditions deemed necessary.
5. **Control of points of vehicular ingress and egress:** No specific conditions deemed necessary.
6. **Special provisions on signs:** No specific conditions deemed necessary.
7. **Landscaping:** No specific conditions deemed necessary.
8. **Maintenance of the grounds, building, or structures:** No specific conditions deemed necessary.
9. **Control of noise, vibration, odors or other similar nuisances:** No specific conditions deemed necessary.
10. **Limitation of time for certain activities:** No specific conditions deemed necessary.
11. **A time period within which the proposed use shall be developed:** No specific conditions deemed necessary.
12. **A limit on total duration of use:** No specific conditions deemed necessary.

CONCLUSION

Based on the foregoing findings of fact and law, Conditional Use Permit 11.04 is hereby approved, subject to the following conditions:

1. The play area must be fenced by June 15, 2011.
2. State Fire Marshal certification and State Child Care licenses are required prior to the opening of the day care facility.

Date: _____

Chair, Sharon Minsch

Date: _____

City Planner, Rick Abboud

DRAFT

NOTICE OF APPEAL RIGHTS: Pursuant to Homer City Code, Chapter 21.93.060, any person with standing that is affected by this decision may appeal this decision to the Homer Board of Adjustment within thirty (30) days of the date of distribution indicated below. Any decision not appealed within that time shall be final. A notice of appeal shall be in writing, shall contain all the information required by Homer City Code, Section 21.93.080, and shall be filed with the Homer City Clerk, 491 East Pioneer Avenue, Homer, Alaska 99603-7645.

CERTIFICATION OF DISTRIBUTION: I certify that a copy of this Decision was mailed to the below listed recipients on _____, 2011. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk on the same date.

Date: _____

Shelly Rosencrans, Planning Assistant

Walt Wrede, City Manager
491 E Pioneer Avenue
Homer, AK 99603

Thomas Klinkner
Birch, Horton, Bittner & Cherot
1127 West 7th Ave
Anchorage, AK 99501

Susannah Webster (Lessee)
PO Box 3570
Homer, AK 99603

Carol Cordes (property owner)
146 E. Fairview
Homer, AK 99603

THESE ARE THE TERMS AND CONDITIONS OF THE SALE OF THE GOODS TO BE DELIVERED TO THE BUYER BY THE SELLER. THE BUYER AGREES TO ACCEPT THE GOODS AS DELIVERED AND TO HOLD THE SELLER HARMLESS FROM ALL CLAIMS AND DAMAGES OF THIRD PARTIES IN CONNECTION WITH THE SALE OF THE GOODS. THE SELLER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND LICENSES FOR THE USE OF THE GOODS. THE SELLER'S LIABILITY IS LIMITED TO THE ACTUAL COST OF THE GOODS. THE BUYER'S REMEDY IS LIMITED TO REJECTION OF THE GOODS OR A REFUND OF THE PURCHASE PRICE. THE SELLER'S OBLIGATION IS LIMITED TO THE DELIVERY OF THE GOODS IN ACCORDANCE WITH THE ORDER. THE BUYER'S OBLIGATION IS LIMITED TO THE PAYMENT OF THE PURCHASE PRICE. THE SELLER'S WARRANTY IS LIMITED TO THE DEFECTS IN THE GOODS. THE BUYER'S WARRANTY IS LIMITED TO THE DEFECTS IN THE GOODS. THE SELLER'S LIABILITY IS LIMITED TO THE ACTUAL COST OF THE GOODS. THE BUYER'S REMEDY IS LIMITED TO REJECTION OF THE GOODS OR A REFUND OF THE PURCHASE PRICE. THE SELLER'S OBLIGATION IS LIMITED TO THE DELIVERY OF THE GOODS IN ACCORDANCE WITH THE ORDER. THE BUYER'S OBLIGATION IS LIMITED TO THE PAYMENT OF THE PURCHASE PRICE. THE SELLER'S WARRANTY IS LIMITED TO THE DEFECTS IN THE GOODS. THE BUYER'S WARRANTY IS LIMITED TO THE DEFECTS IN THE GOODS.

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IN WITNESS WHEREOF, THE SELLER HAS HEREUNTO SET HIS HAND AND SEAL AT THE CITY OF NEW YORK, THIS 15TH DAY OF JANUARY, 1964.

BY: _____
JAMES EARL RAY
150 N. WASHINGTON AVE.
MEMPHIS, TENN. 38103

BY: _____
THE UNITED STATES OF AMERICA
150 N. WASHINGTON AVE.
MEMPHIS, TENN. 38103

BY: _____
JAMES EARL RAY
150 N. WASHINGTON AVE.
MEMPHIS, TENN. 38103

BY: _____
THE UNITED STATES OF AMERICA
150 N. WASHINGTON AVE.
MEMPHIS, TENN. 38103

City of Homer

Planning & Zoning

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HOMER ADVISORY PLANNING COMMISSION

January 19, 2011

RE: CUP 2011-01 Bridge Creek Fire Hazard Mitigation
Application for Conditional Use Permit

DECISION

Introduction

Walt Wrede, City of Homer City Manager applied to the Homer Advisory Planning Commission (the "Commission") under Homer City Code 21.40.110 21.40.110, Stream buffers, 21.40.130 Exceptions to buffers and 21.34.030 (d) (Conservation Zone): Other conservation uses that will enhance the conservation district, approved by the Planning Commission, provided, however, a finding of no adverse impact to the integrity of the fish and wildlife resources and habitat must be found.

The properties are located at:

PARCEL ID	LEGAL DESCRIPTION
17305120	T 6S R 13W SEC 5 SEWARD MERIDIAN HM NE1/4 SW1/4 & N1/2 SE1/4 SW1/4 & N1/2 S1/2 SE1/4 SW1/4
17305119	T 6S R 13W SEC 5 SEWARD MERIDIAN HM N1/2 SW1/4 SW1/4 OF SEC 5
17305234	T 6S R 13W SEC 5 SEWARD MERIDIAN HM E1/2 SE1/4
17305111	T 6S R 13W SEC 5 & 6 SEWARD MERIDIAN HM S1/2 S1/2 SE1/4 SW1/4 & S1/2 SW1/4 SW1/4 OF SEC 5 & S1/2 SE1/4 SE1/4 & S1/2 N1/2 SE1/4 SE1/4 OF SEC 6
17305236	T 6S R 13W SEC 5 SEWARD MERIDIAN HM SW1/4 SW1/4 SE1/4
17305235	T 6S R 13W SEC 5 SEWARD MERIDIAN HM NW1/4 SE1/4 & E1/2 SW1/4 SE1/4 & NW1/4 SW1/4 SE1/4
17305301	T 6S R 13W SEC 8 SEWARD MERIDIAN HM N1/2 N1/2 NW1/4 NW1/4 & N1/2 NE1/4 NW1/4
17307064	T 6S R 13W SEC 7 SEWARD MERIDIAN HM 0711238 DIAMOND RIDGE ESTATES SUB LOT 2 PORTION THEREOF

17307057	T 6S R 13W SEC 7 SEWARD MERIDIAN HM 0711238 DIAMOND RIDGE ESTATES SUB LOT 13 A PORTION THEREOF
17307062	T 6S R 13W SEC 7 SEWARD MERIDIAN HM 0711238 DIAMOND RIDGE ESTATES SUB LOT 1 PORTION THEREOF
17307053	T 6S R 13W SEC 7 SEWARD MERIDIAN HM 0711238 DIAMOND RIDGE ESTATES SUB LOT 2 THAT PORTION THEREOF LYING EAST OF DIAMOND RIDGE ROAD
17307060	T 6S R 13W SEC 7 SEWARD MERIDIAN HM 0711238 DIAMOND RIDGE ESTATES SUB LOT 14 THE W1/2 THEREOF
17307059	T 6S R 13W SEC 7 SEWARD MERIDIAN HM 0711238 DIAMOND RIDGE ESTATES SUB LOT 13 A PORTION THEREOF

The property is zoned Bridge Creek Watershed Protection District pursuant to Homer City Code 21.40 and a portion is also within the Conservation zone, per HCC 21.34. Mr. Wrede applied on behalf of the City of Homer, the University of Alaska, and the Kenai Peninsula Borough. However, the University of Alaska did not provide a land owner signature at any point in the process as required by HCC 21.71.20 (9) and is thereby excluded from the conditional use permit.

The application seeks approval for the use under Homer City Code City Code 21.40.110, 21.40.130, 21.34.030 (d) and 21.71 which allows as conditional uses in the Conservation and Bridge Creek Watershed Protection District Zones.

