

## **WORK SESSION AGENDA**

1. Call to Order 5:30 p.m.
2. Speaker FEMA Representative Karen Wood-McGuiness, Floodplain Management Specialist, will discuss the purpose of her Community Assistant Visit and FEMA's Community Rating System.  
**(see page 11 of meeting packet)**
3. Discussion of Items on the Regular Meeting Agenda
4. Public Comments  
The public may speak to the Planning Commission regarding matters on the work session agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
5. Commission Comments
6. Adjournment



## REGULAR MEETING AGENDA

### 1. Call to Order

### 2. Approval of Agenda

### 3. Public Comment

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

### 4. Reconsideration

### 5. Adoption of Consent Agenda

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

A. Approval of Minutes of June 18, 2014 meeting **pg. 5**

### 6. Presentations

### 7. Reports

A. Staff Report PL 14-60, City Planner's Report **pg. 11**

### 8. Public Hearings

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

A. Staff Report PL 14-61, CUP 2014-10 Request to operate daycare facility at 1164 East End Road **pg. 13**

B. Staff Report PL 14-62, Vacation of public Right-of-Way portion of Willow Drive **pg. 33**

C. Staff Report PL 14-63 Board of Adjustment Remand of CUP 2013-13 3850 Heath Street to the Homer Advisory Planning Commission **pg. 49**

### 9. Plat Consideration

A. Staff Report PL 14-64, Vineyard Estates 2014 Addition Preliminary Plat **pg. 215**

### 10. Pending Business

A. Staff Report PL 14-65, Safe Streets **pg. 227**

B. Staff Report PL 14-67, Creation of the East End Residential/Commercial Mixed Use District **pg. 231**

### 11. New Business

A. Staff Report PL 14-68, CIP List Recommendations **pg. 239**

## **12. Informational Materials**

- A. City Manager's Report from the June 23 City Council Meeting **pg. 313**
- B. Kenai Peninsula Borough Plat Committee Notice of Decisions
  - Ditton 2014 Replat Tract A Preliminary Plat **pg. 317**
  - Harrington Heights 2014 Replat Preliminary Plat **pg. 333**
  - Barnett Subdivision Quiet Creek Addition 2014 Preliminary Plat **pg. 341**
- C. Kenai Peninsula Borough Planning Commission Notice of Decision
  - Vacate the pedestrian and utility easement along the southwest property line of lot 23 granted by Homer Spit No. Five (Plat HM 93-12) all located within Section 36 Township 6 South, Range 13 West, Seward Meridian **pg. 353**

## **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 9:30 p.m. An extension is allowed by a vote of the Commission. Next regular meeting is scheduled for August 6, 2014. A work session will be held at 5:30 pm.

Session 14-12, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Venuti at 6:32 p.m. on June 18, 2014 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, ERICKSON, HIGHLAND, STEAD, STROOZAS, VENUTI  
AND SLONE

STAFF: DEPUTY CITY PLANNER ENGBRETSSEN  
DEPUTY CITY CLERK KRAUSE

The Commission

### **APPROVAL OF AGENDA**

Chair Venuti called for a motion to approve the agenda.

HIGHLAND/SLONE - SO MOVED

There was no discussion.

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).

Kevin Dee, city resident, commented and offered a 1 page laydown on Staff Report 14-57, Towers.

### **RECONSIDERATION**

No items were scheduled for reconsideration.

### **ADOPTION OF CONSENT AGENDA**

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

- A. Approval of the minutes of June 4, 2014 meeting
- B. Decisions and Findings for Conditional Use Permit (CUP) 2014-07 Request for a Setback reduction along Lee Drive

Chair Venuti requested a motion to approve the consent agenda.

HIGHLAND/SLONE - SO MOVED.

There was no discussion.

The consent agenda was approved by consensus of the Commission.

## PRESENTATIONS

There were no presentations scheduled.

## REPORTS

### A. Staff Report PL 14-55, City Planner's Report

Deputy City Planner Engebretsen reviewed the staff report. She added that an incomplete application had been received on another tower and provided direction regarding ex-parte communication regarding the matter.

## PUBLIC HEARINGS

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

### A. Staff Report PL 14-56, Changeable Copy and internally lit sign in the Gateway Business District

Chair Venuti opened the Public Hearing.

Deputy City Planner Engebretsen reviewed the staff report.

Mr. Buck Jones, President, Planning Board, Faith Lutheran Church, applicant, provided a brief history on the reason for the request to allow changeable copy and internally lit signage.

Mr. Gary Syth, Pastor, Faith Lutheran Church, testified in favor of allowing changeable copy and internally lit signage.

Chair Venuti closed the Public Hearing.

ERICKSON/STROOZAS - MOVED TO APPROVE THE DRAFT ORDINANCE 14-XX AMENDING TABLE 3 PERMITTED SIGN CHARACTERISTICS BY ZONING DISTRICT FOLLOWING HOMER CITY CODE 21.60.060, SIGNS ON PRIVATE PROPERTY, TO PERMIT CHANGEABLE COPY SIGNS AND INTERNAL ILLUMINATION IN THE GATEWAY BUSINESS DISTRICT.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## PLAT CONSIDERATION

There were no plat considerations on the agenda.

## PENDING BUSINESS

### A. Staff Report PL 14-57, Towers

Deputy City Planner Engebretsen provided a summary of the staff report. She read into the record the following five questions that Staff would like direction from the commission:

1. Consensus that towers over 60 feet will be regulated. Towers under 60 feet will not.
2. Consensus on height regulations and when a CUP will be required will vary by district.
3. Can rights of way and 20 foot building setback areas be considered fall zones?
4. Should there be an option to allow a reduced fall zone area if increased safety standards?
5. Can structures on the subject property be exempt from the fall area standards?

The commission discussed and disseminated the following:

- developing a formula such as minimum lot dimension (width) divided by two to determine the maximum tower height on a city lot not more than 50 feet
- consideration of total overall height to include the structure plus any additional tower or whip height
- establish a simple 50 foot maximum height
- why establish a regulation when the FCC regulations superseded any regulations the city would establish
- municipality can set safety regulations, setback requirements, establish zoning districts in order to control
- what conditions will require a conditional use permit
- depending on the type of tower will determine the height of the tower
- scenarios were conducted to justify the limitation of the maximum height
- definitions are required
- power poles and street lights are exempt from the definition of "tower"
- minimum setbacks requirements in relation to "fall zones"

Staff reminded the commission that this regulation can be quite intense and they can request professional assistance with this action of regulation. It was further noted that the applicant would pay the fees of the consultant. Staff will provide clarification at the next meeting how bringing in a professional engineer to review each application will apply.

Continued discussion on establishing requirements for the governance of towers within city limits, establishing minimums as a base line so as not to require small business entities to expend thousands of dollars, the likelihood of failure of these towers, establishing certain regulations would force a person/business to purchase multiple lots, differentiate between tower and antennae, when to start regulating.

Staff recommended interviewing key personnel with or former of the City of Kenai to see how often their regulation was used and the last time it was used.

The commission will review the information on towers as provided by Staff to be able to make informed decision on whether to implement the City of Kenai regulations as Homer's.

Further comments on carefully reviewing exemptions regarding communications, view-shed as it relates to towers, and underground utilities to mitigate safety concerns.

Staff will provide further information on view-shed and what other communities regulate and can view-shed be regulated. She requested the commissioners to also consider co-location with towers - more towers but shorter or less towers but taller.

Chair Venuti requested a consultant or professional with towers come and speak to the commission.

B. Staff Report 14-58, Heliports

Deputy City Planner Engebretsen stated the City Planner has requested the commission consider allowing helipads in the Bridge Creek Watershed Protection District.

SLONE/STEAD - MOVED TO ALLOW HELIPADS IN THE BRIDGE CREEK WATERSHED PROTECTION DISTRICT BY CONDITIONAL USE PERMIT.

Commissioner Stroozas declared he may have a conflict since he lives and owns property in that district. Chair Venuti declared this was not a quasi-judicial issue. Staff provided further clarification Commissioner Stroozas belonging to a large class of property owners. Commissioner Slone queried the request since the commission already approved this issue two or three meetings ago to approve this use by CUP process. Staff explained that the request for was permitting the use outright.

Further discussion on the regulations being applied to property outside city limits and accommodating the City Planner's request ensued.

VOTE. YES. HIGHLAND, ERICKSON, BOS, VENUTI  
VOTE. NO. SLONE, STEAD, STROOZAS

Motion carried.

C. Staff Report 14-59, Creation of the East End Residential /Commercial Mixed Use District

Chair Venuti read the title into the record.

Deputy City Planner Engebretsen reviewed the staff report. Staff commented regarding considerations to require additional landscaping, and more architectural standards similar to the Gateway Business District.

Discussion was conducted on the following:

- Aesthetics
  - minimal requirements with landscaping
  - screening
  - landscaping buffer along street
  - fencing/screening requirements to separate commercial from residential
- Playgrounds
- Open Air Markets
  - Permitted use
  - concern regarding increased traffic problems
- Changes under Conditional Uses
- Allowing Recreational Vehicles



Chair Venuti asked if it was agreed by consensus to add Open Air Markets.

A brief discussion on whether to put Open Air Markets as permitted or conditional use ensued.

Chair Venuti inquired if the commission had consensus.

No expression of consensus was given by the commission. Commissioners Erickson and Bos were in favor of allowing Open Air Markets as a conditional use. Commissioner Slone advocated for permitted outright.

Commissioners Stroozas, Stead and Highland offered no indication of consent or disagreed.

Commissioner Highland commented on line 116 regarding number of trips as a requirement for a conditional use permit and inquired about reducing the number shown. Discussion ensued regarding the type of business with that high of activity which lowering the number of trips would then trigger a \$10,000 traffic study sooner. The commission did not recommend any changes to this requirement.

Next issue addressed was applying the Community Design Manual to the district. Staff provided an example that business owners will do to avoid the application of the Community Design Manual to this district. Staff noted that a conditional use permit for a building over 8000 sf would cost \$8000 since the fees are on a sliding scale. After further discussion it was determined that they could come up with some pleasing design standards.

## **NEW BUSINESS**

There was no new business on the agenda.

## **INFORMATIONAL MATERIALS**

A. City Manager's Report from June 9, 2014 City Council Meeting

## **COMMENTS OF THE AUDIENCE**

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

There were no audience comments.

## **COMMENTS OF STAFF**

Ms. Engebretsen had no comments.

Ms. Krause commented it was an interesting meeting and thanked the commissioners for their patience.

## **COMMENTS OF THE COMMISSION**

Commissioner Highland asked about safe streets and if it was a boiler plate somewhere; Staff responded it would be at the next meeting.

Commissioner Bos commented that it was a good meeting. Thank you.

Commissioner Stroozas commented it was a good meeting and moved right along. The Elks will be having their annual 4<sup>th</sup> of July Celebration to raise money for the education fund and the following evening the Chef has prepared quite a traditional Scottish spread for the Ceilidh after the Highland Games.

Commissioner Slone, Erickson and Stead had no comments.

**ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 8:28 p.m. The next regular meeting is scheduled for July 16, 2014 at 6:30 p.m. in the City Hall Cowles Council Chambers. There is a worksession at 5:30 p.m. prior to the meeting.

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Renee Krause, CMC, Deputy City Clerk

Approved: \_\_\_\_\_



## City of Homer

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## Planning

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### STAFF REPORT PL 14-60

TO: Homer Advisory Planning Commission  
FROM: Rick Abboud, City Planner  
MEETING: July 16, 2014  
SUBJECT: City Planner's Report

**Congratulations to Tom Bos** for his reappointment to the HAPC! **Franco Venuti's** recommendation to the KPB Planning Commission is scheduled for July 22<sup>nd</sup> at the KPB Assembly meeting. If approved, Franco's first meeting as Homer's representation will be August 11<sup>th</sup>.

**Signs:** A big thank-you to the political candidates who revamped the signs to comply with Homer's standards for political signs. Once notified candidates and their volunteers replaced or removed the 32 sf signs with signs 16 sf or less.

**FEMA has issued DRAFT Flood Insurance Rate Maps (FIRMs)** that provide more accurate elevations around Beluga Slough, Beluga Lake and Old Towne. Travis will be updating the Planning web site so these preliminary maps can be reviewed by all. At the work session, Karen Woods-McGuinness will review the map adoption process.

**FEMA:** Dotti is preparing for FEMA's Community Assistant Visit (CAV) on July 15<sup>th</sup> and 16<sup>th</sup>. Communities that participate in the National Flood Insurance Program (NFIP) are reviewed to ensure that development within the floodplains complies with NFIP regulations. Karen Woods-McGuinness, a Floodplain Specialist, will tour the Spit and Beluga Lake/Slough then verify that the City is implementing and enforcing the floodplain standards.

**RVs:** We have noticed an up-swing in RVs serving as "stand-alone", primary residences on lots, usually owned by out of town folks. These RVs are "permanently" parked for years, with an occasional visit by the owners or their friends. If unchecked, this diminishes the integrity of the residential area by distant property owners who have a minimal investment into the neighborhood. Letters have been sent to property owners advising them to make alternative arrangements for the storage of the "stand-alone" RVs.

**City Council** – The sign code amendment (Gateway Business District) is on its way to Council.

**Capital Improvement Projects:** Two planning requests have been submitted:

1. Pioneer Avenue enhancement. As explained previously, the state cut the project extensively and still wishes the City to take control after the proposed improvements. If we could get drainage improvements along with sidewalk and street level lighting, the City would be much more inclined to take the road over from the State.
2. Citywide storm water plan. This has been at the forefront of many conversations at the Planning Commission.

**Future Joint worksession with City Council/ City Council communications:** Due to my read of community expectation verses code interpretation, I will pursue a joint worksession to get a read on the expectations of the city council. Due to the challenges of the current remands, I believe a code adjustment is in order. Specifically regarding code stating that no permit shall be issued unless all conformance with code has been gained. As indicated by the City Attorney, other parts of code require that a permit be issued in order to gain compliance. This creates a catch 22 situation where anyone in some sort of noncompliance with anything in title 21 would not be able to gain a permit before total compliance was gained. Basically, I see a literal interpretation requiring removal of all structures and to start over in the case that someone starts work without a permit. There is many more example where a permit is the only reasonable expectation when a structure would otherwise meet all code requirements. Additionally, I believe we need to create a better list of building activities that may be excluded from a zoning permit. For example, residential interior remodel, siding work or roofing are all activities in which the city has no regulations to apply. I plan to make a more extensive report on the exact code excerpts and position the city may find itself.

**Public Safety Building:** Carey Meyer will be making a presentation about the project at the August 16<sup>th</sup> regular meeting.

**Appeal:** CUP 14-05, Windjammer Suites has been appealed. Take appropriate precautions in your conversations about the subject.



# City of Homer

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## STAFF REPORT PL 14-61

**TO:** Homer Advisory Planning Commission  
**FROM:** Rick Abboud, City Planner  
**MEETING:** July 16, 2014  
**SUBJECT:** CUP 14-10 for a day care facility in the Residential Office district per HCC 21.16.030(g).

**SYNOPSIS:** The applicant proposes a day care facility at 1164 East End Road. The daycare facility will provide care for more than eight children in a building not occupied as a principal dwelling. A CUP is required per HCC 21.16.030(g) Residential Office.

Applicants: Susannah Webster  
PO Box 3570  
Homer, AK 99603

Location: 1164 East End Road  
Parcel ID: 17903067  
Size of Existing Lot: 1.22 acres  
Zoning Designation: Residential Office  
Existing Land Use: Single family residence with an 800 sf detached garage  
Surrounding Land Use: North: Residential  
South: Multi-family housing/cemetery  
East: Pet groomer  
West: vacant

Wetland Status: Small amount of wetland may be present on northern most corner of the lot.  
Flood Plain Status: Not in a floodplain.  
BCWPD: Not within the Bridge Creek Watershed Protection District.  
Utilities: Public utilities service the site.  
Public Notice: Notice was sent to 22 property owners of 23 parcels as shown on the KPB tax assessor rolls.

**ANALYSIS:** The applicant is remodeling a 1,300 sf home to create a child day care facility in the Residential Office district. Since the applicant will not live on-site and it will serve more than eight children, a CUP is needed for a “day care facility” in the Residential Office district per HCC 21.16.030(g).

A current as-built of the property indicates that a shed on the northern end of the lot is in the currently required 5ft. setback. While activity from the proposal may or may not be associated with this structure, a CUP should ensure that all applicable provisions of the Homer City Code are met. It

is likely that this structure may qualify as legal nonconforming, but no application has been made as of yet. While code indicates that this issue should be rectified, it does not neatly fit in the routine provisions found for review in the staff report. In order to gain site compliance, a condition will be recommended to ensure compliance (see condition 6: Nonconforming).

**Licensing:** The applicant is licensed with the State of Alaska to provide child care services. The applicant is to be licensed for up to 12 children.

**Parking/Driveway:** The site plan shows a driveway along the east property line. Only the eastern driveway will be used for all drop-offs and pickups, which makes room for a large play area with southern exposure. Six parking spaces are provided; only five parking spaces are required per (HCC 21.55.090(a)(17)).

**The criteria for granting a Conditional Use Permit is set forth in HCC 21.71.020, 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.

HCC 21.16.010: The Residential Office District is primarily intended for a mixture of low-density to medium-density residential uses and certain specified businesses and offices, which may include professional services, administrative services and personal services, but generally not including direct retail or wholesale transactions except for sales that are incidental to the provision of authorized services. A primary purpose of the district is to preserve and enhance the residential quality of the area while allowing certain services that typically have low traffic generation, similar scale and similar density. The district provides a transition zone between commercial and residential neighborhoods.

**Applicant:** The Residential Office district allows for day care facilities.

**Analysis:** The applicant proposes to use an existing residential structure and complete an interior remodel for use as a daycare facility. No new structures are proposed thus preserving the residential character on the lot. The structure is located well off of the street and is somewhat obscured from the view of East End. A long driveway takes vehicles well off the road and provides ample room to turn around before entering the roadway upon exit. Few cars will utilize parking for more than a few minutes at a time since most will just drop off and pick up children.

**Finding 2:** A day care facility use is compatible with the Residential Office district as the district is found as a transition between slower residential and busier commercial districts which is appropriate for the associated traffic and allowance of a safe play environment for the children it serves.

**Finding 3:** A day care facility is compatible in physical scale with other Residential Office uses such as residential dwellings and offices.

**Finding 4:** This day care facility has the appearance of a home which will help preserve a residential quality to the area.

**Finding 5:** Traffic is comparable to that of other permitted uses in the Residential Office district and maybe less than that found in rooming houses, museums, libraries, assisted living homes and religious, cultural and fraternal assembly.

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.

**Applicant:** Access to quality childcare enriches communities and has a positive impact on home values.

**Analysis:** Many uses in the RO district have greater impacts than would be created from a daycare facility. Hospitals, medical facilities, and mortuaries, would have a greater impact on nearby property values. Offices, religious, cultural and fraternal assembly would generate a good deal of traffic and would not be limited to the proposed hours of operation.

**Finding 6:** A day care facility is not expected to negatively impact the adjoining properties greater than other permitted or conditional uses.

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

**Applicant:** The 1,300 sf facility will resemble a single family home and not be out of character with the existing properties.

**Analysis:** The building elevation is comparable to a single story, single family home. Nearby uses are presently residential, dog groomer or vacant land. The facility is found on a lot of 1.22 acres, which is more than ample space for the use, even retaining a rural type of feel for the neighborhood. Activities will be confined to the weekday times, starting in the morning and ending before evening (see condition 2: Hours of operation).

**Finding 7:** The proposed day care facility is compatible with neighborhood homes and lots in appearance and scale.

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

**Finding 8:** Existing public water, sewer, and fire services are available to serve the proposed day care facility. The structure is connected to public water. Prior to occupancy the structure is required to connect to public sewer per HCC 17.04.170: Water and sewer connections required (see condition 4: sewer connection required).

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.

**Applicant:** Traffic and parking will be consistent with a small business and in general is limited to morning drop-off and evening pick-up times.

**Analysis:** The proposed structure is similar to a single-story, single family structure with a fenced play area on the south side of the building. Peak traffic and parking needs are in the morning drop-off and evening pick-up times.

**Finding 9:** The single story, 1,300 sf building is in harmony with the scale, bulk, coverage, and density of a single family residence. Traffic at peak drop-off and pick-up times are comparable to other permitted uses such as bed and breakfasts, multi-family dwellings, rooming houses, hostels, and offices. Traffic will be significantly less than other conditionally permitted uses such as medical facilities and hospitals. An undue harmful effect on the desirable neighborhood character is not expected.

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

**Analysis:** A commercial day care facility requires State of Alaska Fire Marshal approval. The State of Alaska also licenses childcare facilities. The licensing process includes background checks and on-site inspections for health and safety. Additionally, licensed daycare facilities in our community provide an essential service to working parents. The outdoor play area will be fenced prior to occupancy, per HCC 21.16.030(g) (see condition 1: play area fence). Licensing requirements and provisions of this service helps to encourage the health, safety and welfare of the surrounding area and city as a whole as well as to the clientele it serves.

**Finding 10:** The day care facility will not unduly 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.



**Applicant:** Quality childcare and early childhood education is absolutely necessary for a vital economy and healthy community. Smallpond serves working families as well as maintaining a well-trained and well-paid staff. (1-2 full time and 2-3 par time)

**Analysis:** Goals of the Land Use Chapter of the Homer Comprehensive Plan include focusing on community character, minimizing global impacts (Goal 1, ch.4), and promoting mixed use areas (Goal 1, objective B). This proposal promotes community character and provides economic health and services for young families (Goal 5, chapter 4).

**Finding 9:** The proposal is not contrary to the applicable land use goals and objects of the Comprehensive Plan.

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

**Analysis:** The only applicable provision found in the CDM relates to down lit lighting (see condition 5: Outdoor lighting).

**Finding 10:** Lighting standards for the project are found in the Community Design Manual.

**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 facility.
- 2. Fences and walls:** The play area will be fenced. (See condition 1)
- 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:** Limit normal hours of activities from 7am to 7pm.
- 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.

**PUBLIC WORKS COMMENTS:** No comment

**FIRE DEPARTMENT COMMENTS:** State Fire Marshal review is needed (see condition 5: Fire Marshall approval).

**PUBLIC COMMENTS:** None

**STAFF COMMENTS/RECOMMENDATIONS:**

Planning Commission approve CUP 14-10 with findings 1-10 and the following conditions.

1. The play area to be fenced prior to occupancy per HCC 21.16.030(g).
2. Limit normal operational hours to 7am – 7pm.
3. Compliance with Federal, State and local standards which includes Alaska Fire Marshal approval required prior to occupancy.
4. Prior to occupancy the structure will be connected to public water and sewer.
5. Outdoor lighting must be down lit per HCC 21.59.030 and the CDM.
6. Within one year of acceptance of an approved CUP, the shed currently found in the required 5ft. setback shall be accepted as legal nonconforming or be moved out of the setback.

**ATTACHMENTS**

1. CUP application
2. Public notice

My name is Susannah Webster and I'm the owner of Smallpond Childcare. I grew up in Homer and moved back in 2007 to be close to my parents and raise my family. I have been operating Smallpond Childcare at my current location on Hohe street for 3 1/2 years. Our commitment to creating a safe and gentle environment for children as well as our high standards with regards to the staff we retain, the ratios we preserve, the food we offer and the care we provide has allowed us to maintain an outstanding reputation in our community.

The parents I serve are Doctors, Artists, Teachers, Cab drivers, Carpenters, Nurses, Fishermen, Bank managers, Engineers, Biologists, Librarians, Electricians and many other contributing members of this community. I do my job so that they are able to do theirs.

We are committed to the health and wellbeing of children and families and are invested in our community as a place to build relationships, support other local businesses and non-profits and engage with families about the importance of early childhood education. In May of this year I purchased the property at 1164 East End Road with the intention of remodeling the space and creating a new home for Smallpond. While my State license will be for a "childcare home", I do not plan to live on site at this time and therefore am required to apply for this permit. I will be licensed by the State of Alaska for the care of up to 12 children and I will complete the Department of Fire and Life Safety plan review process and meet all code requirements for a daycare facility.

I will construct a low fence to surround the front yard and create a safe play area. I will ensure that parents are mindful of the surrounding homes and neighbors when dropping off and picking up children from my care. My hours of operation will be Monday through Friday, 8:30am -5:30pm.

I do not foresee any negative impact on the local area, surrounding homes and businesses. I am a respectful and communicative neighbor and believe that the addition of a small childcare facility to the area will benefit local families as well as the character of the neighborhood.

While our days are filled with play, our hearts and minds are committed to the task of helping families raise secure, empowered and enthusiastic learners and growing the kind of community we wish to live in.

I respectfully request your approval of my conditional use permit so that I can continue the work I love.

  
6/18/14

**RECEIVED**

JUN 18 2014

CITY OF HOMER  
PLANNING/ZONING





# City of Homer

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 (f) 907-235-3118

**Applicant**  
 Name: Susannah Webster Telephone No.: 907-299-4317  
 Address: PO BOX 3570 Homer, Ak 99603 Email: homermum@gmail.com

**Property Owner** (if different than the applicant):  
 Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
 Address: \_\_\_\_\_ Email: \_\_\_\_\_

**PROPERTY INFORMATION:**  
 Address: 1164 East End Rd Lot Size: 1.22 acres KPB Tax ID # 17903067  
 Legal Description of Property: Dierich Addn NO 4 Lot 2A-1

*For staff use:*  
 Date: 6/18/14 Fee submittal: Amount: \$500  
 Received by: [Signature] Date application accepted as complete: \_\_\_\_\_  
 Planning Commission Public Hearing Date: \_\_\_\_\_

134306

## Conditional Use Permit Application Requirements:

1. A Site Plan
2. Right of Way Access Plan
3. Parking Plan
4. A map showing neighboring lots and a narrative description of the existing uses of all neighboring lots. (Planning can provide a blank map for you to fill in).
5. Completed Application Form
6. Payment of application fee (nonrefundable)
7. Any other information required by code or staff, to review your project

### Circle Your Zoning District

	RR	UR	RO	CBD	TCD	GBD	GC1	GC2	MC	MI	OSR	BCWPD
Level 1 Site Plan	X	X	X			X			X		X	X
Level 1 ROW Access Plan	X	X							X		X	
Level 1 Site Development Requirements	X	X										
Level 1 Lighting			X	X	X	X	X	X	X	X		
Level 2 Site Plan			X	X	X		X	X		X		
Level 2 ROW Access Plan			X	X	X		X	X		X		
Level 2 Site Development Requirements			X	X	X	X	X	X	X	X		
Level 3 ROW Access Plan						X						
DAP/SWP questionnaire				X	X	X	X	X	X	X		

**Circle applicable permits. Planning staff will be glad to assist with these questions.**

- Y  N Are you building or remodeling a commercial structure, or multifamily building with more than 3 apartments? If yes, Fire Marshal Certification is required. Status: \_\_\_\_\_
- Y  N Will your development trigger a Development Activity Plan?  
Application Status: \_\_\_\_\_
- Y  N Will your development trigger a Storm water Plan?  
Application Status: \_\_\_\_\_
- Y  N Does your site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required. Application Status: \_\_\_\_\_
- Y  N Is your development in a floodplain? If yes, a Flood Development Permit is required.
- Y  N Does your project trigger a Community Design Manual review?  
If yes, complete the design review application form. The Community Design Manual is online at: <http://www.ci.homer.ak.us/documentsandforms>
- Y  N Do you need a traffic impact analysis?
- Y  N Are there any nonconforming uses or structures on the property?
- N/A Have they been formally accepted by the Homer Advisory Planning Commission?
- Y  N Do you have a state or city driveway permit? Status: \_\_\_\_\_
- Y  N Do you have active City water and sewer permits? Status: \_\_\_\_\_

1. Currently, how is the property used? Are there buildings on the property? How many square feet? Uses within the building(s)?

**The property currently has a 1300 sq. ft. single family home with an 800 sq. ft. detached garage. There are a few sheds and lean to structures in tear-down condition.**

2. What is the proposed use of the property? How do you intend to develop the property? (Attach additional sheet if needed. Provide as much information as possible).

**Please see attached.**

**CONDITIONAL USE INFORMATION:** (Please use additional sheet(s), if necessary)

- a. What code citation authorizes each proposed use and structure by conditional use permit?  
**21.16.030 g.**
- b. Describe how the proposed uses(s) and structures(s) are compatible with the purpose of the zoning district. **RO zoning allows for Daycare Facilities.**
- c. How will your proposed project affect adjoining property values? **Access to quality childcare enriches communities and has a positive impact on home values.**

d. How is your proposal compatible with existing uses of the surrounding land? **As a small 1300 square foot facility, the structure will resemble a single family home and not be out of character with the existing properties.**

e. Are/will public services adequate to serve the proposed uses and structures?

**Yes**

f. How will the development affect the harmony in scale, bulk, coverage and density upon the desirable neighborhood character, and will the generation of traffic and the capacity of surrounding streets and roads be negatively affected?

**Traffic and parking will be consistent with a small business and, in general, limited to morning drop off and evening pick up times.**

g. Will your proposal be detrimental to the health, safety or welfare of the surrounding area or the city as a whole?

**No**

h. How does your project relate to the goals of the Comprehensive Plan?

The 2006 Town Center Plan and the 2008 Comprehensive Plan are online at:

<http://www.ci.homer.ak.us/documents/planning>

**Quality childcare and early childhood education is absolutely necessary for a vital economy and healthy community. Smallpond serves working families as well as maintaining a well-trained and well-paid staff. (1-2 full time and 2-3 part time.)**

i. The Planning Commission may require you to make some special improvements. Are you planning on doing any of the following, or do you have suggestions on special improvements you would be willing to make? (circle each answer)

1.  N Special yards and spaces.
2.  N Fences, walls and screening.
3. Y  N Surfacing of parking areas.
4. Y  N Street and road dedications and improvements (or bonds).
5. Y  N Control of points of vehicular ingress & egress.
6. Y  N Special provisions on signs.
7.  N Landscaping.
8.  N Maintenance of the grounds, buildings, or structures.
9. N/A Control of noise, vibration, odors, lighting, heat, glare, water and solid waste pollution, dangerous materials, material and equipment storage, or other similar nuisances.
10. N/A Time for certain activities.
11.  N A time period within which the proposed use shall be developed.
12. Y  N A limit on total duration of use.
13. Y  N Special dimensional requirements such as lot area, setbacks, building height.
14. Y  N Other conditions deemed necessary to protect the interest of the community.

**PARKING**

- 1. How many parking spaces are required for your development? 5  
If more than 24 spaces are required see HCC 21.50.030(f)(1)(b). N/A
- 2. How many spaces are shown on your parking plan? 6
- 3. Are you requesting any reductions? NO

Include a site plan, drawn to a scale of not less than 1" = 20' which shows all existing and proposed structures, clearing, fill, vegetation and drainage.

I hereby certify that the above statements and other information submitted are true and accurate to the best of my knowledge, and that I, as applicant, have the following legal interest in the property:

**CIRCLE ONE:** Owner of record      Lessee      Contract purchaser

Applicant signature: [Signature]      Date: 6/17/14

Property Owner's signature: [Signature]      Date: 6/17/14

**RECEIVED**

JUN 18 2014

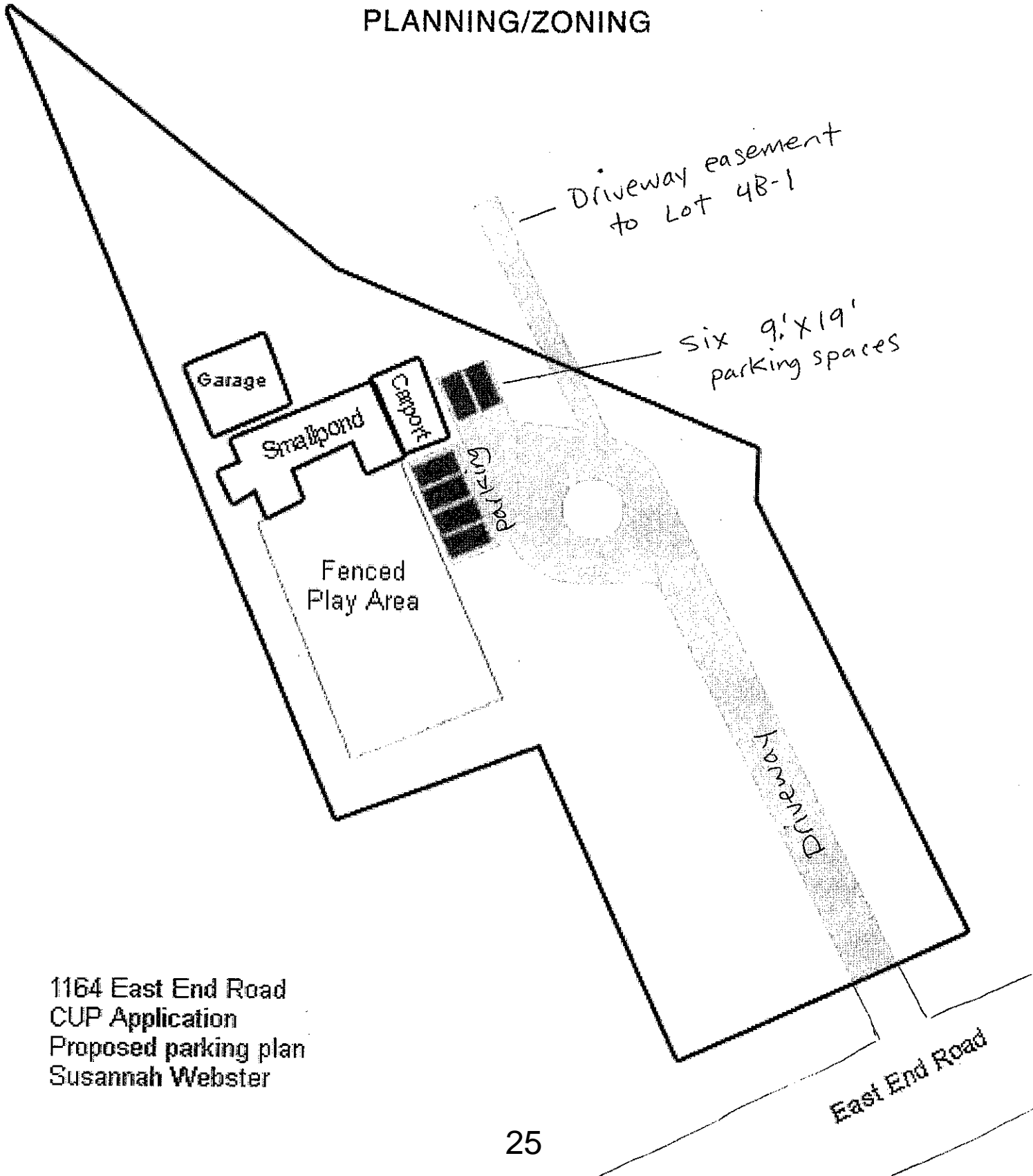
**CITY OF HOMER  
PLANNING/ZONING**



# RECEIVED

JUN 18 2014

CITY OF HOMER  
PLANNING/ZONING



1164 East End Road  
CUP Application  
Proposed parking plan  
Susannah Webster

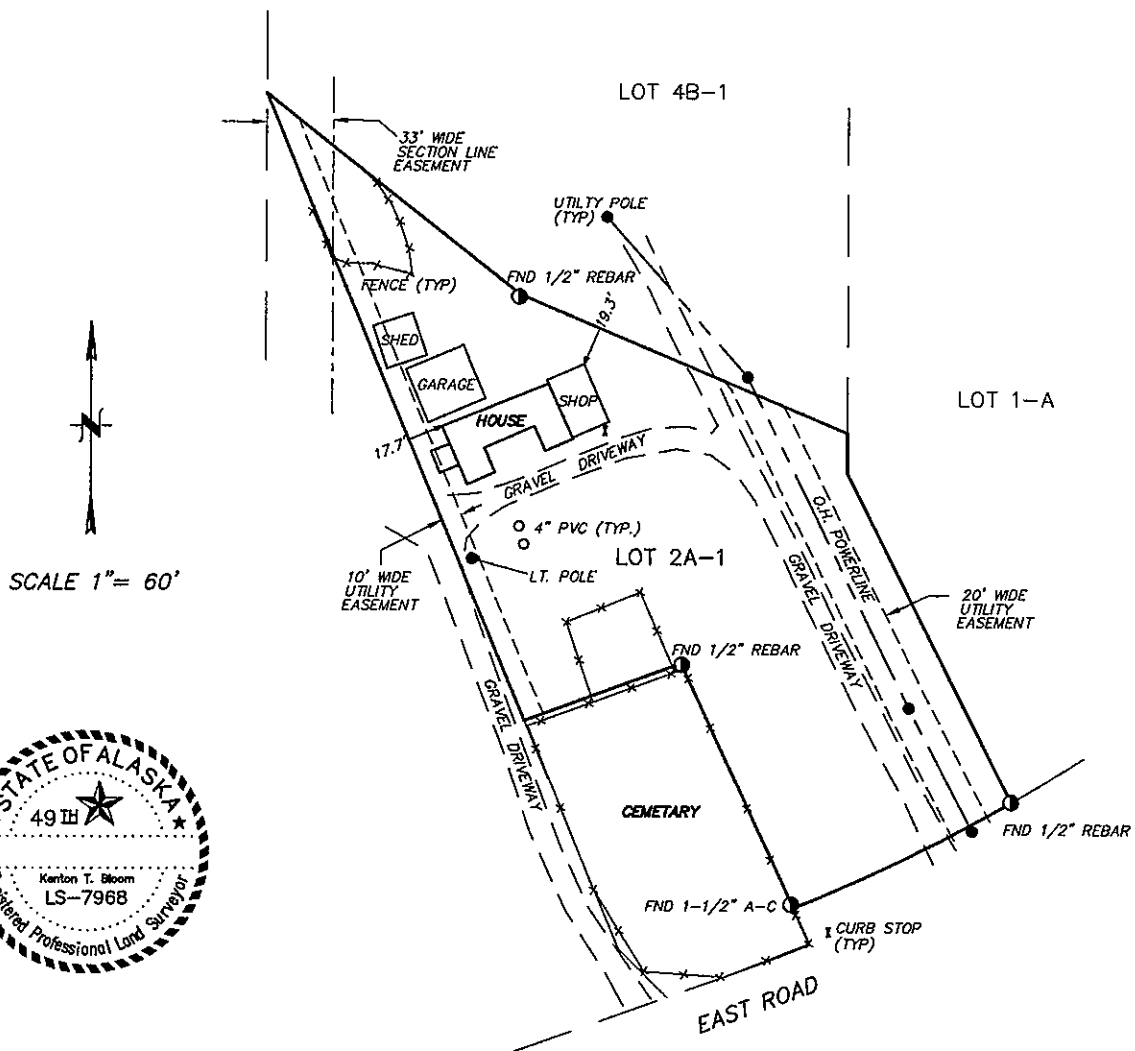
JUN 18 2014

CITY OF HOMER  
PLANNING/ZONING

JOB #2014-12  
PREPARED FOR:  
SUSANNA WEBSTER  
P.O. BOX  
HOMER, AK 99603

NOTES:

1. THIS ASBUILT SURVEY INCLUDES LOT 2A-1 DIERICH ADDITION HM 2001032, AND LOCATED WITHIN SECTION 16, T 6 S, R 13 W, S.M.
2. THIS ASBUILT SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN THAT WHICH WOULD GIVE A GRAPHIC REPRESENTATION OF THE LOCATION OF IMPROVEMENTS ON THIS LOT. UNDER NO CIRCUMSTANCE SHOULD THE LOCATION OF FUTURE IMPROVEMENTS BE BASED ON THIS DRAWING.
3. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, RESERVATIONS OR RESTRICTIONS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT.
4. THIS LOT IS SERVED BY CITY OF HOMER SEWER AND WATER.
5. THE BASIS OF BEARINGS IS N 24°15' W BETWEEN THE NE CORNER AND THE SE CORNER OF TRACT 4A (PLAT #2001-32 HRD).



SCALE 1" = 60'

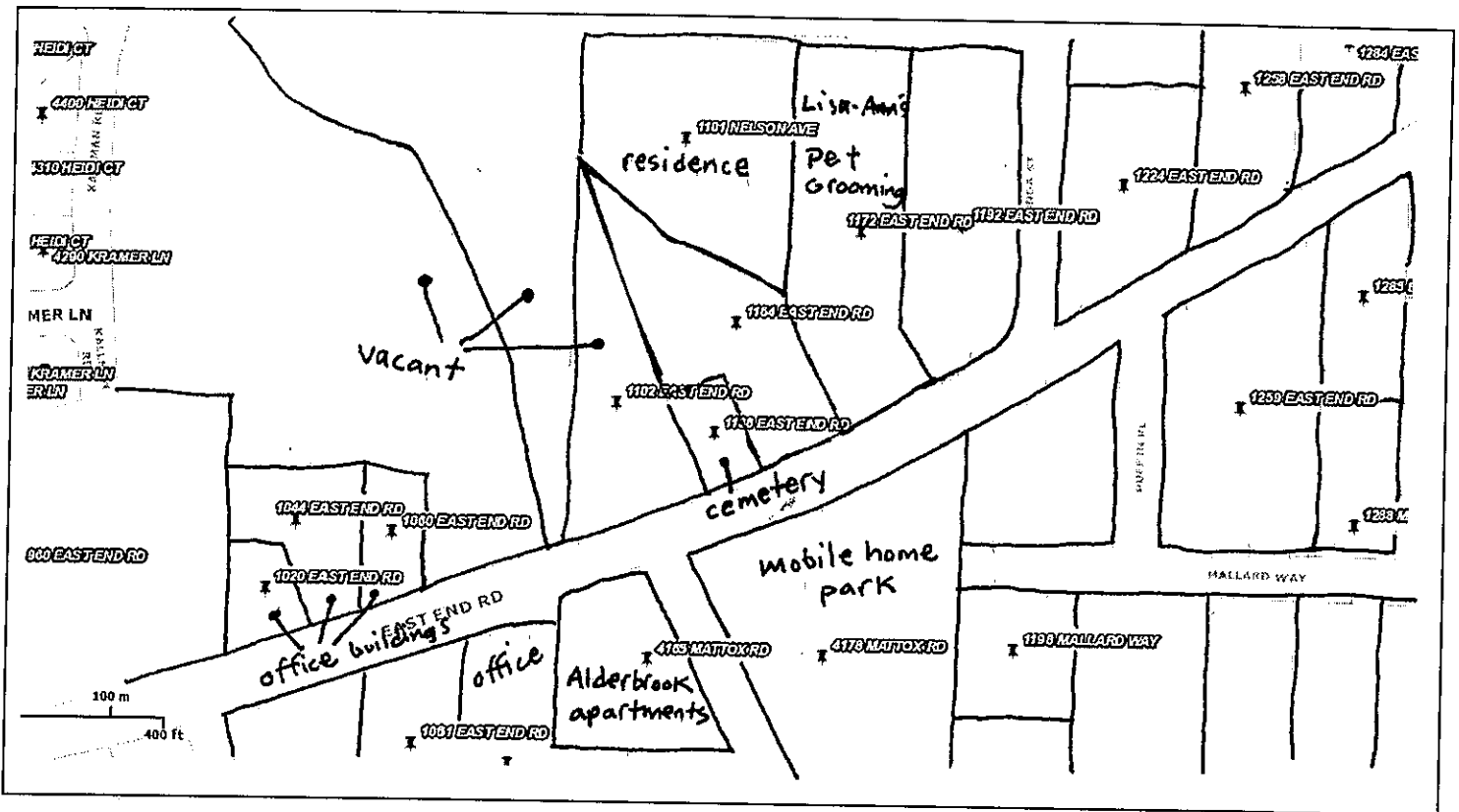


I HEREBY CERTIFY THAT I HAVE SURVEYED THE FOLLOWING REAL PROPERTY:  
 LOT 2A-1 ACCORDING TO DIERICH ADDITION HM 2001032, AND LOCATED WITHIN SECTION 16, T 6 S, R 13 W, S.M., AND WITHIN THE CITY OF HOMER AND THE KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, STATE OF ALASKA, HOMER RECORDING DISTRICT, AND THAT THE IMPROVEMENTS SITUATED THEREON ARE LOCATED AS SHOWN ON THIS PLAT AND THAT THERE ARE NO ROADWAYS, TRANSMISSION LINES OR OTHER VISIBLE EASEMENTS OR ENCROACHMENTS ON SAID PROPERTY EXCEPT AS SHOWN.

DATED AT HOMER, ALASKA THIS 29TH DAY OF APRIL, 2014.

KERTON BLOOM, PLS

SEABRIGHT SURVEY + DESIGN  
 1044 EAST ROAD, SUITE A  
 HOMER, ALASKA 99603  
 (907) 235-4247  
 SEABRIGHTZ@YAHOO.COM



# KPB Parcel Viewer



Printed: Jun 17, 2014

Susannah Webster  
 CUP Application  
 1164 E. End Rd

# RECEIVED

JUN 18 2014

CITY OF HOMER  
 PLANNING/ZONING



## **PUBLIC HEARING NOTICE**

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, July 16, 2014 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska on the following matter:

**Conditional Use Permit 2014-10 is a request to use an existing building as a Daycare Facility at 1164 East End Road as required by HCC 21.16.030(g). Legal description of property: Lot 2A-1 Dierich Addn No. 4 T 6S R 13W SEC 16 S.M.**

Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

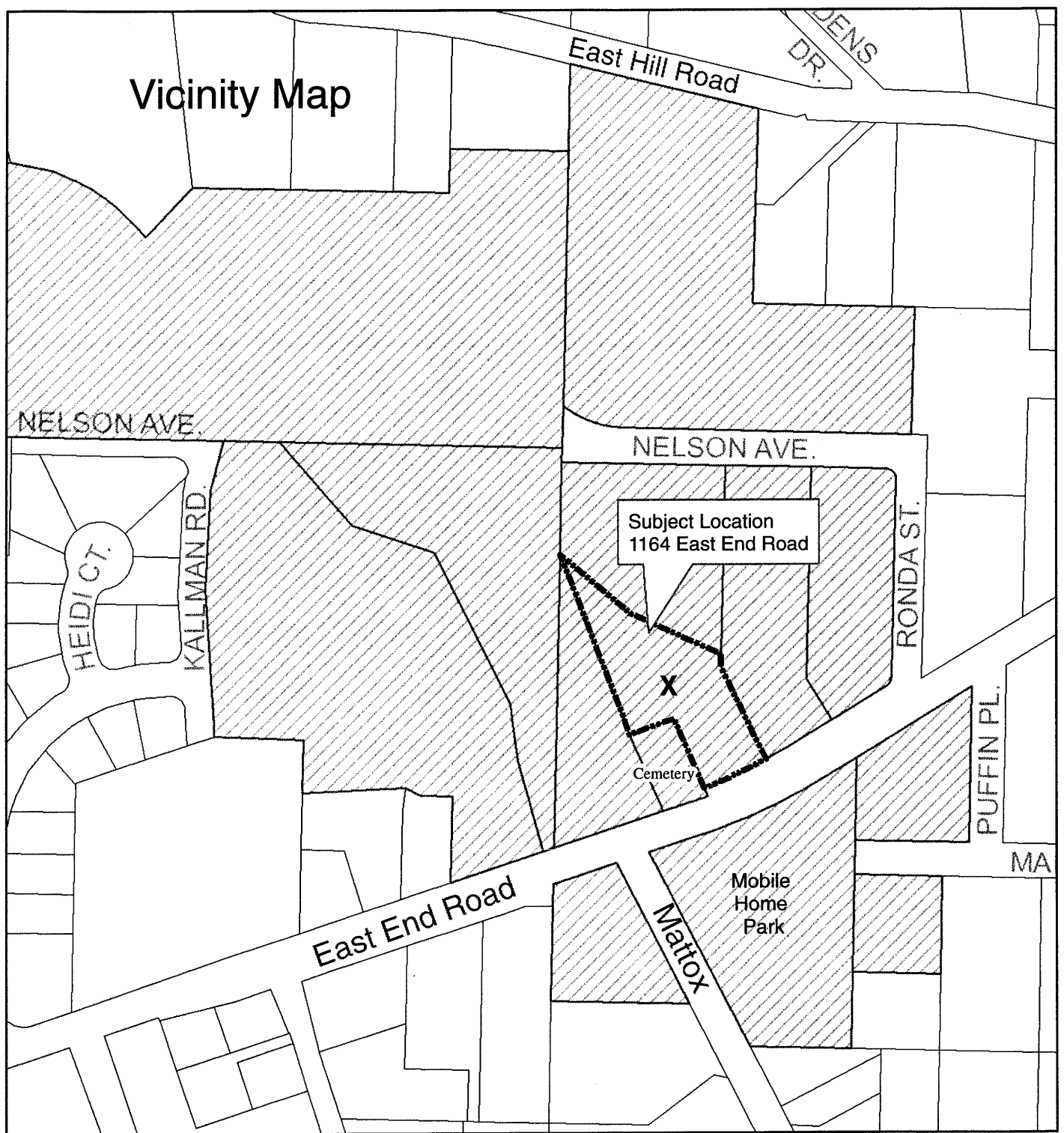
The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Travis Brown at the Planning and Zoning Office, 235-3106.

**NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 300 FEET OF PROPERTY.**

.....

Vicinity Map on Reverse

# Vicinity Map

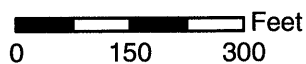


City of Homer  
Planning and Zoning Department

6/18/2014

## Request for Conditional Use Permit 14-10 for a Daycare Facility

Marked Lots are w/in 300 feet  
and property owners notified.



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

My name is Susannah Webster and I'm the owner of Smallpond Childcare. I grew up in Homer and moved back in 2007 to be close to my parents and raise my family. I have been operating Smallpond Childcare at my current location on Hohe street for 3 1/2 years. Our commitment to creating a safe and gentle environment for children as well as our high standards with regards to the staff we retain, the ratios we preserve, the food we offer and the care we provide has allowed us to maintain an outstanding reputation in our community.

The parents I serve are Doctors, Artists, Teachers, Cab drivers, Carpenters, Nurses, Fishermen, Bank managers, Engineers, Biologists, Librarians, Electricians and many other contributing members of this community. I do my job so that they are able to do theirs.

We are committed to the health and wellbeing of children and families and are invested in our community as a place to build relationships, support other local businesses and non-profits and engage with families about the importance of early childhood education. In May of this year I purchased the property at 1164 East End Road with the intention of remodeling the space and creating a new home for Smallpond. While my State license will be for a "childcare home", I do not plan to live on site at this time and therefore am required to apply for this permit. I will be licensed by the State of Alaska for the care of up to 12 children and I will complete the Department of Fire and Life Safety plan review process and meet all code requirements for a daycare facility.

I will construct a low fence to surround the front yard and create a safe play area. I will ensure that parents are mindful of the surrounding homes and neighbors when dropping off and picking up children from my care. My hours of operation will be Monday through Friday, 8:30am -5:30pm.

I do not foresee any negative impact on the local area, surrounding homes and businesses. I am a respectful and communicative neighbor and believe that the addition of a small childcare facility to the area will benefit local families as well as the character of the neighborhood.

While our days are filled with play, our hearts and minds are committed to the task of helping families raise secure, empowered and enthusiastic learners and growing the kind of community we wish to live in.

I respectfully request your approval of my conditional use permit so that I can continue the work I love.

  
6/18/14

**RECEIVED**

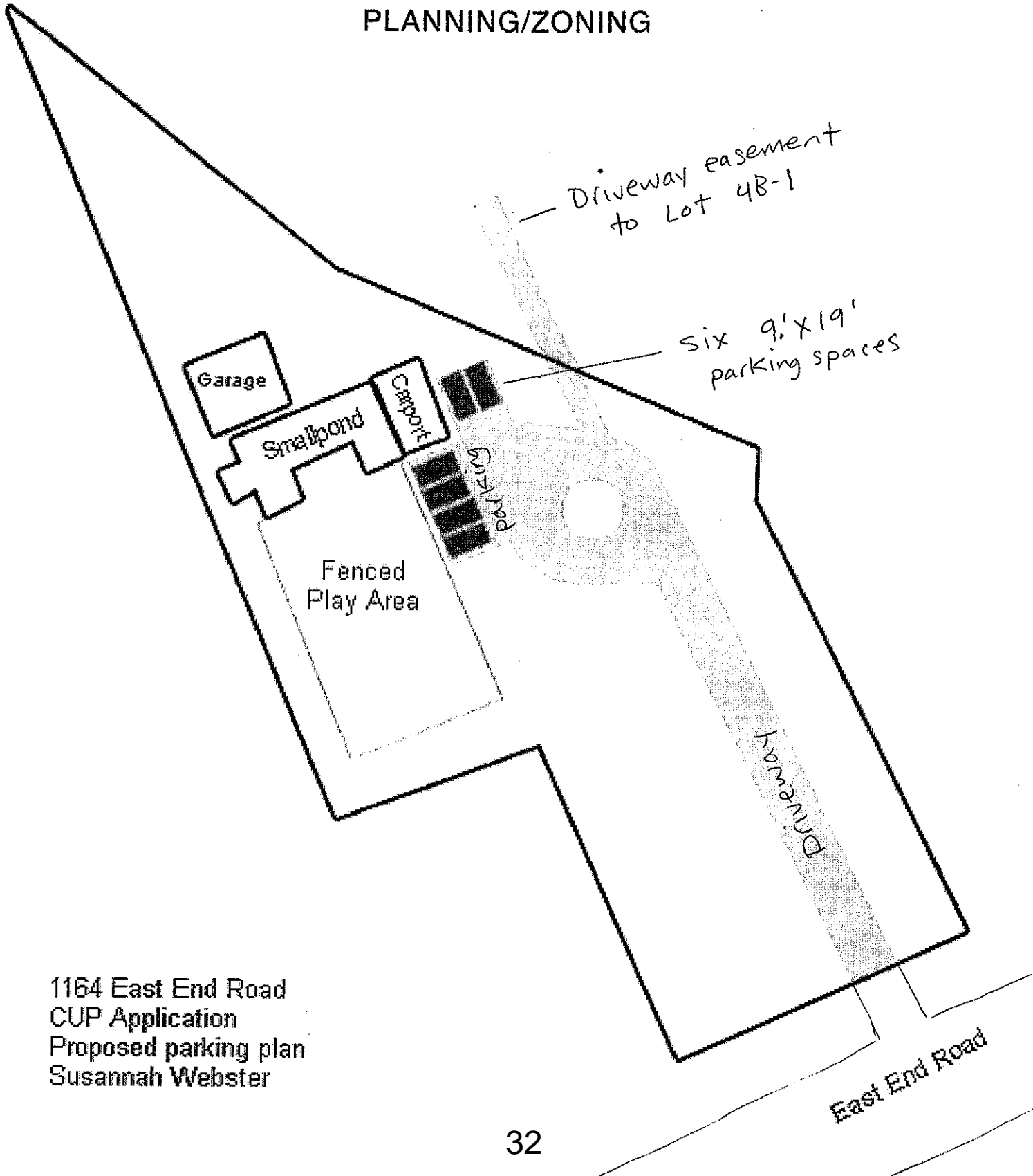
JUN 18 2014

CITY OF HOMER  
PLANNING/ZONING

# RECEIVED

JUN 18 2014

CITY OF HOMER  
PLANNING/ZONING



1164 East End Road  
CUP Application  
Proposed parking plan  
Susannah Webster





# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

### Staff Report PL 14-62

TO: Homer Advisory Planning Commission  
FROM: Rick Abboud, City Planner  
DATE: July 16, 2014  
SUBJECT: Vacation of a ROW and vacation and dedication of a Public Use Easement (PUE) of the northern 200' of Willow Dr.

---

**Requested action:** Conduct a public hearing on the vacation of ROW and Public Utility Easement and dedication of Public Use Easement and Public Utility Easement.

### Introduction

The City of Homer and affected property owners are applying for the vacation of the ROW and public utility easement. The 60ft. ROW would be replaced with a cul-de-sac and a 200ft. long, 40ft. wide Public Use Easement leading from the end of the cul-de-sac to Willow Drive. A 15ft. Utility Easement would then be dedicated on the southern section of Mission Road where Willow Drive was vacated.

### Analysis

KPB Code 20.70.110 Vacation consent-City Council or Assembly

A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council. A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly or council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

KPB Code 20.70.190, Utility provisions.

All existing and future utility requirements shall be considered when evaluating a vacation request. Rights of way which are utilized by a public utility or which logically would be required by a public utility shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right of way exists, the commission may approve the vacation and require that a public utility easement be granted in place of the right of way.

The proposal to vacate 200ft. of the northernmost section of Willow Drive requires the approval of the City of Homer. The Planning Commission is expected to make a recommendation to the City Council on these items.

The City Engineer states that the current ROW is excessively steep and presents a safety hazard. A 40ft. Public Use Easement is proposed in place of the ROW. This hearing provides a time for public comment and if found in a favorable light by the Planning Commission, a preliminary plat will be prepared to reflect the recommended changes.

Willow Drive looks to provide some measure of connectivity, but seems marginally useful as not many routine destinations or useful traffic patterns may be found to the north on Mission Road. Unless some good reasoning or testimony is found to continue the ROW, I find no compelling reasons to be at odds of the proposed vacation.

**Staff Recommendation:** Take public testimony and make motion for consideration of the proposal.

#### **Attachments**

1. Petition
2. Public Notice
3. Bonnie Boisvert Statement of Opposition



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

**Petition to Vacate Public Right-of-Way/Easement/Platted Public Area**  
**Public Hearing Required**

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

- \$300 non-refundable fee to help defray costs of advertising public hearing.
  - City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
  - Name of public right-of-way proposed to be vacated is dedicated by the plat of Bausview Gardens Subdivision, filed as Plat Nos 73-749 and 7066-912 in Homer Recording District.
  - Are there associated utility easements to be vacated?  Yes  No
  - Are easements in use by any utility company? If so, which company GCI, AES, HEA
  - Easement for public road or right-of-way as set out in (specify type of document) NA as recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ of the \_\_\_\_\_ Recording District. (Copy of recorded document must be submitted with petition.)
  - Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. In the case of public right-of-way, the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.
- Has right-of-way been fully or partially constructed?  Yes  No  
 Is right-of-way used by vehicles / pedestrians / other?  Yes  No  
 Is alternative right-of-way being provided?  Yes  No

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

Safety of drivers and pedestrians on steep hill at Willow and Mission Road Intersection.

Drivers have low visibility and low traction at stop sign at willow and Mission.

Grade of slope of Willow Dr. at Mission road. Too expensive to bring road up to safety standards for the city.

Vacating proposed portion of Willow Dr. will not affect access to any parcels.

The petition must be signed (written signature) by owners of the majority of land fronting the right-of-way, easement, or platted public area proposed to be vacated. Each petitioner must include address and legal description of his/her property.

Submitted By:

Name: Nikolas Bothin  
 Address: 955 Willow Dr.  
Homer A.K. 99603  
 Phone: 907-226-3331

Signature as:

Petitioner  Representative  
Nikolas Bothin

Petitioners:

Signature: Beverley Nikora  
 Name: Beverley Nikora  
 Address: 920 Quiet Creek Dr.  
HOMER, AK 99603

Signature: Malcolm Gaylord  
 Name: Malcolm Gaylord  
 Address: 920 Willow Dr  
Homer AK 99603

Owner of: 950 Willow Dr  
Homer, AK  
 Signature: Allison Gaylord  
 Name: Allison Gaylord  
 Address: 920 Willow Dr  
Homer AK 99603

Owner of: 920 & 905 Willow Dr  
 Signature: Carey Meyer PUBLIC WORK DIRECTOR  
 Name: CAREY MEYER  
 Address: 491 E PIONEER AVE  
HOMER AK 99603

Owner of: 920 + 905 Willow Dr.

Owner of: STREET RIGHT OF WAY

CITY TO MAINTAIN  
DRAINAGE

City of Homer  
Public Works Department  
Carey Meyer, PE, MPA  
Public Works Director/  
City Engineer



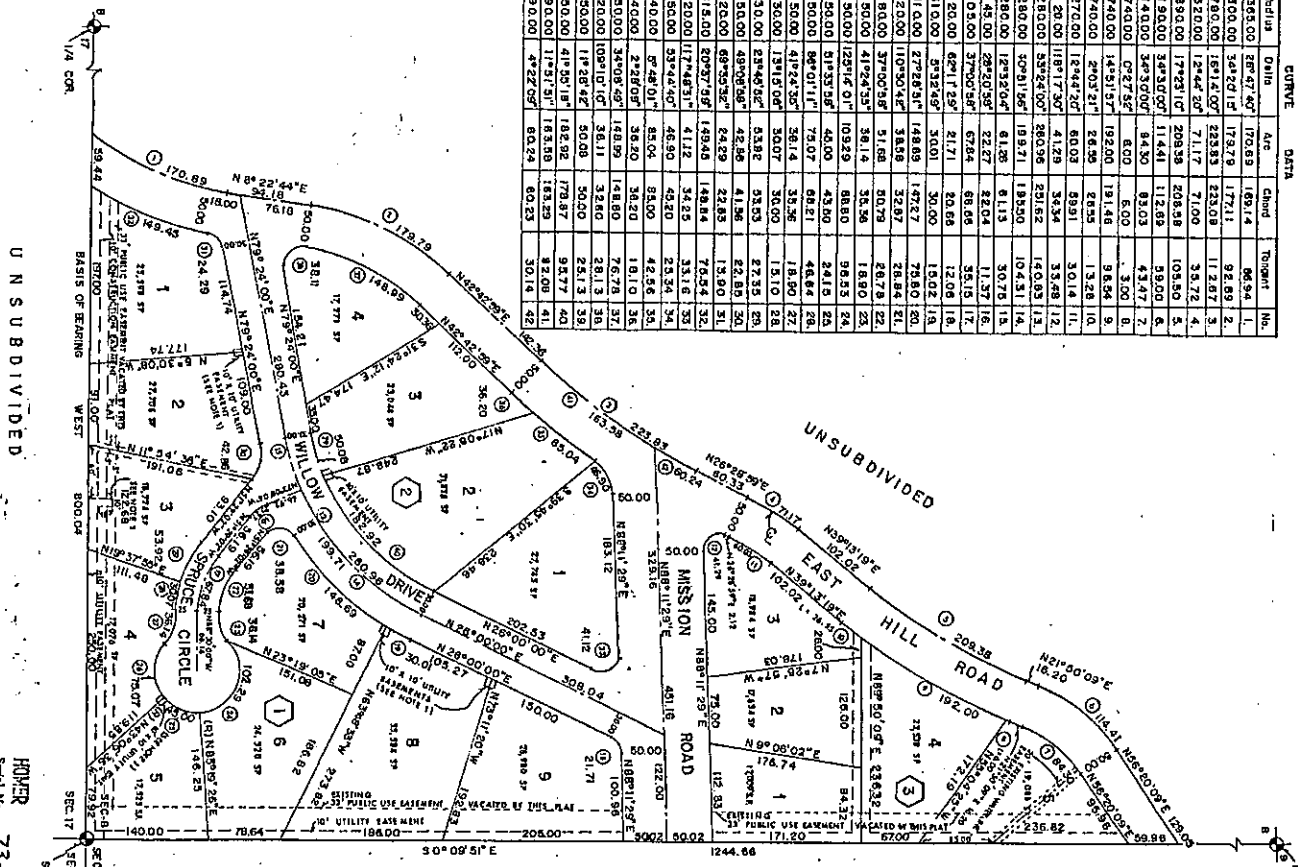
[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov) (p) 907-435-3124  
3575 Heath St. (f) 907-235-3145  
Homer, Alaska 99603 (c) 907-399-7232  
cmeyer@cityofhomer-ak.gov

P. CUL DE SAC EASEMENT  
FM SIGNON DOCUMENT  
LOCATING @ WAY

1 inch = 100 feet

TOO EXPENSIVE TO CREATE A SAFER

No.	Radius	Chord	Chord	Point	No.
1.	305.00	567.47	170.89	181.4	1.
2.	100.00	347.01	173.79	171.1	2.
3.	750.00	1512.07	233.53	230.9	3.
4.	320.00	1244.20	71.17	71.08	4.
5.	830.00	1733.10	208.58	208.58	5.
6.	190.00	343.07	114.41	112.83	6.
7.	140.00	243.07	84.30	83.03	7.
8.	740.00	1451.57	192.00	191.46	8.
9.	740.00	1451.57	192.00	191.46	9.
10.	740.00	1451.57	192.00	191.46	10.
11.	740.00	1451.57	192.00	191.46	11.
12.	20.00	1181.73	60.03	59.91	12.
13.	250.00	5324.00	280.36	281.62	13.
14.	280.00	5091.96	189.21	189.50	14.
15.	280.00	1292.05	61.08	61.13	15.
16.	45.00	220.30	22.27	22.04	16.
17.	10.00	3750.95	67.84	68.06	17.
18.	20.00	621.25	21.71	20.68	18.
19.	31.00	932.95	30.01	30.00	19.
20.	31.00	2728.91	148.89	147.27	20.
21.	20.00	1050.45	38.88	32.87	21.
22.	80.00	3700.95	51.68	50.79	22.
23.	50.00	4194.25	38.14	38.56	23.
24.	50.00	1251.61	109.29	88.80	24.
25.	50.00	1133.87	46.00	43.50	25.
26.	50.00	860.11	73.07	69.21	26.
27.	50.00	4194.25	38.14	38.56	27.
28.	190.00	1319.05	30.07	30.00	28.
29.	130.00	2340.92	53.82	53.53	29.
30.	50.00	4900.98	42.86	41.56	30.
31.	20.00	6850.32	24.29	22.85	31.
32.	415.00	10797.98	149.46	148.84	32.
33.	20.00	11724.81	41.12	34.25	33.
34.	50.00	5344.47	48.90	49.80	34.
35.	80.00	3748.07	48.04	48.00	35.
36.	80.00	2748.07	39.00	39.00	36.
37.	20.00	3408.49	148.89	148.89	37.
38.	20.00	1050.45	38.11	38.60	38.
39.	250.00	4194.25	50.08	50.00	39.
40.	230.00	4194.25	182.92	178.87	40.
41.	790.00	1451.57	183.88	183.29	41.
42.	790.00	1451.57	183.88	183.29	42.



HOWER  
 Small No. 73-748  
 DATE 6-20-73  
 FILED 7/3  
 4:28 P.M.  
 BUREAU OF LANDS  
 DENVER, COLO.

UNSUBDIVIDED

**SECTION LINE EASEMENT VACATION**  
**APPROVAL RECOMMENDATION**  
 STATE DEPARTMENT OF HIGHWAYS  
 THE VACATION STATEMENT AS SHOWN HEREON HAS BEEN REVIEWED BY THE STATE ENGINEER'S OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.  
 RECOMMENDED BY: [Signature]  
 DATE: 3/19/73

**STATE DIVISION OF LANDS**  
 THE VACATION STATEMENT AS SHOWN HEREON HAS BEEN REVIEWED BY THE DIVISION OF LANDS AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.  
 RECOMMENDED BY: [Signature]  
 DATE: 3/19/73

**NOTE:**  
 1. ALL EASEMENTS ARE UNDERGROUND  
 EXISTING (GLO)  
 REBAR SET ON ALL CORNERS  
 UNLESS OTHERWISE NOTED.

**LEGEND**  
 BRASS CUP MONUMENT  
 EXISTING (GLO)  
 REBAR SET ON ALL CORNERS  
 UNLESS OTHERWISE NOTED.

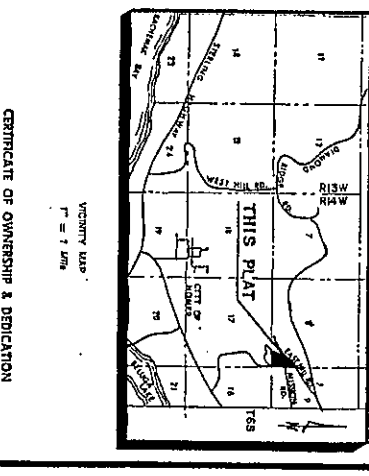


**CERTIFICATE OF OWNERSHIP & DEDICATION**  
 I, hereby certify that I am the owner of the property shown and described herein. I hereby request approval of this plat, showing such easements for public utilities, roadways and alleys dedicated by me for public use.  
 GENE EFFLER  
 4330 IOWA DRIVE  
 ANCHORAGE, ALASKA 99505

**NOTARY'S ACKNOWLEDGEMENT**  
 Subscribed and sworn before me this 19th day of March, 1973.  
 [Signature]  
 Notary for Alaska

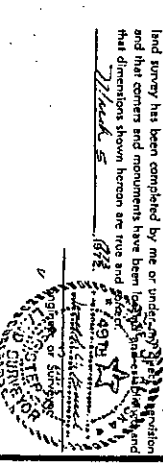
Plat approved by the Borough Planning Commission this 18th day of March, 1973.  
 [Signature]  
 Mayor

KENAI PENINSULA BOROUGH  
 PLAT APPROVAL

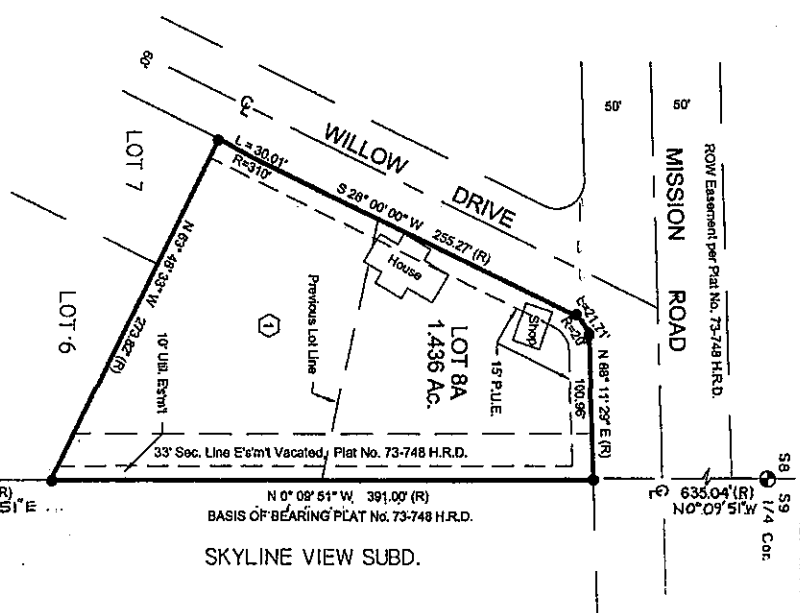


**PLAT CONTAINS 13.3 ACRES MORE OR LESS**  
**BAYVIEW GARDENS SUBDIVISION**  
 LOCATED IN THE  
 SE 1/4, SEC 9, T6S, R15W, SEWARD MERIDIAN, AK.  
 JOSEPH C. BURCH  
 SURVEYOR GENERAL  
 2123 ALASKA DRIVE  
 ANCHORAGE, ALASKA  
 DATE: DECEMBER 12, 1972  
 SCALE: 1" = 100'  
 SHEET: 1 of 1  
 CHECKED: J.C.B.

**ENGINEER'S CERTIFICATE**  
 I, the undersigned registered engineer or surveyor, hereby certify that a land survey has been completed by me or under my direct supervision and that corners and monuments have been located and shown in accordance with the laws and regulations of the State of Alaska and that dimensions shown herein are true and correct.  
 [Signature]  
 Registered Professional Engineer  
 State of Alaska



**NOTE:**  
 ALL EASEMENTS ARE UNDERGROUND UTILITY EASEMENTS UNLESS OTHERWISE NOTED.



- LEGEND**
- GLO B.C. Mon. Record
  - Rebor Record
  - (R) Record



- NOTES**
1. These lots are subject to the zoning requirements of the City of Homer.
  2. These lots now contain wetlands. Owners should contact the Corps of Engineers for wetlands information prior to any on-site development or construction.
  3. No permanent structure shall be constructed or placed within the utility easement which would interfere with the ability of the utility to use the easement.
  4. No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation. No new access to Mission Road from Lot 8A.
  5. The existing buildings on Lot 8A were constructed prior to dedication of 15' public utility easement along ROW's frontage.
  6. **WASTEWATER DISPOSAL.** This permit subdivision for lots resulting from this platting action was approved by the Kenai Peninsula Borough on June 18th, 1973. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.
  7. Restrictive covenants affecting this plat in Book 70 / Page 404, H.R.D.

**CERTIFICATE OF OWNERSHIP AND DEDICATION**

We hereby certify that we are the owners of the real property shown and described hereon and that we hereby assign this plat of subdivision and that by our free consent dedicate all rights-of-way to public use and grant all easements to the use shown.

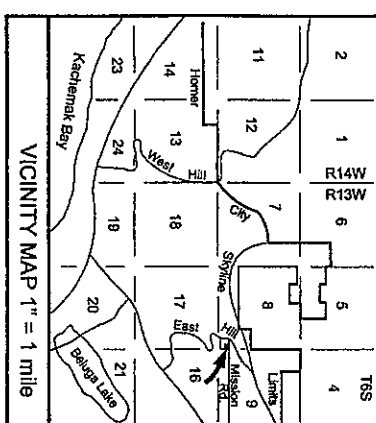
*Charles R. Hart* Date  
 For Charles R. Hart and Joann Hart  
 P.O. Box 880  
 Homer, AK 99603  
 the 7<sup>th</sup> Day of June 2006

*Joann Hart* Date  
 For Charles R. Hart and Joann Hart  
 P.O. Box 880  
 Homer, AK 99603  
 the 7<sup>th</sup> Day of June 2006



Notary of the Public for the State of Alaska  
 My commission expires *11/06*

2006-56  
 18/21/06  
 11:06 AM  
 Requested By: *Charles Hart*



**SURVEYOR'S CERTIFICATE**

I hereby certify that I am a Registered Land Surveyor and that this plat represents a survey made by me or under my direct supervision, and the monuments shown hereon actually exist as described and that dimensions and other details are correct.

Date *11/29/06*  
 Carlos Freeman, LS 4129



**PLAT APPROVAL**

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of *October 23, 2006*.

**KENAI PENINSULA BOROUGH**

By *Carlos Freeman*  
 Authorized Official

**BAYVIEW GARDENS 2006**

A REPLAT OF LOTS 8 & 9, BLOCK 1,  
 PLAT No. 73-748, H.R.D. INTO LOT 8A  
 WITHIN SE 1/4, SE 1/4, SEC 8, T6S, R13W, S.M.  
 Homer Recording District, City of Homer, Alaska,  
 Kenai Peninsula Borough  
 Containing 1.436 Acres

By  
 Carlos Freeman, LS 4129  
 53045 Michell Canyon Road  
 Homer, Alaska 99603

Date: November 19, 2006  
 Scale: 1" = 60'  
 KPB No. 2006-533



## **Memorandum**

TO: Rick Abboud – Planning Director  
FROM: Carey Meyer – Public Works Director  
DATE: June 30, 2014  
SUBJECT: Willow Drive Replat

---

The property owners in this neighborhood (see attached drawing) approached Public Works with a request to vacate a steep portion of Willow Drive (south of Mission Road).

Public Works supports this vacation because:

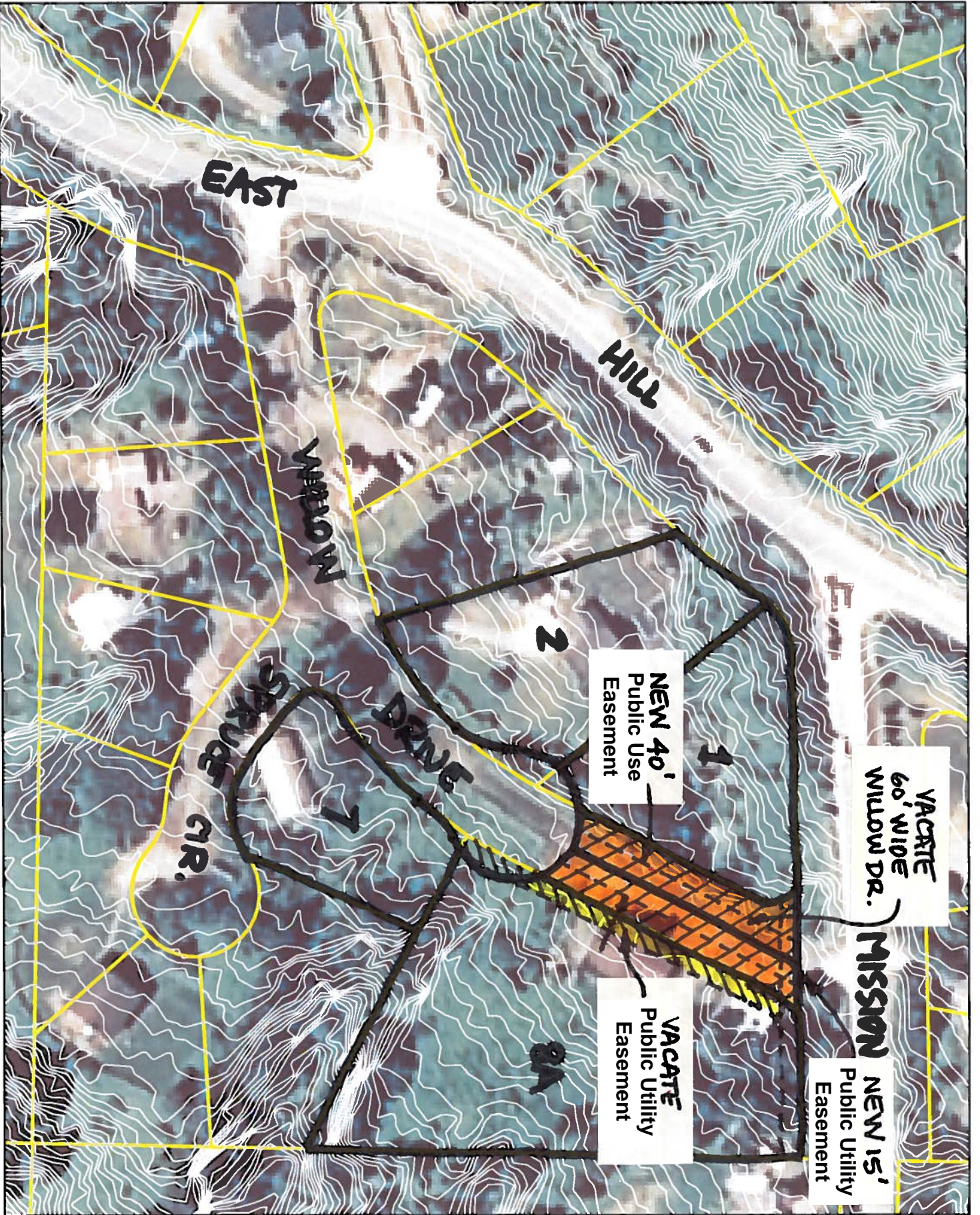
- This portion of Mission Road is steep and a road meeting the City’s design standards cannot be reasonably expected to be constructed at the Mission Road intersection.
- The steep portion of the road cannot be maintained safely by City winter maintenance vehicles.
- The public cannot safely access Mission Road from Willow Drive due to the very steep approach.

Recommend vacation of the portion of Willow Drive shown on attached drawing with the condition that:

1. A cul-de-sac be created, as generally shown on the attached drawing, to provide for turn-around movements by the public and City maintenance vehicles.
2. Dedicate a 40 foot wide public use easement (PUE) along the centerline of the vacated street right-of-way to provide for pedestrian access and future utilities.
3. Vacate the existing 15’ wide Public Utility Easement along the east side of the vacated Willow Drive; dedicate a 15’ wide Public Utility Easement across the vacated Willow Drive (along the south side of Mission Road).

There are no utilities currently in any of the easements or right-of-ways proposed to be vacated.

Once the vacation has Planning Commission concurrence, it is the intent of Public Works to coordinate with affected property owners and prepare a preliminary and final plat for consideration by the Homer Advisory Planning Commission and the KPB Plat Committee/Planning Commission. Additional easements may need to be provided on the four properties affected to satisfy City and utility concerns.



6/26/14

1 inch = 100 feet



## PUBLIC HEARING NOTICE

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, July 16, 2014 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska on the following matter:

**A proposal to vacate the northern 200 feet of Willow Drive. The vacation of the right-of-way begins at the intersection of Willow Drive and Mission Road and ends north of Spruce Lane. The proposal includes vacating a 15 foot public utility easement along the east side of Willow Drive. The proposal dedicates a cul-de-sac and 40 ft. public use easement on Willow Drive and a 15 ft. public utility easement along Mission Road. Proposal is located in the Bayview Gardens Subdivision SE ¼, SE ¼, SEC 8 T 6S R 13W Seward Meridian.**

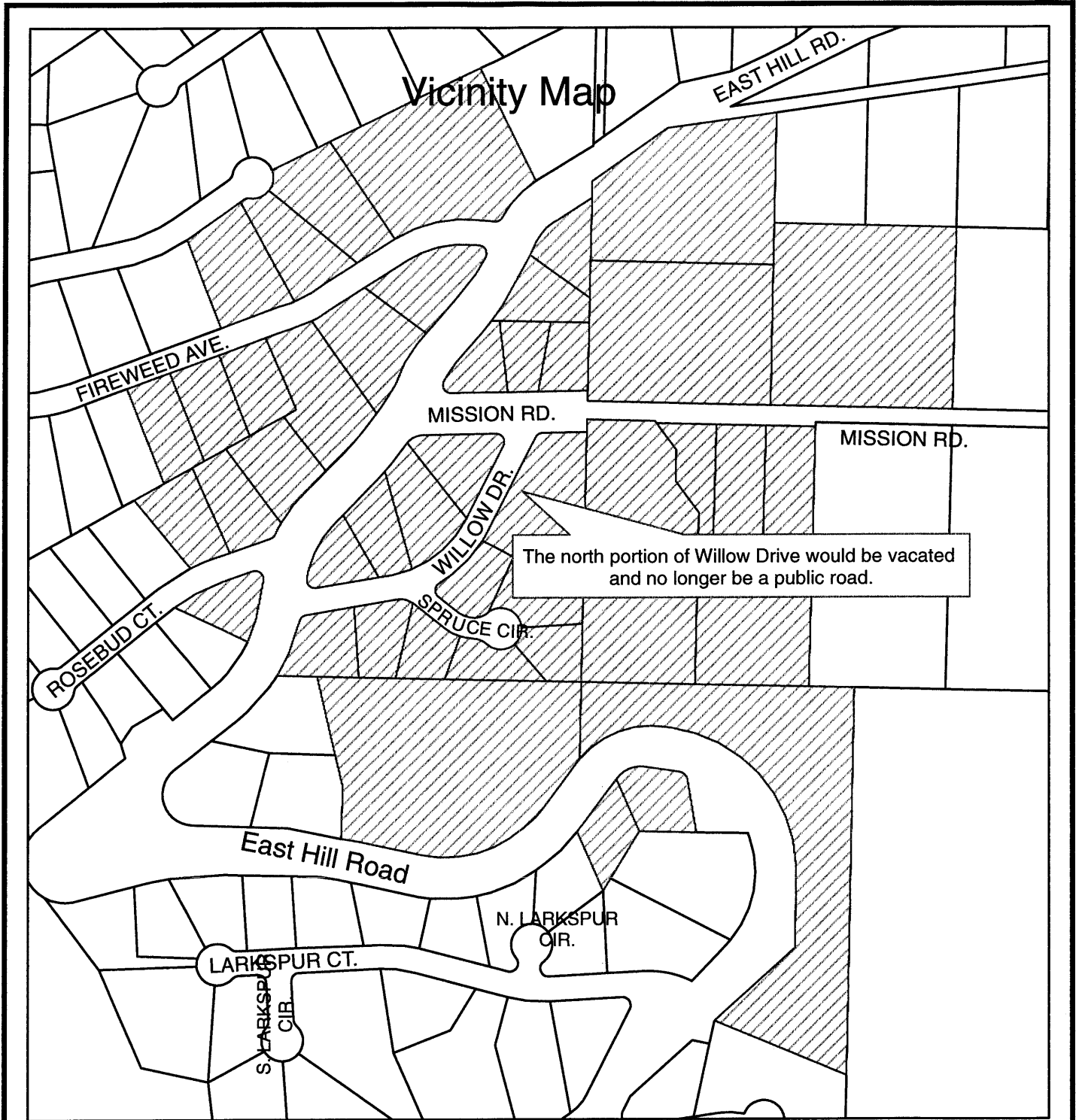
Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Travis Brown at the Planning and Zoning Office, 235-3106.

**NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 300 FEET OF PROPERTY.**

.....

Vicinity Map on Reverse



**City of Homer**  
 Planning and Zoning Department  
 June 13, 2014

**Vacation of a portion of Willow Drive**

Properties within 500 feet are marked and property owners notified.

0 250 500 Feet

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



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

**Petition to Vacate Public Right-of-Way/Easement/Platted Public Area**  
**Public Hearing Required**

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

- \$<sup>300</sup>500 non-refundable fee to help defray costs of advertising public hearing.
  - City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
  - Name of public right-of-way proposed to be vacated is dedicated by the plat of Bayview Gardens Subdivision, filed as Plat Nos 73-749 and 7066-912 in Homer Recording District.
  - Are there associated utility easements to be vacated?  Yes  No
  - Are easements in use by any utility company? If so, which company GCI, AES, HEA
  - Easement for public road or right-of-way as set out in (specify type of document) NA as recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ of the \_\_\_\_\_ Recording District. (Copy of recorded document must be submitted with petition.)
  - Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. In the case of public right-of-way, the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.
- Has right-of-way been fully or partially constructed?  Yes  No  
 Is right-of-way used by vehicles / pedestrians / other?  Yes  No  
 Is alternative right-of-way being provided?  Yes  No

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

Safety of drivers and pedestrians on steep hill at Willow and Mission Road Intersection.