The application was scheduled for a public hearing as required by Homer City Code 21.94 before the Commission on January 19, 2011. Notice of the January 19, 2011 public hearing was published in the local newspaper and sent to 19 property owners of 46 parcels. A courtesy notice was also sent to an additional 94 property owners of 155 parcels, at the request of the applicant.

At the January 19, 2011 meeting of the Commission, one commissioner was excused due to a conflict of interest. The remaining five Commissioners present voted in favor of the conditional use permit.

After due consideration of the evidence presented, the Homer Advisory Planning Commission, hereby makes the following findings of fact and conclusions of law.

EVIDENCE PRESENTED

Walt Wrede, applicant City Manager Wrede, applicant, addressed the Commission. He explained that City has been concerned about the situation around Bridge Creek Watershed (BCWS) and have talked to the Division of Forestry and others about forest health, fire danger, and what could be done up there. It came to a head recently when the Borough Spruce Bark Beetle program got some stimulus money which has enabled them to do mitigation projects in communities. He references the report that analyzes the forest health, how quickly it is regenerating, how quickly it could regenerate if selectively replanted, and the fire danger if one was to occur. The two main concerns of the City are long term water quality and public health

and safety. City Manager Wrede pointed out that the report shows that a wildfire would move very rapidly through that area, burn pretty hot, and flames would be high. It would be almost impossible to fight it with hand crews because once the flames are over a certain height crews can't walk in. This area is listed in the State's Fire Management Plan as an area where fires would be fought very aggressively because they are close to structures and people. Very aggressively means use of bulldozers, chemicals, and things of that type, things we do not want in the water shed. In terms of fire danger, it can't be eliminated, but the rate at which it spreads could be slowed, and it can be made so hand crews may be able to get in and slow it down. The area is close enough to subdivisions along Skyline Drive and upper West Hill Road that could be in danger very quickly as shown on the maps. Another concern is the impact a fire could have on water quality and the reservoir. He noted reference to other instances in the country where forest fires went through watersheds, burned hot enough to get down into the mineral soils, then rains brought siltation and erosion problems. We just spent \$11 million on a new water treatment plant, and it is only as good as the reservoir that serves it. The City thinks efforts to mitigate a forest fire in that area to the extent that we can, and also help the forest regenerate more quickly is the best thing to do. As noted in the report, most of the forest is dead and is not regenerating quickly. The application the City is open to the idea of not scarifying and replanting immediately based on the concerns included from the Soil and Water Conservation District (SWCD), but the City thinks there is real benefit to planting next year, and code prefers replanting. From a long term water quality perspective, the healthier the forest is and quicker it regenerates the better.

Duanne Bannock, Kenai Peninsula Borough Spruce Bark Beetle (SSB) Program Manager spoke briefly on the fire hazards of the area, project cost and oversight.

Rachel Lord read a written statement into the record, submitted by herself, and Sue Mauger, on behalf of Cook Inletkeeper. Based on suggestions from Natural Resources Conservation Service (NRCS), SWDC, and the Inletkeeper's review of the application they suggest that if the Commission decides to grant the CUP:

- Project activity when soils are frozen to reduce compaction and erosion potential.
- 50 foot stream buffers maintained with no felling.
- Hand felling done within the reservoir buffer, wetlands, slopes steeper than 10%, and vulnerable soil types.
- Invasive weed control plan.
- Re-vegetation, especially by mechanical scarification, should not be performed.
- Project plans should protect, not compromise the existing re-vegetation which has been noted as adequate.
- City appointments of a qualified on-site supervisor that will ensure all points of the contract are followed during daily operations.

Ms. Lord encouraged the Commission to take the most conservative route of operations to accomplish project goals. The risk of this project should be weighed as potential future fire risks in the water shed. Inletkeeper does not believe that the known risks to water quality and watershed functioning in the BCWD associated with this project outweigh the potential benefits in the case of a future wildfire.

Steve Gibson, city resident, commented on his own behalf that the idea of fire hazard mitigation in this particular location at this time is a poor idea. He said he has no particular credentials and has been a logger and saw miller for the last 45 years. In his logging experience he has found that even the constraints they are working within the plan qualify it as a logging operation, it may be with the purpose of mitigating fire hazard, but it is logging none the less. If it were hand felled in the areas outlined in the CUP he thinks it would go a long way toward mitigating damages. There hasn't been a regeneration survey of these lands, but there should be before saying if they are going scarify to replanting. It is his feeling regeneration is well afoot in these areas, and some areas would meet the State's standards. There are an awful lot of young trees doing well and bringing in the machinery, the fewer that are apt to survive.

Joel Cooper, adjacent property owner, commented that he doesn't feel like the fire mitigation is necessary for the area and agrees with most of the comments from Cook Inletkeeper. He thinks they should consider the SWCD report first question of the nature, extent, and degree of the fire threats of the area and how much is the threat reduced by the project. He doesn't feel that there is weight one way or another, but he knows coming in with heavy machinery will have an impact on the soils. He is concerned about what kind of oversight will there be for this project.

Micheal Fastabend, SBB Coordinator and Wade Wahrenbrock SBB Fire & Fuels Specialist provided the following comments and responses to questioning from the Commission:

- They are here in their role to work with communities to reduce hazards as identified.
- Part of their project planning and understanding since the beginning is that any mechanical activity in this area needs to be on frozen ground and hand felling taking place when there is no snow level.
- There is a map that shows treatment zones showing what will be done mechanically and what will be requiring hand treatment felling, specifically around the lakeshore, the two drainages that come in from the north side, and anywhere that soils are such that would require hand felling.
- There is natural alder/willow along the streams providing a buffer and they do not foresee any problems maintaining a buffer. Stream buffers are part of the best management practices.
- They have used the NRSC soil maps as part of their project layout. Within the project area there is about 10% of the soils that are not well draining. Most are on silty loams which are well drained.
- Invasive species are primarily transported in by vehicles and are not an issue they have had with their logging machineries or contractors to date within the SBB program.
- Access to the hand felling areas near roads will allow crews to walk in and out. Further away from the road system moving crews to the shoreline by boat so they can walk in from the shore will be most effective.
- Forest Service reports regarding natural regeneration coming in after beetle kill isn't expected to occur until 30 to 40 years post beetle mortality. Without any active management the only substrate for tree seedlings to land and sprout is logs, which provide nurse homes for tree seedlings. Active regeneration can accelerate

establishment of next forest by 30 to 40 years. They advise when doing fuel treatment is to get a healthy forest growing as fast as you can.

- The option for areas for firewood salvage has been eliminated from the plan because of the desire to eliminate skidding on the project.
- With the ice and frost on the ground normally there is very little surface disturbance of vegetation, and when operating on top of snow there is almost zero.
- The purpose of the scarification is to create a micro site for seedlings to have an opportunity to start growing. The area scarified will begin to re-vegetate that same summer. The seedlings planted will have more time to get better established.
- Slash piles 4 feet high would be too high to get hand crews in for fire fighting, especially with the apparatus fire fighters have to use.
- Reforestation was initially included in the project and the City wrote the application in such a way to show flexibility in an effort to be sensitive to the feedback that had been received initially. It was done with reservations because the City would like see the forest become healthy as quickly as possible. Reforestation can be added if the Commission chooses.

FINDINGS OF FACT

Three parts of Homer City Code require a conditional use permit for the proposed activity: 21.40.110 Stream Buffers, 21.40.130 Exceptions to Buffers and 21.34.030 (d) (Conservation Zone): “Other conservation uses that will enhance the conservation district, approved by the Planning Commission, provided, however, a finding of no adverse impact to the integrity of the fish and wildlife resources and habitat must be found.”

21.40.110 Stream buffers. a. A stream buffer must be preserved and maintained along all perennial and intermittent streams in the BCWP district. The stream buffer must be at least 50 feet on each side of the stream measured from the top of the stream bank. Buildings and other features that require grading or construction must be set back at least ten additional feet from the edge of the buffer. To avoid a decrease in the buffer's effectiveness in protecting the stream the buffer shall remain in natural and undisturbed vegetation.

b. The following exceptions or intrusions into the stream buffer may be granted by conditional use permit approved by the Planning Commission:

1. Street, driveway, culvert, recreational features, intakes, utilities, bridges or other crossings, provided that they are designed to minimize the amount of intrusion into the buffer. The aforementioned structures and improvements may run generally within the stream buffer only where no other access route is available and when their design minimizes the amount of intrusion of the stream buffer.

Finding 1: No other access routes are available and stream crossings are needed to access some of the lots.