Drivers have low visibility and low traction at stop sign at willow and Mission.

Grade of slope of Willow Dr. at Mission road. Too expensive to bring road up to safety standards for the city.

Vacating proposed portion of Willow Dr. will not affect access to any parcels.

The petition must be signed (written signature) by owners of the majority of land fronting the right-of-way, easement, or platted public area proposed to be vacated. Each petitioner must include address and legal description of his/her property.

Submitted By:

Name: Nikolas Bothin  
 Address: 955 Willow Dr.  
Homer A.K. 99603  
 Phone: 907-226-3331

Signature as:

Petitioner  Representative  
Nikolas Bothin

Petitioners:

Signature: Beverley Nikora  
 Name: Beverley Nikora  
 Address: 920 Quiet Creek Dr.  
HOMER, AK 99603

Signature: Malcolm Gaylord  
 Name: Malcolm Gaylord  
 Address: 920 Willow Dr  
Homer AK 99603

Owner of: 950 Willow Dr  
Homer, AK  
 Signature: Allison Gaylord  
 Name: Allison Gaylord  
 Address: 920 Willow Dr  
Homer AK 99603

Owner of: 920 & 905 Willow Dr  
 Signature: Carey Meyer PUBLIC WORK DIRECTOR  
 Name: CAREY MEYER  
 Address: 491 E PIONEER AVE  
HOMER AK 99603

Owner of: 920 + 905 Willow Dr.

Owner of: STREET RIGHT OF WAY



## **Memorandum**

TO: Rick Abboud – Planning Director  
FROM: Carey Meyer – Public Works Director  
DATE: June 30, 2014  
SUBJECT: Willow Drive Replat

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Public Works supports this vacation because:

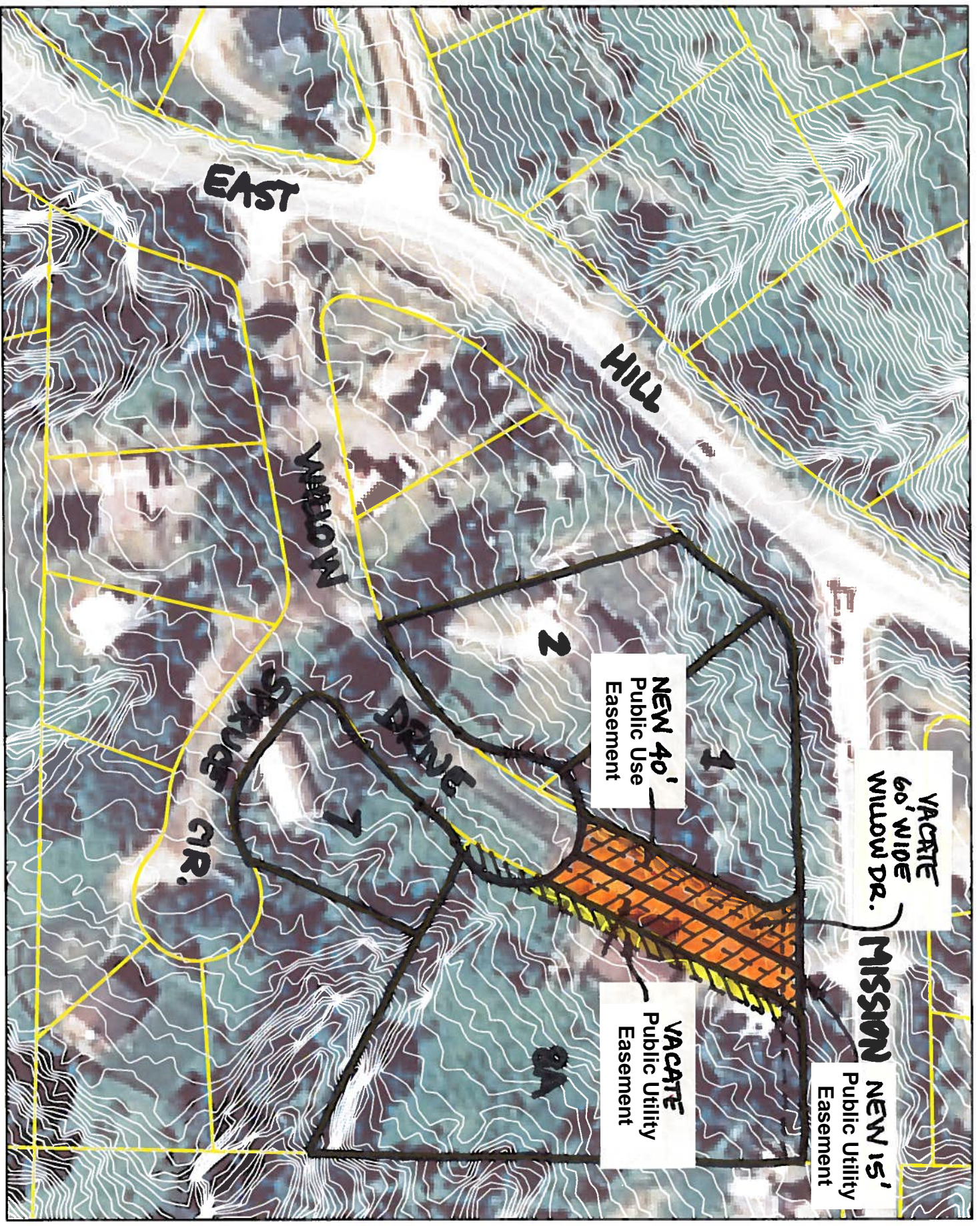
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Recommend vacation of the portion of Willow Drive shown on attached drawing with the condition that:

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6/26/14

1 inch = 100 feet



Bonnie Boisvert  
860 Willow Drive  
Homer, AK 99603  
907-235-7286  
907-399-7280  
bonnie.a.boisvert@gmail.com  
July 9, 2014

RECEIVED

7/9/2014

CITY OF HOMER  
PLANNING/ZONING

Homer Advisory Planning Commission  
491 East Pioneer Ave.  
Homer, AK 99603

Re: statement in opposition to vacation of north portion of Willow Drive 200 ft from Mission Rd south towards Spruce Lane

I have been a property owner on Willow Drive since 1977.

From what I remember this is the first area that Gene Effler developed as Bayview Gardens Subdivision. The original plat shows that Willow Drive should be 60 feet wide. Historically and currently the width of Willow Drive is about 30 feet. Mr. Effler did a lot of the work building the roads himself with his CAT and dump truck with materials from his property off Skyline Drive. The roads were in poor shape and maintained by the borough at that time. Years ago the property owners got together and bought materials, pit run gravel from Anchor Point, to add to the roadbed. At that time Mission Road was a gravel road maintained by the State and access on to Willow was 18" lower than it is now.

All utilities here are underground; the main lines run along the south side of Willow Drive. I believe they should stay there. This original part of the subdivision also has no city water or sewer.

One of the things that happened up here in the early days of developing these lots was... what you thought were the property markers were actually road markers that Mr Effler used in identifying locations. This I believe led to structures being built on lots that were actually in the road, easements, or rights-of-way.

Where should Willow Drive 60 foot wide road really be? Where is the missing 30' ?

There are springs all along Willow Drive especially along the bottom of Lot 2. Drainage has historically been a problem. When East Hill was rebuilt and paved there was a spring at the end of Willow, East Hill end, in a 10' hole that ran year round. The State just filled it in to accommodate parking needs of a lot owner and vowed that the drainage and ditching would take care of the water seeping into the ground. It was ditched once, when East Hill was rebuilt ( 1988? ) and nothing has been done since. I can poke a 6' stick in the ground, it easily goes down 4+ feet. I believe the seepage from this spring has to do with the condition of the road. By Lot 2 years ago, it was almost like quicksand and one of my sons was stuck in the mud up to his waist, he was about 8 yrs old at the time. There's water/mud in these ditches all the time.

Possibly the Corps of Engineers should be contacted re: wetlands for this area.

I understand that Mr Botkin's structures are on the edge of the road, according to the Replat that was done in 2006 for now deceased Chuck Hart. Parking areas could be developed farther in on his property so that they are not parking in the road way.

Where should Willow Drive 60 foot wide road really be? Where is the missing 30' ?

I can tell you that there is much less traffic on Willow Drive now than there was years ago.

The gravel that was on the road is being grated down into the ditches and the ditches are never cleaned out. The road level was so low that the main electrical feed to my property from the main box on Spruce Ct, as it crossed Willow, was being exposed by a few inches. Between HEA and the city, the wire was put where it should have been. Maybe gravel could be added to the road and build it up a little, get the gravel out of the ditches.

Where should Willow Drive 60 foot wide road really be?

You never know how severe break up will be on our road. The timing of the gas line project going down Willow during breakup left a section of the road impassable and the only way out to East Hill was via Mission Road. Years ago when we were in the borough and not the city the road was impassable on the East Hill end and Mission Rd was the access to East Hill.

Winter conditions are challenging and I always try to get my driveway cleared out before the city comes along so you don't get plowed in. I noticed new equipment operators for snow removal this year...this is not a road you can do a rush job on. Mr Wyeth has been the best and I always look to see who the operator is...it does make a huge difference on Willow Drive how it is plowed and by who.

We were annexed into the City, roads and all. I pay taxes.

I would like Willow Drive to remain an open road that joins East Hill to Mission Road and not vacated.

If you have any questions, please contact me. I fish in the Inlet during the summer but I will get back to you as quickly as I can.

Thank you for the opportunity to give comments.

Bonnie Boisvert  
property owner Willow Drive lots 3 and 4





# City of Homer

www.cityofhomer-ak.gov

Planning  
491 East Pioneer Avenue  
Homer, Alaska 99603

Planning@ci.homer.ak.us  
(p) 907-235-3106  
(f) 907-235-3118

## STAFF REPORT PL 14-63

**TO:** Homer Advisory Planning Commission  
**FROM:** Rick Abboud, City Planner  
**MEETING:** July 16, 2014  
**SUBJECT:** Remand of Conditional Use Permit (CUP) 13-13 “More than one building containing a permitted principal use on a lot” at 3850 Heath Street.

Synopsis: The owner wishes to add a 1,536 sf duplex.  
Applicants: Kenton Bloom Jose Ramos  
Seabright Survey and Design dba Heath Street Investments  
144 East End Road, Suite A 127 W. Pioneer Avenue  
Homer, AK 99603 Homer, AK 99603  
Location: 3850 Heath Street  
Parcel ID: 17711023, Lot 1-A-1 Carl Sholin Sub. No. 5  
Zoning Designation: Central Business District (CBD)  
Existing Land Use: Multi use, commercial/residential  
Surrounding Land Use: North: Vacant  
South: Commercial  
East: Vacant  
West: Residential  
Comprehensive Plan: “Guide Homer’s growth with a focus on increasing the supply and diversity of housing, protect community character, encouraging infill, and helping minimize global impacts of public facilities including limiting greenhouse gas emissions.” Goal 1.  
Wetland Status: No wetlands indicated.  
Flood Plain Status: Zone D, Flood hazards undetermined.  
BCWPD: Not within the Bridge Creek Watershed Protection District  
Utilities: City water and sewer are available.  
Public Notice: Notice was sent to 20 property owners of 26 parcels as shown on the KPB tax assessor rolls.

### Introduction

The applicant requested a CUP to add a 1,536 sf duplex to a lot with six existing structures creating a total of 6,106 sf of building area on the 0.94 acre (40,946 sf) lot. The Planning Commission approved the CUP to allow the additional building as provided in HCC 21.18.030(k). Following an appeal hearing, the Board of Adjustment remanded the item back to the Planning Commission. Testimony and evidence will be limited to the subject of the remand as explained below.

*The Board rejects the Commission’s Findings Nos. 5 and 8, holding that they are based on insufficient evidence. The Board remands to the Commission to require and consider additional evidence in determining whether the Property complies with the Homer Zoning Code as required under HCC 21.90.030, to make findings regarding the Property’s compliance with the Homer Zoning Code, and revisit Findings Nos. 5 and 8 after considering additional evidence regarding compliance.*

*Commission Finding No. 5 states, “Public facilities are, or will be prior to occupancy, adequate to serve the proposed use.” Commission Finding No. 8 states, “The proposal will comply with all applicable regulations and conditions through the permitting process.”*

*In the text of its Decision on Appeal, at p. 9, the Board states that it “remands to the Commission to require the parties to produce all documents relevant to the Property’s current compliance with the Zoning Code and to issue specific findings regarding such compliance after considering any new evidence submitted by the parties.”*

*Regarding the Commission’s action upon a remand from the Board, HCC 21.93.560(b) and (c) provide in relevant part:*

*b. A decision remanding a case shall describe any issue upon which further evidence should be taken, and shall set forth any further directions the Board deems appropriate for the guidance of the lower administrative body.*

*c. The lower administrative body shall promptly act on the case upon remand in accordance with the decision of the Board of Adjustment.*

*The Board’s remand order requires the Commission to do the following:*

- *Require and consider additional evidence in determining whether the Property complies with the Homer Zoning Code as required under HCC 21.90.030.*
- *Make findings regarding the Property’s compliance with the Homer Zoning Code.*
- *Revisit Findings Nos. 5 and 8 after considering additional evidence regarding compliance.*

*Under HCC 21.93.560(b), the Commission on remand should take additional evidence only on the issues presented by the Board’s remand order. Those are the issues that are stated immediately above.*

**Items for consideration:**

**1, Determining compliance with HCC 21.90.030 by requiring and considering additional evidence:**

***No permit may be issued under the Homer Zoning Code unless all structures on and uses of the property conform to the Homer Zoning Code, regulations, and any previously issued permits that are applicable to the property and remain in effect. Any permit issued in violation of this section is voidable upon written notice from the City Planner or City Manager. [Ord. 08-29, 2008].***

**Analysis:** The Board of Adjustment (BOA) reviewed the above code citation and tied it to finding #8, which will be reviewed later. The BOA also suggests that a conditional use permit cannot be issued if a current zoning violation exists on the property. I found this to be a problematic interpretation and asked for a review from Tom Klinkner, the City Attorney. Basically, this literal interpretation conflicts with other code language which requires a permit to be issued in order to come into compliance with zoning regulations:

**From:** Thomas Klinkner [<mailto:tklinkner@BHB.com>]  
**Sent:** Monday, June 23, 2014 1:37 PM  
**To:** Rick Abboud  
**Subject:** RE: CU 13-13

Rick,

You have asked whether the City may issue a permit under the Homer Zoning Code for construction on property containing a structure or use that does not conform to the Homer Zoning Code. I conclude that the City may issue a permit under the Homer Zoning Code for construction on property containing a structure or use that does not conform to the Homer Zoning Code only if either (i) any structure or use on the property that does not conform to the Homer Zoning Code is a nonconforming structure or use that is permitted to continue under HCC Chapter 21.61, or (ii) the construction under the permit will correct any existing nonconformity on the property to the requirements of the Homer Zoning Code.

HCC 21.90.030 provides that, “No permit may be issued under the Homer Zoning Code unless all structures on and uses of the property conform to the Homer Zoning Code, regulations, and any previously issued permits that are applicable to the property and remain in effect.” While a literal reading of this sentence might lead one to conclude that no permit may be issued for a use or structure on property that currently contains a nonconforming use or structure or a zoning violation, such an interpretation would be inconsistent with other Homer Zoning Code provisions and the public policy supporting the correction of zoning violations.

HCC Chapter 21.61 specifically provides for the continuation of nonconforming uses and structures, i.e., uses and structures that existed lawfully at their inception, but no longer are allowed under enactments that subsequently became applicable to them. Moreover, HCC 21.61.030(a) provides that a nonconforming structure may be enlarged or altered, provided that the enlargement or alteration does not increase the

nonconformity. If HCC 21.93.030 acted as an absolute prohibition on the issuance of permits for construction on any property containing a nonconforming structure, the permission in HCC 21.61.030(a) could not be implemented.

HCC 21.90.060 authorizes the City Planner to order, among other things, the discontinuation of a use of land or a structure that violates the Homer Zoning Code, and the abatement or removal of a structure that violates the Homer Zoning Code. Under HCC 21.70.010(a), a person must obtain a zoning permit to perform the work that is required by an order of the City Planner under HCC 21.90.060. If HCC 21.93.030 acted as an absolute prohibition on the issuance of permits for the construction required to correct a violation of the Homer Zoning Code, an enforcement order to correct the violation under HCC 21.90.060 would be unenforceable. Interpreting HCC 21.93.030 to authorize a permit for construction that is required to correct a structure or use of property that violates the Homer Zoning Code both reconciles that section with HCC 21.90.060 and HCC 21.70.010(a), and effects the public policy supporting the correction of zoning violations.

**Finding R1.** A permit or permit(s) may be issued when zoning compliance of the project site will result.

## **2. Consider additional evidence in determining whether the property complies with the Homer Zoning Code as required under HCC 21.90.030.**

This section is divided into two parts. The first section is an analysis and review of the information in the Planning Office, as directed by the Board of Adjustment. The second section consists of written testimony provided by Mr. Griswold, and the Planning Department response.

### **Section 2.1 - Additional Evidence and review from Planning Office**

**Analysis:** An acceptance of the City Attorney's conclusion results in the opportunity to examine what items on the property are not in compliance. Conditions may then be made to require compliance.

From my review of the documents and familiarity of permitting requirement, several items may be addressed.

- Evidence exists of previous noncompliance with DEC regulations as documented in correspondence provided by Mr. Griswold.
- No evidence has been found to suggest that a DEC compliant system was installed and approved.
- Exhibit A. Zoning permit 02-73 was issued for four motel cabins. Three of the four structures were never constructed and the permit has expired for their construction. The one structure that was constructed did not follow the zoning permit: cabins with the dimensions of 20x24 feet were approved, but the structure is 24 x 28 with an additional 5 x 28 ft deck. Additionally, the cabin is not used as a motel. Therefore, to bring this structure into compliance, a new

zoning permit with correct dimensions and use should be applied for. This building is referred to as the 6<sup>th</sup> structure in the conditions and findings below.

- Exhibit B. Zoning permit 0603-051 approved four existing cabins and duplex as indicated on the associated site plan. (These are the three westernmost cabins and the duplex on the zoning permit site plan, and the cabin to the east of the duplex. The westernmost building has since been used commercially for Horizon Satellite.)
- No change of use or fire marshal permits were found for the two structures currently being used commercially, Horizon Satellite and the daycare.

**Finding R2:** An approved site plan requires compliance with local, state and federal regulations.

**Finding R3:** Compliance will result when local, state and federal regulations are met.

**Finding R4:** An approved CUP allows for multiple structures containing a principle use on a lot in the CBD.

**Finding R5:** The “6<sup>th</sup>” structure currently found furthest to the east is noncompliant and a new zoning permit is required.

**Condition R1:** A zoning permit is required for the 6<sup>th</sup> structure.

**Finding R6:** Commercial structures are required to gain fire marshal approval.

**Condition R2.** Proof of compliance with State Fire Marshal regulations regarding the two commercial structures shall be produced prior to issuance of a zoning permit.

**Finding R7:** Proof of compliance with State DEC regulations is required.

**Condition R3:** Submission of engineered plans for water and sewer service for all structures must be accepted for compliance with AKDEC.

**Condition R4.** Proof of installation of approved plans for water and sewage systems are required to be verified prior to occupancy of the newly proposed structure.

**Section 2.2: Additional evidence presented by Mr. Griswold, and review by Staff.** The Commission may adopt, amend, or make new findings.

New evidence and public comment provided by Mr. Griswold. Letter dated 7/8/2014 with attachments. Mr. Griswold makes seven points in his letter. Staff will address each point.

“1. None of the existing structures on the subject lot comply with the Homer Zoning Code as required under HCC 21.90.030 for the approval of a conditional use permit.”

Staff comment 2.1: The original staff report includes an analysis of the whole site. This conditional use permit is for more than one building containing a permitted principle use on a lot and includes the new construction of an additional duplex.

“2. None of the existing structures on the subject lot constitute “motel use” nor did they ever constitute “motel use.” ”

Staff comment 2.2: Staff agrees that none of the existing structures are presently being used as a motel.

“3. One building on the subject is being utilized as a public utility (by Horizon Satellite) which is not a permitted use within the CBD. No conditional use permit or change of use permit was ever granted for this former tool shed which was extensively remodeled without the necessary permits. The communication tower attached to the remodeled building was also constructed without necessary permits.”

Staff comment 3.1: Examples of public utilities, which may be allowed by conditional use permit in the CBD, include structures such as the sewer treatment plant. Horizon Satellite sells internet services and satellite tv subscriptions. Staff does not find it reasonable to categorize this business as a public or private utility.

Comment 3.2: Precedence has been that ‘towers,’ the term is used loosely here, that are co-located on a building as an accessory use to a structure do not need a permit. When a tower is a principle use on a lot, or is clearly not accessory to a use or structure, a CUP has been required. The City is in the process of defining and drafting regulations for towers as structures, regardless of their use as a public utility.

“4. No zoning permits or conditional use permits were obtained prior to the construction of any of the existing structures on the subject lot as required by HCC 21.70.010(b)”

Staff comment 4.1: See Finding R1.

“5. Operating a domestic wastewater system without ADEC plan approval constitutes a violation of 18 AAC 72.010.”

Staff Comment 5.1: See Condition R4. The applicant can rectify any violation by providing ADEC approved plans and providing proof of construction as approved in the plan.

“6. Between October of 2011 and October of 2013 there were at least 25 responses by HPD to the subject lot.”

Staff Comment 6.1: No evidence has been presented that additional residences will result in an increase in the number of calls to the police department. Approval of the CUP is not indicative of more or fewer future HPD responses.

“7. There is no provision under HCC allowing the granting of after-the-fact zoning permits and HCC 21.70.030(c) provides as follows: “In granting a zoning permit, no City official or employee has authority to grant a waiver, variance, or deviation from the requirements of the zoning code and other applicable laws and regulations, unless such authority is expressly contained therein. Accordingly, in order to bring the subject lot into compliance with the Homer Zoning Code, all existing structures must be removed. Once that is done, no conditional use permit would be required for the proposed duplex, being the only structure on the lot and a permitted use within the CBD, so CUP 13-13 would be rendered moot.”

Staff Comment 7.1: Staff believes that proper permits may be applied for and granted to remedy some situations. See Finding R1. It is reasonable to abate the lack of permits by the application and granting of permits that meet city code requirements.

**3. The Board rejects Commission’s Findings Nos. 5 and 8, holding they are based on insufficient evidence. Original analysis and findings are in italics below.**

**HCC 21.71.030(e). Public services and facilities are or will be, prior to occupancy, adequate to serve the proposed use and structure.**

***Original Analysis:** Public utilities first serviced this property in the 1970’s. Over the years the utility lines of been extended and added onto as new structures were built. Public Works asks that the owner submit a final site plan that depicts the layout of the water and sewer line for the existing buildings and the proposed extension. In additional the water meter needs to be upsized from the existing 5/8” meter to a 1” meter.*

**Additional Analysis upon remand:** Additional evidence indicates that any extensions of the current water and sewage system need to comply with DEC regulations in addition to any requirements of the Public Works Department. DEC approval shall be for the whole site, not just the proposed duplex. Conditions R2 and R4 require proof of compliance prior to occupancy, supporting that public services will be adequate prior to occupancy of the proposed structure.

~~***Finding 5:** Public services and facilities are adequate to serve the proposed use. A paved road along with city water and sewer service the site.*~~

**Finding R8:** Adherence to all conditions of this CUP decision, which includes gaining the applicable state and local permits, will result in adequate services.

**HCC 21.71.030(h). The proposal does or will comply with the applicable regulations and conditions specified in this title for such use.**

**Analysis upon remand:** Evidence (or lack thereof) indicates that the structure furthest to the east needs approvals in a CUP and zoning permit to be lawful. State law requires all

commercial structures to gain Fire Marshal approval and documentation is needed to verify compliance. No documentation exists of compliance with DEC regulations regarding standards for water and sewage service to the multiple buildings found on the lot. Conditions R1, R2, R3 and R4 address these deficiencies.

~~**Finding 8:** The proposal will comply with all applicable regulations and conditions through the permitting process.~~

**Finding R9:** A zoning permit requires compliance with all applicable regulation per HCC 21.70.030 (a).

**CUP 13-13 upon remand found the following conditions valid and they will continue to be valid in the event of approval.**

1. *The landscaped area in front of each building to include trees, shrubs as well as lawn. These landscaped areas to be visually distinct from the parking lot and driveway surfaces to avoid tenant parking on the landscaped areas. Sheet 3 of 3, dated 10/15/2013.*
2. *The landscaped visual buffer along the west property line to be on private property and out of the utility easement(s). The buffer to be a least 10 feet wide and have a total area of at least 500 sf. The new plantings to consist of at least 50% evergreen with an initial tree truck size of 1.5 inches or greater in diameter.*
3. *All landscaping to be completed within nine months or within the first full growing season of the issuance of the Zoning Permit, HCC 21.50.030(f)(2). See conditions.*
4. *The proposed structure to be setback a minimum of 15 feet from the top of the bank of the drainage ditch per HCC 21.50.020(b)(2).*
5. *The dumpster to be located so as to not be visible from Heath Street and screened on three sides with an opaque wall, fence, landscaped berms, evergreen plantings or a combination thereof.*
6. *Prior to issuance of the Zoning Permit, the owner to submit a final site plan that depicts the layout of the water and sewer lines for the existing buildings and the proposed extension. Public Works request.*
7. *The water meter to be upsized to a 1” meter prior to service of the proposed duplex. Public Works request.*
8. *If a Zoning Permit has not been issued within two years of the signed Decisions and Findings this CUP expires.*



**Staff Recommendations:** Approve CUP 13-13 upon remand with additional findings R1 through R9 and the following additional conditions:

**Condition R1:** A zoning permit is required for the 6<sup>th</sup> structure.

**Condition R2.** Proof of compliance with State Fire Marshal regulations regarding the two commercial structures shall be produced prior to issuance of a zoning permit.

**Condition R3:** Submission of engineered plans for water and sewer service for all structures must be accepted for compliance with AKDEC.

**Condition R4.** Proof of installation of approved plans water and sewage systems are required to be verified prior to occupancy of the newly proposed structure.

## **ATTACHMENTS**

1. Record of Appeal
2. Board of Adjustment Decision on Appeal dated June 6<sup>th</sup>, 2014
3. Exhibit A, Zoning Permit
4. Exhibit B, Zoning Permit
5. Email from Mr. Griswold dated 6/22/14 with attached correspondence from Gene Mccabe
6. Comments dated 7/8/2014 from Mr. Griswold
7. Public Notice for 7/16/2014 meeting



# **RECORD OF APPEAL**

**to the  
Board of Adjustment**

Appeal of the Homer Advisory  
Planning Commission Decision  
of December 4, 2013

Conditional Use Permit 13-13  
For More Than One Building Containing a  
Permitted Principal Use on a Lot at  
3850 Heath Street

Frank Griswold, Appellant



Record of Appeal  
Index  
Frank Griswold vs. Planning Commission Decision  
Conditional Use Permit 13-13  
Volume I

Notice of Appeal from Jo Johnson, City Clerk	<b>Page 5</b>
Homer Advisory Planning Commission Agenda December 4, 2014	<b>Page 13</b>
Staff Report PL 13-85 Re: CUP 13-13 for More Than One Building Containing a Principal Permitted Use on a Lot at 3850 Heath Street with Attachments	<b>Page 15</b>
<ul style="list-style-type: none"><li>• Vicinity Map</li><li>• CUP Application with CDM Review</li><li>• Outdoor Post Light</li><li>• 2005 Survey</li><li>• Site Plan dated 10/15/13</li></ul>	
Email to City Planner from Frank Griswold Re: CUP 13-13 dated November 26, 2013	<b>Page 41</b>
Proposed Drawing of Building Submitted December 2, 2013	<b>Page 47</b>
Information from Frank Griswold to City Planner date stamped 12/3/13	<b>Page 49</b>
Written Comments to the Homer Advisory Planning Commission from Frank Griswold dated December 3, 2013	<b>Page 51</b>
Minutes Excerpt from December 4, 2013 Homer Advisory Planning Commission Regular Meeting	<b>Page 57</b>
Decision and Findings of the Homer Advisory Planning Commission for CUP 13-13	<b>Page 61</b>





## City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Office of the City Clerk

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Homer, Alaska 99603

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(f) 907-235-3143

January 27, 2014

Dear Parties of Record:

**A Notice of Appeal to the Board of Adjustment Re: Planning Commission Decision – Conditional Use Permit 13-13 for More Than One Building Containing a Permitted Principal Use on a Lot at 3850 Heath Street, Homer, Alaska, has been filed by Frank Griswold.**

I find the Notice of Appeal to be compliant with Homer City Code Sections § 21.93.070 and 21.93.080. Attached is a copy of the appeal.

Homer City Code Section § 21.93.500 states that a. Only persons who actively and substantively participated in the matter before the Commission and who would be qualified to appeal under HCC § 21.93.060 may participate as parties in an appeal from the Commission to the Board of Adjustment; and b. Any person so qualified who desires to participate in the appeal as a party, other than the appellant, the applicant for the action or determination that is the subject of the appeal and the owner of the property that is the subject of the action or determination, must, not less than 14 days before the date set for the appeal hearing, file with the City Clerk a written and signed notice of appearance containing that party's name and address, and proof that the person would be qualified under HCC § 21.93.060 to have filed an appeal.

The appeal record will now be prepared in accordance with HCC §21.93.520 and you will be notified when the record is complete. A hearing date will be scheduled for the Board of Adjustment to hear the appeal in a public forum.

If you have any questions about this process please contact the City Clerk's Office.

Thank you,

Jo Johnson, MMC  
City Clerk

Cc: Frank Griswold  
Jose Ramos  
Seabright Survey + Design  
Mayor and City Council  
City Manager Wrede  
City Attorney Klinkner  
City Planner Abboud

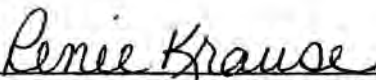




**CLERK'S AFFIDAVIT OF POSTING**

I, Renee Krause, CMC, Deputy City Clerk I for the City of Homer, Alaska, do hereby certify that a copy of the Notice of Appeal to the Board of Adjustment Re: Planning Commission Decision – Conditional Use Permit 13-13 for More than One Building Containing a Permitted Principal Use on a Lot at 3850 Heath Street, Homer, Alaska, filed by Frank Griswold has been distributed to the Attached list of Property Owners on January 27, 2014 by regular postal mail service.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 27<sup>th</sup> day of January, 2014.

  
\_\_\_\_\_  
Renee Krause, CMC, Deputy City Clerk I

CARPENTERS LOCAL NO 1281  
407 DENALI ST  
ANCHORAGE, AK 99501

CAVE LINDA S  
PO BOX 90004  
PORTLAND, OR 97290

DARE ENTERPRISES LLC  
PO BOX 867  
HOMER, AK 99603

DAWSON RAYMOND D  
PO BOX 3127  
HOMER, AK 99603

DAY BOB R & JIMMY  
2159 FRISBEE CT  
HOMER, AK 99603

GILLIAM ANTHONY J & BETH A  
552 BONANZA AVE  
HOMER, AK 99603

GRISWOLD FRANK  
519 KLONDIKE AVE  
HOMER, AK 99603

HAMILTON ANNE K  
PO BOX 2118  
HOMER, AK 99603

HAMILTON TIMOTHY E  
PO BOX 2118  
HOMER, AK 99603

HEATH STREET INVESTMENTS LLC  
127 W PIONEER AVE  
HOMER, AK 99603

HOMER ELECTRIC ASSN INC  
3977 LAKE ST  
HOMER, AK 99603

JOHNSTON BRAD  
605 MATHEWS ST APT B  
FORT COLLINS, CO 80524

LANGMAN REBECCA J  
584 BONANZA AVE  
HOMER, AK 99603

MACAULY HARRY & ANDREA L  
576 KLONDIKE AVE  
HOMER, AK 99603

MAXWELL EDNA  
4801 SHELIKOF ST  
ANCHORAGE, AK 99507

MAXWELL TAL  
4801 SHELIKOF ST  
ANCHORAGE, AK 99507

JAMES P MEESIS TRUSTEE  
MEESIS LIVING TRUST  
PO BOX 1094  
HOMER, AK 99603

SMITH THOMAS & CONNIE  
583 KLONDIKE AVE  
HOMER, AK 99603

STATEWIDE OFFICE OF LAND  
MANAGEMENT  
UNIVERSITY OF ALASKA  
1815 BRAGAW ST STE 101  
ANCHORAGE, AK 99508

Frank Griswold  
519 Klondike Avenue  
Homer, Alaska 99603

KJ

**NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT OF THE HOMER  
ADVISORY PLANNING COMMISSION'S APPROVAL OF CONDITIONAL USE  
PERMIT 13-13**

This appeal concerns the Homer Advisory Planning Commission's Decision approving CUP 13-13 for activities on Lot 1-A-1 of Carl Sholin Subdivision No. 5, located at 3850 Heath Street, Homer, Alaska. The owner of the subject property is Jose Ramos DBA Heath Street Investments, 127 W. Pioneer Avenue, Homer, Alaska 99603. The Commission's Decision was signed on January 6, 2014 and distributed to Frank Griswold on January 14, 2014. Griswold is a resident of the City of Homer and owns several lots located within one block of the subject property. One of Griswold's lots is located within 300 feet of the subject property. Griswold actively participated in the proceedings before the Commission by providing a substantial amount of written testimony and informational material. Griswold believes the use(s) approved via CUP 13-13 will create congestion, visual blight, and leaching/migration of sewage and other contaminants that will adversely affect the general character of the neighborhood and the value of his real property. Accordingly, Griswold has standing to appeal under HCC 21.93.060(c).

**ALLEGATIONS OF ERROR**

1. The Homer Advisory Planning Commission is an advisory body and therefore did not have the authority under HCC 2.72.050(a)(2) or any other provision of law to approve CUP 13-13.
2. It was inappropriate for City Planner Rick Abboud to sign the Commission's Decision because he is not a member of the Commission and the Commission's Decision did not require his approval.
3. Kenton Bloom, DBA Seabright Survey + Design, is not licensed to practice law in the State of Alaska and therefore was not authorized to be the "Applicant" or otherwise represent Jose Ramos in quasi-judicial proceedings before the Commission. Furthermore, Jose Ramos is not bound by any representations made by Kenton Bloom or by any terms agreed to by Kenton Bloom. Any non-lawyer who represents a principal in quasi-judicial proceedings engages in the unauthorized practice of law.
4. The application for CUP 13-13 failed to provide "all additional information (including all permits, plans and analyses) required by other provisions of the zoning code applicable to the proposed use

within the subject zoning district." All zoning permits previously issued for the 6 existing structures on the subject lot should have been provided with the application as well as any analyses by the Alaska Department of Environmental Conservation regarding the adequacy, or lack thereof, of the site's waste water collection system.

5. Planning Staff failed to provide the Commission with critical relevant evidence in the subject property's street file pertaining to zoning permits, motel designation, and water/sewer issues.

6. City Planner Rick Abboud agreed to provide the Commission with a series of emails between Griswold and him regarding CUP 13-13 but erroneously failed to do so.

7. The Commission erred in finding that other conditions were not 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 and it erred in finding that such other conditions were "NA" i.e., not applicable.

8. The Commission erred in not requiring abatement of all existing zoning violations on the subject property as a condition for approval of CUP 13-13.

9. The Commission failed to identify what provisions of the Community Design Manual (CDM) were applicable.

10. The Commission erred in making compliance with the CDM a finding instead of a condition of CUP 13-13 and, by doing so, erroneously granted a de facto waiver of applicable provisions of the CDM, which it did not have the authority to do.

11. The Commission's findings are not supported by substantial evidence.

12. The Commission erred in finding/speculating that the proposal will comply with all applicable provisions of the CDM through the permitting process; the Commission cannot make a finding of fact about an event that has not occurred.

13. The Commission erred in limiting compliance with the CDM to the duration of the permitting process.

14. The Commission erred in finding that the proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan.

15. The Commission erred in finding that the proposal encourages high-quality site development.

16. The Commission erred in requiring that all landscaping shall be completed within nine months of **substantial completion of the project** or within the first full growing season after **substantial completion of the project**, whichever comes first. "Substantial completion of the project" is excessively ambiguous terminology and renders Condition 3 unenforceable. Even with this condition in place, the proposed duplex could be occupied long before any landscaping is begun, much less completed.

17. The Commission erred in failing to mandate follow-up inspection(s) by planning staff to insure that landscaping (per Condition 3) and all other conditions are complied with.

18. The Commission erred in failing to state what the consequences would be if landscaping and other conditions were not completed in a timely manner.

19. The Commission erred in simply requiring the property owner to depict the layout of the existing water and sewer lines and proposed extensions; the Commission should have required the property owner to obtain approval by the Alaska Department of Environmental Conservation of the water lines and the waste water collection system serving the six existing buildings and the proposed duplex.

#### RELIEF SOUGHT

Appellant Frank Griswold respectfully requests that the Board of Adjustment reverse the Decision of the Homer Advisory Planning Commission and deny CUP 13-13. Alternatively, Griswold requests that this matter be remanded to the Commission for the taking of additional evidence.

DATED: January 21, 2014.

By:   
Frank Griswold



## REGULAR MEETING AGENDA

**1. Call to Order**

**2. Approval of Agenda**

**3. Public Comment**

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

**4. Reconsideration**

**5. Adoption of Consent Agenda**

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

- A. Approval of Minutes of November 6, 2013 meeting **pg 1**

**6. Presentations**

**7. Reports**

- A. Staff Report PL 13-89, City Planner's Report **pg 7**

**8. Public Hearings**

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

- A. Staff Report PL 13-80, CUP 2013-12 Request to build a 160' communications tower at 5700 Easy Street **pg 9**  
B. Staff Report PL 13-85, CUP 2013-13 Request for more than one building containing a permitted principal use, a residential duplex at 3850 Heath St. **pg 29**  
C. Staff Report PL 13-98, Draft Ordinance 2013-42(A) Amending the Definition of "Discontinued" in Homer City Code 21.61.015, Definitions, to Extend Time Required to Discontinue a Nonconforming Use from 12 Months to 24 Months. **pg 55**

**9. Plat Consideration**

- A. Staff Report PL 13-94, Paradise Heights Subdivision 2013 Replat Preliminary Plat **pg 65**  
B. Staff Report PL 13-95, Tietjen Subdivision 2013 Addition Preliminary Plat **pg 73**  
C. Staff Report PL 13-97, Tietjen Subdivision-Compass Addition Preliminary Plat **pg 81**  
D. Staff Report PL 13-96, Barnett's South Slope Subdivision Quiet Creek Park Preliminary Plat **pg 89**

**10. Pending Business**

**11. New Business**

- A.. Staff Report PL 13-93, Resolution 13-XX amending the HAPC Bylaws **pg 101**

**12. Informational Materials**

- A. KPB Planning Commission Notice of Decisions **pg 121**
- Glacier View Subdivision 2013 Addition Preliminary Plat
  - Yah Sure Subdivision 2013 Preliminary Plat
  - Wintergreen Subdivision Preliminary Plat
  - 10-ft. utility easement vacation along western boundary of Tract A-2A Rumley-Collie Five and 10 ft. utility easement vacation along easterly boundary of Tract A-1A Rumley-Collie Three also shown on Rumley-Collie Subdivision Six Sec. 11, T6S, R13W, S.M.
- D. City Manager's Report from November 25, 2013 City Council Meeting **pg 153**  
see Planner's Report 13-89
- C. US Army Corps of Engineers Alaska District Special Public Notice, *Service area guidance for mitigation banks and in-lieu fee programs operating in the U.S. Army Corps of Engineers, Alaska District* **pg 161**

**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 9:30 p.m. An extension is allowed by a vote of the Commission. Next regular meeting is scheduled for January 2, 2014. A work session will be held at 5:30 pm.





# City of Homer

www.cityofhomer-ak.gov

## Planning

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### STAFF REPORT PL 13-85

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Dotti Harness-Foster, Planning Technician  
**MEETING:** December 4, 2013  
**SUBJECT:** Conditional Use Permit (CUP) 13-11 "More than one building containing a permitted principal use on a lot" at 3850 Heath Street.

**SYNOPSIS:** The owner wishes to add a 1,536 sf duplex.  
**Applicants:** Kenton Bloom, Seabright Survey and Design  
 144 East End Road, Suite A, Homer, AK 99603  
 Jose Ramos dba Heath Street Investments  
 127 W. Pioneer Avenue, Homer AK 99603

**Location:** 3850 Heath Street  
**Parcel ID:** 17711023, Lot 1-A-1 Carl Sholin Sudb. No. 5  
**Zoning Designation:** Central Business District (CBD)  
**Existing Land Use:** Multi use, commercial/residential  
**Surrounding Land Use:** North: Vacant  
 South: Commercial  
 East: Vacant  
 West: Residential

**Comprehensive Plan:** "Guide Homer's growth with a focus on increasing the supply and diversity of housing, protect community character, encouraging infill, and helping minimize global impacts of public facilities including limiting greenhouse gas emissions." Goal 1.

**Wetland Status:** No wetlands indicated.  
**Flood Plain Status:** Zone D, Flood hazards undetermined.  
**BCWPD:** Not within the Bridge Creek Watershed Protection District  
**Utilities:** City water and sewer are available.  
**Public Notice:** Notice was sent to 20 property owners of 26 parcels as shown on the KPB tax assessor rolls.

### Introduction

The applicant is applying for a CUP to add a 1,536 sf duplex to a lot in the Central Business District. There are six existing structures on site for a total of 6,106 sf on the 0.94 acre (40,946 sf) lot, as provided in HCC 21.18.030(k).

**Storm water:** Storm water plans are based on the additional amount of impervious introduced and this proposal does not trigger any requirements.

**Parking:** When complete, there will be a total of eight, two-bedroom units and one commercial-retail structure. Homer’s parking standards requires two parking spaces per residential unit, plus three parking spaces for the commercial-retail building for a total of 21 spaces. The applicant is displaying 22 parking spaces which exceeds to requirements of HCC 21.55 Off-Street Parking.

**Community Design Manual (CDM):**

**GENERAL:** While this improvement is found within the CBD and therefore is subject to some criteria in the design manual, the planning commission and planning office seek reasonable applications.

**EXTERIOR OF IMPROVEMENT:** The application indicates that the outside siding will be wood painted in earth tones. The Siding and Trim section of the CDM describes the use of traditional building material such as brick, stone or wood reflect handicraft and provide texture to buildings exteriors.

**LANDSCAPING:** The application indicates that lit walkways link the buildings entrances. The front of each building includes a planted area with trees, shrubs as well as lawn. These landscaped areas to be visually distinct from the parking lot and driveway surfaces to avoid tenant parking on the landscaped areas. See condition.



*Looking west towards Heath Street.*



*Looking west at existing parking areas.*

The 50 feet of frontage along Heath Street to be landscaped with a 10 foot wide buffer/screening. The landscaped buffer along the west property line to be on private property and out of the utility easements. The buffer to be a least 10 feet wide and have a total area of at least 500 sf. The new plantings to consist of at least 50% evergreen with an initial tree truck size of 1.5 inches or greater in diameter. All landscaping to be completed within nine months or within the first full growing season of the issuance of the Zoning Permit, HCC 21.50.030(f)(2). See conditions.

**DRAINAGE:** The site plan illustrates and topography change and drainage along the northwest corner of the property. City code requires that all structures to be setback a minimum of 15 feet from the top of the bank of the drainage ditch per HCC 21.50.020(b)(2). See condition.

**LIGHTING:** New and replacement lights need to be down lit and compliant with HCC 21.59.020-030.

**The criteria for granting a Conditional Use Permit is set forth in HCC 21.71.030 and 21.71.040.**

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

**Finding 1:** Homer City Code authorizes "More than one building containing a permitted principal use on a lot" in the CBD per HCC 21.18.030(k).

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

**Purpose:** The purpose of the CBD is primarily to provide a centrally located area within the City for general retail shopping, personal and professional services, educational institutions, entertainment establishments, restaurants and other business uses listed in this chapter. The district is meant to accommodate a mixture of residential and non-residential uses with conflicts being resolved in favor of non-residential uses. Pedestrian-friendly designs and amenities are encouraged.

**Finding 2:** The structure is designed to support mixed uses including commercial and residential development compatible with the district.

**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.**

**Analysis:** The applicant proposes to expand residential activities on the lot. Conflicts in the CBD between residential and commercial are resolved in favor of non-residential uses. Residential uses will not negatively affect adjoining property greater than non-residential uses.

**Finding 3:** The value of adjoining property will not be negatively affected.

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

**Finding 4:** The proposed use is compatible with the existing uses along Heath Street which includes a mix of commercial and residential.

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

**Analysis:** Public utilities first serviced this property in the 1970's. Over the years the utility lines of been extended and added onto as new structures were built. Public Works asks that the owner submit a final site plan that depicts the layout of the water and sewer line for the existing buildings and the proposed extension. In additional the water meter needs to be upsized from the existing 5/8" meter to a 1" meter. See conditions.

**Finding 5:** Public services and facilities are adequate to serve the proposed use. A paved road along with city water and sewer service the site.

**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.**

**Analysis:** This CBD purpose supports the mixed-use nature of the proposal. The scale, bulk, coverage and density is compatible with other sites near-by. Traffic generated from eight, two-bedroom units and one small commercial-retail structure in harmony with uses in the CBD.

**Finding 6:** The scale, bulk and density of the project are in harmony with the CBD.

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

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

**Finding 8:** The proposal will comply with all applicable regulations and conditions through the permitting process.

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

**Analysis:** Ch. 4 Goal 1, Object a. Implementation Strategies, pg 4-4: "inner-city" locations – encourage increased residential uses in mixed use destinations including office residential, and a (future) KBC "college" district.

**Finding 9:** This proposal is not contrary to the goals and objectives of the Comprehensive Plan. It expands the mixed use in the Central Business District and is well served by existing infrastructure.

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

**Analysis:** The Planning staff sought a reasonable application of the provisions of the CDM.

**Finding 10:** The proposal complies with reasonable provisions of the CDM.

**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. See Conditions.**
- 2. Fences, walls and screening.** Dumpster to be located so as it is not be visible from Heath Street and screened on three sides with an opaque wall, fence, landscaped berms, evergreen plantings or a combination thereof. See Conditions.
- 3. Surfacing of vehicular ways and parking areas.**
- 4. Street and road dedications and improvements (or bonds). NA**
- 5. Control of points of vehicular ingress and egress. NA - existing.**
- 6. Special restrictions on signs.**
- 7. Landscaping.**  
All landscaping to be completed within nine months or within the first full growing season of the issuance of the Zoning Permit, HCC 21.50.030(f)(2).
- 8. Maintenance of the grounds, buildings, or structures. NA**
- 9. Control of noise, vibration, odors, lighting or other similar nuisances. NA**
- 10. Limitation of time for certain activities. NA**
- 11. A time period within which the proposed use shall be developed.** If a Zoning Permit has not been issued within two years of the signed Decisions and Findings this CUP expires.
- 12. A limit on total duration of use or on the term of the permit, or both. NA**
- 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. NA**

**PUBLIC WORKS COMMENTS:** Public utilities first serviced this property in the 1970's. Over the years the utility lines of been extended and added onto as new structures were built. Public Works asks that the owner submit a final site plan that depicts the layout of the water and sewer line for the existing buildings and the proposed extension. In additional the water meter needs to be upsized from the existing 5/8" meter to a 1" meter.

**FIRE DEPARTMENT COMMENTS:** No comments

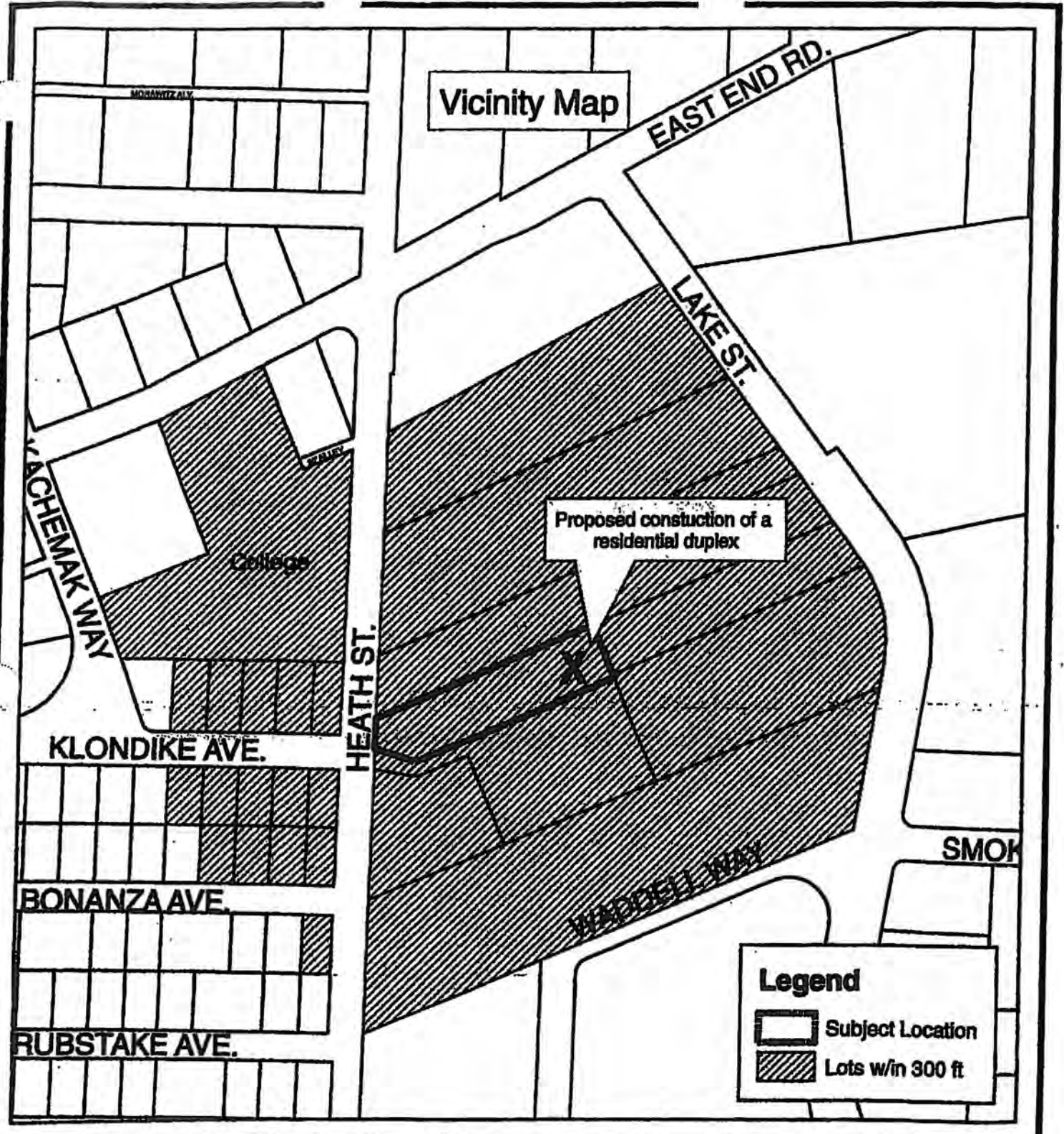
**Staff recommends approval of CUP 13-11 with conditions:**

1. The landscaped area in front of each building to include trees, shrubs as well as lawn. These landscaped areas to be visually distinct from the parking lot and driveway surfaces to avoid tenant parking on the landscaped areas. Sheet 3 of 3, dated 10/15/2013.
2. The landscaped visual buffer along the west property line to be on private property and out of the utility easement(s). The buffer to be a least 10 feet wide and have a total area of at least 500 sf. The new plantings to consist of at least 50% evergreen with an initial tree truck size of 1.5 inches or greater in diameter.
3. All landscaping to be completed within nine months or within the first full growing season of the issuance of the Zoning Permit, HCC 21.50.030(f)(2). See conditions.
4. The proposed structure to be setback a minimum of 15 feet from the top of the bank of the drainage ditch per HCC 21.50.020(b)(2).
5. The dumpster to be located so as to not be visible from Heath Street and screened on three sides with an opaque wall, fence, landscaped berms, evergreen plantings or a combination thereof.
6. Prior to issuance of the Zoning Permit, the owner to submit a final site plan that depicts the layout of the water and sewer lines for the existing buildings and the proposed extension. Public Works request.
7. The water meter to be upsized to a 1" meter prior to service of the proposed duplex. Public Works request.
8. If a Zoning Permit has not been issued within two years of the signed Decisions and Findings this CUP expires.



#### ATTACHMENTS

1. Vicinity map
2. CUP Application with CDM Review
3. Outdoor Post Light
4. 2005 Survey
5. Site plan dated 10/15/13 sheet 2 of 3

Vicinity Map



**Legend**

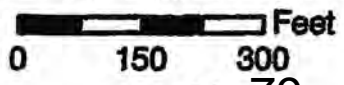
-  Subject Location
-  Lots w/in 300 ft



City of Homer  
 Planning and Zoning Department  
 October 17, 2013

Request for  
 Conditional Use Permit 2013-13  
 3850 Heath Street

Property owners w/in 300 ft are notified.



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







# City of Homer

www.cityofhomer-ak.gov

**Planning**  
 491 East Pioneer Avenue  
 Homer, Alaska 99603  
 Planning@ci.homer.ak.us  
 (p) 907-235-3106  
 (f) 907-235-3118

### Applicant

Name: Seabright Survey + Design Telephone No.: 907-299-7196

Address: 1044 East Road Suit A Homer, AK Email: seabrightz@yahoo.com

### Property Owner (if different than the applicant):

Name: Jose Ramos dba Health Street Investments Telephone No.: 229-7196

Address: 127 W. Pioneer Avenue Email: SALMONALASKA@YAHOO.COM

### PROPERTY INFORMATION:

Address: 3850 Heath St. Lot Size: 0.94 acres KPB Tax ID # 17711023

Legal Description of Property: Lot 1-A-1 Carl Sholin Sub No. 5

### For staff use:

Date: 10/16/13 Fee submittal: Amount \$500

Received by: Tina Brown Date application accepted as complete 10/16/13

Planning Commission Public Hearing Date: Nov. 6, 2013

### Conditional Use Permit Application Requirements:

1. A Site Plan
2. Right of Way Access Plan
3. Parking Plan
4. A map showing neighboring lots and a narrative description of the existing uses of all neighboring lots. (Planning can provide a blank map for you to fill in).
5. Completed Application Form
6. Payment of application fee (nonrefundable)
7. Any other information required by code or staff, to review your project

### Circle Your Zoning District

	RR	UR	RO	CBD	TCD	GBD	GC1	GC2	MC	MI	OSR	BCWPD
Level 1 ROW Access Plan	X	X							X		X	
Level 1 Lighting			X	X	X	X	X	X	X	X		
Level 2 ROW Access Plan			X	X	X		X	X		X		
Level 3 ROW Access Plan						X						

**Circle applicable permits. Planning staff will be glad to assist with these questions.**

- Y/N Are you building or remodeling a commercial structure, or multifamily building with more than 3 apartments? If yes, Fire Marshal Certification is required. Status: NO
- Y/N Will your development trigger a Development Activity Plan?  
Application Status: No
- Y/N Will your development trigger a Storm water Plan?  
Application Status: No
- Y/N Does your site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required. Application Status: No
- Y/N Is your development in a floodplain? No
- Y/N Does your project trigger a Community Design Manual review?  
If yes, complete the design review application form. The Community Design Manual is online at: <http://www.ci.homer.ak.us/documentsandforms>
- Y/N Do you need a traffic impact analysis? No
- Y/N Are there any nonconforming uses or structures on the property? No
- Y/N Have they been formally accepted by the Homer Advisory Planning Commission?
- Y/N Do you have a state or city driveway permit? Status: Existing access
- Y/N Do you have active City water and sewer permits? Status: Yes
1. Currently, how is the property used? The property is currently mixed use with six existing buildings. There are four residential and two are commercial. How many square feet? The existing buildings total 4,570 sf. The proposed building is residential duplex and is 1,536 sf.

2. What is the proposed use of the property? How do you intend to develop the property?  
The CUP is for an additional residential duplex. These apartments will serve lower income users. The building will include a porch similar to the other buildings on the property.

**CONDITIONAL USE INFORMATION: (Please use additional sheet(s), if necessary)**

- a. What code citation authorizes each proposed use and structure by conditional use permit?  
HCC 21.18.030(K) More than one building containing a permitted principal use on a lot.  
HCC 21.18.040(d) No lot shall contain more than 8,000 sf of building area (all buildings combined), nor shall any lot contain building area in excess of 30% of the lot area, without an approved CUP.

The total square footage including the new building is 6,096.

b. Describe how the proposed uses(s) and structures(s) are compatible with the purpose of the zoning district. The purpose of the Central Business District is to accommodate a mixture of residential and non-residential uses. The proposed use is compatible with the CBD. The mixed use nature of the property reflects that.

c. How will your proposed project affect adjoining property values? Neutral. There will be little or no effect on the adjoining properties

d. How is your proposal compatible with existing uses of the surrounding land? The use is compatible as there is existing mixed use in the surrounding area and a demand for additional rentals in the CBD.

Are/will public services adequate to serve the proposed uses and structures?

Yes, existing water and sewer from the City of Homer.

e. How will the development affect the harmony in scale, bulk, coverage and density upon the desirable neighborhood character, and will the generation of traffic and the capacity of surrounding streets and roads be negatively affected? The addition of the duplex will not have a measurable impact on traffic and no negative impact is expected. The building layout is in keeping with the established development pattern. The total square footage well within the limits for a CUP.

f. Will your proposal be detrimental to the health, safety or welfare of the surrounding area or the city as a whole? There is no reason to expect that this proposed building will have any negative effects.

g. How does your project relate to the goals of the Comprehensive Plan?

The 2010 Comprehensive Plan are online at:

<http://www.ci.homer.ak.us/documents/planning>

Chapter 4, Goal 1 Object A, Implementation Strategies, pg 4-4: "Inner-city" locations – encourage increased residential uses in mixed use designations including office residential, KBC "college" district, gateway mixed use district and east side commercial districts; also encourage residential as a secondary use in the GC1 district. We feel this proposal meets the intention of the Comprehensive Plan by providing additional lower cost housing in the CBD.

i. The Planning Commission may require you to make some special improvements. Are you planning on doing any of the following, or do you have suggestions on special improvements you would be willing to make? (circle each answer)

- 1. Y/N Special yards and spaces. Yes
- 2. Y/N Fences, walls and screening. Yes
- 3. Y/N Surfacing of parking areas. No
- 4. Y/N Street and road dedications and improvements (or bonds). N/A

- 5. Y/N Control of points of vehicular ingress & egress. Yes
- 6. Y/N Special provisions on signs. Yes
- 7. Y/N Landscaping. Yes
- 8. Y/N Maintenance of the grounds, buildings, or structures. Yes
- 9. Y/N Control of noise, vibration, odors, lighting, heat, glare, water and solid waste pollution, dangerous materials, material and equipment storage, or other similar nuisances. Yes
- 10. Y/N Time for certain activities. Yes
- 11. Y/N A time period within which the proposed use shall be developed. Yes
- 12. Y/N A limit on total duration of use. No
- 13. Y/N Special dimensional requirements such as lot area, setbacks, building height. No
- 14. Y/N Other conditions deemed necessary to protect the interest of the community. Yes

**PARKING**

- 1. How many parking spaces are required for your development? One parking space needed for each one-bedroom unit.
- 2. How many spaces are shown on your parking plan? There are 22 parking spaces.
- 3. Are you requesting any reductions? No

Include a site plan, drawn to a scale of not less than 1" = 20' which shows allow existing and proposed structures, clearing, fill, vegetation and drainage.

I hereby certify that the above statements and other information submitted are true and accurate to the best of my knowledge, and that I, as applicant, have the following legal interest in the property:

**CIRCLE ONE:**      Owner of record                      Lessee                      Contract purchaser

Applicant signature: *Kathy T. Ryan*                      Date: 10/15/13

Property Owner's signature: *[Signature]*                      Date: 11/15/13

## Community Design Manual (CDM) Review Application Requirements

**Project Name and Location:** 265 E. Pioneer Avenue, Harmon and Pauli Hall, by Seabright Surveying  
**Many Conditional Use Permits (CUP) required compliance with the Community Design Manual (CDM). By providing the following information, your project can be reviewed more quickly and thoroughly.**

- Landscaping, Vegetation and Screening Plan. See pg 28-31 of the CDM.
- Utilities Plan. Provide a utilities plan showing location of utilities in relation to landscape and buffer areas (utility plan must be consistent with proposed areas of non-disturbance).
- Parking and Paving Plan. See pg 33-35 of the CDM.
- Grading and Drainage Plan. Include all cuts, fills, slopes, disturbed areas, retaining walls and structures.
- Elevation Drawings. Provide complete elevation drawings of all buildings showing dimensions, trim details, color(s) and proposed materials including roofing, siding, and windows.
- Sign Plan. A master sign plan showing the location of all signage consistent with HCC 21.60.
- Lighting Plan. See pg 7,8 and pg 35-37 of the CDM and HCC 21.59.020-030.

**Site Design.** *This should align with the Grading and Drainage Plan. Pg 6 of the CDM.*

Describe the how building design transitions into the parking lot and landscaped areas. Describe your efforts to minimize cut/fill and to respect the natural topography.

The development of this parcel has evolved over the years and now encompasses six buildings. The proposed addition of the duplex will complete this process. The existing site is already developed with all grades and drainages in place. This proposed development will include 24' x 64' single storey duplex. The site will be regarded with 4-6" of 1-1/2" gravel. The landscaped areas are in green and the pathways are in gray. The surrounding topography will be complemented by the overall facelift being given the property.

**Prominent Facades-Building Scale and Mass.** *This should align with the elevation drawings. Pg 8-10, 27 of the CDM.*

Describe how the building's design reflects the mass and scale of adjacent properties:

The proposed building will provide additional lower cost housing in the CBD. The attached porch and landscaping will ground the building in the landscape. The siding will be wood.

- Y/N Does the building design avoid false pitch roofs? If no, see pg. 11-13. Yes

- Y/N Does the building design avoid A-frame, modified A-Frame, domes, curvilinear roof or other unusual roof forms? If no, see page 10. Yes

**Window and Door Fenestration.** *Should align with the elevation drawings. Pg 14 of the CDM.*

Windows and doors shall constitute a minimum of 25-30% of the prominent façade.

The proposed building is not fronting on Heath street and is residential.

Y/N Are the windows regularly spaced and aligned with other doors and windows in the same plane? Yes

- Y/N Does the building design include reflective glass? If so, Commission approval is required. No

**Siding and Trim:** *Page 15*

Describe the materials used for siding, the trim and the colors.

Siding Color: Type: Earth tone

Trim Color: White

Type: Aztec Allweather trim with wood texture

Does the siding include:

- Y/N Metal panels No
- Y/N Sheet siding like T1-11 No
- Y/N Concrete panels No
- Y/N Tile No
- Y/N Smooth Concrete Blocks No
- Y/N Vertically ribbed or vertically grooved material No

**Miscellaneous Architectural Devices:** *This should align with the elevation drawings. Pg 15-17 of the CDM,*

Describe the use of awnings, awning fabric (opaque only), the lighting of the awnings and their function. Provide the linear feet of awning. Tenant franchise themes are not allowed in the TCD and GBD per HCC 21.20.050 and HCC 21.22.060. Describe how the building integrates artwork into the design.

We have no awnings nor tenant themes.

- Y/N Does the building design avoid the use of color to promote a theme or tenant specific identity? Yes  
For example a typical Pizza Hut, McDonalds, Taco Bell building promotes a theme.

- Y/N Does the building design avoid use of neon, tube shaped lighting? Yes
- Y/N Does the building avoid back-lit awnings? Yes
- Y/N Does the use of awning provide weather protection over walkways and entrances? Yes
- Y/N Are the awnings consistent in design? Multiple awning design is not permitted. Pg 16. N/A
- Y/N Is the awning design secondary and complimentary of the building design? N/A

**Roofing materials.** Pg 17-18 of the CDM.

Describe the roofing material: Asphalt shingles  
 What color is the roofing material? Greens, Browns

**Color.** Pg 18-20 of the CDM.

What is the main color on the exterior walls? Earth tones  
 What color is the trim as in the fascia, cornice, window and door trim? White  
 Describe the use and color of accents such as molding, shadow lines, door frames: N/A

**Hierarchy in building design.** This should align with the elevation drawings. Pg 18 of the CDM.

- Y/N or NA. Does the project include secondary building structures as support buildings? No
- Y/N or NA. Does the project include multiple tenant spaces? Yes

Describe the common architectural treatment of the buildings within the development. Include:

- Secondary structures as support buildings
- The façade (the exterior wall exposed to public view) the 'streetscape'.

The existing

- Building height variation that reflects the location of individual tenants.

Building addition rooflines are offset from main roof creating an interesting whole.

- Roof design

The roof is a Gable Roof sloping at 4/12

- Window proportions

The window and door proportions on the façade are not addressed.

- Fencing

There will be no fencing.

**Walkways.** This should align with the landscaping, parking and lighting plans. Pg 21,22 of the CDM.

Describe how the walkways are linked between the main entrance to the parking area and the public right-of-way. Include the location, width, length, texture, lighting, seating, vegetation, integrated art work, color and the visual contrast to the other surfaces.

The walkways will all be a minimum of 5' wide, gravel and link the building entrances to the parking areas. There lawn adjacent to these walkways. Lighting will be designed to limit illumination to pedestrian areas and parking lots. Lighting will be downward directional and either mounted on the building or on poles not to exceed 12' in height.

- Y/N or NA. Are the walkways 5 ft wide or greater? Yes
- Y/N or NA. Are the walkways visually distinct from the surrounding surfaces? No
- Y/N or NA. Are vegetative strips 3 ft wide or greater? Yes
- Y/N or NA. Are walkways 100 ft long or greater? If so, include lighting and seating. No
- Y/N or NA. Are historic events and structures identified? N/A
- Y/N or NA. Does you plan avoid walkways which cross parking stalls? We have allowed some walkways to cross the stalls in an attempt to maintain more landscaped area.

**Outdoor Common Areas.** *This should align with the landscaping plan. Pg 23-26 of the CDM.*

Describe any building focal points that create a "visual draw," and/or the buildings' prominent entrance.

The entire front of these buildings will be a wide planting area that includes planting trees and shrubs as well as lawn. The frontage on Heath St. will also be landscaped.

Describe the building's outdoor leisure area. Include walkway location and widths for covered and uncovered walkways, plaza surfaces (brick, stone, aggregate concrete, colored, textured) landscaping, shrubbery, flowers, viewing platforms, seating and signage. Describe areas for outdoor sales/carts, art displays and outdoor dining. The site plan shows the pathways in relation to the porches and landscaping. All pathways are a minimum of 5' wide and are gravel. The porches are/will be wood. The common greenbelt fronting the buildings will make the development more cohesive and visually attractive.

IF the project's floor area (total sf of all floors) is less than 5,000 sf., move to ***Loading and delivery area.***

- Primary structures shall incorporate either a prominent portico or plaza which is visible to the public and useable to customers or clients. Its size shall be at least 10% of the main level interior floor area (CDM page 20) Each building has a porch that invites interaction between the buildings and the parking lot.
- If the floor area (total sf of all floors) is greater than 5,000 sf., then 5% of the floor area must be devoted to an outdoor leisure area.

The landscaped areas in front of each building provide ample outdoor leisure area.

(Total floor area \_\_\_\_ sf) X (0.05) must be greater than the outdoor leisure area. (CDM pg 24)

*The 10% calculated above can count towards the 5% outdoor leisure area requirement*

- Y/N Does the leisure area have trash receptacles, seating and/or tables. No



- Y/N Does the outdoor leisure area include walkways? If so, the walkways must be 8 ft wide or greater (p. 24). The leisure areas are bounded by the parking lot and the building access walkways. No other walkway is required.

*Loading and delivery area. Should align with the Parking Plan. Pg 27 of the CDM.*

N/A

- Y/N Are the loading and delivery areas oriented away from the street front?

*Landscaping and screening. Should align with the landscaping plan. Pg 28-31 of the CDM.*

Describe the site's proposed landscaping, and any planned retention of the existing vegetation. Provide a landscaping plan that includes:

- clearing limits No clearing required
- trees that will be thinned or topped None
- areas which will be completely cleared None
- the distance between buildings and trees No trees exist on site
- how existing vegetation will be protected during construction There will be minimal disturbance to existing vegetation
- how and where existing native vegetation will be retained. Existing vegetation along the northerly property line will not be affected.
- how and when the cleared areas will be replanted The landscaped areas will be planted after the proposed building is constructed and the site grading is completed.

The property is already developed and generally cleared. The areas where existing trees and alders are located are being preserved.

- Y/N Is clearing limited to no more the 50% of the significant vegetation? Yes
- Y/N Does the plan include shrub planting on blank walls? Possible
- Y/N Does the plan include a minimum 3 ft landscaped buffer along all lot lines? Yes
- Y/N Does the plan include a minimum 15-ft buffer from the top of a bank or drainage? The northeast corner of the proposed duplex is 5' from the existing drainage

➤

*Fences. Pg 31 of the CDM.*

Describe the site's fencing, its purpose, its material, height and visibility to the public.

No fencing is planned

- Y/N Does your plan avoid chain-link fencing? Yes

**Parking. Should align with the parking plan. Pg 33\*39 of the CDM.**

Number of curb cuts? 1 Width of curb cuts? 35ft. Distance between the curb cuts? N/A

Number of parking spaces? 22 Number parking spaces in front of the building? N/A

- Y/N Does your plan avoid parking in front of the building entrances? Yes
- Y/N Are the curb cuts at least 200 ft. apart? NO (existing)
- Y/N Is traffic directed to side streets where possible? N/A
- Y/N Is the parking lot visible from Sterling Hwy, Lake St., Health St., Main St. or Pioneer Ave.? Yes
- Y/N or NA. Is parking lot screened with a 3 ft high solid hedge. No
- Do the driveway widths meet the requirements below? Driveway entrances are 18' wide two way.
  - Maximum widths of one-lane driveways are 15 ft.
  - Maximum widths of two-lane driveways are 24 ft.
  - Maximum widths of three-lane driveways are 34 ft.

IF your project has less than 24 parking spaces, move to **Lighting**.

If more than 24 spaces are required, 10% of the parking area must be landscaped with islands and/or dividers, plus a 10ft buffer along rights-of-way. HCC 21.50.030(f)(1)(b).

If over 24 spaces, the parking lot is \_\_\_\_\_ sf. The landscaped portion within the parking lot is \_\_\_\_\_ sf.

- Y/N The parking lot will be gravel. Required in the GBD per HCC 21.22.080(b). N/A
- Y/N Is less than 50% of the parking located in the front of the building? No
- Y/N or NA. If more than 24 spaces, are treed landscaped pockets provided every 100 ft or less? N/A
- Y/N or NA. If more than 24 spaces, is the minimum 10 ft landscaped buffer provided? N/A

**Parking garages. Pg 35 of the CDM.**

- Y/N Does your project include a parking garage over one-story or which encloses 20 or more vehicles?  
If so, Planning Commission approval is required. N/A

**Lighting. Should align with the Lighting Plan. Pg 7,8 &35-37 of the CDM and HCC 21.59.020.**

Describe the light fixtures, height, their purpose, lighting direction and visual appearance.  
See attached lighting description

- Y/N Is light source hidden from public view? Yes
- Y/N Does your lighting avoid excess light throw beyond the pedestrians and/or vehicles area? Yes
- Y/N Does your project avoid mounting outside light fixtures above 15 feet? Yes
- Y/N Does you project avoid parking lot luminaires that are above 28 feet? Yes
- Y/N Does your plan avoid bright lighting on outdoor surfaces of buildings? Yes
- Y/N Does your plan avoid colored lighting on buildings? Yes

- Y/N Does your plan avoid utility lighting? Yes
- Y/N Does your plan avoid lit accents, canopies, color bars, stripes? Yes

***Outdoor furnishings. Pg 37-38 of the CDM.***

Describe the outdoor furnishings, their location, type, style, manufacturer, series, and color. If in the right-of-way, approval by Public Works and the Planning Commission is required. There will be a variety of ways for tenants to make seating available to themselves and their guests.

- Y/N or NA Are the outdoor furnishings a commercial grade designed for heavy public use? N/A



C

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LAMPS PLUS | [Outdoor Lighting](#) | [Transitional](#) | [Designer Fountain](#) | [Bayport Collection Dark Sky 15 1/4" High Outdoor Post Light](#)

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## Bayport Collection Dark Sky 15 1/4" High Outdoor Post Light Style # M5910

[Read 1 Reviews](#) [Write a Review](#)

A simple, casual outdoor post mount light that's Dark Sky compliant.

**\$94.91 + FREE SHIPPING & FREE RETURNS\***

[Low Price Guarantee](#)

QTY:

Save Energy! Purchase with a dimmer

[In Stock - Ships In 1 to 2 Days](#)

Need Help? [Live Chat](#) | [Personal Callback](#)

The Bayport Collection of exterior lighting offers subtle, handsome styling. This design was created according to Dark Sky standards for preserving the nighttime environment. Bayport lights offer casual charm with a seaside feel. This outdoor post light features a bronze finish. Illuminate your outdoor spaces with this simple, distinctive fixture.

- Bronze finish.
- Dark Sky compliant.
- Takes one 100 watt bulb (not included).
- 15 1/4" high.
- 11" wide.
- Post not included.

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Bayport Collection Dark Sky 7 3/4" High Outdoor Wall Light (M5911) - \$66.91

select



Bayport Collection Dark Sky 10 1/4" High Outdoor Wall Light (M5913) - \$94.91

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Bayport Collection Dark Sky 8 1/2" High Outdoor Wall Light (M5912) - \$71.91

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### More You May Like

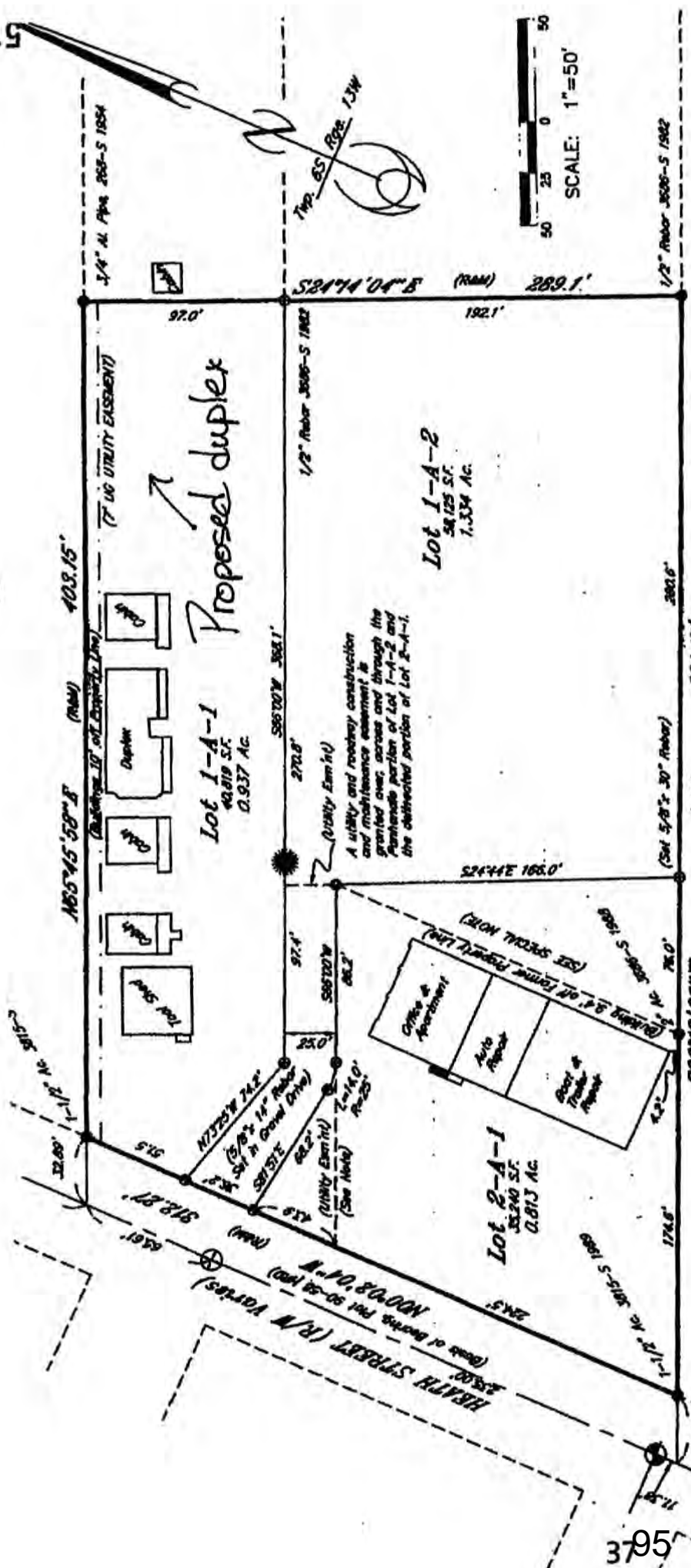


Kridham Dark Sky Outdoor Post Mount Light

(48700) - \$89.99







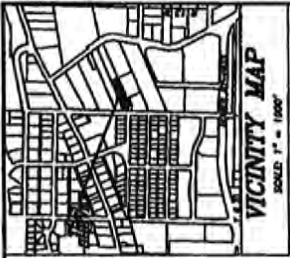
2005-01  
 REC DIST  
 Date 10/12/05  
 Time 11:00 AM  
 Requestor B. J. [unclear]  
 Address [unclear]

- NOTES:**
- NO DIRECT ACCESS TO STATE MAINTAINED RIGHTS OF WAY IS PERMITTED UNLESS APPROVED BY THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION.
  - NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
  - A TWENTY FOOT WIDE ELECTRICAL DISTRIBUTION LINE EASEMENT IS COVERED ON ALL EXISTING OVERHEAD POWERLINES.
  - THESE LOTS ARE SUBJECT TO THE ZONING REGULATIONS OF THE CITY OF HOMER.
  - NO STRUCTURES ARE PERMITTED WITHIN THE PANHANDLE PORTION OF LOT 1-A-2. THE PANHANDLE IS 25 FT. WIDE AND MAY BE USED FOR ACCESS TO ALL LOTS IN THIS SUBDIVISION.
  - ALL LOTS ARE SUBJECT TO A 15 FT. WIDE UTILITY EASEMENT ADJACENT TO HEALTH STREET.
  - THESE LOTS ARE CURRENTLY SERVED BY CITY OF HOMER WATER AND SEWER. PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

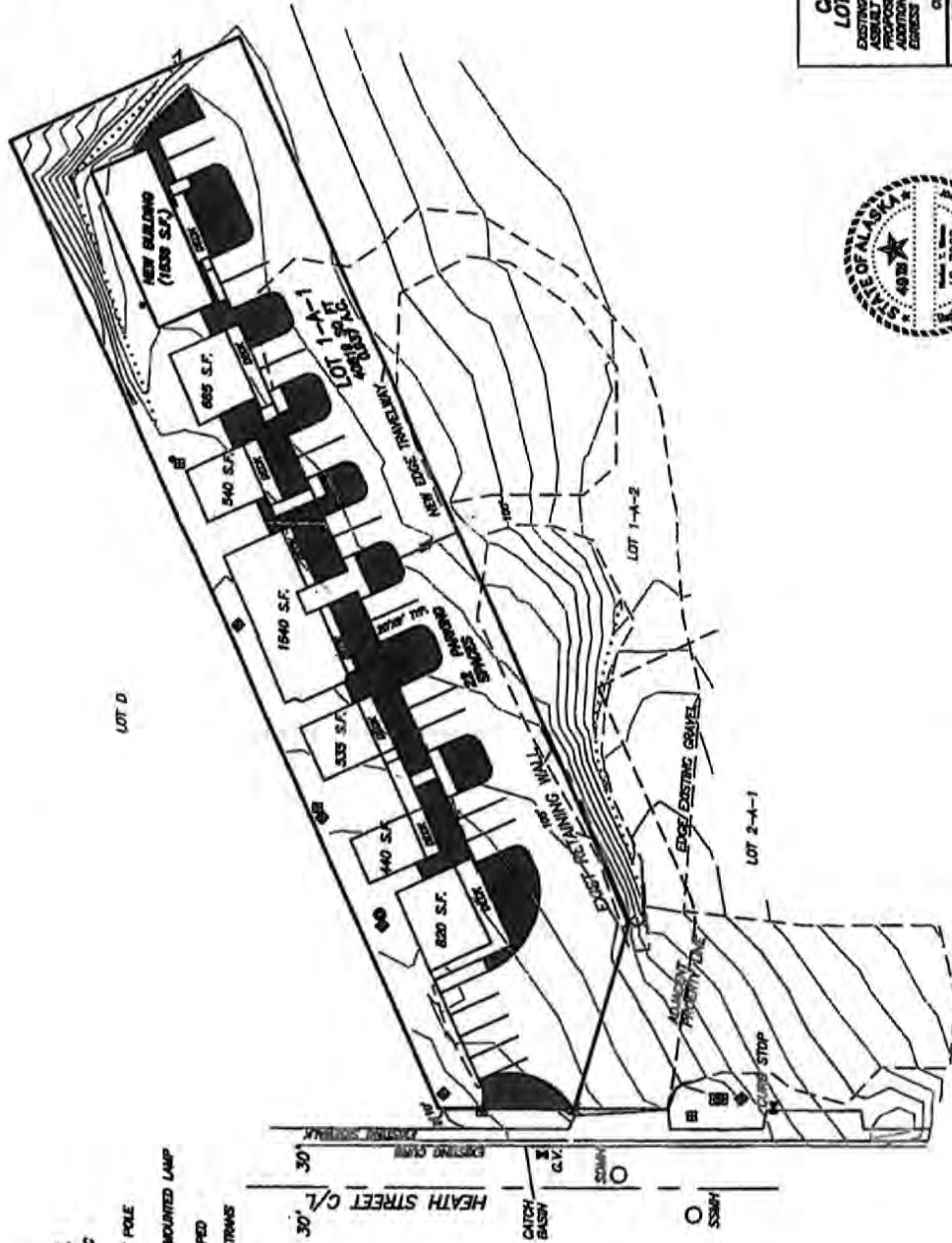
3795

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SCALE  
1" = 30'  
1' CONTOURS



**NOTES**  
TOTAL BUILDING SQUARE  
FOOTAGE = 6,028

- EXISTING
- 4" PVC
- UTILITY POLE
- ⊕ POST MOUNTED LAMP
- ⊞ TELE POLE
- ◆ ELEC TRANS



**CARL SHOLIN SUBD NO. 5  
LOT 1-A-1 C.U.P. SITE PLAN**  
EXISTING SITE CONDITIONS WITH TOPOGRAPHY AND  
ASBUILT LOCATIONS OF IMPROVEMENTS OVERLAIN WITH  
PROPOSED NEW SITE PLAN INCLUDING BUILDING  
FOOTPRINTS, PARKING, LANDSCAPING, ACCESS AND  
EGRESS AND SITE DRAINAGE IMPROVEMENTS  
CONTAINING 0.877 ACRES MORE OR LESS  
**SEABRIGHT SURVEY + DESIGN**  
KENTON T. BLOOM, P.L.S.  
1044 EAST ROAD, SUITE A  
NOME, ALASKA 99563  
(907) 233-4277  
DRAWN BY: K.B. CHOD BY: MB JOB #13-29  
DATE: 10/15/2013 SCALE: 1"=30' SHEET #2 OF 3



## Rick Abboud

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**From:** Frank Griswold <fsgriz@alaska.net>  
**Sent:** Tuesday, November 26, 2013 10:08 AM  
**To:** Rick Abboud  
**Subject:** Re: CUP 2013-13

The newly constructed but apparently non-permitted structure was moved down to a lot on Grubstake Avenue and later another larger structure was constructed in the same location as the structure that had been removed. I suspect water and/or sewer issues were the reason the original structure was deemed inappropriate. What was the gist of those back-and-forth discussions re: water and sewer and when did they take place? Is the water/sewer situation at that site significantly different today than it was when those discussions took place? Do all of the existing structures on Lot 1-A-1 have valid building/zoning permits?

On Nov 26, 2013, at 9:14 AM, Rick Abboud wrote:

> Mr. Griswold,  
>  
> I searched my files and do not have anything that documents that the  
> city required anyone to remove a structure from the lot. All I found  
> is some back and forth regarding water and sewer and an old building  
> permit that for structures that were never completed, I assume. City  
> code currently allows "more than one building containing a permitted  
> principal use on a lot" with an approved CUP.  
>  
> Regards,  
>  
> Rick  
>  
>  
> Rick Abboud  
> City Planner  
> 491 E. Pioneer Ave  
> Homer, AK 99603  
> (907) 235-3106  
>  
>  
>  
> -----Original Message-----  
> From: Frank Griswold [<mailto:fsgriz@alaska.net>]  
> Sent: Monday, November 25, 2013 1:22 PM  
> To: Rick Abboud  
> Subject: CUP 2013-13  
>  
> Mr. Abboud,  
> Many years ago, Robert Stewart was required by the city to remove a  
> newly constructed structure from the site of the proposed duplex now  
> under consideration via CUP 1013-13. Why was the previous structure  
> required to be removed and what conditions have changed since then

- > that now make additional structures on Lot 1-A-1 acceptable to the
- > city?
- > Frank Griswold

## Rick Abboud

---

**From:** Frank Griswold <fsgriz@alaska.net>  
**Sent:** Tuesday, November 26, 2013 4:53 PM  
**To:** Rick Abboud  
**Subject:** Re: CUP 2013-13

Mr. Abboud,

Routine records requests do not need to involve the City Clerk and this is clearly a routine records request. Furthermore, when a member of the public asks for the number of a specific zoning permit, you should promptly and willingly provide it.