5. Timber harvest operations, provided that:

a. along perennial streams the buffer must include, but is not limited to, a 50-foot permanent buffer of undisturbed natural vegetation and an additional 75-foot buffer area of

selective logging leaving no less than 30% of the original standing timber; and

b. along intermittent streams or drainages the buffer must include, but is not limited to, a 25-foot buffer area of selective logging leaving no less than 30% of the original standing timber; and

c. vegetation sufficient to stabilize the soil shall be established on all disturbed areas.

Condition 1: Timber falling shall meet the requirements of 21.40.110(b)(5).

21.40.130 Exceptions to buffers. a. A conditional use permit is required for any intrusion into a required buffer including, but not limited, to those intrusions and exceptions listed in HCC § 21.40.110 (b). When any approved intrusion into a buffer involves excavation or clearing, the conditional use permit must require the disturbed area to be revegetated immediately.

b. Upon application of the property owner, the Planning Commission may grant a conditional use permit to reduce the **reservoir buffer requirements** on a case-by-case basis only if it finds that:

1. The full reservoir buffer would result in an exceptional hardship, depriving the property owner of the economic advantages of ownership, i.e., all potential for appreciation and all opportunity for development of the property. Mere failure to realize the maximum appreciation or full development potential from the property shall not be considered an exceptional hardship.

Finding 2: The property owners are not seeking appreciation or development of the properties. The applicants have applied for an exception to the reservoir buffer requirements to reduce the risk and potential intensity of a future wildfire. A wildfire under current conditions could cause economic hardship for the City of Homer and consumers of the City of Homer water utility due to increased water treatment costs.

2. The intrusion into the reservoir buffer is the minimum necessary to relieve that exceptional hardship.

Finding 3: The intrusion into the reservoir buffer is the minimum needed to substantially reduce the fire hazard risk, and maintain good forestry practices.

3. The intrusion will not cause a degradation of the water quality or endanger the suitability of the Bridge Creek Reservoir as a water supply source for the City's public water utility.

In making such findings, the Planning Commission must consider topography, water quality protection, erosion potential, surrounding uses, the size of the parcel, and any other relevant factors. A site plan and an erosion and sediment control plan must be provided by the property owner. The Planning Commission must impose any conditions necessary to protect the water quality and ensure continued suitability of the Bridge Creek Reservoir as a water supply source

for the City's public water utility.

Finding 4: The long term water quality of the reservoir is best protected by reducing the fire hazards in the immediate area. The standing dead timber is a fire hazard and a wildfire could cause significant siltation into the reservoir. Reducing the fuel load in this area reduces the risk of a catastrophic fire over the long term.

21.34.030 (d) (Conservation Zone): "Other conservation uses that will enhance the conservation district, approved by the Planning Commission, provided, however, a finding of no adverse impact to the integrity of the fish and wildlife resources and habitat must be found."

Finding 5: The proposed activities will have no adverse impact to the integrity of fish and wildlife resources.

Homer City Code §21.71.030 provides:

Review Criteria. The applicant must produce evidence sufficient to enable meaningful review of the application. Unless exceptions or other criteria are stated elsewhere in this code, the application will be reviewed under these criteria:

The applicable code authorizes each proposed use and structure by conditional use permit in that zoning district.

Finding 6: Homer City Code authorizes each proposed use by conditional use permit in the Conservation and Bridge Creek Watershed Protection Districts.

b. The proposed use(s) and structure(s) are compatible with the purpose of the zoning district in which the lot is located.

Finding 7: The proposed use is compatible with the purpose of the zoning districts in which the lots are located.

c. The value of the adjoining property will not be negatively affected greater than that anticipated from other permitted or conditionally permitted uses in this district.

Finding 8: Property values of adjoining property will not be negatively affected. The land use of the property will not change; the lands will remain in conservation and Bridge Creek Watershed zoning. Removal of dead timber will reduce the likelihood of a future wildfire which would be detrimental to adjoining property values.

d. The proposal is compatible with existing uses of surrounding land.

Finding 9: The proposal will not change the existing land use nor the usability of the surrounding land.

e. Public services and facilities are or will be, prior to occupancy, adequate to serve the proposed use and structure.

Finding 10: No public services are required for this project.

f. Considering harmony in scale, bulk, coverage and density, generation of traffic, the nature and intensity of the proposed use, and other relevant effects, the proposal will not cause undue harmful effect upon desirable neighborhood character.

Finding 11: The project will have no impact with respect to harmony, bulk, coverage and density upon adjacent neighborhoods nor will it cause undue harmful effects on the rural neighborhood character.

g. The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area or the city as a whole.

Finding 12: The project will be beneficial to the health, safety and welfare of the surrounding area by reducing the fire hazard, and beneficial to the city as a whole by protecting the water quality of the public water supply.

h. The proposal does or will comply with the applicable regulations and conditions specified in this title for such use.

Finding 13: The proposal complies with applicable regulations. The applicants shall comply with all conditions of this permit.

i. The proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan.

Finding 14: The proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan.

j. The proposal will comply with all applicable provisions of the Community Design Manual.

Finding 15: The Community Design Manual does not apply to this project.

In approving a conditional use, the Commission may impose such conditions on the use as may be deemed necessary to ensure the proposal does and will continue to satisfy the applicable review criteria. Such conditions may include, but are not limited to, one or more of the following:

- 1. Special yards and spaces.**
- 2. Fences, walls and screening.**
- 3. Surfacing of vehicular ways and parking areas.**
- 4. Street and road dedications and improvements (or bonds).**
- 5. Control of points of vehicular ingress and egress.**
- 6. Special restrictions on signs.**
- 7. Landscaping.**
- 8. Maintenance of the grounds, buildings, or structures.**
- 9. Control of noise, vibration, odors, lighting or other similar nuisances.**
- 10. Limitation of time for certain activities.**

- 11. A time period within which the proposed use shall be developed and commence operation.
- 12. A limit on total duration of use or on the term of the permit, or both.
- 13. More stringent dimensional requirements, such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.
- 14. Other conditions necessary to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.

Condition 2: This CUP shall be valid for five years from the time of an approval.

Condition 3: The summer following completion of logging activities, the Borough shall conduct a tree survey and supply the results, and plans for any tree planting if needed, to the City of Homer Planning Commission. If the results of this survey indicate a need for replanting to reach optimum reforestation, this planting shall be accomplished within the next growing season or sooner.

CONCLUSION

Based on the foregoing findings of fact and law, Conditional Use Permit 11-01 is hereby approved, subject to conditions 1-3.

Date: _____
Vice-Chair, Tom Bos

Date: _____
City Planner, Rick Abboud

NOTICE OF APPEAL RIGHTS

Pursuant to Homer City Code, Chapter 21.93.060, any person with standing may appeal this decision to the Homer Board of Adjustment within thirty (30) days of the date of distribution indicated below. Any decision not appealed within that time shall be final. A notice of appeal shall be in writing, shall contain all the information required by Homer City Code, Section 21.93.080, and shall be filed with the Homer City Clerk, 491 East Pioneer Avenue, Homer, Alaska 99603-7645.

CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to the below listed recipients on _____, 2011. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk on the same date.

Date: _____
Shelly Rosencrans, Planning Assistant

Walt Wrede, City Manager
491 E Pioneer Avenue
Homer, AK 99603

Thomas Klinkner
Birch, Horton, Bittner & Cherot
1127 West 7th Ave
Anchorage, AK 99501

Max Best
Kenai Peninsula Borough Planning Director
144 N. Binkley St
Soldotna, AK 99669

Duane Bannock
KPB SSB Program Manager
253 Wilson Lane
Soldotna, AK 99669

DRAFT



City of Homer Planning & Zoning

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STAFF REPORT PL 11-14

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: February 2, 2011
SUBJECT: Planning Director's Report

January 24th City Council Meeting

Ordinance 10-56 Steep Slope - Adopted unanimously, as presented

Ordinance 10-57 Subdivisions - Adopted unanimously, as presented

Ordinance 10-58 Rezones - Adopted unanimously, as presented

February 15th City Council Meeting

Ordinance 11-XX Zoning Enforcement - Introduction

Public Hearing February 28

Activities

Feb 2nd Science Collaborative meeting "LANDSCAPES CHANGES OVER TIME" DISCOVERY LAB will highlight the background science that is important in understanding the Vertical Uplift research

CESLC course in Homer Feb. 16-17, 2011. Learn installation methods of erosion and sediment controls methods.

GIS webinar

Future activities include a workshop on dealing with difficult customers and other related problems in the workforce, and meeting with FEMA contractors for a "Discovery Lab" to help identify mitigation issues and strategies.

Info

The City Manager wanted me to pass along the kudos received at the last City Council Meeting directed at the fine job the Planning Commission did with the ordinances that were recently adopted.