Please provide the Planning Commission with all of my comments and all of your responses. Additionally, please provide the Planning Commission with all previously issued zoning permits for Lot 1-A-1. Are you prepared to ensure that all of the existing structures on Lot 1-A-1 are in compliance with the City of Homer zoning code? If not, this would be the appropriate time to abate those zoning violations. While, as you pointed out, city code currently allows more than one building containing a permitted principal use on a lot with an approved CUP, **"nothing in the zoning code shall be construed to require the granting of a conditional use permit."** (HCC 21.71.010(c)).

Frank Griswold

On Nov 26, 2013, at 3:34 PM, Rick Abboud wrote:

Mr. Griswold,

Prepared, please forgive. Record requests can be obtain through the City Clerk. I would be glad to provide your comments to the Planning Commission, if you wish.

Thank you,

Rick

-----Original Message-----

**From:** Frank Griswold [<mailto:fsgriz@alaska.net>]  
**Sent:** Tuesday, November 26, 2013 2:45 PM  
**To:** Rick Abboud  
**Subject:** Re: CUP 2013-13

Mr. Abboud,

Good to know you are prepaid. I would still like to know specifically what CUPs (or PUD) have been approved authorizing more than one principal use on Lot 1-A-1 and why I, as a nearby property owner, didn't receive notice of them. Please email me a copy of the zoning permit that approves the existing four cabins and duplex.

Furthermore, please email me a copy of any zoning/building permit issued for the additional (6th) existing commercial structure which relatively recently underwent extensive renovation that would have undoubtedly

required a zoning permit. If any of the existing structures do not have a valid zoning permit and/or conditional use permit, bringing them into compliance with city code should be a condition for approval of CUP 2013-13. Traffic concerns regarding ingress/egress to/from the already congested intersection at Heath Street and Klondike Avenue should also be addressed.

Frank Griswold (not prepaid)

On Nov 26, 2013, at 11:10 AM, Rick Abboud wrote:

Mr. Griswold,

In response to this and your previous email. I am prepaid to ensure that the newly proposed structure meets all permitting requirements including satisfying any requirements of our Public Works Department which requests an as-built of the service and sizing to a 1" service. The zoning permit on-file approves the four cabins and duplex in addition to other cabins that are not present on the location currently.

The communications regarding water and sewer are from more than 15 years ago demanding that the structures connect to the system. There are records of service established since then.

Regards,

Rick

Rick Abboud  
City Planner  
491 E. Pioneer Ave  
Homer, AK 99603  
(907) 235-3106

-----Original Message-----

From: Frank Griswold [<mailto:fsgriz@alaska.net>]

Sent: Tuesday, November 26, 2013 10:30 AM

To: Rick Abboud

Subject: CUP 2013-13

Mr. Abboud,

There are currently six structures on Lot 1-A-1 so presumably five of these structures would have required Conditional Use Permits. I don't recall being given notice of any other CUP application for this lot.

What CUPs have been approved for the existing structures on Lot 1-A-1 and what is the number of the building/zoning permit issued for the original structure?

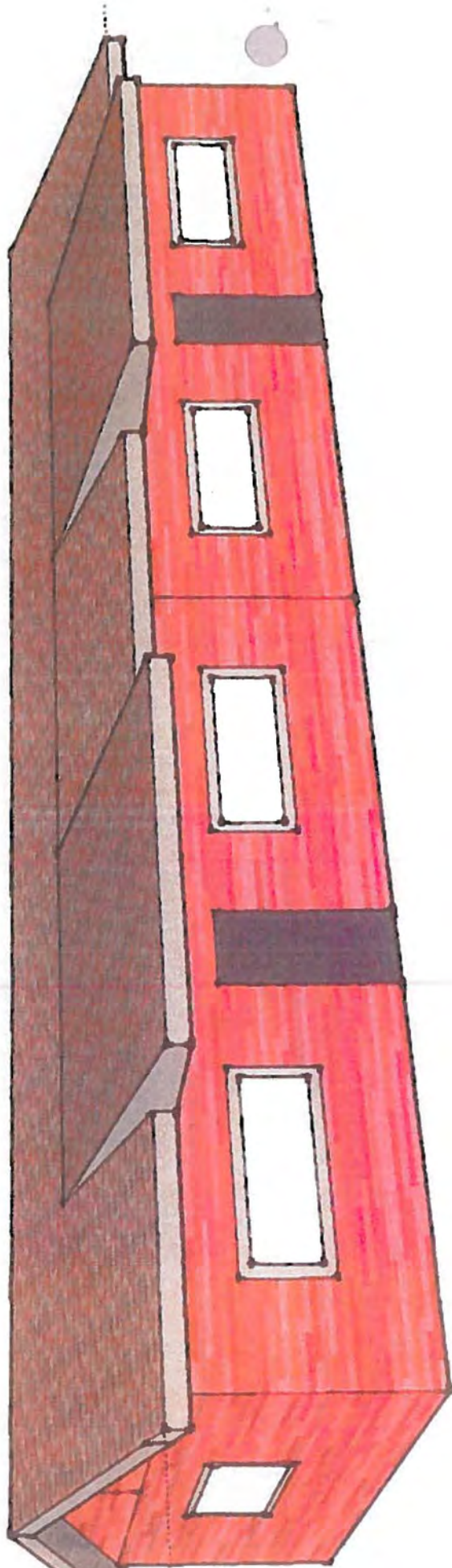
Frank Griswold





Elevation

CUP 2013-13 3850 Heath Street



47105



Frank Griswold <fsgriz@alaska.net>  
**Lot 1-A-1 zoning permit(s)**  
November 26, 2013 5:30:29 PM AKST  
Rick Abboud <RAbboud@ci.homer.ak.us>



**21.70.030(c).** In granting a zoning permit, no City official or employee has authority to grant a waiver, variance, or deviation from the requirements of the zoning code and other applicable laws and regulations, unless such authority is expressly contained therein. Any zoning permit that attempts to do so may be revoked by the City Manger as void. The applicant, owner, lessee, and occupant of the lot bear continuing responsibility for compliance with the zoning code and all other applicable laws and regulations.

**21.70.070 Other permits under zoning code.** Nothing in this chapter shall relieve the applicant of the obligation to obtain a conditional use permit, sign permit, variance, or other permit or approval required by other provisions of the zoning code. The zoning permit required by this chapter shall be in addition to any other applicable permit or approval requirements. If any such additional permits or approvals are required, they must be obtained prior to the issuance of the zoning permit under this chapter. (Ord. 08-29, 2008).

**21.70.090 Occupancy without a permit prohibited.** No person shall use or occupy a building or structure that has been erected, constructed, enlarged, altered, repaired, moved, improved, or converted after January 1, 2000, without a properly issued and unrevoked zoning permit required by this chapter. (Ord. 08-29, 2008).

**21.71.030(j) (CUP)** The proposal will comply with all applicable provisions of the Community Design Manual.





### Kenai Peninsula Borough, Alaska Assessing Department

Parcel Number  
1 of 1

## Improvements

### Property Info

Parcel	Parcel Number	Tax Account	Parcel Address	Certified Total Value	Data as of	Assess Year
<a href="#">Tax Record</a> <small>NEW!</small> →  <a href="#">Print View</a> <a href="#">Assessment History</a>	17711023		3850 HEATH ST, HOMER	\$646,300	11/3/2013	2013

### Searches

[Owner Address](#)

### Functions

- [Welcome Page](#)
- [Contact Us](#)
- [Help](#)
- [Return to KPB Home](#)
- [Login / Logout](#)

### Improvements

<a href="#">View</a>	Use Code	Building #	ID #	Constructed Yr.	Grade	Square Ft.	Certified Value
<a href="#">View Details / Print View</a>	FLATCP	C01	01	1985	Avg	256	\$40
<a href="#">View Details / Print View</a>	SHDOFF	C01	C	1985	P	576	\$28,50
<a href="#">View Details / Print View</a>	DRIVE	R01	02	3000	Avg	1	\$1,50
<a href="#">View Details / Print View</a>	DWELL	R01	D	1993	Avg	864	\$61,40
<a href="#">View Details / Print View</a>	DRIVE	R02	01	3000	Avg	1	\$1,50
<a href="#">View Details / Print View</a>	DWELL	R02	D	1993	Avg	1,056	\$70,40
<a href="#">View Details / Print View</a>	DRIVE	R03	01	3000	Avg	1	\$1,50
<a href="#">View Details / Print View</a>	DWELL	R03	D	2002	Avg	1,495	\$115,80
<a href="#">View Details / Print View</a>	DRIVE	R04	01	3000	Avg	1	\$1,50
<a href="#">View Details / Print View</a>	DWELL	R04	D	1993	Avg	1,056	\$73,00
<a href="#">View Details / Print View</a>	DRIVE	R05	01	3000	Avg	1	\$1,50
<a href="#">View Details / Print View</a>	DWELL	R05	D	2004	Avg	1,080	\$84,80

[Print](#) | [Back to List](#) | << [First](#) < [Previous](#) [Next](#) > [Last](#) >>

MANATR N

Frank Griswold  
**CUP 13-11 and Staff Report 13-85**  
December 3, 2013 12:09:23 PM AKST



To: Homer Advisory Planning Commission

### **Comprehensive Plan**

When considering whether a proposed CUP comports with the goals and objectives of the Comprehensive Plan, the overall goals and objectives of the Comprehensive must be considered and not just those that support its approval. Goals such as "encouraging infill" and "encouraging a mixture of uses" would support any proposed development thus rendering the Comprehensive Plan review process for a CUP application totally meaningless. There is no evidence that Staff looked for any goals or objectives of the Comprehensive Plan that would support the denial of this application. Creating a slum encourages infill and provides low cost housing but does not protect community character or help minimize global impacts of public facilities.

### **(Biased) Criteria for Granting a Conditional Use Permit**

While the criteria for granting a Conditional Use Permit is set forth in HCC 21.71.030 and 21.71.040 and the applicable code identifies which uses are allowable in each zoning district by Conditional Use Permit, and while more than one building containing a permitted principal use on a lot is indeed allowable in the CBD per HCC 21.18.030(k), Staff Report 13-85 fails to mention HCC 21.71.010(c) which states: **"nothing in the zoning code shall be construed to require the granting of a conditional use permit."** Conditional uses are inherently less desirable than uses permitted outright and should only be approved if significant conditions can be imposed (and complied with) in order to eliminate or at least minimize any deleterious effects to the neighborhood and community. If no significant conditions were necessary for its approval, the conditional use would likely have been listed as a permitted use.

### **Value of Adjoining Property**

Placing multiple residential uses adjacent to a commercial use such as a vehicle repair facility potentially creates conflicts and subjects the residents to adverse health conditions. Even though conflicts between residential uses and commercial uses are supposed to somehow be resolved in favor of commercial uses, public health should always trump economic gain. Placing the economic interests of a commercial enterprise over the health, safety, and welfare of the public would be contrary to the stated purpose of the Homer Zoning Code. Imposing restrictions on adjoining commercial property to accommodate the health, safety and welfare of nearby residents would likely have an adverse effect on the value of that commercial property.

Property management is a business and the applicant is incorporated as Heath Street Investments LLC so a finding should be made as to whether the rental duplex at issue constitutes a residential use or a commercial/business use.

### **Compatibility With Existing Uses of Surrounding Land**

Neither residential use nor commercial rental use is compatible with some of the uses of the surrounding land which include a vehicle repair facility and land that is contaminated by buried vehicles and other potentially hazardous debris c/o former property owner Robert Stewart.

## **Public Services and Facilities**

There is insufficient evidence to support Staff's finding that public services and facilities are sufficient to serve the proposed use. Years ago the city required that a newly constructed residential structure be removed from this site due to inadequate water/sewer services. Public Works apparently has no idea what type of secondary sewer system serves the existing structures on this site or whether those structures are connected to the city sewer system at all. A site plan depicting all of the water and sewer lines serving the existing structures and the proposed duplex should be submitted and approved by Public Works *before* a final decision is rendered regarding CUP 13-11.

## **Harmony In Scale, Bulk, Coverage, Density, Generation of Traffic Etc.**

Staff found that the proposal is in harmony with other nearby sites but failed to identify what other near-by sites were used for this comparison. Most nearby sites host far less than 7 structures and (hopefully) no nearby sites with or without multiple structures have driveways at major intersections or unapproved sewer systems. The density of the structures on Lot 1-A-1 and their sub-standard construction create potential fire hazards but no input was provided by the Homer Fire Department.

Surfacing of vehicular ways and parking areas and control of points of vehicular ingress and egress is deemed NA in Staff Report 13-85. The site plan submitted by the Applicant states on its face that it includes ingress and egress but fails to show the location of any driveway(s). A 2003 KPB aerial image depicts a driveway on the adjacent lot, which is owned by Applicant, entering the roadway directly at the intersection of Klondike Avenue and Heath Street, which is a major arterial. The construction of driveways in close proximity to intersections is prohibited. No evidence of an approved driveway plan has been provided and there is no evidence that the allegedly pre-existing driveway pre-existed the establishment of the city's zoning code or driveway requirements. Note that Applicant states on page 2 of his application that there are no nonconforming uses or structures on the property. There are two other potential places of ingress/egress to Heath Street on the adjacent lot that are farther from the intersection. Abandonment of the driveway and curb cut at the intersection of Heath Street and Klondike Avenue should be a condition for approval of CUP 13-11.

## **Health, Safety, Welfare of Surrounding Area and City as a Whole**

Staff's subjective and conclusionary statement that the proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area and the city as a whole is not supported by any evidence or analysis whatsoever. The subject lot has traditionally attracted inebriates, transients and/or seasonal tenants which potentially pose a threat to the nearby daycare facility and others in the surrounding neighborhood. Inoperable/unregistered/junk vehicles, including an old school bus, have cluttered the premises for decades. Input from the Homer Police Department regarding complaints and/or responses to crimes involving past and current residents of Lot 1-A-1 should be requested.

## **Compliance With Applicable Regulations and Conditions**

In Finding #8, Staff unequivocally states that the proposal will comply with all applicable regulations and conditions through the permitting process but even if that were the case, such compliance is required far beyond just the permitting process. What happens if the proposed duplex is built and the required landscaping is not completed within nine months or within the first full growing season of the issuance of the Zoning Permit? A mandatory follow-up inspection by Staff should be a required condition of CUP 13-11 to insure compliance with all applicable regulations and conditions.

Most of the existing structures on Lot 1-A-1 have no building/zoning permit and/or are otherwise out of compliance with the city's zoning code. Despite the fact that three of the existing structures were built or extensively remodeled after January 1, 2000 without valid zoning permits, the city has done nothing to prohibit their occupancy as mandated by HCC 21.70.090. The structure closest to Heath Street was designated a tool shed in May of 2003 (see Plat 90-58) and was recently converted into the commercial structure currently occupied by Horizon Satellite. Where is the change of use permit and/or zoning permit authorizing that extensive remodeling? Where is the CUP and zoning permit for the 685 square foot structure adjacent to the proposed duplex? That 685 sf structure does not appear on Plat 90-58 but does appear on the 2003 KPB aerial photo. A KPB Assessing Department document indicates it was constructed in 2004. Any previously issued zoning permit(s) that authorized multiple structures to be constructed at this site without the approval of a prerequisite CUP is invalid and should be revoked per HCC 21.70.070. All zoning violations on Lot 1-A-1 should be abated before any new construction is authorized by CUP 13-11 or otherwise.

### **Community Design Manual**

Staff Report 13-85 it states as follows (at page 2): "While this improvement is found within the CBD and therefore is subject to some criteria in the design manual, the planning commission and planning office seek reasonable applications." However, HCC 21.71.030(j) mandates that CUP proposals comply with all applicable provisions of the Community Design Manual, not just some criteria arbitrarily deemed reasonable by staff or the commission. Furthermore, HCC 21.70.030(c) states: "In granting a zoning permit, no City official or employee has authority to grant a waiver, variance, or deviation from the requirements of the zoning code and other applicable laws and regulations, unless such authority is expressly contained therein. Any zoning permit that attempts to do so may be revoked by the City Manger as void. The applicant, owner, lessee, and occupant of the lot bear continuing responsibility for compliance with the zoning code and all other applicable laws and regulations."

Staff did not specifically identify which provisions of the CDM are deemed applicable to this application. Applicant erroneously indicates that the CDM's window and door requirements are not applicable because "the proposed building is not fronting on Heath Street and is residential." Applicant indicates he plans to allow some walkways to cross parking stalls. While the CDM requires a 15-foot buffer from the top of a bank or drainage and Staff has recommended this as a condition for approval of CUP 13-11, Applicant states that "the northeast corner of the proposed duplex is 5' from the existing drainage." This fact alone is ground for denial of CUP 13-11. Applicant states that the parking lot is visible from Heath Street yet has no plans to provide the 3' high screening/solid hedge required by the CDM. Contrary to the requirements of the CDM, the site plan indicates that all of the parking spaces will be located in front of the building(s). While Staff Report 13-85 acknowledges that the CDM requires that new and replacement lights need to be down lit and compliant with HCC 21.59.020-030, no such conditions were included in Staff's final recommendations and under item 9 regarding the control of noise, vibration, odors, *lighting* or similar nuisances, Staff wrote "NA."

### **Other Conditions Necessary to Protect the Interests of Community or Health of Persons Residing in Vicinity of Subject Lot**

Staff also designated this provision "NA." The purpose of zoning is to protect the interests of the community and the public health:

21.01.030 Purpose. The Homer Zoning Code is adopted as one means of implementing of the general goals and policies of the Homer Comprehensive Plan. Its purpose is to enhance the public health, safety and welfare through land use regulations to:

- a. Designate, regulate and restrict the location and use of buildings, structures and land;
- b. Regulate the height, number of stories, and size of buildings and other characteristics of structures;
- c. Regulate and determine the size of yards and other open spaces;
- d. Regulate and limit the density of population;
- e. Conserve and stabilize the value of property;
- f. Provide adequate open spaces for light and air; and to prevent and fight fires;
- g. Prevent undue concentration of population;
- h. Lessen congestion on streets and highways;
- i. Preserve and enhance the aesthetic environment of the community;
- j. Promote health, safety and general welfare. (Ord. 08-29, 2008).

Violations of the zoning code compromise public health, safety and general welfare. Planning Commissioners have a sworn duty to uphold all of the provisions of the zoning code and therefore have an obligation to require that all of the existing zoning violations occurring on Lot-1-A-1 be identified and abated as a condition for the approval of CUP 13-11. No further construction on Lot 1-A-1 should be allowed until all existing structures and infrastructure, including driveway(s) and sewer, are brought into compliance with all applicable zoning and fire codes. Applicant states that he plans to create special yards and spaces, install walls and screening (but not fences), control points of vehicular ingress & egress, provide special provisions on signs, do landscaping, maintain the grounds, buildings and structures, control noise, vibration, odors, lighting, heat, glare, water and solid waste pollution, dangerous materials, material and equipment storage, or other similar nuisances, and meet other conditions deemed necessary to protect the interest of the community. But if the Planning Commission doesn't transform these plans into official conditions for granting CUP 13-11, they can simply be abandoned.



Frank Griswold  
519 Klondike Avenue

<attachments>





200 ft

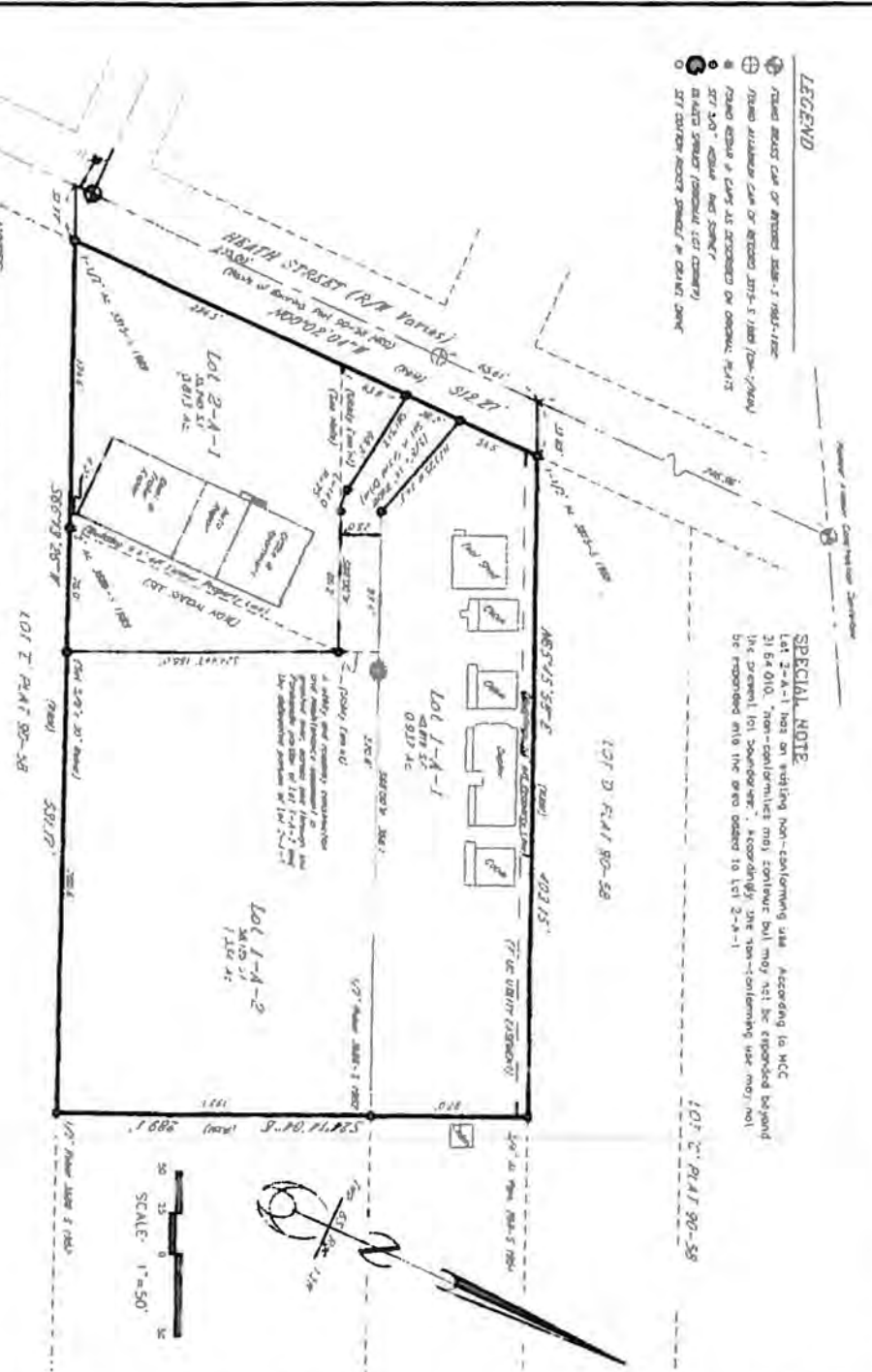
55113

LEGEND

- ◉ PLANNED SUBJECT CASE OR REVISION
- ◐ PLANNED SUBJECT CASE OR REVISION WITH A 15 DAY PERIOD TO FILE
- ◑ PLANNED SUBJECT CASE AS APPROVED BY ORIGINAL PLAN
- ◒ PLANNED SUBJECT (ORIGINAL USE CATEGORY)
- ◓ PLANNED SUBJECT (REVISION USE CATEGORY)
- ◔ PLANNED SUBJECT (REVISION) WITH ORIGINAL PLAN

SPECIAL NOTE

Lot 2-A-1 has an existing non-conforming use. According to MCC 21.64.010, "non-conformances may continue but may not be expanded beyond the present lot boundaries." Accordingly, the non-conforming use may not be expanded into the area zoned to Lot 2-A-1.



**NOTES:**  
 ALL EXISTING AND PROPOSED STRUCTURES SHALL BE CONSIDERED AS PLANNED UNDER THE  
 PROVISIONS OF THE PLANNED ZONING ORDINANCE.  
 ALL LOT USES SHALL BE LIMITED TO THE USES SPECIFICALLY LISTED IN THE ZONING ORDINANCE.  
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 ALL LOT USES SHALL BE LIMITED TO THE USES SPECIFICALLY LISTED IN THE ZONING ORDINANCE.



**CERTIFICATE OF OWNERSHIP**  
 I, the undersigned, owner of the above described property, do hereby certify that the information herein is true and correct to the best of my knowledge and belief. I understand that this statement is being made for the purpose of recording the same and that it will be subject to the provisions of the applicable laws and regulations. My name is Carl Shollin, my address is 107 1/2 West Street, Suite 5, Portland, ME 04101, and my phone number is 603-633-1117.

\_\_\_\_\_  
 Date: 10/20/2017

**NOTARIAL ACKNOWLEDGMENT**  
 I, Notary Public in and for the State of Maine, do hereby certify that the foregoing document is a true and correct copy of the original as presented to me for recording. My commission expires on 10/31/2018.  
 My name is Walter G. Gaudin, Notary Public in and for the State of Maine. My address is 100 Main Street, Portland, ME 04101. My phone number is 603-833-1117. My commission expires on 10/31/2018.

**SURVEYOR'S CERTIFICATE**  
 I, the undersigned, a duly licensed and sworn Surveyor of the State of Maine, do hereby certify that the foregoing document is a true and correct copy of the original as presented to me for recording. My name is Walter G. Gaudin, Surveyor in and for the State of Maine. My address is 100 Main Street, Portland, ME 04101. My phone number is 603-833-1117. My commission expires on 10/31/2018.

**PLAT APPROVAL**  
 I, the undersigned, the Planning Director of the City of Portland, do hereby approve the foregoing document for recording. My name is Walter G. Gaudin, Planning Director in and for the City of Portland. My address is 100 Main Street, Portland, ME 04101. My phone number is 603-833-1117. My commission expires on 10/31/2018.



DATE	DATE
SCALE 1" = 50'	DATE
CEN'D No. 11, SE. 46, 21	DATE
RD. No. 12, SE. 46, 21	DATE
MPA FILE NO. 2012-117	DATE
JOB No. 107	DATE

**"CARL SHOLLIN SUBD. No. 5"**  
 I, the undersigned, do hereby certify that the foregoing information is true and correct to the best of my knowledge and belief. My name is Carl Shollin, my address is 107 1/2 West Street, Suite 5, Portland, ME 04101, and my phone number is 603-633-1117.

**PLANNING DEPARTMENT**  
 575 STATE STREET, 3RD FLOOR, PORTLAND, ME 04101  
 TEL: 603-833-1117  
 FAX: 603-833-1118  
 WWW.CITYOFPORTLAND.ME

Commissioner Stroozas commented that communication towers of this type are here to stay, it's part of life today. This particular project will enable many people outside of Homer to improve their quality of life. We happen to be strategically located to the point that we can enable it to happen. He lives in an area where he looks at these towers all the time. One is about 600 feet from his house. He enjoys the good internet service and everything he gets from them. It has made his life better as it has for many people who live in Homer. Let's help our fellow citizens across the bay and in these communities that need it. This is the 21<sup>st</sup> century. Let's accept it and move forward.

Chair Venuti asked what happens if this doesn't pass. Mr. Kincaid replied they would have to start again at square one, and go through a budget approval process for spend more money on planning and design. It may not be a deal killer, but likely it would mean areas would fall off from the ability to touch from one site, and would affect the business plan and its whole premise. Cost is a factor from the return on investment stand point in that it is expensive to build this type of system. It is a carrier grade system designed to haul medical clinics so that it will never go down.

Commissioner Slone commented he was conflicted also but reaffirmed that the greater good concept is very significant to him. We are talking about communications to use for education and quality purposes. Enhancing other community's quality of life, more people will want to reside there, and he is certain it will rebound back in some way to the benefit of the people in Homer.

VOTE: YES: SONNEBORN, STEAD, SLONE, STROOZAS, HIGHLAND, VENUTI

Motion carried.

- B. Staff Report PL 13-85, CUP 2013-13, Request for more than one building with a principle permitted use, a residential duplex, at 3850 Heath Street

City Planner Abboud reviewed the staff report.

Kenton Bloom, applicant's representative, commented that this is a genuine attempt to make the conglomeration of existing buildings in to something more of a neighborhood approach that will include green spaces and more connectivity. He gave an overview of the uses that make up the general area that include commercial and residential. Mr. Bloom said his client is amenable to all the conditions the City has presented. He highlighted that they are going to add post mounted lighting in the grassy island, and the landscaped areas will be bordered to delineate the green spaces. There will be an enhancement to the green belt area by Heath Street. In the big picture, this is an interim improvement for a long term vision that is being addressed. At some point the sight will have a bigger purpose than these cabins. His client is looking at a 10 to 15 year plan to develop something more in tune with what we want to see in the character of the city. In terms of design, the buildings have porches, and he is encouraging the applicant to cover the porches on the existing buildings as well.

Chair Venuti opened the public hearing.

Charlie Davis, city resident, commented that he doesn't see what the compelling interest is to tell people what to do on the property. He is in favor of letting people do what they want. He doesn't see

the point in regulating. We have the most unique town, and we don't want to make it like Butte, Montana.

There were no further comments and the hearing was closed.

There were no rebuttal comments.

Mr. Bloom responded to Commission questions in reference to Frank Griswold's written comments.

Regarding health, safety, and welfare with respect to the inordinate amount of calls to Homer Police Department from that area, Mr. Bloom said he did not have time to confirm whether that is true. His feeling is that the way it is being approached to create a more attractive space, it will inevitably improve the area if there is a bad situation there. He finds it hard to get to a place where it is a detriment to make it better. He further noted that combining the negative behaviors described with seasonal workers or transients in the same lot as being undesirable is probably not something that they would accept as an honest appraisal.

In respect to the setback concerns, Mr. Bloom reiterated that they are in agreement with the staff's recommendations, so that would mean they would be in compliance with the setback from the top bank of the drainage. It will reduce the square footage in the dwelling and/or change the alignment.

City Planner Abboud responded to concern expressed regarding health hazards from buried vehicles, and other potential to be associated with them. He explained that he doesn't have knowledge of buried vehicles on the property. If there is, maybe it is a different organization that should look at that.

HIGHLAND/SLONE MOVED TO ADOPT STAFF REPORT PL 13-85 CUP 13-13 FOR MORE THAN ONE BUILDING CONTAINING A PRINCIPLE PERMITTED USE ON A LOT AT 3850 HEATH STREET WITH STAFF RECOMMENDATIONS AND FINDINGS.

Question was raised about Mr. Griswold's comments about zoning violations. City Planner Abboud commented that when the applicant comes through for the permit for the duplex, they will look at the whole site. Permitting this building will require that it meet all of today's standards of a site plan review.

In relation to a secondary sewer system, City Planner Abboud explained that water and sewer is approved by Public Works, who will have to approve and sign off on a plan before the City Planner can permit it.

Lastly, regarding the construction of a driveway, City Planner Abboud said in situations like this where you have a long term, existing driveway, the State will most likely permit it. They can request the applicant consult the right of way agent for that. Past experience has shown a drive that has long existed was not altered even though it didn't fit current distance regulations. The courthouse is an example.

VOTE: YES: SLONE, STEAD, STROOZAS, VENUTI, HIGHLAND, SONNEBORN

Motion carried.

- C. Staff Report PL 13-98, Draft Ordinance 13-42(A) Amending the Definition of “Discontinued” in Homer City Code 21.61.015, Definitions, to Extend Time Required to Discontinue a Nonconforming Use from 2 months to 24 months.

City Planner Abboud reviewed the staff report and acknowledged the Commission had extensive discussion at the worksession on whether to leave it at less than 24 months or increase it to more than 24 months. He noted that he doesn't have an objection to 24 months. In the bigger picture there are other avenues the Commission can address uses and zoning in the area.

Chair Venuti raised the point of an interest in relation to the Bayview Inn property specifically, and question if it may be a conflict in this matter. City Planner Abboud clarified that this is not a quasi-judicial action. This is a legislative decision that will affect all properties and the discussion needs to be broader than one property. Commissioners Slone and Highland expressed agreement with City Planner Abboud and no other Commissioners expressed objection.

Chair Venuti opened the public hearing.

Corbin Arno, city resident, commented in support of changing it to 36 months. 12 months definitely isn't long enough when dealing with an estate, and 24 may not be enough either. Change it to 36 and let's be done with it.

Scott Adams, city resident, commented that with the 24 month limit the hotel wouldn't have made it because the time has passed. Between their conversations in the last few months the seller was unable to sell because of the lots nonconformity. If they still had it, it would look better to purchase. Saying they fell off the time frame has been revolving around what the Commission and City Council decide. It is unfair to play that into the game, if it would have been longer than 12 months, this issue would already be taken care of, the property would have been sold, and no one would have to be at these meetings over and over again.

Charles Davis, city resident, commented it was his understanding from Council that putting this back to the Commission would result in another solution. It's not really about how many months; it's about what happens to us when we can't continue the use of a property in the same way after 35 or 40 years. Now we have all these complicated rules and it comes down to pinch, and who is it going to pinch next. Hopefully there will be some kind of general solution that would apply in all the different cases. He questioned the compelling interest in doing this to us is.

There were no further comments and the hearing was closed.

Commissioner Sonneborn commented that it seems they are dealing with more than one problem at the same time. The problem that the City doesn't allow enough time for a continuance to happen if someone dies and there is any kind of problem with the estate. She would like them to extend the





# City of Homer

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## Planning

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## HOMER ADVISORY PLANNING COMMISSION

December 4, 2013

JAN 8 2014

RE: Conditional Use Permit (CUP) 13-13  
Address: 3850 Heath Street  
Legal: Lot 1-A-1 Carl Sholin Subd. No. 5

### DECISION

#### Introduction

Seabright Survey + Design (the "Applicant") applied to the Homer Advisory Planning Commission (the "Commission") for a conditional use permit under Homer City Code HCC 21.18.030(k) for "More than one building containing a permitted principal use on a lot" at 3850 Health Street. The property is in the Central Business District and owned by Jose Ramos dba Heath Street Investments.

The application was scheduled for a public hearing as required by Homer City Code 21.94 before the Commission on December 4, 2013. Notice of the public hearing was published in the local newspaper and sent to 20 property owners of 26 parcels.

At the December 4, 2013 meeting of the Commission, with six Commissioners present, approved the the conditional use permit with six Commissioners voting in favor and none opposed .

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 Applicant, represented by Kenton Bloom provided testimony describing the proposed improvements which include landscaped areas and outdoor post mounted lights. The applicant also submitted a site plan illustrating the proposed improvements. Charles Davis, a city resident testified about general permitting standards. Prior to the meeting Frank Griswold, a city resident, submitted written comments regarding compatibility, density, traffic circulation, connection to public water and sewer, and provisions of the Community Design Manual. The written comments were provided to the Commission as a laydown. Mr. Griswold did not attend the public hearing.

**The criteria for granting a Conditional Use Permit are set forth in HCC 21.71.030 and 21.71.040.**

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

**Finding 1:** Under Homer City Code 21.18.020(h) a duplex dwelling is a permitted principal use in the Central Business District. Homer City Code 21.18.030(k) permits "More than one building containing a permitted principal use on a lot" in the CBD by conditional use permit. The proposed use complies with the maximum building area and lot coverage requirements of Homer City Code 21.18.040(d).

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:** Homer City Code 21.18.010 provides that the CBD is meant to accommodate a mixture of residential and nonresidential uses with conflicts being resolved in favor of nonresidential uses. The proposed use will be an additional residential use on a lot that presently contains a mixture of residential and nonresidential uses. As addressed below, there are not conflicts between the proposed residential use and nonresidential uses in its vicinity.

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:** The proposed use will have no visual, traffic or other effects that would negatively affect the value of adjoining property. Proposed on-site landscaping and other amenities potentially will positively affect the value of adjoining property.

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

**Finding 4:** The proposed use is compatible with the existing uses along Heath Street which include a mix of commercial and residential.

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

**Finding 5:** Public services and facilities are, or will be prior to occupancy, adequate to serve the proposed use. A paved road provides access to the property. The property presently is served by city water and sewer. Approval of the conditional use is conditioned on the upgrading of the water meter that serves the property.



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 scale, bulk and density of the project are in harmony with the surrounding CBD neighborhood. The minimal traffic that the duplex residential use will generate will have no harmful effect on the surrounding neighborhood.

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:** As discussed above, the proposal will have minimal off-site effects. The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area and the city as a whole.

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

**Finding 8:** The proposal will comply with all applicable regulations and conditions through the permitting process.

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

**Finding 9:** This proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan. By providing additional housing in the Central Business District, it supports and is compatible with the following applicable land use goals and objectives of the Comprehensive Plan:

- Increase the supply and diversity of housing, and encourage infill (Goal 1).
- Encourage high-quality site development (Goal 3).
- Promote housing choice by supporting a variety of dwelling options (Goal 5).

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

**Finding 10:** The proposal will comply with all applicable provisions of the Community Design Manual through the permitting process .

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:

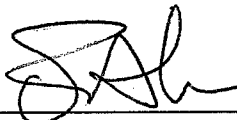
1. **Special yards and spaces.** See Conditions.
2. **Fences, walls and screening.** Dumpster to be located so as it is not be visible from Heath Street and screened on three sides with an opaque wall, fence, landscaped berms, evergreen plantings or a combination thereof. See Conditions.
3. **Surfacing of vehicular ways and parking areas.**
4. **Street and road dedications and improvements (or bonds).** NA
5. **Control of points of vehicular ingress and egress.** NA - existing.
6. **Special restrictions on signs.**
7. **Landscaping.**  
All landscaping to be completed within nine months or within the first full growing season of the issuance of the Zoning Permit, HCC 21.50.030(f)(2).
8. **Maintenance of the grounds, buildings, or structures.** NA
9. **Control of noise, vibration, odors, lighting or other similar nuisances.** NA
10. **Limitation of time for certain activities.** NA
11. **A time period within which the proposed use shall be developed.** If a Zoning Permit has not been issued within two years of the signed Decisions and Findings this CUP expires.
12. **A limit on total duration of use or on the term of the permit, or both.** NA
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. The proposed use complies with the dimensional requirements for the Central Business District.
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.** NA

## **Conclusion**

Based on the foregoing findings of fact and law, Conditional Use Permit 13-13 is hereby approved, with findings 1-10 and conditions 1-8.

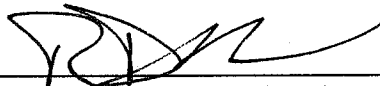
1. There shall be a landscaped area in front of each building to include trees and shrubs as well as lawn. These landscaped areas shall be visually distinct from the parking lot and driveway surfaces to avoid tenant parking on the landscaped areas. The landscaped areas shall be developed in the areas of green on the CUP Site Plan, Sheet 2 of 3, dated 10/15/2013.
2. The landscaped visual buffer along the west property line shall be on private property and out of the utility easement(s). The buffer shall be a least 10 feet wide and have a total area of at least 500 sf. The new plantings shall consist of at least 50% evergreen with an initial tree trunk size of 1.5 inches or greater in diameter.
3. All landscaping shall be completed within nine months of substantial completion of the project, or within the first full growing season after substantial completion of the project, whichever comes first, HCC 21.50.030(f)(2). See conditions.
4. The proposed structure shall be setback a minimum of 15 feet from the top of the bank of the drainage ditch per HCC 21.50.020(b)(2).
5. The dumpster shall be located so as to not be visible from Heath Street and screened on three sides with an opaque wall, fence, landscaped berms, evergreen plantings or a combination thereof.
6. Prior to issuance of the Zoning Permit, the owner shall submit a final site plan that depicts the layout of the water and sewer lines for the existing buildings and the proposed extension. Public Works request.
7. The water meter shall be upsized to a 1" meter prior to service of the proposed duplex. Public Works request.
8. If a Zoning Permit has not been issued within two years after the date of this Decision and Findings this CUP expires.

Date: 01/06/2014



Chair, Franco Venuti

Date: 1/6/14



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 1/6/14, ~~2013~~. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk on the same date.

Date: 1/6/14



Travis Brown, Planning Technician

Seabright Survey + Design  
Kenton Bloom, PLS  
1044 East End Road Suite A  
Homer, AK 99603

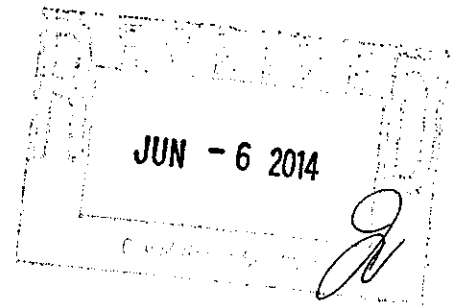
Thomas Klinkner  
Birch, Horton, Bittner & Cherot  
1127 West 7th Ave  
Anchorage, AK 99501

Jose Ramos  
Health Street Investments  
127 W. Pioneer Avenue  
Homer, AK 99603

Frank Griswold  
507 Klondike Avenue  
Homer, AK 99603

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

**CITY OF HOMER  
BOARD OF ADJUSTMENT**



**City of Homer, Alaska  
491 East Pioneer Avenue  
Homer, Alaska 99603**

**APPEAL OF HOMER  
ADVISORY PLANNING COMMISSION'S  
GRANT OF CONDITIONAL USE PERMIT 13-13**

**DECISION ON APPEAL**

On March 24, 2014, Frank Griswold appealed the decision of the City of Homer Advisory Planning Commission ("Commission") granting Conditional Use Permit 13-13 ("CUP 13-13") to Kenton Bloom d/b/a Seabright Survey & Design ("Applicant" or "Mr. Bloom"). Pursuant to the Commission's Decision, CUP 13-13 permits the Applicant to erect more than one building containing a permitted principal use on Lot 1-A-1 Carl Sholin Subdivision No. 5 3850 (the "Property"). The Property is located at 3850 Heath Street and is in the Central Business District. The Commission's approval of CUP 13-13 was subject to numerous conditions, including but not limited to:

1. Landscaping requirements (Conditions Nos. 1-3);
2. Increased setback requirements for the proposed structure (Condition No. 4);
3. Prior to the issuance of a zoning permit, submission of a final site plan depicting the water and sewer lines layout for existing and proposed buildings (Condition No. 6); and
4. Upsizing the water meter to a 1" meter prior to service of the proposed duplex (Condition No.8).

The Board affirms the Commission's decision in part, and remands in part for further findings consistent with this decision. Six members of the Board participated in the appeal hearing, which was chaired by Mayor Mary E. Wythe. The five present and voting members of the Board (Beauregard Burgess, Barbara Howard, David Lewis, Francie Roberts, and Gus Van Dyke) unanimously concur in this decision. Chair Mayor Wythe excused the absence of Board member Bryan Zak from the hearing, which was

timely requested. Due to his absence at the hearing, Board member Zak abstained from participating in any deliberations.

## **I. STANDARD OF REVIEW**

The Board exercises its independent judgment on legal issues raised by the parties: HCC 21.93.540(d). The Board considers findings of fact adopted expressly or by necessary implication by the Commission true so long as those findings are supported by substantial evidence. HCC 21.93.540(e). If the Commission failed to make a necessary finding of fact and substantial evidence exists in the record to enable the Board to make the finding of fact, the Board may do so in the exercise of its independent judgment, or, in the alternative, the Board may remand the matter for further proceedings. *Id.* Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Id.*

## **II. EVIDENCE PRESENTED**

In reaching its decision, the Board considered the record on appeal (as supplemented on February 25, 2014, with a color copy of the site plan and aerial photograph); the opening briefs filed by Mr. Griswold and the City of Homer Planning Department ("Planning Department"); the reply brief filed by Mr. Griswold; and testimony and objections raised by Mr. Griswold, Ms. Engebretsen, and Mr. Bloom at the public hearing held on April 9, 2014. While the Board was also provided Mr. Griswold's supplemental briefing and email submissions, the Board chose not to consider arguments or additional evidence submitted after the hearing. The Board was also aware of an email sent from Mr. Griswold to the City Clerk on April 15, 2014, alleging that Mr. Burgess made derogatory comments regarding Mr. Griswold at the April 14, 2014 City Council meeting. Again, the Board decided not to consider new issues raised after the hearing. See HCC 21.93.570.

## **III. ANALYSIS REGARDING PROCEDURAL MATTERS**

In this appeal, Mr. Griswold challenged numerous points of procedure, arguing that the Board Chair, the City Attorney's office, the Applicant, and the Planning Department were all excluded from participating in the appeal based upon restrictions in local and state law regarding partiality, conflicts of interest, the unlicensed practice of law, and lack of standing.<sup>1</sup> Although these procedural issues were decided by the

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<sup>1</sup> In addition to the procedural issues raised by Mr. Griswold, the following disclosures were made by the Board members: (1) Ms. Roberts attended the December 3, 2014 Commission meeting but did not participate in the hearing and does not remember the public hearing on CUP 13-13; (2) Mr. Burgess has worked with the Applicant and the owner of the Property in the

Board at the hearing, the procedural challenges raised and the Board's findings regarding these challenges are memorialized in this decision.

A. Conflicts of Interest

Mr. Griswold asserted that the firm of Birch Horton Bittner and Cherot ("BHBC") had a conflict of interest and could not represent the Board in this matter while also providing guidance to the Planning Department. Here, Holly Wells represented the Board and Thomas Klinkner was made available to advise the Planning Department.

Mr. Griswold's concerns involved the rules of ethics adopted by the Alaska Bar Association and the appearance of impropriety created by representation of the decision-making body by Ms. Wells and the Planning Department by Mr. Klinkner. The City adopted this dual representation approach in 2011 after determining the propriety of this approach. This approach assists the City in meeting many of the challenges associated with securing representation on municipal administrative matters in a timely and cost effective manner. It is commonly used by state and local government entities and has been upheld by the Alaska Bar Association, especially when certain safeguards are implemented. Alaska Bar Association, Board of Governors, Ethical Op. 99-2. In an effort to minimize any appearance of impropriety, the City has also adopted safeguards when using dual representation. For example, an ethical screen is required between the attorney representing the decision-making body and the attorney representing a municipal department. Also, the attorney representing the decision making body may not participate in deliberations and must limit his or her advice to procedural matters. Ms. Wells confirmed that the ethical screen was in place in this proceeding and that she was complying with the other limitations.

The Board unanimously found that the dual representation policy adopted by the City and implemented in this case did not create a conflict of interest by BHBC or Ms. Wells and approved Ms. Wells' representation of the Board so long as an ethical screen remained in place between Mr. Klinkner and Ms. Wells.

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past but he did not believe he was biased by these dealings and none of these dealings resulted in a substantial financial interest as defined under the Homer City Code; (3) Mr. Van Dyke also disclosed a past working relationship with the owner but also represented that the relationship was not substantial and did not create bias or partiality. After these disclosures, the Board voted and unanimously determined that none of the Board members were excused from participation in the hearing.

## B. Ex Parte Communications

Mr. Griswold argued that City Planner, Rick Abboud, engaged in *ex parte* communications with the Commission due to Mr. Abboud's general role before the Commission and his signature on the written decision. The Board unanimously determined that Mr. Abboud had not engaged in inappropriate *ex parte* communications with any member of the Commission or the Board.

The City Planner, and the Planning Department in general, perform many duties, including presenting recommendations to the Commission in quasi-judicial matters and drafting the Commission's written decision once it makes its determination. In anticipation of these many roles, the Homer City Code permits *ex parte* communications between the Planning staff and the Commission members where the individual staff member is not a party to the appeal and the communications in question do not "furnish, augment, diminish, or modify the evidence in the record on appeal." See HCC 21.93.710(b). Here, Mr. Abboud's recommendations to the Commission and his position were communicated in a public hearing and the Commission independently made its decision and verbally issued its findings at that hearing. Mr. Abboud accurately reflected the Commission's findings in the decision and did not supplement, modify or otherwise alter the Commission's findings.

The Board also rejected Mr. Griswold's argument that Planning Department staff had *ex parte* communications with the Board. Deputy City Planner Julie Engebretsen testified at the April 9, 2014 hearing that neither she nor Mr. Abboud had *ex parte* communications with the Board. Additionally, the members of the Board issuing this decision have had no *ex parte* communications with Planning Department staff.

## C. Partiality

Mr. Griswold also argued that Mayor Wythe and the Planning Department staff were partial and should have been prohibited from participating in the hearing before the Board pursuant to HCC 1.18.048. The Board unanimously ruled that there was no evidence supporting Mr. Griswold's position that the Mayor and/or the Planning Department staff were partial and the partiality restrictions in the Code do not apply to the Planning Department staff.

The Homer City Code prohibits partiality by city officials in quasi-judicial proceedings. Homer City Code 1.18.020 defines "City official" as "a person who holds elective office under the ordinances of the City, or who is a member of a board or commission whose appointment is subject to confirmation by the City Council." These elected officials and board/commission members are partial when:

1. The ability of a member of the quasi-judicial body to make an impartial decision is actually impaired; or



2. The circumstances are such that reasonable persons would conclude the ability of the member to make an impartial decision is impaired and includes, but is not limited to, instances in which:
  - a. The member has a personal bias or prejudice for or against a party to the proceeding including a party's lawyer;
  - b. The member or an immediate family member is a party, material witness to the proceeding or represents a party in the proceeding.

The Board unanimously determined that while Mayor Wythe was subject to the partiality restriction in the Code, Mr. Griswold failed to present any actual or implied evidence of partiality by Mayor Wythe. Instead, Mr. Griswold based his accusations of partiality against Mayor Wythe on her alleged "longstanding animosity" towards him and her appointment of Commission members. Mr. Griswold provided the Board no evidence of conduct by the Mayor demonstrating animosity toward him.

Mr. Griswold's assertion that the Mayor's appointment of Commission members under the City Code necessarily resulted in partiality by the Mayor regarding all Commission decisions was equally unconvincing. The Homer City Code both requires the Mayor to appoint Commission members and to preside over Board hearings on conditional use permits. See HCC 2.72.010(b) (Mayor appoints Commission members subject to confirmation by Council); HCC 21.91.100 (Mayor required to preside over the Board and participate in Board proceedings). Presuming partiality by the Mayor in all Commission proceedings would render these City Code provisions futile and eliminate the mayoral role in Board proceedings.

The Board dismissed Mr. Griswold's assertions of partiality against the Planning Department staff after determining that staff was not subject to the partiality restrictions in the Code because they were not elected by the voters or appointed members of a board or commission as required under HCC 1.18.020. The Board also found at the hearing that there was no evidence of partiality by the staff as Mr. Griswold conceded that he had no knowledge of any personal bias by Ms. Engebretsen, and Ms. Engebretsen testified that she did not have any personal prejudice or bias against Mr. Griswold.

#### D. Applicant's Right of Appearance

Mr. Griswold also objected to the Applicant's right to appeal, arguing that Mr. Bloom's failure to file an entry of appearance, submit an opening brief, and identify himself at the start of the hearing disqualified him from participation. Mr. Griswold argued that the Applicant's participation prejudiced Mr. Griswold, who would have raised other issues had he known that Mr. Bloom intended to participate. The Board rejected this argument.

Mr. Bloom, as a party to the appeal, is not required to file an Entry of Appearance or an opening brief. Homer City Code 21.93.500(b) excepts an applicant from the requirement of filing an entry of appearance:

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

HCC 21.93.500(b) (emphasis added).<sup>2</sup>

Similarly, the Code permits but does not require parties to submit briefs. See HCC 21.93.530(a) (each party may file an opening brief); HCC 21.93.530(b) (each party may file a reply brief).

Although ideally Mr. Bloom would have identified himself at the start of the hearing, he did identify himself before the parties presented their arguments on the substantive matters. The Board may proceed in an administrative appeal "in any lawful manner not inconsistent with this title, statutes, and the Constitution" where no procedures are specified in the Code. See HCC 21.93.570. In accordance with its discretion, the Board permitted Mr. Bloom to participate in the oral argument but did give the other parties an opportunity to make any new procedural arguments in light of Mr. Bloom's participation. No additional challenges were raised except Mr. Griswold's challenge to Mr. Bloom's participation.

Mr. Bloom's testimony was extremely brief and only addressed issues previously raised by Mr. Griswold, the Planning Department, or the Board. Consequently, Mr. Griswold was in no way prejudiced by Mr. Bloom's participation. Conversely, denying Mr. Bloom, a party with standing to appeal, the opportunity to participate at oral argument simply because he did not submit optional briefing would have substantially prejudiced Mr. Bloom.

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<sup>2</sup> Here, Mr. Bloom did file an Entry of Appearance but that appearance was not served upon Mr. Griswold. The Board finds that the failure to serve the Entry of Appearance on the other parties is harmless error given that the Entry of Appearance was not required under the Code.

**E. Unauthorized Practice of Law By Applicant and Planning Department Staff**

Mr. Griswold also attempted to exclude the Planning Department staff and the Applicant from participation in the appeal based upon alleged unauthorized practice of law. See AS 08.08.230. The Board rejected his allegations against both Mr. Bloom and staff.

Mr. Griswold's accusation that Mr. Bloom represented the owner rather than himself is unsupported by the record. The Board found that Mr. Bloom did not represent himself to be an attorney by words or conduct nor did he represent another at the hearing before the Commission. Instead, Mr. Bloom represented his own interests as the Applicant. To the extent that Mr. Bloom was intending to represent the owner of the Property either before the Commission or the Board, his appearance was limited by the Board to his role as the Applicant. See R. 61. While the owner's interests and Mr. Bloom's interests likely align, Mr. Bloom confirmed at the hearing that he was appealing as the Applicant and not necessarily the owner's representative.

Mr. Griswold's argument that City Planner Abboud and Deputy City Planner Engebretsen were also engaged in the unauthorized practice of law is similarly without merit. It is both common and lawful for a staff member to represent a government agency's position before a quasi-judicial body. The State of Alaska Attorney General specifically recognized that this type of representation by staff does not constitute the unlawful practice of law. See 1979 WL 22915 (Alaska A.G.), Sept. 11, 1979. Further, nothing in the Homer City Code prohibits a staff member from representing the City in a quasi-judicial proceeding. In fact, not only does the City Planner (or any governmental official, agency, or unit) have standing to appeal a decision of the Commission to the Board (HCC 21.93.060), but HCC 21.93.090 permits a non-lawyer to represent a party to an appeal upon filing a written authorization by the represented party.

For the foregoing reasons, the Board unanimously found that Mr. Abboud and Ms. Engebretsen had standing and authority to represent the Planning Department in the proceeding and that Mr. Bloom was a party with standing.

**IV. ANALYSIS REGARDING SUBSTANTIVE POINTS ON APPEAL**

In addition to the procedural challenges raised by Mr. Griswold in his briefing and ruled upon at the hearing, Mr. Griswold also challenged the Commission's findings of law and fact. Mr. Griswold raised 19 allegations of error in his Notice of Appeal and consolidated these allegations into 14 points of appeal in his opening brief. Mr. Griswold categorically objected to all the Commission's findings due to the lack of substantial evidence in support of these findings. He questioned the Commission's authority as an alleged "advisory body," to even approve conditional use permits. Mr. Griswold's more specific challenges to the findings may be categorized as follows:

1. The Commission failed to identify requirements under the City Zoning Code and require abatement of violations of the Code (Allegation Nos. 5, 8);
2. The Commission should have required the Property owner to obtain approval by the Alaska Department of Environmental Conservation ("ADEC") of the water lines and the waste water collection system that serves the existing and proposed buildings (Allegation No. 14);
3. The Commission erred in making findings despite missing evidence (Allegation Nos. 4, 5, 6);
4. The Commission failed to impose additional necessary conditions on the permit (Allegation Nos. 7, 10, 13);
5. The Commission erred in its consideration of the Community Design Manual (Allegation Nos. 9, 10, 13, 14);
6. The Commission erred in finding that the proposal is not contrary to the Comprehensive Plan (Allegation No. 11); and
7. The Commission erred in finding that the proposed use would not adversely impact the value of adjoining property and that proposed landscaping and other amenities would positively affect the value of adjoining property (Allegation No. 12).

The Board considers each of Mr. Griswold's allegations and finds that while the majority of the Commission's findings were sound and based upon substantial evidence, the Commission erred in failing to issue findings regarding the Property's current compliance with Homer Zoning Code. Each of Mr. Griswold's arguments is addressed below.

#### A. Commission's Authority to Grant Conditional Use Permits

Mr. Griswold's argument that the Commission is an advisory body and thus does not have authority to grant a conditional use permit is without merit. Indeed, the Alaska Supreme Court recognized the delegation of authority to the Commission by the Kenai Peninsula Borough ("Borough") to approve or deny conditional use permits in a case brought by Mr. Griswold himself. *See Griswold v. City of Homer*, 186 P.3d 558 (Alaska 2008). The City created the Commission in accordance with Borough and State of Alaska law and properly delegated authority to decide conditional use permits to the Commission. *See Griswold*, 186 P.3d at 561-63; *see also* HCC 21.71.010; HCC 21.71.040. In conclusion, regardless of the Commission's name, it is required to act upon a request for a conditional use permit pursuant to HCC 21.71.040.

## B. Compliance with the Law

Many of Mr. Griswold's allegations of error arise from the Commission's failure to make findings regarding the Property's current compliance with state and local laws. See Griswold Opening Brief, Allegation Nos. 5, 8, 9, 10, 11, 13, 14. Specifically, Mr. Griswold asserts that there was insufficient evidence of the Property's current compliance with the Homer Zoning Code, the Comprehensive Plan, and the Community Design Manual ("CDM").<sup>3</sup> Although the record reflects that the Commission made sufficient findings regarding compliance with the Comprehensive Plan and the CDM, the Commission erred in failing to make specific findings regarding current compliance with the Homer Zoning Code. Further, the Planning Department's failure to supplement the record with documents that may have probative value and the Commission's failure to compel production of such documents were improper. As a result, the Board upholds the Commission's findings regarding the Comprehensive Plan and the CDM, but remands to the Commission to require the parties to produce all documents relevant to the Property's current compliance with the Zoning Code and to issue specific findings regarding such compliance after considering any new evidence submitted by the parties.

### 1. Comprehensive Plan

Mr. Griswold argued, both in his briefs and at the hearing, that the Commission arbitrarily selected goals from the Comprehensive Plan that supported approval of the conditional use. See Griswold Opening Brief, Allegation No. 11. Although Mr. Griswold alleged that the Commission's consideration of the Comprehensive Plan goals was too narrow, he did not convincingly challenge the factual findings made by the Commission. The record clearly reflects the Commission's consideration of the Comprehensive Plan goals and the substantial evidence upon which the Commission's Finding No. 9 was based. Mr. Griswold did not provide or reference concrete evidence that the conditional use would not comply with applicable land use goals and objectives of the Comprehensive Plan. The Commission expressly noted Mr. Griswold's concerns regarding compatibility, density, traffic circulation, and other issues and thus considered these concerns when issuing its finding. Therefore, the Board takes the Commission's Finding No. 9 as true.

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<sup>3</sup> Mr. Griswold provided no relevant legal basis for his assertion that ADEC approval was necessary prior to the issuance of a conditional use permit by a municipality. In any event, such approval is not required under the relevant City Code provisions. The Board finds that the Planning Department provided all information needed by Public Works and is under no legal obligation to confirm ADEC approval of any water or sewer system.

## 2. Community Design Manual

Mr. Griswold argues that the CDM must be strictly applied to a property seeking a conditional use permit, without regard for the limitations identified in the manual itself. Mr. Griswold asserts that since the Code requires the Commission to find property in compliance with applicable provisions of the CDM, all provisions of the CDM must apply without discretion. This interpretation is misguided as it ignores the advisory nature of the CDM and the express language in the CDM requiring discretion and flexibility in applying the CDM. See *generally* CDM at 1, Applicability Section at 2-3. The Commission made specific findings regarding the application of the CDM and even adopted conditions in an effort to further the goals of the CDM. See Commission's Decision, pp. 3-5. The record contains sufficient evidence of compliance with applicable CDM provisions. Staff Report PL 13-85, R. 16; CDM Review Application Requirements, R. 27-35; Testimony by K. Bloom at Commission December 4, 2013 hearing, R. 57. The Board finds the Commission's findings to be supported by substantial evidence in the record, and thus upholds those findings.

## 3. The Homer Zoning Code

Unlike its findings regarding the Comprehensive Plan and the CDM, the Commission did not have substantial evidence supporting its finding regarding the Property's current compliance with the Homer Zoning Code. While the Commission concluded that "the Property does or will comply with all applicable regulations and conditions through the permitting process," it provided no basis for this finding nor did it specifically confirm the Property's current compliance with the Homer Zoning Code. See Commission's Decision, R. 18. Homer City Code 21.90.030 states that "[n]o permit may be *issued* under the Homer Zoning Code unless all structures on and uses of the property conform to the Homer Zoning Code, regulations, and any previously issued permits that are applicable to the property and remain in effect." Thus, the Commission cannot issue a conditional use permit if current zoning violations exist on the property at issue.

Further, no evidence relevant to the property's compliance with the Homer Zoning Code was submitted by any party. Mr. Griswold did, however, submit evidence of his requests for documents retained by the Planning Department but excluded from the record. Email Correspondence between F. Griswold and R. Abboud, R. 41-45. Ms. Engebretsen confirmed at the April 9 hearing that there were documents regarding the Property that were not produced. Although these documents may ultimately prove irrelevant to the issue of compliance, the Commission needs to review these documents and issue specific findings regarding the Property's compliance with the Homer Zoning Code. As a result, the Applicant has not submitted sufficient evidence to enable meaningful review of the conditional use permit application.

### C. Commission's Alleged Lack of Substantial Evidence for All its Findings

Mr. Griswold's accusation that the Commission categorically failed to base its findings on substantial evidence is without merit. Mr. Griswold provides almost no support for this overreaching allegation in his briefing or his testimony. In addition to the Commission's findings discussed above, the Commission made specific findings regarding each of the conditional use permit criteria. The Commission's findings that were not specifically or at least comprehensively addressed in Mr. Griswold's briefing but are challenged by him on appeal are as follows:

- 1) The proposed uses and structures are authorized under Homer City Code and compatible with the purpose of the Central Business District zoning district (Commission's Findings 1 and 2, R. 62);
- 2) Adjoining property value will not be negatively affected greater than that anticipated from other permitted or conditionally permitted uses in the area (Commission Finding 3, R. 62);
- 3) The proposal is compatible with existing uses of surrounding land (Commission's Finding 4, R. 62);
- 4) 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, R. 63); and
- 5) 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, R. 63).

The Board considered each of these findings and determines that there was substantial evidence in the record supporting each of them. Mr. Griswold's general allegations regarding the Commission's findings appeared grounded in general policy principles and did not credibly challenge specific evidence relied upon by the Commission in its findings. Mr. Griswold argued in his briefing that zoning violations on the Property would necessarily compromise public health, safety, and general welfare and devalue neighboring property due to the violation but did not give concrete reasons that the proposed use would have such effects.

At the hearing, Mr. Griswold identified his main objection to the conditional use permit as the adverse policy implications for permitting approval of conditional use permits on property currently in violation of the Homer Zoning Code. Although Mr. Griswold's concerns regarding the Property's compliance with the Homer Zoning Code are warranted, as demonstrated by the Board's remand for certain findings, compliance with the Homer Zoning Code is not a legitimate basis for rejecting all of the

Commission's findings. The Commission's findings regarding the potential harmful effects of the conditional use upon the public and/or adjoining property owners examines the *proposed use* and not the pre-existing use on the property. See HCC 21.71.030.

The Board made specific findings based upon substantial evidence in the record regarding the above-referenced criteria. Accordingly, the Board takes these allegations as true and upholds the Commission's findings.

#### D. Commission's Conditions

In addition to challenging the Commission's findings, Mr. Griswold also argued that the conditions imposed by the Commission were inadequate. Mr. Griswold argued that the Commission failed to impose additional necessary conditions on the permit and that the language and requirements in some conditions was ambiguous or ineffective. See Griswold Opening Brief, Allegation Nos. 7, 10, and 13. Under HCC 21.71.04(b), the Commission "may" impose conditions as may be deemed necessary to ensure the proposal satisfies applicable review criteria. The conditions adopted by the Commission were a proper exercise of its discretion and reflected the Commission's efforts to further satisfy the CUP criteria of the Code. Consequently, the Board upholds the conditions imposed by the Commission.<sup>4</sup>

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<sup>4</sup> However, the Board does recognize that the Commission may chose to adopt additional conditions or otherwise modify its conditions on remand in order to issue a decision consistent with this decision.

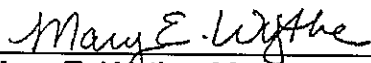


**ORDER**

Based on the record on appeal, the parties' briefs, and oral argument of the parties at the April 9, 2014 hearing, the Board affirms the Commission's decision in part, but remands to the Commission for further findings as permitted under HCC 21.93.560(a). More specifically, the Board affirms the Commission's Findings Nos. 1 through 4 and Findings Nos. 6, 7, 9, and 10.

The Board rejects the Commission's Findings Nos. 5 and 8, holding that they are based on insufficient evidence. The Board remands to the Commission to require and consider additional evidence in determining whether the Property complies with the Homer Zoning Code as required under HCC 21.90.030, to make findings regarding the Property's compliance with the Homer Zoning Code, and revisit Findings Nos. 5 and 8 after considering additional evidence regarding compliance.

Adopted by the Board of Adjustment on June 6, 2014.

  
\_\_\_\_\_  
Mary E. Wythe, Mayor

CERTIFICATE OF DISTRIBUTION

The undersigned hereby certifies that on the 6<sup>th</sup> day of June, 2014, a true and correct copy of the foregoing was served on the following in the manner indicated:

*Jose Ramos*  
*Seabright Survey & Design*  
*Frank Griswold*  
*City Mgr. Wade*  
*City Planner Abbond*

- U.S. Mail
- Facsimile
- Electronic Delivery
- Hand Delivery

By: *J. Johnson*  
Jo Johnson, City Clerk



CITY OF HOMER  
491 East Pioneer Avenue  
Homer, Alaska 99603-7624

Exhibit A

ZONING PERMIT # 02-73

DATE: 12/02/02

This permit is issued to Bob Stewart who certifies that he/she has met the requirements of the City of Homer for the construction/destruction or installation of:

Construction Type:  
NR NRA/R NC NCA/R Expt

Four 20'x 25' cabins on piling (Total 2000 s.f.) for motel

at 3850 3804 Heath Street 1-A Carl Sholin No. 4  
Street Lot Block Subdivision

KPB Assessor Number 177-110-21

For a period from 6/06/03 to 6/07/04

This permit may not be transferred or assigned by the original permittee and shall be displayed in a prominent, readily visible place at the site. If the work is not completed within the above specified time, application for an extension MUST be made to the City of Homer.

The City assumes no responsibility for the accuracy of any City-held asbuilt drawings or for the permittee's interpretation thereof.

This permit is issued with the expressed understanding that the City of Homer assumes no responsibility hereunder with regard to maintenance of private drainage systems that terminate in City ditch lines or drainages, including but not limited to foundation drains; proper location of lot lines or site dimensions. The permittee, by his signature below, agrees to hold the City harmless from any and all suits, actions, or claims arising from any work undertaken.

The issuance of this permit does not imply that the permittee has met all the requirements of any agency of the State of Alaska or the Kenai Peninsula Borough. It is the responsibility of the permittee to meet whatever requirements any agency may have which may apply to the construction/destruction or installation specified in this permit.

Received By: Dan Gardner  
Paid By: Bob Stewart  
Check No: 4001 and cash \$5.00  
Date: December 2, 2002

Code 105

Permit issued by: [Signature] 6/6/03  
Permittee: [Signature]

Address/Phone: 299-1996 3804 Heath Street Unit C

Plot Plan Required: Yes Received 12/02/02 No \_\_\_\_\_

Utilities: Water: Municipal Existing Private System \_\_\_\_\_

Sewer: Municipal Existing Private System \_\_\_\_\_

**\*\*PRIVATE SEWER SYSTEM MUST BE APPROVED BY ADEC\*\***

Zoning: CBD Building Setback: 20 feet from Right of Way

Driveway Permit City Permit#: Existing State: \_\_\_\_\_

Fee from Schedule: \$125.00 Estimated Value: \$90,000

SPECIAL CONDITIONS: An asbuilt of "all cabins" to be submitted.

PLANNING SIGNATURE APPROVAL: [Signature] 6-5-03

Original: Applicant

Copies: Planning, PW, Finance, Fire Dept

**\* CHECKLIST \***

**APPLICATION FOR THE ISSUANCE OF A ZONING PERMIT**

ZONING PERMIT # 02-73

(CHECK ONE)         RESIDENTIAL             NON-RESIDENTIAL

APPLICANT: Bob Stewart

ADDRESS: 3850 Heath St.

**PUBLIC WORKS**

Permits Required:

- Driveway/Culvert Permit
  - Water Permit
  - Sewer Permit
- } Existing

Department Comments: Reviewed this site plan w/ Bob S. + Zak T. last week. At minimum, we should receive an as-built for the lot that shows w/s alignments. Also, the SW corner of the lot is proposed to be cut off in a current pre-lim plat. The sewer service for lot 1-A runs thru this corner. An easement needs to be dedicated for this sewer line.

DATE REVIEWED: 12/02/02 SIGNATURE: [Signature]

↓ Site plan calls the lot 1-A-1 which is what the current re-plot uses. The actual, current lot is 1-A, Carl Scholin #4

**PLANNING DEPARTMENT**

A COMPLETED ZONING PERMIT APPLICATION REQUIRES THE FOLLOWING INFORMATION:

- Owner or Lessee of the lot or authorized person listed on the application
- Legal description and street address of the lot
- Description of the intended use of property, building or structure
- Zoning designation for the property
- For new buildings or structures, or for changes to the exterior dimensions of existing buildings or structures, a survey, plat, or plan, drawn to scale of not less than 1" = 20'



## Kenai Peninsula Borough Parcel Lookup

Parcel Number: **17711021**

Owner: STEWART SUZANNE F  
3804 HEATH ST #C  
HOMER, AK 99603-7664

Tca - <u>20</u>	Ownership Code - <u>00</u>	Usage Code - <u>CM</u>
Property Type - <u>R</u>	Acres - 2.32	Voter District - <u>H1</u>
Number of Structures - 3	Land Value - \$78800	Structure Value - \$95700
Exempt Amount - \$0		

Legal Description HM0830134 T06S R13W S20 CARL SHOLIN SUB NO 4 LOT 1-A

Structure Number	Year Built	Square Feet
1	1993	1056
2	1993	1056
3	1993	864

[Return to Search Screen](#)

**[Assessing Home](#)**

**\* CHECKLIST \***

**APPLICATION FOR THE ISSUANCE OF A ZONING PERMIT**

- Site Plan elements that are required to be on the plan:
  - Actual dimensions of the lot
  - Exact size and location of the buildings and structures erected or to be erected on property
  - Identification of adjacent street rights-of-way, utility easements and facilities
  - Setback dimensions illustrated on plan
  - Location of any off-street parking or loading spaces
- Drainage Plan
- Copies of any building permits or other permits required by applicable law or regulations
- Such additional information as the Planning Director shall require to determine if the application satisfies the requirements for the issuance of a permit
- The applicant's signed certification that all the information contained in the application is true and correct

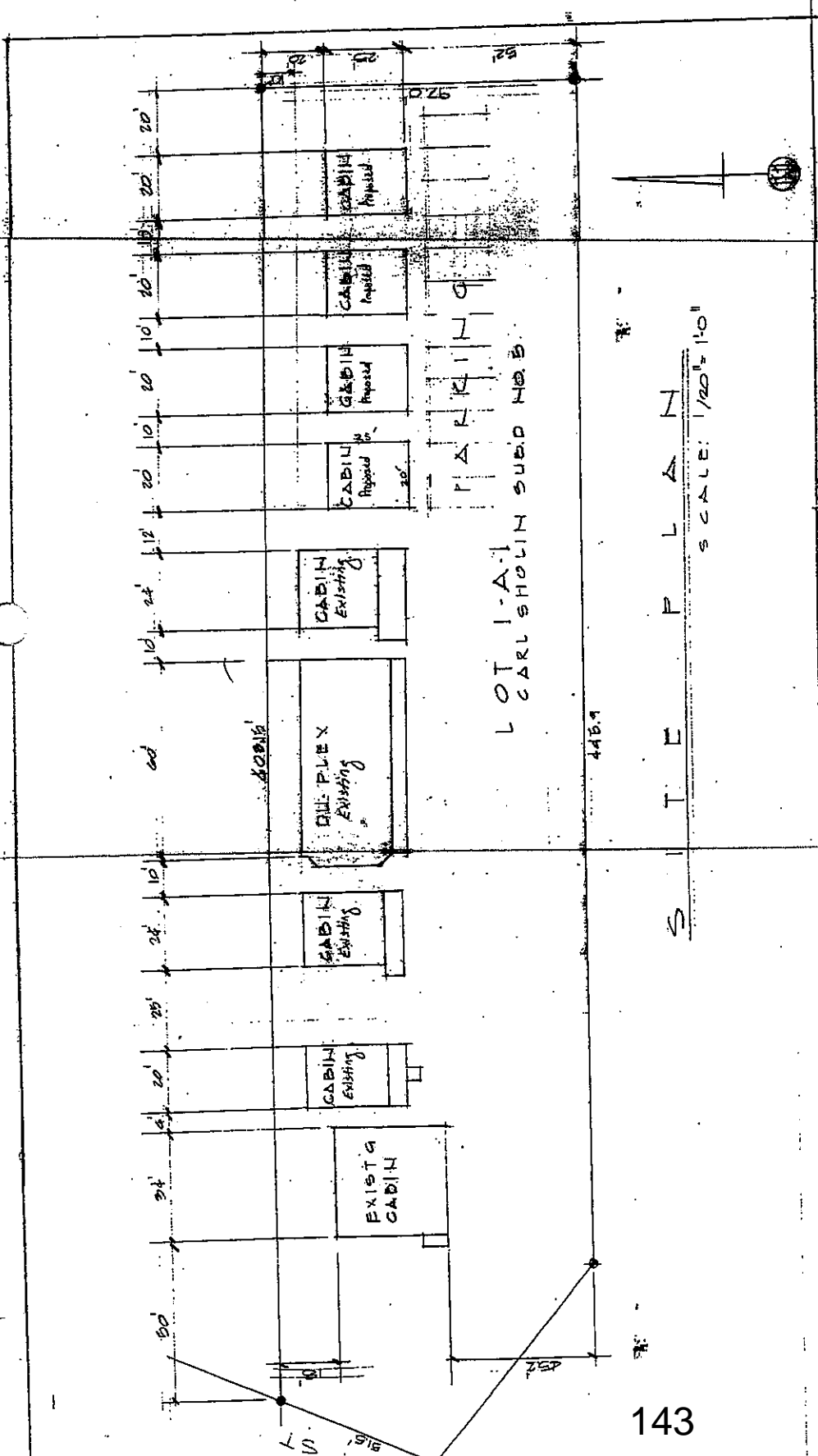
**OTHER POSSIBLE PERMITS THAT MAY BE REQUIRED:**

- Conditional Use Permit
- Sign Permit
- Variance

Department Comments:

*Wetlands map 33. NO wetlands. JA*

DATE REVIEWED : \_\_\_\_\_ SIGNATURE: \_\_\_\_\_



LOT 1-A-1  
CARL SHOLIN SUBD NO. 5

445.7

S I T E P L A N  
SCALE: 1/20" = 1'-0"







CITY OF HOMER  
491 East Pioneer Avenue  
Homer, Alaska 99603-7624

Exhibit B

ZONING PERMIT # 0603-051

DATE: June 10, 2003

This permit is issued to Bob Stewart who certifies that he/she has met the requirements of the City of Homer for the construction/destruction or installation of:

Construction Type:		
NR	NRA/R	NC
	<b>NCA/R</b>	Expt

Existing 4 cabins and duplex as shown on attached site plan

at	<u>3850 Heath Street</u>	<u>1-A</u>	<u>Carl Sholin No. 4</u>
	Street	Lot	Subdivision

KPB Assessor Number 177-110-21  
 For a period from 6/10/03 to 7/11/04

This permit may not be transferred or assigned by the original permittee and shall be displayed in a prominent, readily visible place at the site. If the work is not completed within the above specified time, application for an extension MUST be made to the City of Homer.

The City assumes no responsibility for the accuracy of any City-held asbuilt drawings or for the permittee's interpretation thereof.

This permit is issued with the expressed understanding that the City of Homer assumes no responsibility hereunder with regard to maintenance of private drainage systems that terminate in City ditch lines or drainages, including but not limited to foundation drains; proper location of lot lines or site dimensions. The permittee, by his signature below, agrees to hold the City harmless from any and all suits, actions, or claims arising from any work undertaken.

The issuance of this permit does not imply that the permittee has met all the requirements of any agency of the State of Alaska or the Kenai Peninsula Borough. It is the responsibility of the permittee to meet whatever requirements any agency may have which may apply to the construction/destruction or installation specified in this permit.

Received By: Dan Gardner
Paid By: Bob Stewart
June 10, 2003
Paid Check No. <u>4151</u> \$125

Code 105

Permit issued by: [Signature] 6/10/03

Permittee: [Signature]

Address/Phone: 299-1996 3804 Heath St. Unit C

Plot Plan Required: Yes Received 6/10/03 No \_\_\_\_\_

Utilities: Water: Municipal Existing Private System \_\_\_\_\_  
 Sewer: Municipal Existing Private System \_\_\_\_\_

**\*\*PRIVATE SEWER SYSTEM MUST BE APPROVED BY ADEC\*\***

Zoning: CBD Building Setback: 20 feet from Right of Way

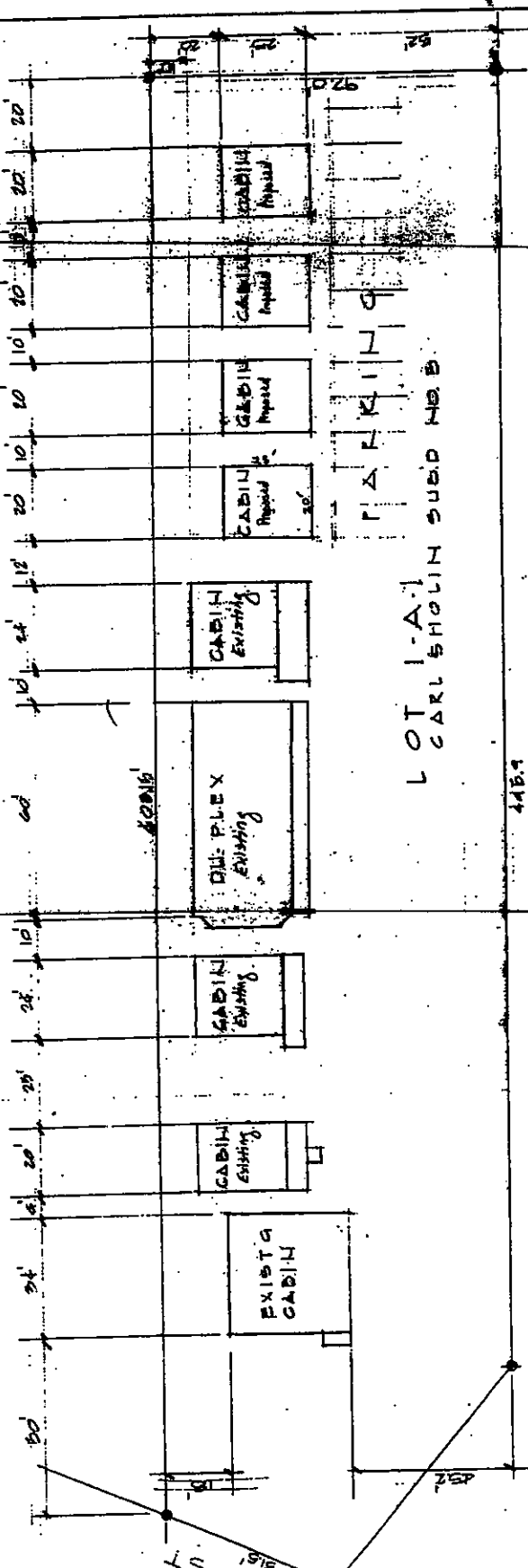
Driveway Permit City Permit#: Existing State: \_\_\_\_\_

Fee from Schedule: \$125.00 Estimated Value: \$202,400

SPECIAL CONDITIONS: \_\_\_\_\_  
 PLANNING SIGNATURE APPROVAL: [Signature]

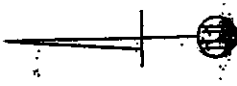
June 10, 2003

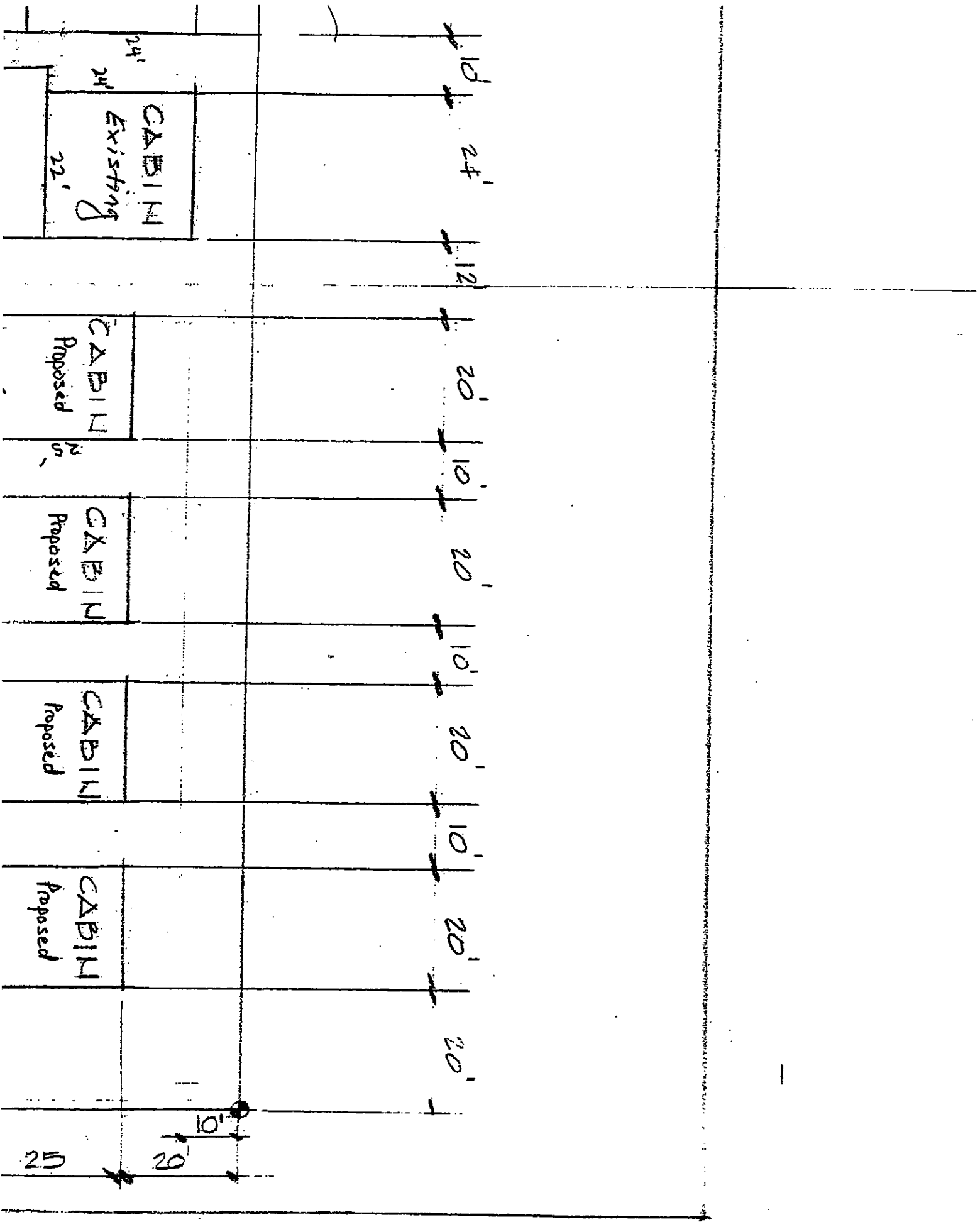
Original: Applicant Copies: Planning, PW, Finance, Fire Dept

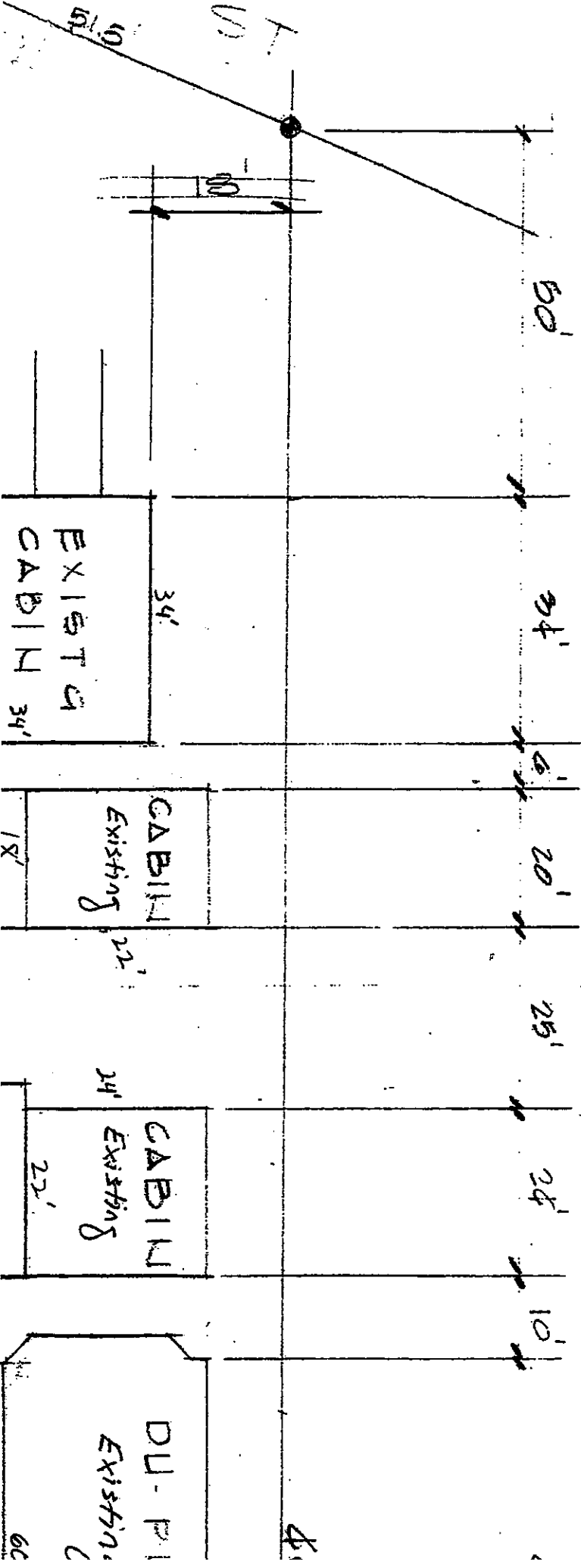


LOT 1-A  
 CARL & MOLIN SUBD H&B

S I T E P L A N  
 SCALE: 1/20" = 1'-0"







**From:** Frank Griswold <fsgriz@alaska.net>  
**Sent:** Sunday, June 22, 2014 3:22 PM  
**To:** Rick Abboud  
**Cc:** Department Planning  
**Subject:** Remand of CUP 13-13  
**Attachments:** mime-attachment.eml

Mr. Abboud:

Please provide the following attachment to the Commission for its consideration regarding CUP 13-13 on remand and please let me know when that public hearing will take place.