Included in the packet is a copy of a decision to "rehear" the Refuge Room appeal to the BOA

Also included is a copy of a proposed business license ordinance. It was stated by the Councilman Hogan that he did not support it in the current form. I understand that it is based off of the code in Wasilla. It includes a significant role for the City Planner. An excerpt from the ordinance as presented at the 1/24 meeting:

- 8.02.030 Review of application. a. The finance director shall issue a business license to an applicant upon finding that the application includes all required information, the applicant has paid any required application fee, and the applicant has satisfied the requirements of subsections b and c of this section.**
- b. The finance director shall refer a business license application for review by the finance department to determine whether the applicant is delinquent in paying to the city any tax or assessment, or any fee or charge for city services. The finance department shall notify the applicant in writing of any delinquency that it finds. In response to the notice, the applicant shall either:**
- 1. Provide evidence satisfactory to the finance director that the delinquent amount has been paid; or**
 - 2. Provide a plan for paying the delinquent amount satisfactory to the finance director, with security satisfactory to the finance director for the payment of the delinquent amount.**
- c. The finance director shall refer a business license application for review by the city planner to determine whether any structure, or use of land or a structure, where the applicant will engage in business does not conform to HCC Title 21, or the terms and conditions of any rezoning, planning commission approval, or administrative approval granted under HCC Title 21. The city planner shall notify the applicant in writing of any such nonconformity. In response to the notice, the applicant shall either:**
- 1. Provide evidence satisfactory to the city planner that the nonconformity has been corrected;**
 - 2. Obtain a final decision recognizing the nonconformity as a lawful nonconforming use or structure under HCC Chapter 21.61; or**
 - 3. Provide a plan for correction of the nonconformity satisfactory to the city planner, with security satisfactory to the city planner for the performance of the plan.**
- d. The finance director may investigate the financial condition and credit history of a business license applicant, and if the finance director finds that the financial condition or credit history of the applicant indicates a substantial risk that the applicant will not make full and timely payment of sales tax as required under HCC Chapter 9.16, the finance director may require the applicant to post a bond or other security for such full and timely payment.**



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STAFF REPORT PL 11-13

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Dotti Harness-Foster, Planning Technician
MEETING: February 2, 2011
SUBJECT: Excluding parcels from the Bridge Creek Water Protection District (BCWPD)
PROCEED: Pending business. Discuss. If no action, HCC 21.40.020(c) remains.

On November 3, 2010 the Commission excluded a 1.5 acre parcel on the corner of Easy Street and Skyline Drive from the BCWPD. The decision was based on a survey showing that the surface waters do not drain into the Bridge Creek Watershed. At the meeting, the Commission directed staff to explore other factors to consider when excluding a lot from the Bridge Creek Watershed.

On January 5, 2011 the Commission reviewed a staff report that provided information on how scientists use boreholes to measure subsurface water flow. Variables include: seasonal water table fluctuation, climatic cycles, frequency of monitoring, and neighboring wells. Accuracy is improved when studies are applied to a large area, similar to a watershed approach, rather than parcel by parcel. A wide range of test holes with frequent and long periods (years) of measurements is warranted. In the end there may remain uncertainty about groundwater flow. The data available for Bridge Creek is very limited.¹ We know that groundwater contributes to the Bridge Creek Watershed, but we don't know how much.

At the January 5, 2011 Commission meeting, the Commission asked staff to review topographic information and provide an estimate of the number of parcels that maybe excluded from the BCWPD per HCC 21.40.020(c).

Based on aerial images and topographic information staff did not find any lots in "which all the surface waters drain away from the Bridge Creek Watershed."

STAFF COMMENTS/RECOMMENDATION that the Commission:

1. Do nothing: Leave HCC 21.40.020(c) as is which requires a survey to prove that all surface waters drain away from the Bridge Creek Watershed; OR
2. Remove the exclusion. Direct staff to draft an ordinance to remove HCC 21.40.020(c).

¹ Bridge creek Watershed, 2nd Edition, 2000



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STAFF REPORT PL 11-18

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: February 2, 2011
SUBJECT: Draft Ordinance amending the City of Homer Comprehensive Plan to the Homer Spit Comprehensive Plan and Recommending Adoption to the Kenai Peninsula Borough

GENERAL INFORMATION

The purpose of this staff report is to provide all the amendments the Commission discussed at their work sessions and regular meetings on January 4th and 18th. The amendments need to be adopted by motion for incorporation into the Spit Plan.

Amendments

1. Mariner Park

A recurring comment has been no more filling at Mariner Park – i.e. do not expand the footprint of the park into the lagoon. The Commission could add the following sentence under Mariner Park Improvements on page 27: “Strong public sentiment was voiced against any further expansion of the park by placing fill material in Mariner Lagoon.”

2. Tsunami Warning Sirens – from Parks and Recreation Commission Comments

Page 10, at the end of the second paragraph, add a sentence” “Signage may also be added at public locations to educate the public about tsunamis and what the sirens mean.”

3. Page 43, Map 3 Future Land Use Map: remove the “future use needs consideration” from the property next to the Hockey Rink. The plan at one time talked about opportunity areas with more residential uses. This language has been cut from the plan, and no longer talks about something other than Marine Industrial Development in this area.

4. Missing objective under goal 1.6

There is a missing objective and strategy on page 36 that was in previous drafts. This object was inadvertently cut off in the layout table under Goal 1.6: Objective “Protect the scenic, natural and aesthetic resources of the Spit.” Strategies: “Encourage the build-up of driftwood on Spit Beaches. Use native landscape elements in public design projects (beach grass, driftwood).”

The following is from Dotti Harness-Foster, Planning Technician:
5. Land Use and Community section of the Implementation Table:
Pg 36, Goal 1.6 Objective.

Comment: Public input has indicated a need to acknowledge conflicts between motorized and non-motorized users on the Spit.

Add a strategy: Minimize conflicts between motorized and non motorized users on the Spit.
Install signage to education ATV uses about responsible ATV use.

6. Natural Environment section of the Implementation Table:
Pg 41, Goal 4.1, second Objective.

Comment: Include both sides of the spit in the goal to obtain private lands.

“Purchase or obtain conservation easements on private lands on ~~the east side of~~ the Spit, such as between north of the hockey rink and the base of the Spit.”

7. Pg 42, Goal 4.4 Objective.

Comment: Use a more positive tone.

Change “Dead boat removal” to “Remove derelict vessels”

FROM ROBERTA HIGHLANDS AMENDMENTS:

8. Page 3, bullet at the bottom of the first column: “Concern about future expansion of residential development.”

9. Page 6, third paragraph last sentence: delete: “~~Note that many tidal lands that make up portions of parcels within the acreage are unusable.~~” Add: “Note that while many tidal lands making up portions of parcels within the acreage are unusable for development, such lands are valuable for many conservation and economic purposes including tourism, fishing, clamming and recreational activities.”

10. Page 6: insert a footnote under the Homer Spit Land Usage Summary chart: Acreage includes tidal lands.”

11. Page 27, third objective: Change “Fix” to “Address”.

Other Amendments

12. Page 17: Deep water dock is 345 feet long, not 245.

13. Page 26: delete the third paragraph in the first column, referring to the harbormaster’s office as a location for a plaza.

14. Page 7: Change the labels that say “Pier” to “Ramp.” Show new ramp 7 and renumbered ramp 8.

15. Page 18, third paragraph, last sentence: delete the portion of the sentence that states “on the current Harbormaster’s site-.”

16. Page 32, Goal 4.2 change “Scarping” to “Scraping.”

17. Include a land ownership map somewhere in the document.

Amendment discussed by the Commission, staff recommends placing in a different place in the plan:

18. Page 26, first paragraph, add a new 3rd sentence: “It may be feasible to purchase the property from the Port and Harbor Enterprise Fund.”

STAFF COMMENTS/RECOMMENDATIONS:

Adopt the changes to the Spit Plan and recommend adoption to the Homer City Council.

ATTACHMENTS

1. Draft Ordinance

The first of these is the fact that the...
The second is the fact that the...
The third is the fact that the...

The fourth is the fact that the...
The fifth is the fact that the...

The sixth is the fact that the...
The seventh is the fact that the...

CONCLUSION

The results of the study...

**CITY OF HOMER
HOMER, ALASKA**

Planning

ORDINANCE 11-

1 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
2 ALASKA AMENDING THE 2008 COMPREHENSIVE PLAN
3 TO ADD THE HOMER SPIT PLAN AS AN ADDENDUM AND
4 RECOMMENDING ADOPTION BY THE KENAI PENINSULA
5 BOROUGH.
6

7
8 WHEREAS, The Kenai Peninsula Borough as a Second Class Borough shall provide for
9 planning on an area wide basis in accordance with AS 29.40; and
10

11 WHEREAS, As provided in Kenai Peninsula Borough Code 21.01.025, cities in the
12 Borough requesting extensive comprehensive plan amendments may recommend to the Kenai
13 Peninsula Borough Planning Commission a change to the city comprehensive plan; and
14

15 WHEREAS, The City of Homer has prepared an extensive amendment to the 2008
16 Comprehensive Plan in the form of an addendum addressing the Homer Spit; and
17

18 WHEREAS, A comprehensive plan is a public declaration of policy statements, goals,
19 standards and maps for guiding the physical, social and economic development, both private and
20 public, of the City; and
21

22 WHEREAS, The addendum of the 2008 Homer Comprehensive Plan will guide
23 development on the Homer Spit; and
24

25 WHEREAS, The Homer Advisory Planning Commission and other City commissions
26 and bodies have reviewed said amendment and/or conducted public hearings; and
27

28 WHEREAS, The Homer City Council, based upon the recommendation of the Homer
29 Advisory Planning Commission, recommends that the Kenai Peninsula Borough Planning
30 Commission and Assembly adopt the Homer Spit Plan as an addendum to the 2008 Homer
31 Comprehensive Plan.
32

33
34 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
35 Have sections
36

37 Section 1. The 2008 Homer Comprehensive Plan is hereby amended to include the
38 Homer Spit Plan Addendum, and to supersede the Homer Spit Plan section of the 1999 Homer
39 Comprehensive Plan Update.
40
41

42 Section 2. The previously adopted Homer Non-Motorized Transportation and Trail Plan
43 (2004), Homer Area Transportation Plan (2005) and the Homer Town Center Development Plan
44 (2006), remain part of the Homer Comprehensive Plan.
45

46 Section 3. The City hereby recommends that the Kenai Peninsula Borough Planning
47 Commission and Assembly adopt the Homer Spit Plan Addendum to the 2008 Homer
48 Comprehensive Plan as an extensive comprehensive plan amendment under Kenai Peninsula
49 Borough Code 21.02.025.
50

51 Section 4. Sections 1 and 3 of this ordinance shall take effect upon the adoption of the
52 Homer Spit Plan Addendum to the 2008 Homer Comprehensive Plan by the Kenai Peninsula
53 Borough Assembly. The remainder of this ordinance shall take effect upon its adoption by the
54 Homer City Council.
55

56 Section 5. This ordinance is a non code ordinance and is of a permanent nature.
57

58 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this _____ day of
59 _____, 2011.
60

61
62
63
64 CITY OF HOMER
65

66
67
68
69 _____
70 JAMES C. HORNADAY, MAYOR
71

72 ATTEST:
73
74

75 _____
76 JO JOHNSON, CMC, CITY CLERK
77
78
79

80 YES:

81 NO:

82 ABSTAIN:
83

84 ABSENT:

85

86 First Reading:

87 Public Hearing:

88 Second Reading:

89 Effective Date:

90

91 Reviewed and Approved as to form and content:

92

93

94

95 _____
Walt E. Wrede, City Manager

96

97

98 Date: _____

99

Thomas F. Klinkner, City Attorney

Date: _____

100

Page No.
Date



City of Homer Planning & Zoning

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STAFF REPORT PL 11-19

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: February 2, 2011
SUBJECT: Amending the HAPC Policies and Procedures

GENERAL INFORMATION

The Policies and Procedures document is adopted by the City Council by Resolution. They are guidelines for how the HAPC conducts business. This document is reviewed every year or so, to keep it current with city code changes. Amendments are introduced at one meeting, and adopted at the next meeting. Council recently adopted Ordinance 10-58, concerning rezones. Also, the nonconforming code section of the manual needs modifications to match current code. No action is needed at the February 2nd meeting. Planning Commission can consider the revisions and postpone to the work session and regular meeting on February 16th.

Nonconformities

The amendments clarify that nonconforming uses may not be expanded. Nonconforming structures may be expanded, as long as their nonconformity is not increased. For example, if a home is built too close to the side lot line, a homeowner can build an addition. They just can't encroach any further into the setback. But there is no reason they can't build an addition on another part of the home, as long as the addition meets the zoning requirements.

Rezoning

Ordinance 10-58 changed how zoning map amendments are reviewed and set some review standards. Previously, the review standards were set out only in the policies and procedures manual; now they are in City Code.

STAFF COMMENTS/RECOMMENDATIONS:

1. Planning Commission consider the revisions and postpone to the work session and regular meeting on February 16th.

ATTACHMENTS

1. Draft Policies and Procedures
2. Draft Resolution 11-xx



City of Houston
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101 E. Houston Ave.
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E-mail: planning@houston.gov
Web Site: www.houston.gov/planning

STAFF REPORT

PROJECT: [Illegible]
LOCATION: [Illegible]
DATE: [Illegible]

The Planning and Zoning Commission is advised by the City Council for Houston, Texas, and the Planning and Zoning Commission. This Commission is advised by the City Council for Houston, Texas, and the Planning and Zoning Commission. This Commission is advised by the City Council for Houston, Texas, and the Planning and Zoning Commission.

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The Commission is advised by the City Council for Houston, Texas, and the Planning and Zoning Commission. This Commission is advised by the City Council for Houston, Texas, and the Planning and Zoning Commission.

RECOMMENDATION

The Commission recommends that the City Council for Houston, Texas, and the Planning and Zoning Commission be advised by the City Council for Houston, Texas, and the Planning and Zoning Commission.

ATTACHMENTS

- 1. Final Report and Findings
- 2. Staff Report

Policies and Procedures Homer Advisory Planning Commission



2011 Resolution 11-xx

QUALIFICATION STATEMENT

Nothing in this chapter should be considered in lieu of any applicable laws and procedures found in the Alaska State Statutes, the Kenai Peninsula Borough Code of Ordinances, where applicable, or the Homer City Code.

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INTRODUCTION

The purpose of this policy manual is to clarify the role of the Homer Advisory Planning Commission (“Commission”) in administration of the Homer Zoning Ordinance, Title 21, and Subdivisions, Title 22. Further, this manual describes policies for the Commission that are supplementary or explanatory to the requirements of Homer City Code.

This manual is divided into sections, which explain the policies for administering and implementing the land use permitting ordinances and the zoning ordinance.

The policy and procedure manual will be endorsed by resolution of the City Council and may be amended at any meeting of the Commission by a majority plus one of the members, provided that notice of the proposed amendment is given to each member in writing. Proposed amendments to the procedure manual shall be introduced at one meeting and action shall be taken at a subsequent Commission meeting.

PUBLIC TESTIMONY AND COMMENT

The Commission invites citizen participation regarding matters brought before it for consideration.

For any public participation before the Commission, the citizen should walk to the microphone located at the rostrum directly in front of the Commission podium, sign in, and after receiving recognition from the Chair, state his/her name and address and purpose for appearing. Comments are limited to three minutes. In special circumstances, this time limit may be extended by two minutes by the Chair with concurrence of the body. Items that generate a large amount of citizen interest may be taken out of their regular position on the agenda at the discretion of the Commission as an accommodation to the public. Moving these items on a published agenda will be done at the beginning of the meeting, during the adoption of the agenda.

Comment time limits

Comments and testimony are limited to three minutes. In special circumstances, this time limit may be adjusted by two minutes up or down by the Chair with concurrence of the body.

Public Comment

Any citizen desiring to speak on any matter other than public hearing items or preliminary plats on the agenda may do so under “Public Comments.” After the public comment period is introduced, the Chair may recognize any member of the public who wishes to address the Commission. No official action will be taken by the Commission under this item.

Public Hearings and Plats

The public may comment on public hearing items and preliminary plats when those agenda items are addressed by the commission. These are generally items eight and nine on the regular agenda.

Comments on topics not on the agenda

Any citizen desiring to speak on a matter not on the agenda may do so under “Comments of the Audience,” item number thirteen on the regular agenda.

DELIBERATION of QUASI-JUDICIAL DECISIONS

When making a quasi judicial decision, the Commission may choose to deliberate at an open meeting, or may choose to meet at a time, date and location set by the Commission. Such a meeting for deliberations only is not subject to the Open Meetings Act and is not required to be open to the public.

APPEALS (Quasi Judicial)

PURPOSE

The purpose of review of appeals before the Commission is to ascertain that errors of fact or interpretation have not been made pertaining to zoning matters. Generally, appeals to the Commission will be appeals of a determination, decision, or permitting matter decided upon by the City Planner.