Frank



## Travis Brown

---

**From:** McCabe, Gene C (DEC) <gene.mccabe@alaska.gov>  
**Sent:** Monday, June 09, 2014 9:50 AM  
**To:** Carey Meyer  
**Cc:** Dan Gardner; English, Monica A (DEC)  
**Subject:** FW: Wastewater collection system at 3850 heath Street

Hi Carey,

Please see a citizen complain I received this weekend from Frank Griswold against Heath Street Investments, LLC (Jose & Maria Ramos) at 3850 Heath Street (PID 17711023).

I spoke with Monica English in our Soldotna office. It appears Mr. Ramos brought in some line drawings of the existing collection system on the above property, which we added to the property file. While these were not engineered plans submitted for our review, they did provide basic information needed to evaluate the potential risk the development on this lot presents to public health.

Mr. Griswold suggests the owner of this lot may now be considering adding an additional structure to this lot. I'd like to suggest we work together to assure the sewage collection system on the lot is capable of handling the wastewater flow of this lot. In that spirit, if Heath Street Investments requests to develop the lot, we ask that you make any necessary connection approvals contingent upon our review and approval of engineered collection system plans, which will assure this system conforms to the sanitary engineering standards for collection systems prescribed in 18 AAC 72.

Unless you are aware of any current collection system failures at 3850 Heath Street, we consider the risk to public health low at this point. Working together, we can assure an additional expansion keeps the risk at the same low level and protect public health with minimal administrative burden to the public or our respective programs.

Please let me know if you have any questions or have any other suggestions.

Respectfully,

### Gene McCabe

Wastewater Engineering Support & Plan Review Section Manager  
Division of Water  
555 Cordova Street  
Anchorage, AK  
gene.mccabe@alaska.gov  
(907) 269-7692

---

**From:** Frank Griswold [mailto:fsgriz@alaska.net]  
**Sent:** Saturday, June 07, 2014 9:54 AM  
**To:** McCabe, Gene C (DEC)  
**Subject:** Wastewater collection system at 3850 heath Street

Mr. McCabe,

I spoke with you earlier about who regulates wastewater collection systems serving multiple structures on one lot within the City of Homer and relayed what you told me to the Homer City Council in a zoning appeal brief, including the relevant Alaska Statutes:

"The Commission erred in simply requiring the property owner to depict the layout of the existing water and sewer lines and proposed extensions; the Commission should have required the property owner to obtain ADEC approval of the water lines and the waste water collection system serving the six existing buildings and the proposed duplex. While the City of Homer Department of Public Works may have the authority to approve water and sewer connections for single family residences and duplexes, it does not have the authority to approve wastewater collection systems for cluster developments like the one on the subject lot. See *State of Alaska v. Robert Stewart*, 3H0-96-00060CR. 18 AAC 72.005 - 18 AAC 72.440 set standards for domestic wastewater treatment and disposal systems. Under 18 AAC 72.280, the ADEC has the discretion to delegate the authority to implement 18 AAC 72.005 - 18 AAC 72.280 to a municipality upon approval of an application for delegation. 18 AAC 72.280(b)(5)(c)(1) stipulates that such delegation of authority can only be made if the municipality's ordinances are at least as stringent as the requirements of AS 46.03 and AAC Chapter 18. There are myriad other conditions that must be met before municipalities can be delegated the authority to implement 18 AAC 72.005 - 18 AAC 72.280. The City of Homer has not applied for the delegation of authority to implement 18 AAC 72.005 - 18 AAC 72.280 and therefore has no authority to approve the wastewater collection system on the subject lot."

On June 6, 2014, the Homer City Council, sitting as a Board of Adjustment for a zoning appeal, ruled as follows: "Mr. Griswold provided no relevant legal basis for his assertion that ADEC approval was necessary prior to the issuance of a conditional use permit by a municipality. In any event, such approval is not required under the relevant City Code provisions. The Board finds that the Planning Department provided all information needed by Public Works and is under no legal obligation to confirm ADEC approval of any water or sewer system."

None of the six existing structures at 3850 Health Street meet ADEC standards for wastewater disposal. In 1996, ADEC prosecuted the previous property owner, Bob Stewart, for having an illegal wastewater collection system and forced him to remove a single family residence. Shortly thereafter, Mr. Stewart constructed a duplex where the single-family structure had been previously. The current property owner now intends to add a seventh structure to the illegal wastewater collection system. Please take appropriate action to insure that ADEC regulations are complied with at 3850 Heath Street and that the City of Homer clearly understands who has regulatory authority over wastewater collection systems for "cluster" developments within the municipality.

Frank Griswold



**Remand CUP 13-13**

July 8, 2014 12:15:15 PM GMT-08:00

planning@ci.homer.ak.us

Dear Planning Commissioners:

Attached are supporting documents for the following allegations:

1. None of the existing structures on the subject lot comply with the Homer Zoning Code as required under HCC 21.90.030 for the approval of a conditional use permit.
2. None of the existing structures on the subject lot constitute "motel use" nor did they ever constitute "motel use."
3. One building on the subject is being utilized as a public utility (by Horizon Satellite) which is not a permitted use within the CBD. No conditional use permit or change of use permit was ever granted for this former tool shed which was extensively remodeled without the necessary permits. The communication tower attached to the remodeled building was also constructed without necessary permits.
4. No zoning permits or conditional use permits were obtained prior to the construction of any of the existing structures on the subject lot as required by HCC 21.70.010(b).
5. Operating a domestic wastewater system without ADEC plan approval constitutes a violation of 18 AAC 72.010.
6. Between October of 2011 and October of 2013 there were at least 25 responses by HPD to the subject lot.
7. There is no provision under HCC allowing the granting of after-the-fact zoning permits and HCC 21.70.030(c) provides as follows: "In granting a zoning permit, no City official or employee has authority to grant a waiver, variance, or deviation from the requirements of the zoning code and other applicable laws and regulations, unless such authority is expressly contained therein. Accordingly, in order to bring the subject lot into compliance with the Homer Zoning Code, all existing structures must be removed. Once that is done, no conditional use permit would be required for the proposed duplex, being the only structure on the lot and a permitted use within the CBD, so CUP 13-13 would be rendered moot.

*Frankie Gudmund*

**RECEIVED**

JUL 08 2014

**CITY OF HOMER  
PLANNING/ZONING**

001332

Form For VRA

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
AT ANCHORAGE/HONOR

(X) STATE OF ALASKA, )  
( ) MUNICIPALITY OF ANCHORAGE, )  
Plaintiff, )  
vs. )  
ROBERT STEWART, )  
Defendant. )  
DOB: 03/29/41 )

CASE NO. 3HO-99b-60 CR  
SUMMONS

To: Above Named Defendant OL/ID: 0236626 SSN:  
Home Phone: 235-8110 Work Phone:  
Home Address: 295 Pioneer Ave. Work Address:  
Honor, AK 99603

You are summoned to appear before the District/Superior Court at 207 W. Street/Honolulu, Honor, Alaska, on 1ST THURSDAY AFTER DATE OF SERVICE AT 1:30 PM to answer to: (date) 4-4-96 (time) 1:30 pm

- the attached charging document.
- a petition to revoke probation.
- a notice of reinstatement of prosecution.
- a charge that you have failed to satisfy your judgment by \_\_\_\_\_

Original Charge: CIT 1 - III UNPERMITTED DEPRIC INSTALLATION/OPERATION  
10 AAC 04.300 & 10 AAC 72.210; OPERATING A DOMESTIC WASTEWATER SYSTEM  
WITHOUT PLAN APPROVAL 10 AAC 72.010  
If you fail to appear, a warrant will be issued for your arrest.



*M. Francis Powell*  
Judge/Deputy Clerk as ordered on record by  
Judge  
Date 4-27-96

RETURN

I received this summons 2-27, 1996, and served it 3-1, 1996,  
at Homer, Alaska (address) in Homer, Alaska (city)  
by delivering a copy of it and a copy of the charging document to \_\_\_\_\_  
the defendant or a person of suitable age and discretion residing at the defendant's home or usual  
place of residence.

3-1-96 \_\_\_\_\_  
Return Date Signature of Peace Officer Type of Print Name

CR-103 ANCH (10/93)(45)  
SUMMONS

Chg. B. 4(e) A 9

IN THE DISTRICT COURT OF THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT HOMER 5/3/96

STATE OF ALASKA,  
Plaintiff,  
vs.  
ROBERT L. STEWART,  
Defendant.

Case No. JHO-596-60 Cr.

WAIVER OF APPEARANCE AND BAIL CONDITION REQUEST

VRA CERTIFICATION. I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim or witness to any crime unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

COMES NOW, the State of Alaska, by and through its undersigned attorney, and waives its appearance at arraignment in this matter. The state requests one bail condition: obey all Department of Environmental Conservation laws and regulations.

DATED this 3<sup>rd</sup> day of April, 1996 at Anchorage, Alaska.

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By: [Signature]  
Ron Szydloff  
Assistant Attorney General

State of Alaska  
Department of Law  
OFFICE OF SPECIAL PROSECUTIONS AND APPEALS  
310 K STREET, SUITE 308  
ANCHORAGE, ALASKA 99501  
(907) 263-5250

001345

because he is hooked up to the city sewer in Homer. That I tried to explain that the issue revolved around whether he had plan approval, not the hookup. That I believe Mr. Stewart may attempt to present evidence of his hookup as a defense.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

*J. Stewart*

SUBSCRIBED AND SWORN TO before me this \_\_\_ day of

June, 1996.

*Dwight M. Ryan*

Notary Public In and for Alaska  
My Commission Expires: *2/17/98*

STATE OF ALASKA  
DEPARTMENT OF LAW  
OFFICE OF SPECIAL PROSECUTIONS AND APPEALS  
310 K STREET, SUITE 508  
ANCHORAGE, ALASKA 99501  
(907) 269-6228

001344

IN THE DISTRICT COURT OF THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT HOMER

STATE OF ALASKA, )

Plaintiff, )

vs. )

ROBERT L. STEWART, )

Defendant. )

FILED IN THE TRIAL COURT  
STATE OF ALASKA, THIRD DISTRICT  
AT HOMER

JUN 13 1996

FILED IN THE TRIAL COURT  
STATE OF ALASKA, THIRD DISTRICT  
AT HOMER

Case No. 3HO-S96-60 Cr.

AFFIDAVIT IN SUPPORT  
OF STATE'S MOTION IN LIMINE

VIA CERTIFICATION, I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any crime unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

STATE OF ALASKA )

THIRD JUDICIAL DISTRICT )

ss.

J. Ron Sutcliffe, being first duly sworn deposes and states as follows:

1. That I am employed as an Assistant Attorney General for the State of Alaska in the position of Chief of the Environmental Crimes Unit and presently assigned to handle this matter.
2. That I am supervising a legal intern working on the case.
3. That prior to arraignment and his being represented I had a discussion with Mr. Stewart in which he indicated there should be no charges

State of Alaska  
Department of Law  
OFFICE OF SPECIAL PROSECUTIONS AND APPEALS  
310 K STREET, SUITE 309  
ANCHORAGE, ALASKA 99501  
(907) 263-6226

STATE OF ALASKA  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
OFFICE OF SPECIAL PROSECUTIONS AND APPEALS  
310 K STREET, SUITE 308  
ANCHORAGE, ALASKA 99501  
(907) 263-5522

The State anticipates that Stewart will seek to offer at trial evidence that he was or is paying City of Homer sewage or water fees. The State has reason to believe this evidence may be offered at trial based on conversations between the State's attorney, Assistant Attorney General, J. Ron Sutcliffe, and Stewart, as outlined in the attached affidavit of counsel. This evidence should be excluded because it is irrelevant. Alternatively, any minimal probative value it might have is outweighed by the possibility of jury confusion.

Relevant evidence is defined as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence," A.R.E. 401. Payment of city sewer and water fees does not constitute a defense to either of the regulations Stewart is alleged to have violated. Moreover, payment is irrelevant to any of the elements of the charged offenses. Whether Stewart paid or is paying city sewage or water fees to the City of Homer is irrelevant to a determination of whether a plan was submitted to, or approved by, the Alaska Department of Environmental Conservation for alterations and additions to the sewage system at the Heath Street Cabins.

Evidence Rule 402 provides that "[n]o evidence which is not relevant is admissible." Accordingly, any evidence that Stewart is or was paying fees to the City of Homer in relation to sewage or water should be excluded from trial.

001342

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001341

IN THE DISTRICT COURT OF THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT HOMER

STATE OF ALASKA,

Plaintiff,

v.

ROBERT L. STEWART,

Defendant.

FILED BY THE JUDICIAL COURTS  
STATE OF ALASKA, THIRD DISTRICT  
AT HOMER

JUN 13 1995

FILED BY THE JUDICIAL COURTS  
STATE OF ALASKA, THIRD DISTRICT  
AT HOMER

Case No. 3HD-SB6-80 Cr.

MEMORANDUM IN SUPPORT OF STATE'S MOTION IN LIMINE

VRA CERTIFICATION

I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.240 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

Defendant, Robert L. Stewart, is charged with constructing, installing, altering, operating, or improving a public water system at the Heath Street Cabins in Homer, Alaska without prior written Department of Conservation approval of engineering plans. This conduct is prohibited by 18 AAC 80.300. Additionally, Stewart is charged with disposing of domestic wastewater into or onto land, surface water, or groundwater in the State of Alaska without a permit from the Department of Conservation for that disposal, and without payment of a permit fee as required by 18 AAC 72.010.

STATE OF ALASKA  
DEPARTMENT OF LAW  
OFFICE OF SPECIAL PROSECUTIONS AND APPEALS  
310 NORTH BROADWAY, SUITE 808  
ANCHORAGE, ALASKA 99501  
(907) 263-6250

MEMORANDUM TO FILE:

On June 4, 2003 Walt Wrede & myself walked to Bob Stewart's property on Health Street. The purpose was for me to explain the history of both properties and to see what the existing cabins (motel) look like. We met with Bob S, & his daughter, they were in the process of organizing some of the "junk" in order to truck it off. Walt talked to Bob about his plans for the property. We also talked about the need for "Zoning Permits" for the existing buildings (I am to research if we can issue "after the fact" zoning permits). Bob agreed to submit an as-built of all the cabins after he builds the new ones.

Walt Wrede and I agree that the use "motel" does not require a conditional use permit. We are going to continue to work with Bob to help him come into compliance with the code in all ways. This is in the best interest of the City and Bob.



From: Frank Griswold <fsgriz@alaska.net>  
Subject: **Re: CUP 13-11**  
Date: December 11, 2013 5:08:58 PM AKST  
To: Rick Abboud <RAbboud@ci.homer.ak.us>



Mr. Abboud,

An unsigned, undated Memorandum was placed in the file stating: "On June 4, 2003 Walt Wrede and myself walked to Bob Stewart's property on Heath Street. . . . Walt Wrede and I agree that the use "motel" does not require a conditional use permit." Thereafter, the city issued Zoning Permit 0603-051 for 4 illegally constructed cabins and a proposed duplex on Lot 1-A-1 without any CUP, presumably because the definition of motel allows multiple buildings. Who wrote that Memorandum? Notwithstanding the fact that a motel by definition can include multiple buildings, wouldn't the construction of a multi-building motel on a single lot in the CBD still require a CUP per HCC 21.18.030(k)? Why would a multi-building motel in the CBD not require a CUP while a multi-building rooming house would? What prevents someone from building a series of rental cabins or single family dwelling units and calling them a motel? How can a duplex dwelling, which is defined in HCC 21.03.040 as "a building designed or arranged for residential occupancy by two families living independently, the structure having only two dwelling units" also be considered a motel? How could a tool shed be considered a motel before or after it was remodeled into a retail communications establishment? I believe Zoning Permit 0603-051 stipulated that the private sewer system must be approved by ADEC. Absent ADEC approval and absent valid zoning permits, why has the city allowed occupancy in any of the existing structures on Lot-1-A-1? How can the city even consider a CUP for a 7th structure on that lot prior to abatement of the myriad zoning violations that have festered there for decades?

Frank Griswold

On Dec 11, 2013, at 2:24 PM, Rick Abboud wrote:

Yes.

I have not seen draft minutes yet and am not sure when they will be posted. Generally the draft minutes would be posted with the next Planning Commission packet, due to the length of time till the next meeting (1/2/14) a decision document may be out before then, if so I will forward you a copy of what I have.

I am not aware that anything on the lot would constitute a Motel or Hotel.

FYI - Extensive proof of a DEC approved system for all existing building will be required prior to a zoning permit.

Sincerely,

Rick

Rick Abboud  
City Planner  
491 E. Pioneer Ave  
Homer, AK 99603  
(907) 235-3106

-----Original Message-----

From: Frank Griswold [mailto:[fsgriz@alaska.net](mailto:fsgriz@alaska.net)]  
Sent: Wednesday, December 11, 2013 10:07 AM  
To: Rick Abboud  
Subject: CUP 13-11

Mr. Abboud,

Was CUP 13-11 approved at the December 4 HAPC meeting? When will the minutes of that meeting be posted on-line? Do any of the existing structures on Lot 1-A-1 constitute a Motel or Hotel? If so, which ones?

Frank Griswold

Frank Griswold <fsgriz@alaska.net>  
**After-The-Fact Zoning Permit?**  
January 10, 2014 12:06:26 PM AKST  
Rick Abboud <RAbboud@ci.homer.ak.us>

Mr. Abboud,

HCC 21.70.010 (b) states as follows: "The zoning permit required by this section shall be obtained prior to the commencement of any work, change or expansion of a building, structure, lot or use, or other activity for which the permit is required. Failure to do so is a violation".

Since zoning permits are required to be obtained prior to the commencement of any construction and the failure to do so constitutes a violation, how can such a violation be abated? Wouldn't the issuance of any zoning permit after construction has taken place violate HCC 21.70.010(b) and therefore be invalid? Would a structure constructed without a valid zoning permit have to be removed in order to abate the violation?

Frank Griswold



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201104133

Current As Of: Wednesday, May 14, 2014

**Offense** Theft from Mail

**Reported** 10/12/2011 **Time** 7:32 PM

**Officer:** KNOTT, James

**Location:** 3850 Heath St #4

**City/State:** Homer AK

**Press Summary** Caller reports a missing PFD check. Officer advised.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Victim	[REDACTED] AK	F	[REDACTED] 9	Theft from Mail	10/12/2011 KNOTT
Complainant	PORTER, Roxanna Dawn 3850 Heath St #4 Homer AK	F W	[REDACTED] 45	Theft from Mail	10/12/2011 KNOTT

### Property Involved:

File#	Category	Description	Loss / Recovered Amt.	Date Recover
49211	Stolen	PFD CHECK	1174.00	
<b>Totals ---&gt;</b>			<b>\$1,174.00</b>	



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

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<http://police.ci.homer.ak.us>

## Incident Report: 201104239

Current As Of: Wednesday, May 14, 2014

Offense Theft from Vehicle

Reported 10/20/2011 Time 3:36 PM

Officer: SHEALY (OLD id), Dave

Location: 3850 Heath Street Apt #4

City/State: Homer AK

Press Summary Female presents at counter and reports checks stolen from vehicle. Officer advised.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Other	DELAY, Michael Dean 40725 Princeton Ave Soldotna AK	M U	[REDACTED] 50	Theft from Vehicle	10/20/2011 SHEALY (OLD id)
Complainant	HETRICK, Ashlie Marie 150 South Leibrock Soldotna AK	F W	[REDACTED] 22	Theft from Vehicle	10/20/2011 SHEALY (OLD id)
Other	PORTER, Roxanna Dawn 3850 Heath St #4 Homer AK	F W	[REDACTED] 45	Theft from Vehicle	10/20/2011 SHEALY (OLD id)

### Property Involved:

File#	Category	Description	Loss / Recovered Amt.	Date Recover
52559	Lost	SSI check	647.00	
Totals --->			\$647.00	



# Homer Police Department

**Incident Report: 201104239**

Current As Of:

5/14/2014 6:39:52 PM

## Single Continuation Report

### *Narrative*

### *Mentioned*

### *Action Taken*

DPSO-- C presented herself at HPD to report the theft of her checks that were left in a friends vehicle and are now missing. C identified her friend as Roxanna Porter who lives at 3850 Heath Street. C said she gets her mail sent to her father's residence in Soldotna. C's father is Michael Delay who is also good friends with Porter. Porter was up in Soldotna and drove C's mail and checks back to Homer sometime around the 16th of October. On the night of the 16th, Porter remembers hearing a car door slam around midnight at her residence. The next morning, Porter was going to give the checks and mail to C but could not find them in the car. Porter immediately contacted C and told her about the missing items.

C said she is missing her SSI check is missing, although she is not sure of the dollar amount yet anywhere between \$647.00 to \$1,135.00 dollars. Also missing are 3 booklets of checks that belong to her father from 1st National Bank Alaska. C is also missing one booklet of checks from 1st National Bank of Alaska. C is missing various pieces of mail.

C said later in the day, Snug Harbor seafoods on the Homer Spit contacted C and advised her they found her booklet of checks lying on the ground in the parking lot. C will contact Snug Harbor to retrieve the checks.

No leads or suspects at this time.

### *Statements*

### *Evidence/Property*

### *Action Recommended*

Date/ Officer: 10/21/2011 SHEALY (OL

Incident: 201104239

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201104490

Current As Of: Wednesday, May 14, 2014

**Offense** Agency Assist Inside Alaska (other than AST)

**Reported** 11/9/2011 **Time** 4:20 PM

**Officer:** STADING, Edward

**Location:** 3850 HEATH ST #4

**City/State:** Homer AK

**Press Summary** OFFICER ASSISTS OCS WITH A HOME VISIT.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Suspect	HETRICK, Ashlie Marie 150 South Leibrock Soldotna AK	F W [REDACTED]	[REDACTED] 22	Agency Assist Inside Alaska (other th	11/9/2011 STADING
Other	OFFICE OF CHILD SERVICES, 3670 LAKE ST Suite 100 HOMER AK	907-235-7114		Agency Assist Inside Alaska (other th	11/9/2011 STADING
Suspect	PORTER, Roxanna Dawn 3850 Heath St #4 Homer AK	F W [REDACTED]	[REDACTED] 45	Agency Assist Inside Alaska (other th	11/9/2011 STADING



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201104821

Current As Of: Wednesday, May 14, 2014

**Offense** Suspicious Circumstances **Reported** 12/7/2011 **Time** 2:49 PM  
**Officer:** KUHNS, Lary

**Location:** 3850 HEATH STREET #4

**City/State:** Homer AK

**Press Summary** CALLER REPORTS POSSIBLE TELEPHONIC SCAM. OFFICER ADVISED.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Complainant	PORTER, Roxanna Dawn 3850 Heath St #4 Homer AK	F W	[REDACTED] 45	Suspicious Circumstances	12/7/2011 KUHNS





# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201104855

Current As Of: Wednesday, May 14, 2014

**Offense** Suspicious Circumstances  
Domestic Dispute

**Reported** 12/10/2011 **Time** 8:15 PM

**Officer:** BAXTER (OLD ID), Larry

**Location:** 3850 Heath St #4

**City/State:** Homer AK

**Press Summary** Caller is concerned about conditions his child is living in. Officer advised.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Complainant	MOORE, James				12/10/2011 BAXTER (OLD IE)
Victim	Kenai [REDACTED]	AK [REDACTED]	[REDACTED] 6	Suspicious Circumstances	12/10/2011 BAXTER (OLD IE)
Suspect	PORTER, Roxanna Dawn 3850 Heath St #4 Homer	AK [REDACTED]	F W [REDACTED] 45	Suspicious Circumstances	12/10/2011 BAXTER (OLD IE)



# Homer Police Department

**Incident Report: 201104855**

Current As Of: 5/14/2014 6:38:02 PM

## Single Continuation Report

### **Narrative**

ldh0/Caller reports that earlier in the day, he was at the residence of Porter and believed he smelled marijuana. Caller stated [REDACTED] is his daughter, and he is concerned that she is living in those conditions. Caller also stated he and Porter are in mediation over custody issues and that "isn't going well." Caller also wanted to be reassured that the incident is documented. He called from his residence in Kenai.

### **Mentioned**

### **Action Taken**

C contacted via 21, given options.

### **Statements**

### **Evidence/Property**

### **Action Recommended**

Date/ Officer: 12/10/2011 HAUGHT

Incident: 201104855

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201200824

Current As Of: Wednesday, May 14, 2014

Offense Domestic Dispute

Reported 3/5/2012 Time 10:00 AM

Officer: SMITH, Stephen

Location: 3850 Heath St

CityState: Homer AK

Press Summary Caller reports boyfriend assaulted her and is destroying her property. Officer advised.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Complainant	HETRICK, Ashlie Marie 150 South Leibrock Soldotna AK	F W	[REDACTED] 22	Domestic Dispute	3/5/2012 SMITH
Suspect	PARKS, William Robert 320 Jenny Way #7 Homer AK	M W	[REDACTED] 27	Domestic Dispute	3/5/2012 SMITH



# Homer Police Department

**Incident Report: 201200824**

Current As Of:

5/14/2014 6:17:22 PM

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## *Single Continuation Report*

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### ***Narrative***

jnt0/ Offense Suspicious Circ. per officer Smith.

### ***Mentioned***

### ***Action Taken***

ses0/ Contact made by phone with Ashley Hetrick who advised that she was in an argument with William Parks. Parks lives with her in the apartments behind Horizon Satellite. She

### ***Statements***

### ***Evidence/Property***

### ***Action Recommended***

Date/ Officer: 3/5/2012 TRAIL

Incident: 201200824

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201200906

Current As Of: Wednesday, May 14, 2014

Offense Patrol Request

Reported 3/10/2012 Time 4:30 AM

Officer: SHEALY, David

Location: 3850 Heath St #4

CityState: Homer AK

Press Caller requests check of residence.

### Summary

#### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Complainant	JONES, Jacqueline Marie 122 W Fairview Ave #B Homer AK	F W [REDACTED]	[REDACTED] 43	Patrol Request	3/10/2012 DEPARTMENT
Registered O	PORTER, Roxanna Dawn 3850 Heath St #4 Homer AK	F W [REDACTED]	[REDACTED] 45	Patrol Request	3/10/2012 DEPARTMENT



# Homer Police Department

**Incident Report: 201200906**

Current As Of:

5/14/2014 6:37:01 PM

## Single Continuation Report

### *Narrative*

### *Mentioned*

### *Action Taken*

DPSO-- C advised her friend, Porter is going to be out of town starting March 11th and will not return until March 17th. Porter relayed to C that she thinks someone has been in her cabin and some items might be missing. Officer advised C to have Porter contact PD directly to report if any items are actually missing. C said landlord recently changed her locks, but Porter may have forgotten to lock the door. Porter lives in the cabins behind Horizon Satellite on Heath Street. Porter's cabin is cabin #4. C said some of Porter's neighbors are shady and she has concerns about them. Porter is also going through child custody/visitation issues with an ex. C advised no one should be at the cabin when Porter is gone.

### *Statements*

### *Evidence/Property*

### *Action Recommended*

Date/ Officer: 3/9/2012 SHEALY

Incident: 201200906

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201201119

Current As Of: Wednesday, May 14, 2014

**Offense** Civil Problem/Assist/Standby

**Reported** 3/26/2012 **Time** 12:16 PM

**Officer:** SMITH, Stephen

**Location:** 3850 Heath St #4

**City/State:** Homer AK

**Press Summary** Female presents at counter to report a civil matter. Officer advised options.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Other	JONES, Jacqueline Marie 122 W Fairview Ave #B Homer AK	F W [REDACTED]	[REDACTED] 43	Civil Problem/Assist/Standby	3/26/2012 SMITH
Parent	MOORE, James Kenai AK	[REDACTED]	[REDACTED]	Civil Problem/Assist/Standby	3/26/2012 SMITH
Other	[REDACTED] AK	F [REDACTED]	[REDACTED] 9	Civil Problem/Assist/Standby	3/26/2012 SMITH
Other	[REDACTED] AK	[REDACTED]	[REDACTED] 6	Civil Problem/Assist/Standby	3/26/2012 SMITH
Parent	PETTINGILL, Martin Jordan 306 Birch St Kenai AK	M W [REDACTED]	[REDACTED] 34	Civil Problem/Assist/Standby	3/26/2012 SMITH
Complainant	PORTER, Roxanna Dawn 3850 Heath St #4 Homer AK	F W [REDACTED]	[REDACTED] 45	Civil Problem/Assist/Standby	3/26/2012 SMITH
Suspect	REDISKE, Lyla Anne Island Lake Rd Porter Dr Nikiski AK	F W [REDACTED]	[REDACTED] 44	Civil Problem/Assist/Standby	3/26/2012 SMITH



# Homer Police Department

**Incident Report: 201201119**

Current As Of:

5/14/2014 6:31:06 PM

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## *Single Continuation Report*

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### ***Narrative***

ses0/ contact made with R. Porter and friend J. Jones at the police station. Porter advised that her 7 yoa daughter [REDACTED] had not been returned from a cousins residence in N. Kenai. The cousins' name is Lyla Rediski. She took the child on Friday for a visit and was suppose to return her on Sunday. Porter called Rediski and she told her that she wasn't bring her back, she was having fun playing with Rediski's children. No other reason was given. A court hearing is scheduled for next month on custody. There is obviously more involved in this case.

I advised her to contact her attorney in Anchorage for direction. Further, then to contact the courts for an writ of assistance concerning recovery of the child. She agreed and was going to try for a writ at court. Unsure who currently has custody, nothing in writing from the courts. Case closed.

### ***Mentioned***

### ***Action Taken***

### ***Statements***

### ***Evidence/Property***

### ***Action Recommended***

Date/ Officer: 3/26/2012 SMITH

Incident: 201201119

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_





# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201201158

Current As Of: Wednesday, May 14, 2014

**Offense** Assault/Family/Strongarm  
Probation Revocation  
**Reported** 3/29/2012 **Time** 6:25 AM  
**Officer:** LUCK, Stacy

**Location:** 3850 Heath Street #4

**City/State:** Homer AK

**Press Summary** Caller reports her boyfriend assaulted her. Officer advised. Male arrested for Assault IV DV.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Other	HAVEN HOUSE, 3776 Lake St Homer AK	[REDACTED]		Assault/Family/Strongarm	3/29/2012 LUCK
Other	MCDONALDS, 3656 BEN WALTERS LN Homer AK	[REDACTED]		Assault/Family/Strongarm	3/29/2012 LUCK
Complainant	PORTER, Roxanna Dawn 3850 Heath St #4 Homer AK	F W [REDACTED]	[REDACTED] 45	Assault/Family/Strongarm	3/29/2012 LUCK

### Custody Report:

Involvement Juvenile?	Name/ Address/Phone	Sex/Race DOB /Cautions	OLN/Charge	RptDate/Incident
Arrestee	STRAMETZ, Matthew William 4723 Early Spring Street Homer [REDACTED]	M W [REDACTED]	[REDACTED] Assault/Family/Strongarm	3/29/2012 201201158



# Homer Police Department

**Incident Report: 201201158**

Current As Of:

5/14/2014 6:36:07 PM

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## *Single Continuation Report*

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### ***Narrative***

That on 03/29/2012, at approximately 0625 hours, Roxanna D. Porter called the Homer Police Department via an administrative line to report her boyfriend; the defendant had assaulted her a few hours previous. Porter had walked to the McDonalds of Homer restaurant after the assault and called from there.

I met Porter at the restaurant and observed her to be nervous and rubbing her forehead and forearms. Porter essentially stated she was in a dating relationship with Matthew Strametz and had been since December 9 2011. Strametz also occasionally stays at her house. On this date, at approximately 0200 hours, the defendant assaulted her by pushing her over a chair during an argument over the music that was playing. This caused pain to her back. Porter left the front room where this happened and went to the bedroom. Strametz followed her there and pushed her forcefully onto the bed. He then pinned both her arms down with his hands and then head butted her, causing his forehead to strike her nose and forehead. This action also caused her pain and Porter "nearly cried" from the pain. I observed reddening to her forehead and forearms but she had been rubbing both areas during the interview. Porter also stated Strametz had consumed a bottle of wine and 2 large cans of malt beer.

I then went to her residence and interviewed Strametz. He was woken up from sleeping and had the odor of an alcoholic beverage on or about his breath/person. Strametz essentially stated he and Porter were arguing about her wanting to listen to music at the late hour. When she went to turn it off, he bumped her accidentally and she fell over a chair. I asked Strametz what happened next and he stated she went to her bedroom. I asked Strametz how she was struck in the forehead and he then stated he was going to jail. I asked Strametz if Porter had assaulted him during the altercation and she replied, "We were assaulting each other" and then stated again he was going to jail. I observed an empty bottle of wine on the kitchen counter and two empty 24 ounce malt beer cans in the trash can.

### ***Mentioned***

SRL2 - Officer transported Porter to Haven House where she was housed and in contact with advocates there. She was provided a copy of the DV booklet with case number and required passages read.

# Incident Report: 201201158

Current As Of:

5/14/2014 6:36:07 PM

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***Action Taken***

SRL2 - Strametz was placed under arrest without incident and transported to the Homer Jail where he was booked and lodged. PO Fenske was also contacted by officer and advised of the criminal charge. Copy of complaint faxed to PO Fenske.

Case closed report to follow.

***Statements***

***Evidence/Property***

***Action Recommended***

*Date/ Officer:* 3/28/2012 LUCK

*Incident:* 201201158

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201201623

Current As Of: Wednesday, May 14, 2014

**Offense** Welfare Check

**Reported** 4/29/2012 **Time** 2:23 PM

**Officer:** BROWNING, Ryan

**Location:** 3850 Heath St #4

**City/State:** Homer AK

**Press Summary** Caller requests welfare check. Officer to scene, all okay.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Victim	[REDACTED] AK	F	[REDACTED] 9	Welfare Check	4/29/2012 BROWNING
Victim	PORTER, Roxanna Dawn 3850 Heath St #4 Homer AK	F W	[REDACTED] 45	Welfare Check	4/29/2012 BROWNING
Complainant	STEDMAN, Aubree Lea 320 Jenny Way #4 Homer AK	F W	[REDACTED] 29	Welfare Check	4/29/2012 BROWNING



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## Incident Report: 201202217

Current As Of: Wednesday, May 14, 2014

**Offense** Civil Problem/Assist/Standby

**Reported** 6/3/2012 **Time** 1:33 AM

**Officer:** KNOTT, James

**Location:** 3850 HEATH STREET #4

**City/State:** Homer AK

**Press Summary** CALLER REPORTS OTHER PARTY LOCKED HER OUT OF HOUSE. COMPLAINANT'S PURSE AND KEYS INSIDE, NEEDS ASSIST TO RETRIEVE ITEMS. OFFICER TO SCENE, CIVIL DISPUTE NOT CRIMINAL- ASSISTED WITH PURSE & KEYS, COMPLAINANT TO LEAVE.

**People Involved:**

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Complainant	KENNINGTON, Toni L MERIT INN #207 Kenai AK	F W [REDACTED]	[REDACTED] 48	Civil Problem/Assist/Standby	6/3/2012 KNOTT
Other	PORTER, Roxanna Dawn 3850 Heath St #4 Homer AK	F W [REDACTED]	[REDACTED] 45	Civil Problem/Assist/Standby	6/3/2012 KNOTT



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**Incident Report: 201204400**

Current As Of: Wednesday, May 14, 2014

**Offense** Assault (Fourth Degree)  
 Criminal/Malic Mischief/Personal  
 Damage Property  
**Location:** 3850 Heath St #4  
**City/State:** Homer AK  
**Press Summary** Caller reports neighbor threw a rock through her window. Officers to scene, female arrested for assault and housed at homer jail.  
**Reported** 10/14/2012 **Time** 11:21 PM  
**Officer:** BAXTER, Larry

**People Involved:**

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Other	AILLS, Timothy Wayne 8485 Kenai Spur Ave Kenai AK	M W [REDACTED]	[REDACTED] 42	Assault (Fourth Degree)	10/14/2012 BAXTER
Victim	LAVOIE, Daniel Gem 38502 Coyote Hill Rd Homer AK	M W [REDACTED]	[REDACTED] 48	Assault (Fourth Degree) green building, top left unit behind 290 Jenny W.	10/14/2012 BAXTER
Complainant	PORTER, Roxanna Dawn 3850 Heath St #4 Homer AK	F W [REDACTED]	[REDACTED] 45	Assault (Fourth Degree)	10/14/2012 BAXTER
Registered O	SMITH, THOMAS William 583 Klondike Ave Homer AK	M W [REDACTED]	[REDACTED] 60	Assault (Fourth Degree)	10/14/2012 BAXTER

**Custody Report:**

Involvement Juvenile?	Name/ Address/Phone	Sex/Race DOB /Cautions	OLN/Charge	RptDate/Inciden
Arrestee	JOHNSON, Latisha Denies 3850 Heath St #5 Homer [REDACTED]	F B [REDACTED]	OLN: Assault (Fourth Degree)	10/14/2012 201204400
Arrestee	JOHNSON, Latisha Denies 3850 Heath St #5 Homer [REDACTED]	F B [REDACTED]	OLN: Criminal/Malic Mischief/Personal	10/14/2012 201204400
Arrestee	JOHNSON, Latisha Denies 3850 Heath St #5 Homer [REDACTED]	F B [REDACTED]	OLN: Assault (Fourth Degree)	10/14/2012 201204400



# Homer Police Department

**Incident Report: 201204400**

Current As Of:

5/14/2014 1:19:33 PM

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## *Single Continuation Report*

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### ***Narrative***

LAB1/ Homer Police received a report from Roxanna Porter, stating that Shandtresha Johnson had thrown a rock through her cabin window.

Upon arrival at 3850 Heath St. Cabin #4, I spoke with Porter and her roommate, Daniel Lavoie. Porter stated she had been allowing Johnson, who resided next door at cabin #5, to use her (Porter's) cell phone. Johnson had requested that Porter send a text for her of a threatening nature to an unknown party. Porter had refused to send the text message and told Johnson she could not use the cell phone. Johnson then became angry with Porter. Porter stated she believed Johnson was intoxicated and had been out consuming alcohol.

Porter stated Johnson went to her own residence at the cabin next door and began to curse and call Porter obscenities from the front porch of her cabin. Porter then stated a rock came crashing through her window and into the living room area of her cabin. Both Porter and her roommate Lavoie stated they were standing in the kitchen area of the cabin (not separated by walls from the living area) when the rock came through the window. Porter and Lavoie both stated they were afraid when the rock came through the window and Lavoie described the sound of the window breaking "like an explosion."

Porter and Lavoie stated Johnson's behavior had been escalating ever since moving in next door and Johnson had recently threatened to hit Porter after the two had a disagreement. Both stated they were becoming increasingly afraid of Johnson and her actions.

The large double paned window in the east wall of the cabin was broken. I observed glass on the floor of the living room area and a large light colored rock on the floor. The rock appeared to have traveled 3-4 feet inside the residence. The property manager estimated the value of the window at around \$300.00.

Officers went to cabin #5 and attempted to contact Johnson. Johnson's boyfriend and roommate stated she was upstairs. Johnson's boyfriend, Timothy Aills, stated Johnson had been over at the neighbor's cabin earlier to use Porter's cell phone. I asked Aills to ask Johnson to come downstairs and speak with me. Aills stated Johnson was "freaked out" and would not come downstairs. Sergeant Hutt and I went upstairs to speak Johnson but could not locate her. After several minutes,

## Incident Report: 201204400

Current As Of:

5/14/2014 1:19:33 PM

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Johnson was found under the bed in her and Aills's bedroom.

Johnson admitted to consuming alcohol and stated she had fallen asleep under the bed. Johnson denied throwing a rock through her neighbor's window but stated she was willing to pay for the damages.

Further, Johnson stated she had not seen Porter in "days" and had just returned from being out drinking with friends. Johnson continued to deny she had thrown the rock through the window.

### ***Mentioned***

### ***Action Taken***

Porter signed a private person's arrest form and Johnson was taken into custody and transported to the Homer Jail where she was booked and held.

Closed by arrest.