The City Council, sitting as the Board of Adjustment, hears appeals of decisions made by the Commission. For example, conditional use permits, variance, etc, can be appealed to the Board of Adjustment, or a matter that was appealed to the Commission can be further appealed to the Board of Adjustment.

Public Hearing

Appeals before the Commission require a public hearing. Notice of the public hearing will be in accordance with HCC 21.93 and HCC 21.94.

Review Standards

In reviewing an appeal request, the Commission will consider:

1. Documentation of evidence;
2. The Record of Appeal; and
3. Controlling sections of Chapter 21 Homer City Code;
4. Any new evidence or testimony presented during the public hearing.

Once the public hearing is closed, the Commission cannot hear additional comments on the topic.

Determination

All decisions will be in writing. The officially adopted minutes shall be made part of the decision. A specific statement of findings and reasons supporting the decision shall be made. Copies of the decision will be promptly mailed to the persons participating in the appeal.

An appeal from an action or determination of the Commission is to be filed with the city clerk within thirty days of the distribution of the decision document.

REVIEW OF BRIDGE CREEK WATERSHED PROTECTION DISTRICT

PURPOSE

The Commission may approve development within the Bridge Creek Watershed Protection District (BCWPD) subject to the standards provided in the zoning ordinance and in compliance with the

Comprehensive Plan, for those uses or structures specified within the Bridge Creek Watershed Protection District ordinance. The purpose is to prevent the degradation of the water quality and protect the Bridge Creek Watershed to ensure its continuing suitability as a water supply source for the City's public water utility. These provisions benefit the public health, safety, and welfare of the residents of the City of Homer and other customers of the city's water system by restricting land use activities that would impair the water quality, or increase the cost for treatment.

Conditional Use

A conditional use permit may be issued in accordance with Chapter 21.61 and subject to the requirements of the Bridge Creek Watershed Protection District Chapter 21.40.060 Conditional uses and structures, and/or Chapter 21.40.080 Erosion sediment control, Chapter 21.40.090 Agricultural activity, Chapter 21.40.100 Timber growing and harvesting operations, Chapter 21.40.110 Stream buffers, and Chapter 21.40.130 Exceptions to buffers.

Preliminary Plats

The Commission will review and comment on all subdivision proposals within the Bridge Creek Watershed Protection District.

REVIEW POLICIES FOR CONDITIONAL USE PERMITS (Quasi -Judicial)

PURPOSE

It is recognized that there are certain uses which are generally considered appropriate in a district, provided that controls and safeguards are applied to ensure their compatibility with permitted principal uses. The conditional use permit procedure is intended to allow Commission consideration of the impact of the proposed conditional use on surrounding property and the application of controls and safeguards. This procedure assures that the conditional use will be compatible with the surrounding area and in keeping with the character and integrity of the neighborhood.

Public Hearing

A public hearing before the Commission is required before a conditional use permit may be granted. Notice of the public hearing will be in accordance with HCC 21.94.

Review Standards

The Commission has 45 days from the close of the public hearing to make a decision on a conditional use permit application. The applicant may agree, in writing, to the extension of the 45 day time period for Commission action.

The Commission may approve, approve with conditions, or disapprove an application. The Commission must prepare written findings and reasons supporting its decision. Approval of a conditional use permit requires five yes votes. If a conditional use permit is denied, the written findings and reasons for that decision will be approved by those who voted against the permit, even if the number against is less than a majority of the Commission.

Specific conditions may be required. Such conditions will be part of the terms under which the conditional use permit is granted and violations of such terms shall be deemed a violation of this ordinance. Failure to meet any time limitations imposed by the conditional use permit shall void the permit. An extension may be granted following a public hearing on the matter. Extensions will be granted for good cause only.

The development of the conditional use project or site, following issuance of the permit, will be in accordance with the conditions of the permit, standards of the zoning regulations and/or the approved site plan. Failure to observe any conditions or standards will be deemed a violation.

Determination

The Commission must make findings of fact sufficient to support its decision. Upon determination the Commission will document the decision and the basis for decision. The petitioner will be notified by mail by a copy of the meeting minutes and the decision documentation.

Appeals

The Commission Chair will alert the petitioner and other interested parties in attendance that an appeal of the Commission's decision is possible and that the appeal must be filed within thirty days of the distribution of the decision document.

NONCONFORMITY REVIEW POLICIES (Quasi -Judicial)

PURPOSE

The Commission shall review and determine the nonconformity of certain structures and uses. The purpose of review is to establish the commencement date of use, establish the effective date of applicable regulations, formally accept the nonconformity and/or establish a reasonable schedule for termination of a nonconformity which significantly impairs the public health, safety and general welfare.

City code states which nonconformities are reviewed by the City Planner and which are reviewed by the Commission. Generally, the Commission will be reviewing nonconforming uses within the city, excluding the areas annexed on March 20, 2002.

Public Hearing

The Commission shall conduct a public hearing per HCC 21.94.

Review Standards

It shall be the responsibility of the owner to show proof of continuing nonconformity of any property, use or structure.

Prior to determining the nonconformity of a use or structure, the Commission will determine:

1. The commencement date of use;
2. The effective date of applicable regulations.

There may exist uses, or structures which were legal before the effective date of the controlling regulation, but which are now prohibited under the terms of the existing ordinance. See HCC 21.61.040.

To avoid undue hardships, actual construction lawfully begun prior to the effective date of the zoning ordinance will be allowed to continue provided the work will be carried on diligently. Actual construction is defined as the placement of materials in a permanent position and fastened to produce a product.

Nonconforming Uses of Land/Structures

When a lawful structure exists prior to September 28, 1982, or March 20 2002 for annexed areas, but does not meet the district or ordinance requirements, it shall be considered nonconforming. Nonconforming structures may be continued and/or expanded only on the legal lot if it does not increase its nonconformity.

Legally existing structures are those that:

1. Exist prior to effective date of Ordinance 4-300-2 (Interim Zoning Ordinance) dated June 13, 1966.
2. Exist prior to effective date of Ordinance No. 33 (Kenai Peninsula Borough) dated May 2, 1967 and are in compliance with Ordinance 4-300-2.
3. Exist prior to effective date of Ordinance 78-13 (Kenai Peninsula Borough) dated May 16, 1978 and are in compliance with Kenai Peninsula Borough Ordinance No. 33 and Homer Ordinance 4-300-2.
4. Exist prior to effective date of Ordinance 82-15 (Homer Zoning Ordinance) dated September 28, 1982 and are in compliance with previous zoning ordinance requirements.

Once a structure made nonconforming by this title is abandoned or brought into conformity with this title, the structure shall thereafter conform to the regulations of the zone in which it is located, and the nonconformity shall not be allowed to continue.

The A lawful nonconforming use may continue so long as it remains lawful. No nonconforming use may be enlarged to occupy a greater area of land than was occupied as of the date it became nonconforming.

~~It may expand in accordance with 21.61.040.~~ Once a use made nonconforming by this title is abandoned, changed, discontinued, or ceases to be the primary use of a lot, the use of that lot shall thereafter conform to the regulations of the zone which the lot is located, and the nonconformity shall not thereafter be resumed or allowed to continue.

A reasonable schedule for the termination of a nonconforming land use/structure which specifically impairs the public health, safety and general welfare will be established by amendment to the zoning ordinance. (See Zoning Amendment procedure.)

Determination

Upon presentation of such proof that establishes the continuing nonconformity of any use or structure, the Commission shall formally accept the nonconformity, as a valid use or structure until such time as the use ceases. Upon determination by the Planning Commission staff will document the decision and basis for decision. The petitioner will be notified by mail by a copy of the relevant meeting minutes and the decision documentation.

Appeals

The Commission Chair will alert the petitioner and other interested parties that an appeal of the Commission's decision is possible. The appeal must be filed within thirty days of the distribution of the decision document. The City Clerk will process all appeals.

PRELIMINARY PLAT REVIEW POLICIES

PURPOSE

The purpose of this policy statement is to clarify the position of the Commission with regard to their recommendations of acceptance or denial of preliminary plats. This review provides the opportunity for the City to make comments and recommendations to the Kenai Peninsula Borough Planning Commission. The Kenai Peninsula Borough holds platting powers for the entire borough, both inside and outside the city limits. The Homer Advisory Planning Commission acts as an advisory body to the Borough Planning Commission on plat matters inside city limits and within the Bridge Creek Watershed Protection District.

The preliminary plat process allows an exchange of information between the subdivider, the Planning and Zoning Office, and the Commission. Proper utilization of the preliminary process should result in a recommendation of approval for the majority of the plats.

Procedures

General. Kenai Peninsula Borough Code 20.12.050 governs subdivisions in first class cities. A surveyor will submit one full size copy and a 11" x 17" reduced copy of the preliminary plat to the Planning Director when subdividing land in the City of Homer or the Bridge Creek Watershed Protection District. The Commission shall review the plat and take action within forty-nine days of the date of receipt unless the applicant agrees to an extension. Recommendations of the Commission based upon lawful ordinances shall be incorporated in the final plat.

The Commission will consider plats and make recommendations. The staff report and minutes are then forwarded to the borough planning department.

The borough planning commission makes the final determination. Once the preliminary plat has been accepted, the final plat is submitted to the borough for either administrative approval or approval by the borough planning commission.

ZONING ORDINANCE AMENDMENTS

PURPOSE

The Commission will review all proposals to amend the zoning ordinance or zoning map and make recommendations to the City Council. ~~Neither the Commission nor City Council may consider a zoning map amendment that establishes a new zone within an area of less than one acre, excluding streets and rights of way, except for the extension of existing district boundaries.~~ Neither the Commission nor City Council may consider a zoning ordinance request which is substantially the same as any other amendment submitted within the previous nine months and which was rejected.

Initiation/Application

Amendments to the zoning ordinance will be made in accordance with HCC 21.95. When the amendment request is accepted as complete by the Planning Department, the matter will be scheduled

presented within 30 days to the ~~for the next~~ Planning Commission meeting according to the Commission meeting schedule and due dates.

Public Hearing

A public hearing before the Commission is required. Notice of the public hearing will be in accordance with HCC 21.94. In the case of a zoning ordinance amendment or major district boundary change, no notification of neighboring property will be required, but notices will be posted in at least three public places.

Review Standards

Zoning Map Amendments

Zoning map amendments submitted by citizen petition shall apply to an area of not less than two acres, including half the width of any abutting street or alley rights of way, or, reclassify the area to a zoning district that is contiguous to the area or separated from the area only by a street or alley right of way. The Commission will generally review the zoning amendment to determine:

- ~~1. The public need and justification for the proposed change;~~
- ~~2. The effect on the public health, safety and welfare;~~
- ~~3. The effect of the change on the district and surrounding property; and~~
- ~~4. The relationship to the Comprehensive Plan and purposes of the zoning regulations.~~

~~A balanced decision on a rezone request is one that is not arbitrary, has legitimate public purpose and is consistent with the comprehensive plan.~~

The Planning Commission shall review each proposal to amend this title or to amend the official zoning map before it is submitted to the City Council.

Amendments to the official zoning map may be recommend for approval only if the amendment:

- a. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.
- b. Applies a zoning district or districts that are better suited to the area that is the subject of the amendment than the district or districts that the amendment would replace, because either conditions have changed since the adoption of the current district or districts, or the current district or districts were not appropriate to the area initially.
- c. Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development, on property within and in the vicinity of the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns

Determination

The Planning Commission shall submit to the City Council its written recommendations regarding the amendment proposal along with the Planning Department's report on the proposal, all written comments on the proposal, and an excerpt from its minutes showing its consideration of the proposal and all public testimony on the proposal. The Commission will make findings and send its written recommendations to the City Council along with meeting minutes and public records relating to the proposed amendment. Such recommendations of the Commission shall be advisory only and shall not be binding on the City Council.

POLICY FOR REVIEW OF ZONING VARIANCES (Quasi-Judicial)

PURPOSE

The Commission may grant a variance to provide relief when a literal enforcement of the regulations and standards of the zoning ordinance, Chapter 21, would deprive a property owner of the reasonable use of his real property.

The purpose of review is to ascertain that those conditions specified as necessary to granting a variance shall be satisfied; that the variance will be the minimum necessary to permit the reasonable use of land or structure, and that the variance will not be granted which will permit a land use in a district in which that use is otherwise prohibited.

Public Hearing

A public hearing before the Commission is required before a variance may be granted. Notice of the public hearing will be in accordance with HCC 21.94.

Review Standards

In reviewing a variance request and prior to granting a variance, the Commission must consider the standards of review as established in HCC 21.72. All of the conditions must exist before a variance can be granted.

Determination

The Commission must prepare written findings and reasons supporting its decision. Approval of a variance requires five yes votes. If a variance is denied, the written findings and reasons for that decision will be approved by those who voted against the permit, even if the number against is less than a majority of the Commission. Upon determination, staff will document the decision and the basis for decision. The petitioner will be notified by mail with a copy of the meeting minutes (those portions that apply to the petition) and the decision documentation.

The Commission Chair will alert the petitioner and other interested parties that an appeal of the Commission's decision is possible. The appeal must be filed within thirty days of the distribution of the decision document. The City Clerk will process all appeals.

COMMISSION ON THE STATUS OF THE AMERICAN INDIAN

PROPOSALS

The Commission has received a number of proposals for the improvement of the status of the American Indian. It has considered these proposals and has found them to be of great value. It has therefore adopted the following proposals:

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**CITY OF HOMER
HOMER, ALASKA**

Planning

RESOLUTION 11-_____

**A RESOLUTION OF THE CITY COUNCIL OF HOMER ALASKA
AMENDING THE HOMER ADVISORY PLANNING COMMISSION
POLICY AND PROCEDURES MANUAL**

WHEREAS, the Homer Advisory Planning Commission has reviewed the Policies and Procedures Manual; and

WHEREAS, the Homer Advisory Planning Commission recommended amendment of the Policies and Procedures Manual at their Regular Meeting of _____, 2011.

NOW, THEREFORE, BE IT RESOLVED that the City Council amends the Homer Advisory Planning Commission Policies and Procedures Manual as shown in Attachment A.

ADOPTED BY THE HOMER CITY COUNCIL, ALASKA, this _____ day
of _____ 2011.

CITY OF HOMER

JAMES HORNADAY, MAYOR

ATTEST

JO JOHNSON, CMC, CITY CLERK

CITY OF TAMPA
COMMISSIONERS

Ordinance

RESOLUTION NO. _____

WHEREAS, the Board of Directors of the City of Tampa, Florida, has adopted a resolution to amend the City Charter to provide for the creation of a new position of City Clerk and to provide for the appointment of the City Clerk by the Board of Directors;

WHEREAS, the Board of Directors of the City of Tampa, Florida, has adopted a resolution to amend the City Charter to provide for the creation of a new position of City Clerk and to provide for the appointment of the City Clerk by the Board of Directors;

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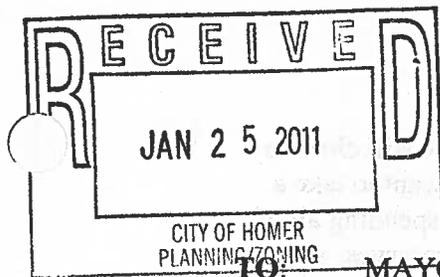
ADOPTED BY THE BOARD OF DIRECTORS OF THE CITY OF TAMPA, FLORIDA, THIS _____ DAY OF _____, 2010.

CITY CLERK

JAMES H. HARRIS, Mayor

ATTEST

JOSEPH J. GIBSON, City Clerk



MANAGERS REPORT

January 10, 2011 (Jan. 24, 2011 Mtg.)

TO: MAYOR HORNADAY / HOMER CITY COUNCIL

FROM: WALT WREDE

UPDATES / FOLLOW-UP

1. Fire Training Facility: The fire training facility is constructed and on its way to Homer for final assembly. At this time, we expect it to arrive here on January 26. Chief Painter is planning an open house and dedication. We will be sure to keep you informed.
2. Thanks to the HVFD Volunteers!: Attached is a memorandum prepared by Chief Painter that discusses the monetary value of the volunteers who serve the Homer Volunteer Fire Department. As you can see, the budget impact is tremendous. Not only do the volunteers put their lives on the line and provide a tremendous service to the community, they also save the taxpayers a great deal of money. If you get the opportunity, please take the time to thank the volunteers at HVFD.
3. Staff Turnover: The management team at the City of Homer is about to experience a significant turnover. Personnel Director Sheri Hobbs has submitted her resignation and will be retiring at the end of April. This was not unexpected and we are in the process of planning for life without Sheri. We will be advertising for that position shortly. Sheri is ready for the next chapter in her life and has a long list of projects and trips planned. She will be greatly missed and we wish her the best. Library Director Helen Hill is also on the move. Helen is planning to move to Nevada to be closer to family and pursue other interests. She is also a huge loss and will be difficult to replace. Helen has been with the City for 10 years and Sheri was here for 20. It is hard to replace that kind of experience and institutional knowledge but we wish them both well and I cannot thank them enough for their service.
4. Mr. Hogan goes to DC: Council Member Hogan will be in the DC area next month and has expressed a willingness to do some lobbying for the City if the Council wishes. He requested that this be placed in the Manager's report so that the Council could discuss it if it wishes.
5. City Hall Expansion / Renovation: The Committee appointed by the Council has completed its work regarding selection of a contractor. A recommendation and resolution awarding a contract appears on this meeting agenda. It is recommended that the Committee stay in place and act as a review board during the design and architectural phase of the project.
6. Lobbyist: The committee formed to evaluate proposals from potential lobbyists has completed its work. This agenda contains a recommendation and resolution awarding a contract for City lobbying services.
7. Energy Efficiency: This agenda contains a substitute ordinance which incorporates the changes Carey discussed at the last meeting. The total

recommended cost is now slightly less but the estimated savings are still close to \$100,000 per year with a seven year pay- back period. Could will want to take a close look at the recommendation and make sure it is comfortable spending all of the available money at once, spending money from the enterprise reserves, and how the costs are allocated.

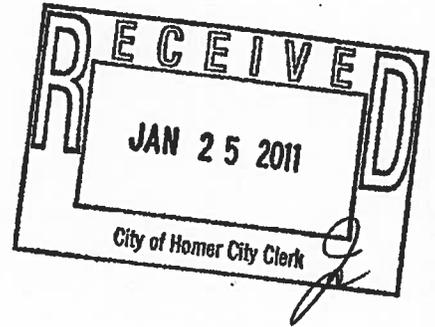
8. **TORA Agreements:** Work is proceeding on all three of the TORA Agreements we discussed at the last meeting. We hope to have the one regarding Spit parking back before you soon.
9. **Bridge Creek Fire Mitigation Project:** The Planning Commission is scheduled to take this issue up (the CUP Application) on January 19. We anticipate that this application will generate some good debate within the community and we have heard some of it already, both pro and con. Regardless of how this goes at the PC level, I think it was a good discussion to have and an opportunity that needed to be explored fully.
10. **Travel:** I am planning to spend much of the week of January 31 working in Anchorage. During that time I will be visiting with DOT/PF to talk about the multiple projects we have going on with them and with other agencies and state officials. I will also plan to attend AML on February 8-10 since you have all expressed support for that. In addition to participating in the legislative conference, I will use the time to meet with the City's new lobbyist to make sure he/she thoroughly understands the City's projects and policies positions. We will also work on lobbying strategies and set up visits with key legislators and the administration.

ATTACHMENTS

1. Memorandum from Chief Painter re: Volunteers

HOMER BOARD OF ADJUSTMENT

CITY OF HOMER
491 EAST PIONEER AVENUE
HOMER, ALASKA 99603-7645



APPEAL OF HOMER
ADVISORY PLANNING
COMMISSION DECISION
DATED AUGUST 18, 2010

ORDER RESCINDING DECISION

An Appeal Hearing was conducted on December 8, 2010, that appears to have been held without adequate notice. Although Notice of Appeal pursuant to HCC 21.93.080 appears to have been properly made, Notice of the time and place of Appeal Hearing was not properly made. Pursuant to HCC 21.93.100 (b) "[t]he appellant 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."

Proper public notice requirements must be adhered to, therefore, the Board of Adjustment decision of January 7, 2011 is hereby rescinded. Accordingly, a new Appeal Hearing will be scheduled by the City Clerk.

Dated this 25th day of January, 2011.

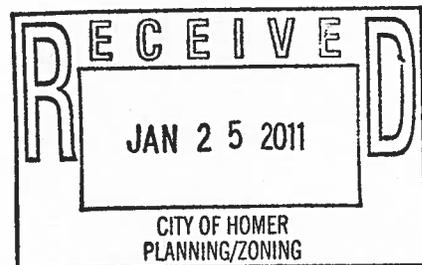

Mary E. (Beth) Wythe, Mayor Pro Tempore

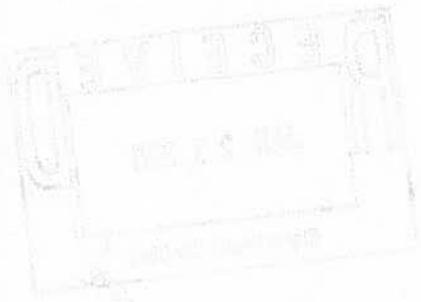
CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to Darren Williams of the Refuge Chapel and Frank Griswold on January 25, 2011. A copy was also delivered to the City of Homer Planning Department, Homer City Clerk, City Attorney Klinkner, and Attorney Levesque on the same date.

Dated: 1/25/11







BOARD OF ADJUSTMENT

CITY OF HONOLULU
155 EAST KEELE STREET
HONOLULU, HAWAII 96813

APPLY TO: BOARD OF ADJUSTMENT
155 EAST KEELE STREET
HONOLULU, HAWAII 96813
DATE: AUGUST 18, 2011

BOARD OF ADJUSTMENT

An appeal hearing is being held on August 18, 2011, at 10:00 AM, at the Board of Adjustment, 155 East Keolu Street, Honolulu, Hawaii 96813. The appeal is for a variance from the zoning ordinance for the property located at 155 East Keolu Street, Honolulu, Hawaii 96813. The Board of Adjustment is authorized to grant or deny the appeal. The Board of Adjustment will hold a public hearing on the appeal at the time and place stated above. The Board of Adjustment will also hold a public hearing on the appeal at the time and place stated above. The Board of Adjustment will also hold a public hearing on the appeal at the time and place stated above.

The Board of Adjustment is authorized to grant or deny the appeal. The Board of Adjustment will hold a public hearing on the appeal at the time and place stated above. The Board of Adjustment will also hold a public hearing on the appeal at the time and place stated above. The Board of Adjustment will also hold a public hearing on the appeal at the time and place stated above.

Dated this 15th day of August, 2011.

[Signature]
Mayor, City and County of Honolulu

BOARD OF ADJUSTMENT

The Board of Adjustment is authorized to grant or deny the appeal. The Board of Adjustment will hold a public hearing on the appeal at the time and place stated above. The Board of Adjustment will also hold a public hearing on the appeal at the time and place stated above. The Board of Adjustment will also hold a public hearing on the appeal at the time and place stated above.

[Signature] *[Signature]*



Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

TO: Homer Advisory Planning Commission
FROM: Melissa Jacobsen, CMC, Deputy City Clerk (11)
DATE: January 27, 2011
RE: Conflict of Interest, Situations of Bias, and Ex Parte Communication

At the January 19th regular meeting the Commission encountered all three types of situations that can cause a Commissioner to be disqualified from participating in a quasi-judicial action. A member of the public suggested that perhaps the Commission acted improperly and needed to gain a better understanding of procedures. This group hasn't had a lot of dealings with personal bias situations so I wanted to offer the Commission this brief information as a refresher and am happy to answer any questions you may have.

In a nutshell:

- Conflict of Interest refers to financial consideration. *HCC 1.18 & HAPC Bylaws*
- Situations of bias (referred to as Partiality in HCC 1.18) refers to instances where a Commissioner has some personal involvement in a situation that may be perceived to affect their ability to make a fair and impartial decision in a quasi-judicial matter. *HCC 1.18 & HAPC Bylaws*
- Ex Parte Communication is when there is communication, directly or indirectly with the appellant, or other parties affected or members of the public, before the hearing or at any time when the matter is under consideration with out notice or an opportunity for all parties to participate in the communication. *HCC 21.93.710 (a)*

The only specific reference I found to ex parte in code was in HCC 21.93.710 which refers to ex-parte communications specific to appeals. HCC 21.93.710 (e) states that the Commission can disqualify a member who received the communication from participating.

Planning Commission Bylaws state that ex-parte contacts are not permitted in quasi-judicial actions as they can result in a violation of due process. The bylaws also say that Commissioners should state whether or not they think the Commissioner involved can make an unbiased decision.

There was an oversight by the Chair and myself at the January 19th in that Commissioner Highland was excused by a Conflict of Interest, rather than a Situation of Personal Bias, but the Commission's intent was clear.

In the future, if a disclosure is financial move there is a conflict of interest. If the disclosure is regarding ex parte or a personal involvement, move that there is a situation of personal bias. If you are unsure, feel free to stop and ask for clarification.

Office of the City Clerk

City of Denver
150 West Colfax Avenue
Denver, Colorado 80202
Phone: (303) 733-1500
Fax: (303) 733-1501
www.denvergov.org



City Clerk
150 West Colfax Avenue
Denver, Colorado 80202
Phone: (303) 733-1500
Fax: (303) 733-1501

TO: Mayor A. Joseph, Denver City Council
FROM: Mayor A. Joseph, Denver City Council
DATE: January 23, 2014
SUBJECT: [Illegible]

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