### ***Statements***

### ***Evidence/Property***

### ***Action Recommended***

Date/ Officer: 10/15/2012 BAXTER

Incident: 201204400

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_





# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

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## Incident Report: 201204552

Current As Of: Wednesday, May 14, 2014

**Offense** Assault (Fourth Degree)  
Violation of Conditional Release  
**Reported** 10/25/2012 **Time** 4:39 PM  
**Officer:** BROWNING, Ryan

**Location:** 3656 BEN WALTERS LANE

**City/State:** Homer AK

**Press Summary** 911 CALLER REPORTS 2 FEMALES FIGHTING IN THE PARKING LOT OF A LOCAL BUSINESS. OFFICER TO SCENE.  
Female arrested and housed at Homer jail.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Victim	COZADD-PEARSON, Nicole Renee 67201 Walter Thomas Rd Homer AK	F I [REDACTED]	[REDACTED] 19	Assault (Fourth Degree)	10/25/2012 BROWNING
Complainant	HALSTEAD, Grace Emiliaanna 40730 Kay Ct. Homer AK	F W [REDACTED]	[REDACTED] 44	Assault (Fourth Degree)	10/25/2012 BROWNING
Other	MCDONALDS, 3656 BEN WALTERS LN Homer AK	[REDACTED]	[REDACTED]	Assault (Fourth Degree)	10/25/2012 BROWNING
Other	WELSH, Brian Gregory 70309 Original Drive Anchor Point AK	M W [REDACTED]	[REDACTED] 49	Assault (Fourth Degree)	10/25/2012 BROWNING

### Custody Report:

Involvement Juvenile?	Name/ Address/Phone	Sex/Race DOB /Cautions	OLN/Charge	RptDate/Incident
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B [REDACTED]	OLN: Assault (Fourth Degree)	10/25/2012 201204552
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B [REDACTED]	OLN: Violation of Conditional Release	10/25/2012 201204552
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B [REDACTED]	OLN: Violation of Conditional Release	10/25/2012 201204552



# Homer Police Department

**Incident Report: 201204552**

Current As Of:

5/14/2014 5:46:40 PM

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## Single Continuation Report

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### **Narrative**

jeb0//Caller reports 2 females fighting in the McDonald's parking lot. No weapons observed.

### **Mentioned**

### **Action Taken**

REB2 - Investigation revealed Pearson had borrowed a McDonalds uniform from Johnson and had not returned it. Johnson confronted Pearson about getting the uniform back when Pearson was attempting to leave McDonalds. Johnson followed her out and punched her in the back of the head with a closed fist. Pearson complained of a headache and nausea so medics were called. Pearson signed a Private Person Arrest form and Johnson was placed under arrest after she was located at Brian Walsh's residence in Anchor Point. Johnson provided a breath sample at the Homer Jail, disclosing a BAC of .065%. Johnson was under conditions of release not to consume alcohol and to obey all laws.

She was remanded into the Homer Jail on charges of Assault 4 and VCOR x 2.

### **Statements**

### **Evidence/Property**

### **Action Recommended**

Date/ Officer: 10/25/2012 BUNCAK

Incident: 201204552

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



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 4060 Heath Street  
 Homer, AK 99603

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<http://police.ci.homer.ak.us>

**Incident Report: 201204737**

Current As Of: Wednesday, May 14, 2014

**Offense** Domestic Dispute **Reported** 11/7/2012 **Time** 11:57 PM  
**Officer:** STADING, Edward

**Location:** 3850 HEATH STREET #5  
**CityState:** Homer AK  
**Press** CALLER RPTS DOMESTIC DISPUTE ON 911  
**Summary**

People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Other	AILLS, Timothy Wayne 8485 Kenai Spur Ave Kenai AK	M W [REDACTED]	[REDACTED] 42	Domestic Dispute	11/7/2012 STADING
Other	CASTRELLON-PEREZ, Manuel 3850 Heath Street Cab #5 Homer AK	M W [REDACTED]	[REDACTED] 56	Domestic Dispute	11/7/2012 STADING
Complainant	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer AK	F B [REDACTED]	[REDACTED] 33	Domestic Dispute	11/7/2012 STADING



# Homer Police Department

**Incident Report: 201204737**

Current As Of:

5/14/2014 1:19:01 PM

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## *Single Continuation Report*

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### ***Narrative***

Adb0- Latisha Johnson called 911 to report her boyfriend Timothy Aills tried to slit his wrist because she wants to break up with him after he cheated on her. Johnson states Aills has been drinking, but she has not. On 911 dispatch could hear Aills in the background, stating he was not trying to hurt himself- he sounded calm.

### ***Mentioned***

### ***Action Taken***

Adb0- Officers responded to scene, both parties intoxicated. Aills has no suicidal thoughts, is not a danger to himself. Domestic dispute, no crime occurred.

### ***Statements***

### ***Evidence/Property***

### ***Action Recommended***

Date/ Officer: 11/7/2012 BROWNING

Incident: 201204737

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



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## Incident Report: 201204835

Current As Of: Wednesday, May 14, 2014

**Offense** Assault/Family/Strongarm  
Assault/Intimidation (verbal) **Reported** 11/14/2012 **Time** 11:20 PM  
**Officer:** STADING, Edward

**Location:** 3850 Heath Street

**City/State:** Homer AK

**Press Summary** Male presents at counter to report his girlfriend assaulted him. Officers arrest female suspect.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Complainant	AILLS, Timothy Wayne 3850 Heath Street #5 Kenai AK	M W [REDACTED]	12/2/1971 42	Assault/Family/Strongarm	11/14/2012 STADING
Witness	CASTRELLON-PEREZ, Manuel 3850 Heath Street Cab #5 Homer AK	M W [REDACTED]	[REDACTED] 56	Assault/Family/Strongarm	11/14/2012 STADING
Witness	SANNE, Joshua Richard 4178 Mattox #3 Homer AK	M W [REDACTED]	[REDACTED] 33	Assault/Family/Strongarm	11/14/2012 STADING

### Custody Report:

Involvement Juvenile?	Name/ Address/Phone	Sex/Race DOB /Cautions	OLN/Charge	RptDate/Inciden
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B [REDACTED]	OLN: Assault/Intimidation (verbal)	11/14/2012 201204835
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B [REDACTED]	OLN: Assault/Family/Strongarm	11/14/2012 201204835
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B [REDACTED]	OLN: Assault/Intimidation (verbal)	11/14/2012 201204835
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B [REDACTED]	OLN: Assault/Family/Strongarm	11/14/2012 201204835



# Homer Police Department

**Incident Report: 201204835**

Current As Of:

5/14/2014 1:17:49 PM

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## Single Continuation Report

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### *Narrative*

### *Mentioned*

### *Action Taken*

On Thursday, November 14, 2012, at approximately 1120 hours, Timothy W. Aills came to the lobby of the Homer Police Department and reported having been assaulted. Aills stated his girlfriend, Latisha Johnson of more than one year had assaulted him while at the McDonalds restaurant located at 3656 Ben Walters Lane in Homer, Alaska and then again later, while at their residence, located at 3850 Heath Street #5 in Homer, Alaska. Aills had small abrasions to his right forearms, to his neck and bruising to the left side of his face near his eye. The initial assault occurred in the parking lot of McDonalds. Aills had gone to retrieve a vehicle that he had recently bought due to Johnson driving it around town. Aills believed Johnson had no driver's license and was intoxicated. When Aills retrieved the vehicle and in the process was struck on the left side of his head and face by Johnson. Johnson had to be restrained by a McDonald's employee. Aills left the area and parked the vehicle at the Safeway parking lot. Aills later returned to the residence that he and Johnson share and was again assaulted by Johnson. Johnson struck Aills again about the head and face and shoved him in the chest causing him to fall. Aills had abrasions to his right forearm and about his neck. The assault at both McDonalds and at their residence was witnesses by third parties. Johnson was arrested and charged with assault in the fourth degree DV.

### *Statements*

### *Evidence/Property*

### *Action Recommended*

Date/ Officer: 11/15/2012 STADING

Incident: 201204835

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



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## Incident Report: 201205249

Current As Of: Wednesday, May 14, 2014

**Offense** Assault/Family/Other Weapon  
 Assault/Officer/Strongarm  
 Resisting Arrest  
**Reported** 12/20/2012 **Time** 12:12 PM  
**Officer:** LUCK, Stacy

**Location:** 3850 HEATH ST #5  
**City/State:** Homer AK

**Press Summary** 911 CALLER REQUESTS ASSISTANCE WITH AN INTOXICATED FEMALE. FEMALE ARRESTED FOR ASSAULT IV DV, ASSAULTING AN OFFICER AND RESISTING ARREST.

### People Involved:

Involvement	Name/Address	Sex/Race DOB /Cautions	DOB/AGE	Citation/Offense	Date Officer
Complainant	CASTRELLON-PEREZ, Manuel 3850 Heath Street Cab #5 Homer AK	M W	[REDACTED] 56	Assault/Family/Strongarm	12/20/2012 LUCK

### Custody Report:

Involvement Juvenile?	Name/ Address/Phone	Sex/Race DOB /Cautions	OLN/Charge	RptDate/Inciden
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B	OLN: Assault/Officer/Strongarm	12/20/2012 201205249
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B	OLN: Assault/Family/Other Weapon	12/20/2012 201205249
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B	OLN: Resisting Arrest	12/20/2012 201205249



# Homer Police Department

**Incident Report: 201205249**

Current As Of:

5/14/2014 1:23:14 PM

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## Single Continuation Report

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### **Narrative**

JEB0//C states S is drunk and stole money from him. C requests officer assistance.

### **Mentioned**

### **Action Taken**

SRL2 - Officer responded and interviewed C/V and he essentially stated his sometime room mate Johnson had just left his residence. He believed Johnson had stolen some money from him, stolen or hidden his cordless landline phone and threatened to stab him.

Officer located Johnson attempting to enter Safeway liquor store a short time later. She denied having been at the residence and assaulting C/V. Eventually, she admitted she had spoken with C/V while she stood outside on front porch. Johnson was informed she was under arrest for Assault DV related and immediately began resisting arrest. During the resisting of arrest, she kicked officer twice on the inner left thigh, causing pain. She was taken into custody and transported to the Homer Jail, where she was subsequently charged with Assault 3rd on a PO and Resisting Arrest. Felony Assault resulted from 2 or more previous convictions for Assault in the previous 5 years. Johnson also provided a PBT of .158 BrAC to Homer Jail staff.

Closed, report to follow.

### **Statements**

### **Evidence/Property**

### **Action Recommended**

Date/ Officer: 12/20/2012 BUNCAK

Incident: 201205249

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_





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## Incident Report: 201300256

Current As Of: Wednesday, May 14, 2014

**Offense** Civil Problem/Assist/Standby

**Reported** 1/17/2013 **Time** 10:59 AM

**Officer:** BROWNING, Ryan

**Location:** 3850 HEATH ST #4

**City/State:** Homer AK

**Press Summary** CALLER REQUESTS OPTIONS REGARDING DOMESTIC LIVING SITUATION.

**People Involved:**

Involvement	Name/Address	Sex/Race	DOB/AGE	Citation/Offense	Date Officer
Suspect	MILES, Jackson Donald	M W	[REDACTED] 40	Civil Problem/Assist/Standby	1/17/2013 BROWNING
	3850 HEATH ST #4 Homer AK	[REDACTED]	[REDACTED]		
Complainant	PORTER, Roxanna Dawn	F W	[REDACTED] 45	Civil Problem/Assist/Standby	1/17/2013 BROWNING
	3850 Heath St #4 Homer AK	[REDACTED]	[REDACTED]		



# Homer Police Department

**Incident Report: 201300256**

Current As Of:

5/14/2014 6:11:55 PM

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## Single Continuation Report

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### *Narrative*

### *Mentioned*

### *Action Taken*

REB2 - Porter reports she has been dating Jackson Miles for a while and he's been living with her for the last month. Porter reports she goes to spend a week with her daughter in Kenai every three weeks and has told Miles she doesn't want him at the residence when she leaves. She reported the last time she left, when she got back she discovered a hard-drive, some money and perfume missing. Porter reported she confronted Miles about the missing items and he denied taking anything.

Porter stated today she is in Kenai and heard Miles had been staying at her house and left the door unlocked. Porter was advised to contact her land-lord and have them go secure the residence or change the door lock.

### *Statements*

### *Evidence/Property*

### *Action Recommended*

Date/ Officer: 1/17/2013 BROWNING

Incident: 201300256

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



**HOMER POLICE DEPARTMENT**  
 4060 Heath Street  
 Homer, AK 99603

phone: 907-235-3150  
 fax: 907-235-3151  
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**Incident Report: 201300325**

Current As Of: Wednesday, May 14, 2014

Offense Welfare Check

Reported 1/22/2013 Time 9:30 PM

Officer: STADING, Edward

Location: 3850 Heath St. #2

City/State: Homer AK

Press Summary 9-1-1 caller requested a welfare check on minor children. Officers to scene, all okay.

People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Other	BIVINS, Kevin 3850 Heath Street #2 Homer AK	M B [REDACTED]	[REDACTED] 35	Welfare Check	1/22/2013 STADING
Complainant	NEWSOM, Ella Cora 135 W BUNNELL ST Homer AK	F W [REDACTED]	[REDACTED] 55	Welfare Check	1/22/2013 STADING
Suspect	PRESCOTT, Crystal Maria 3850 Heath Street #2 Homer AK	F W [REDACTED]	[REDACTED] 29	Welfare Check	1/22/2013 STADING
Victim	[REDACTED] Homer AK	F [REDACTED]	[REDACTED] 8	Welfare Check	1/22/2013 STADING
Victim	[REDACTED] Homer AK	F [REDACTED]	[REDACTED] 10	Welfare Check	1/22/2013 STADING



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## Incident Report: 201301974

Current As Of: Wednesday, May 14, 2014

**Offense** Disturbance - Other

**Reported** 5/13/2013 **Time** 12:15 AM

**Officer:** BAXTER, Larry

**Location:** 3850 Heath St #5

**CityState:** Homer AK

**Press Summary** 911 caller reports verbal dispute. Parties separated. Officer advised.

### People Involved:

Involvement	Name/Address	Sex/Race		DOB/AGE	Citation/Offense	Date Officer
		Phone/Cautions				
Complainant	ALLS, Timothy Wayne 3850 Heath Street #5 Kenai AK	M	W	[REDACTED] 42	Disturbance - Other	5/13/2013 BAXTER



# Homer Police Department

**Incident Report: 201301974**

Current As Of:

5/14/2014 1:17:10 PM

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## *Single Continuation Report*

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### *Narrative*

Emd0/ C stated he was on his porch when had a verbal argument with unknown subjects in a vehicle. S's drove off when he called police. C declined police assistance, but was advised to call back is S's returned.

### *Mentioned*

### *Action Taken*

### *Statements*

### *Evidence/Property*

### *Action Recommended*

Date/ Officer: 5/12/2013 DICKMANN

Incident: 201301974

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



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## Incident Report: 201302171

Current As Of: Wednesday, May 14, 2014

Offense Probation Violation

Reported 5/22/2013 Time 6:30 PM

Officer: LUCK, Stacy

Location: 3850 Heath Street #5

CityState: Homer AK

Press Summary Subject presents at counter that his girlfriend is violating her probation. Officers to scene. Female arrested for probation violation.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Complainant	AILLS, Timothy Wayne 3850 Heath Street #5 Kenai AK	M W	[REDACTED] 42	Probation Violation	5/22/2013 LUCK
Other	CASTRELLON-PEREZ, Manuel 3850 Heath Street Cab #5 Homer AK	M W	[REDACTED] 56	Probation Violation	5/22/2013 LUCK

### Custody Report:

Involvement Juvenile?	Name/ Address/Phone	Sex/Race DOB /Cautions	OLN/Charge	RptDate/Inciden
Arrestee	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer [REDACTED]	F B	OLN: Probation Violation	5/22/2013 201302171



# Homer Police Department

**Incident Report: 201302171**

Current As Of:

5/14/2014 1:16:37 PM

## *Single Continuation Report*

### ***Narrative***

pgc0/ Timothy ALLS came to HPD counter to report that his girlfriend, Latisha Johnson, was violating her conditions of probation by drinking and consuming pills. There was no officer available to talk with him so he was asked to wait in the lobby. After a few minutes he stated he was concerned about his home with her in it and rode his bike back home. A few minutes later he returned to the lobby and advised that Johnson had left the residence and he wasn't sure where she was going. He advised that Johnson would be at the Beluga Lodge at 9:00 tomorrow morning for a job interview.

SRL2 - Officers responded to the residence of Castellon-Perez, Cabin #5. C allowed officers inside and A was observed washing dishes. C was highly intoxicated and stated A was drunk and needed to leave.

SRL2 spoke with A and she displayed signs/symptoms of intoxication to include bloodshot eyes and moderate odor of ETOh on or about her breath/person. A never admitted to drinking initially when confronted with the fact but did state she had just arrived and was "doing good". Mostly consumed bottle of Boons Farm wine observed on kitchen counter directly adjacent to sink area where was at when officers arrived. PBT sample requested of A and she provided a sample of .117 BrAC at approx 1945 hours. A on DOC with conditions of no alcohol to consume/possess. A was placed under arrest for probation violation and transported to the Homer Jail.

C also informed officers A had consumed Smirnoffs "Black" earlier in the evening and tried to obtain Vicodin from an unknown person.

### ***Mentioned***

SRL2 - APSIN DOC conditions also state A not to have contact with victim Manuel Castellon-Perez. He was not at the residence at the time of officer contact but the residence she was at when arrested belongs to him.

### ***Action Taken***

SRL2 - A transported to the Homer Jail where she was booked and lodged. A provided a UA sample at approx 2130 hours, which did not show the presence of tested for substances. A did admit to SRL2 she had taken a Vicodin pill earlier in the day from a person she would not name.

**Incident Report: 201302171**

Current As Of:

5/14/2014 1:16:37 PM

---

UA sample placed into evidence at Homer PD

*Statements*

*Evidence/Property*

*Action Recommended*

*Date/ Officer:* 5/22/2013 CLARK

*Incident:* 201302171

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_





# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201303810

Current As Of: Wednesday, May 14, 2014

Offense Threats

Reported 7/31/2013 Time 3:10 PM

Officer: HUTT, Will

Location: 3850 Heath St #5

City/State: Homer AK

Press Summary 911 caller reports subject making threats. Officers to scene. Subject left the area. Parties separated, all okay.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Suspect	JOHNSON, Latisha Denies 3850 Heath Street #5 Homer AK	F B [REDACTED]	[REDACTED] 33	Threats	7/31/2013 HUTT
Other	KANE, William Anthony Homer AK	M [REDACTED]	[REDACTED] 34	Threats	7/31/2013 HUTT
Complainant	WOLDT, Timothy 3850 Heath St #5 Homer AK	M [REDACTED]	[REDACTED] 32	Threats	7/31/2013 HUTT



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201303840

Current As Of: Wednesday, May 14, 2014

**Offense** Suspicious Circumstances

**Reported** 8/1/2013 **Time** 3:19 PM

**Officer:** BAXTER, Larry

**Location:** 3850 Heath St

**City/State:** Homer AK

**Press Summary** Subject reports business computers tampered with after the fact.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Other	HARRISON PETERSON, Cassandra Lee 64145 Katamar Ave Homer AK	F W [REDACTED]	[REDACTED] 52	Suspicious Circumstances	8/1/2013 BAXTER
Complainant	HORIZON SATELITE, 3850 Heath St Homer AK	[REDACTED]	[REDACTED]	Suspicious Circumstances	8/1/2013 BAXTER
Suspect	KYLE, Shawn Homer AK	[REDACTED]	[REDACTED]	Suspicious Circumstances	8/1/2013 BAXTER



# Homer Police Department

**Incident Report: 201303840**

Current As Of:

5/14/2014 1:43:22 PM

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## *Single Continuation Report*

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### ***Narrative***

rcdO/ O stated on 07/24/13 at approx 1130hrs S called her place of business and stated he hacked into their system using the phone lines and "looked around". He stated he did this to show his skill in hopes they would hire him. O was on vacation and received news of this upon return. 83 with S in apsin and justice.

### ***Mentioned***

### ***Action Taken***

### ***Statements***

### ***Evidence/Property***

### ***Action Recommended***

Date/ Officer: 8/1/2013 DRYE

Incident: 201303840

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



**HOMER POLICE DEPARTMENT**  
 4060 Heath Street  
 Homer, AK 99603

phone: 907-235-3150  
 fax: 907-235-3151  
<http://police.ci.homer.ak.us>

**Incident Report: 201304404**

Current As Of: Wednesday, May 14, 2014

**Offense** Disorderly Conduct **Reported** 8/27/2013 **Time** 4:00 AM  
**Officer:** RUEBELMANN, Jacob

**Location:** 3850 Heath Street #5

**CityState:** Homer AK

**Press Summary** 9-1-1 caller reports disturbance. Officers to area, male issued Disorderly Conduct warning.

**People Involved:**

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Suspect	CASTRELLON-PEREZ, Manuel 3850 Heath Street Cab #5 Homer AK	M W	[REDACTED] 56	Disorderly Conduct	8/27/2013 RUEBELMANN
Suspect	KANE, William Anthony 2205 2nd Ave Apt 609 Seattle WA	M	[REDACTED] 34	Disorderly Conduct	8/27/2013 RUEBELMANN
Complainant	PROCTOR, Michael D 565 E Pioneer Ave #28 Homer AK	M I	[REDACTED] 52	Disorderly Conduct	8/27/2013 RUEBELMANN
Suspect	WOLDT, Timothy 3850 Heath St #5 Homer AK	M	[REDACTED] 32	Disorderly Conduct	8/27/2013 RUEBELMANN



# Homer Police Department

**Incident Report: 201304404**

Current As Of:

5/14/2014 1:22:19 PM

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## *Single Continuation Report*

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### ***Narrative***

JAR0 - Contacted S in their house because of the noise coming from in the house. All three were very intoxicated and had been arguing. Dispute did not rise to the level of a crime. Individuals were told to keep the noise down and issued a DC warning.

### ***Mentioned***

### ***Action Taken***

### ***Statements***

### ***Evidence/Property***

### ***Action Recommended***

Date/ Officer: 8/29/2013 RUEBELMA

Incident: 201304404

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201304620

Current As Of: Wednesday, May 14, 2014

**Offense** Theft from Building

**Reported** 9/6/2013 **Time** 1:20 PM

**Officer:** BAXTER, Larry

**Location:** 3850 Heath Street

**City/State:** Homer AK

**Press Summary** Subject reports theft from residence.

### People Involved:

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Suspect	ANDERSON, Shayne Hylmar 655 1041th Ct NE Blaine MN	M W [REDACTED]	[REDACTED] 27	Theft from Building	9/6/2013 BAXTER
Complainant	KONEV, Lukeria Lucy 3850 Heath Street #6 Homer AK	F W [REDACTED]	[REDACTED] 22	Theft from Building	9/6/2013 BAXTER
Complainant	KONEV, Deonisy Ivan 3850 Heath St #6 Homer AK	M W [REDACTED]	[REDACTED] 23	Theft from Building	9/6/2013 BAXTER

### Property Involved:

File#	Category	Description	Loss / Recovered Amt.	Date Recover
55801	Stolen	cash	867.00	
52876	Stolen	Pistol	200.00	
<b>Totals --&gt;</b>			<b>\$1,067.00</b>	



# Homer Police Department

**Incident Report: 201304620**

Current As Of:

5/14/2014 6:09:44 PM

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## *Single Continuation Report*

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### ***Narrative***

LAB1/ Konev presented at HPD lobby to report \$867.00 had been taken from her residence. Konev states she noticed the money was gone yesterday morning.

Konev suspects Shayne Anderson may have taken the money from her residence. Konev stated Anderson had been at her place recently doing his laundry. Konev stated Anderson was a friend and had recently had a key to her residence.

### ***Mentioned***

10/29/2013 C, D.K. 21'd to report they are also missing a ruger 9mm (ladie's issue). No serial number-will call back if they can locate one.

### ***Action Taken***

Konev did not want law enforcement to contact Anderson or any other enforcement action taken. Konev was advised her options as far as trespassing Anderson from the property. Konev did not want any action taken at this time.

For documentation only. Konev advised to contact HPD if she changes her mind.

NS00/ C called back on 11/23/13 at 1830 and had found the serial number to his pistol. See property.

### ***Statements***

### ***Evidence/Property***

### ***Action Recommended***

Date/ Officer: 9/6/2013 BAXTER

Incident: 201304620

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# HOMER POLICE DEPARTMENT

4060 Heath Street  
Homer, AK 99603

phone: 907-235-3150

fax: 907-235-3151

<http://police.ci.homer.ak.us>

## Incident Report: 201305560

Current As Of: Wednesday, May 14, 2014

**Offense** Theft from Yard

**Reported** 10/20/2013 **Time** 5:57 PM

**Officer:** LUCK, Stacy

**Location:** 3850 Heath Street #1

**City/State:** Homer AK

**Press** Caller reports theft of property from yard.

**Summary**

**People Involved:**

Involvement	Name/Address	Sex/Race Phone/Cautions	DOB/AGE	Citation/Offense	Date Officer
Complainant	OWENS, Michael Scott 3850 Heath St Cabin #1 Homer AK	M W	[REDACTED] 51	Theft from Yard	10/20/2013 LUCK

**Property Involved:**

File#	Category	Description	Loss / Recovered Amt.	Date Recover
45760	Stolen	geode, 1'x1.5'	20.00	
<b>Totals --&gt;</b>			<b>\$20.00</b>	





# Homer Police Department

**Incident Report: 201305560**

Current As Of:

5/14/2014 6:15:33 PM

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## *Single Continuation Report*

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### ***Narrative***

jkp0/C stated he had a geode stolen from his front porch today. He just noticed it was gone this afternoon. C stated he has no idea who took it. C could not give a value of item and stated it was not worth much as far as dollar amount, but had significant sentimental value.

### ***Mentioned***

### ***Action Taken***

SRL2 - No suspects or leads.

### ***Statements***

### ***Evidence/Property***

### ***Action Recommended***

Date/ Officer: 10/20/2013 PROBST

Incident: 201305560

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



## **PUBLIC HEARING NOTICE**

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, July 16, 2014 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska on the following matter:

**Board of Adjustment remand of Conditional Use Permit (CUP) 2013-13, a proposal to build a residential duplex at 3850 Heath Street. The Board has remanded this CUP to the Planning Commission, per HCC 21.93.560, to require and consider additional evidence in determining whether the property complies with the Homer Zoning Code as required under HCC 21.90.030, to make findings regarding the property's compliance with the Homer Zoning Code, and to revisit Findings Nos. 5 and 8 after considering additional evidence regarding compliance. Legal description of property: Lot 1-A-1 Carl Sholin Sub No. 5 T6S R13W Sec 20 S.M.**

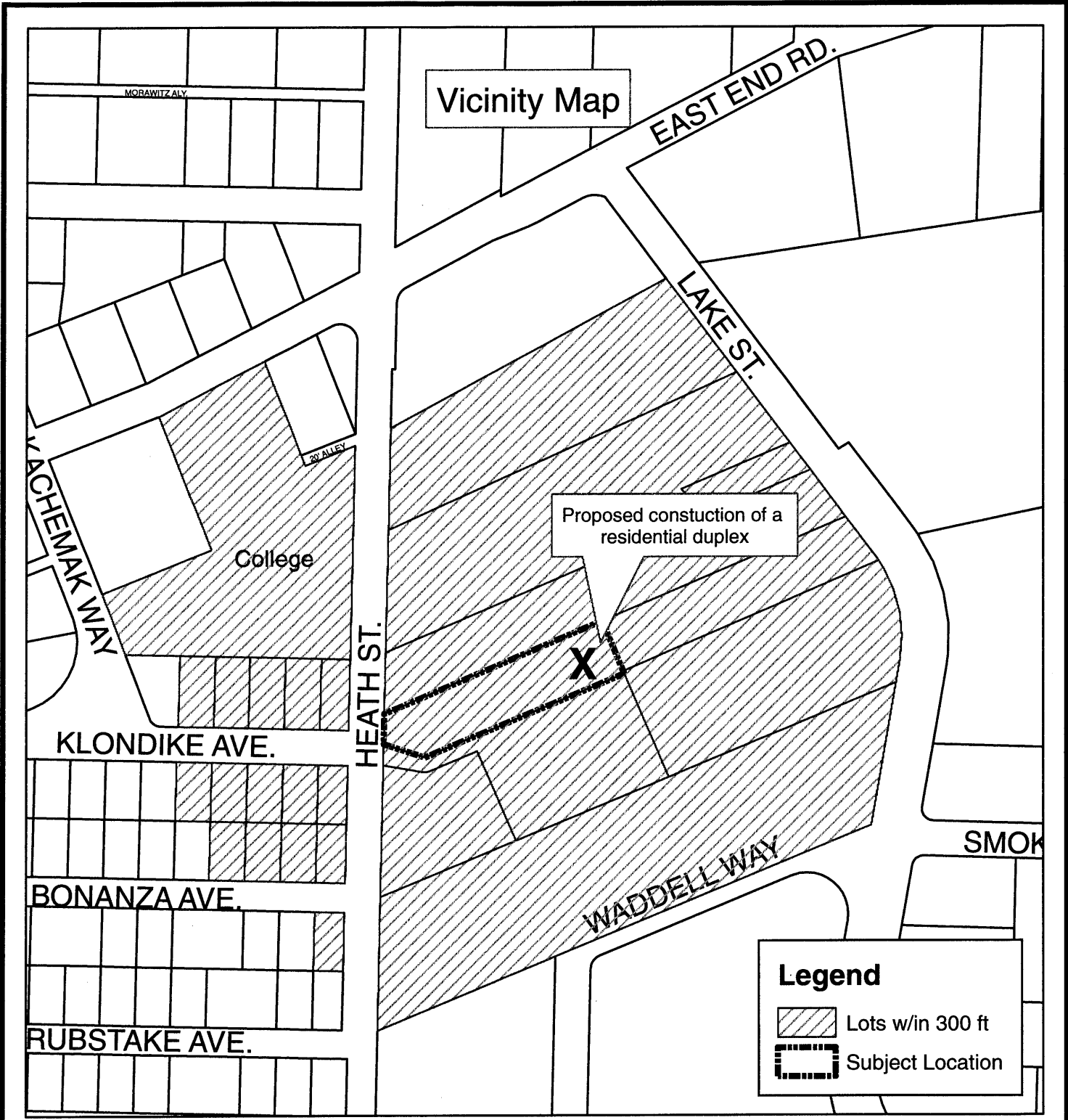
Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Travis Brown at the Planning and Zoning Office, 235-3106.

**NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 300 FEET OF PROPERTY.**

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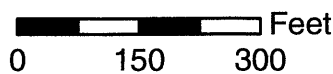
Vicinity Map on Reverse



*City of Homer*  
 Planning and Zoning Department  
 June 30, 2014

REMAND of  
 Conditional Use Permit 2013-13  
 3850 Heath Street

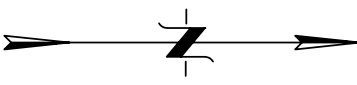
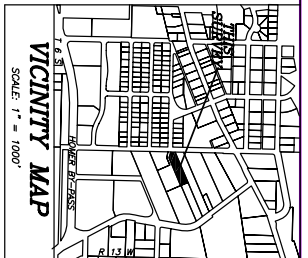
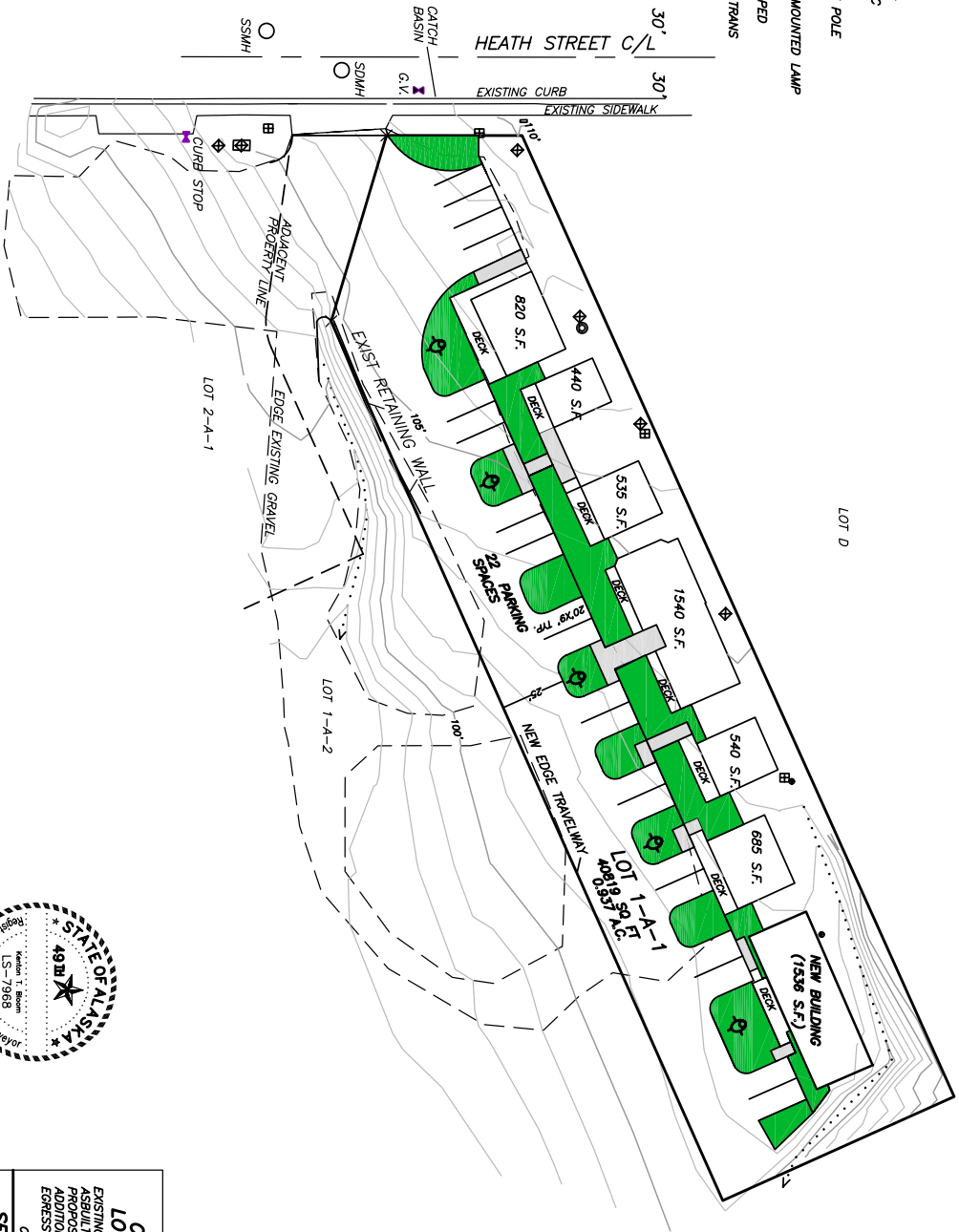
Property owners w/in 300 ft are notified.



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

**NOTES**  
 TOTAL BUILDING SQUARE  
 FOOTAGE = 6,096

- LEGEND**
- ⊠ 4" PVC
  - ⊙ UTILITY POLE
  - ⊕ POST MOUNTED LAMP
  - ⊠ TELE PED
  - ⊕ ELEC TRANS



SCALE  
 1" = 30'  
 1' CONTOURS



**CARL SHOLIN SUBD NO. 5  
 LOT 1-A-1 C.U.P. SITE PLAN**  
 EXISTING SITE CONDITIONS WITH TOPOGRAPHY AND  
 ASBUILT LOCATIONS OF IMPROVEMENTS OVERLAIN WITH  
 PROPOSED NEW SITE PLAN INCLUDING BUILDING  
 ADDRESS, PARKING, LANDSCAPING, INGRESS AND  
 EGRESS AND SITE DRAINAGE IMPROVEMENTS  
 CONTAINING 0.937 ACRES MORE OR LESS

**SEABRIGHT SURVEY + DESIGN  
 KENTON T. BLOOM, P.L.S.**

1044 EAST ROAD, SUITE A  
 HOMER, ALASKA 99603  
 (907) 235-4247

DATE: 10/15/2013	DRAWN BY: K.B.	CHKD BY: KB	JOB #13-29
SCALE: 1"=30'			SHEET #2 OF 3





# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

Planning  
491 East Pioneer Avenue  
Homer, Alaska 99603

Planning@ci.homer.ak.us  
(p) 907-235-3106  
(f) 907-235-3118

## Staff Report 14-64

TO: Homer Advisory Planning Commission  
 THROUGH: Rick Abboud, City Planner  
 FROM: Dotti Harness-Foster, Planning Technician  
 DATE: July 16, 2014  
 SUBJECT: Vineyard Estates 2014 Addition Preliminary Plat

**Requested Action** Preliminary Plat approval to subdivide one lot into two smaller lots.

### General Information

Applicants:	Kurt St. Jean 722 Waddell St. Homer, AK 99603	Johnson Surveying Box 27 Clam Gulch, AK 99568
Location:	Southeast corner of East Hill Road and Latham Avenue	
Parcel ID:	17702086	
Size of Existing Lot(s):	1.49 acres or 64,904 sf	
Size of Proposed Lots(s):	Lot 1-A2 will be 30,945 sf. Lot 1-A1 will be 34,124 sf	
Zoning Designation:	Rural Residential District	
Existing Land Use:	Residence	
Surrounding Land Use:	North: Multi-family South: Residential and vacant lots East: Vacant and residential West: Residential	
Comprehensive Plan:	Goal 5, p 4-16 Maintain high quality residential neighborhoods; promote housing choice by supporting a variety of dwelling options.	
Wetland Status:	No designated wetlands	
Flood Plain Status:	Zone D, flood hazards undetermined.	
BCWPD:	Not within the Bridge Creek Watershed Protection District.	
Utilities:	Public water and sewer serves the property.	
Public Notice:	Notice was sent to 25 property owners of 28 parcels as shown on the KPB tax assessor rolls.	

**Analysis:** This subdivision is within the Rural Residential District. This plat subdivides one lot into two smaller lots. Both lots have driveway access to Latham Avenue. Staff confirmed with Alaska Department of Transportation that an East Hill Road driveway:

- Was not permitted when East Hill Road improvements were constructed in 1986.
- Would not be permitted since there is a safer alternative (Latham Avenue).

Staff recommends a plat note indicating that access for both lots be provided by Latham Avenue.

This subdivision is within the Rural Residential District and creates two lots from one larger lot. **Preliminary Approval, per KPB code 20.25.070 Form and contents required.** The commission will consider a plat for preliminary approval if it contains the following information at the time it is presented and is drawn to a scale of sufficient size to be clearly legible.

A. Within the Title Block:

1. Names of the subdivision which shall not be the same as an existing city, town, tract or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
2. Legal description, location, date, and total area in acres of the proposed subdivision; and
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor;

*Staff Response: The plat meets these requirements.*

B. North point;

*Staff Response: The plat meets these requirements.*

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

*Staff Response: Width of Latham Lane needs to be noted.*

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

*Staff Response: The plat meets these requirements.*

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

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



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

*Staff Response: This plat meets these requirements.*

- G. Status of adjacent lands, including names of subdivisions, lot lines, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

*Staff Response: This plat meets these requirements.*

- H. Approximate location of areas subject to inundation, flooding or storm water overflow, the line of ordinary high water, wetlands when adjacent to lakes or non-tidal streams, and the appropriate study which identifies a floodplain, if applicable;

*Staff Response: The plat meets these requirements.*

- I. Approximate locations of areas subject to tidal inundation and the mean high water line;

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

- J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;

*Staff Response: The plat meets these requirements.*

- K. Within the limits of incorporated cities, the approximate location of known existing municipal wastewater and water mains, and other utilities within the subdivision and immediately abutting thereto or a statement from the city indicating which services are currently in place and available to each lot in the subdivision;

*Staff Response: This plat meets these requirements. Water and sewer is available and shown.*

- L. Contours at suitable intervals when any roads are to be dedicated unless the planning director or commission finds evidence that road grades will not exceed 6 percent on arterial streets, and 10 percent on other streets;

*Staff Response: The plat meets these requirements. No Rights of Way are to be dedicated by this action.*

- M. Approximate locations of slopes over 20 percent in grade and if contours are shown, the areas of the contours that exceed 20 percent grade shall be clearly labeled as such;

*Staff Response: The plat meets these requirements.*

- N. Apparent encroachments, with statement indicating how the encroachments will be resolved prior to final plat approval; and

*Staff Response: This plat meets these requirements; no encroachments.*

- O. If the subdivision will be finalized in phases, all dedications for through streets as required by KPB 20.30.030 must be included in the first phase.

*Staff Response: This plat meets these requirements.*

**Public Works Comments:**

Access for both lots could be provided by Latham Avenue.  
No permanent structure shall be placed within a utility easement.

**Fire Department Comments:** Fire Chief Painter did not have any concerns.

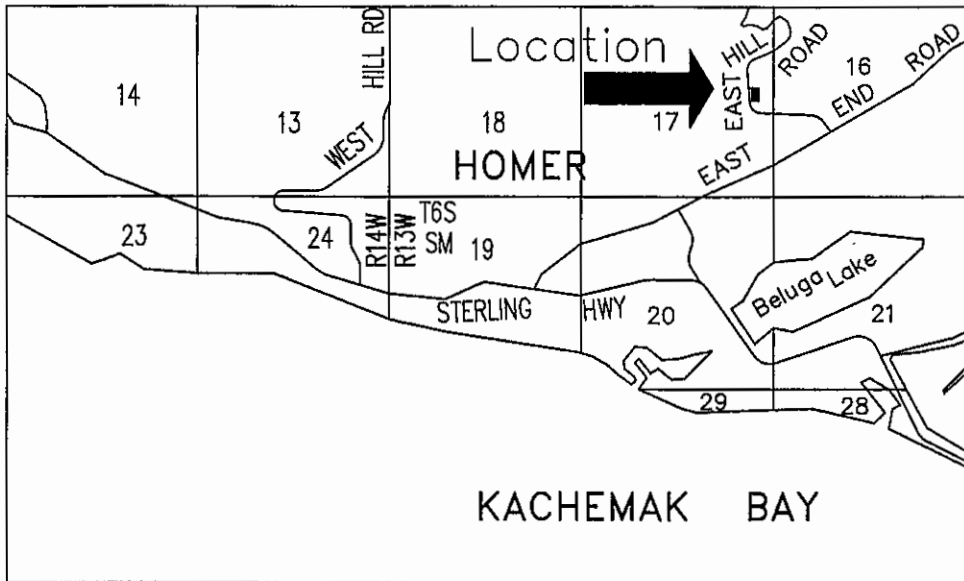
**Staff Comments/Recommendation:**

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

1. Width of Latham Lane needs to be noted.
2. A plat note indicating that access for both lots is provided by Latham Avenue.
3. Add plat note: “No direct access to a state maintained R.O.W. permitted unless approved by State of Alaska Department of Transportation.”
4. Add plat note: “No structure shall be constructed or placed within a utility easement.”

**Attachments**

1. Preliminary Plat
2. Public Notice
3. Email from Danika Simpson dated July 1, 2014 regarding no access to East Hill Rd.



VICINITY 1" = 1 mile MAP

# VINEYARD ESTATES 2014 ADDITION PRELIMINARY PLAT

A subdivision of Lot 1-A Vineyard Estates, Replat 2005, HRD 2005-26.  
 Located in the NE1/4 Section 17, T6S R13W, SM, City of Homer, Alaska.  
 Homer Recording District Kenai Peninsula Borough

**RECEIVED**

JUN 2 - 2014

CITY OF HOMER  
PLANNING/ZONING

SCALE 1" = 50'      1.494 acres      29 May, 2014

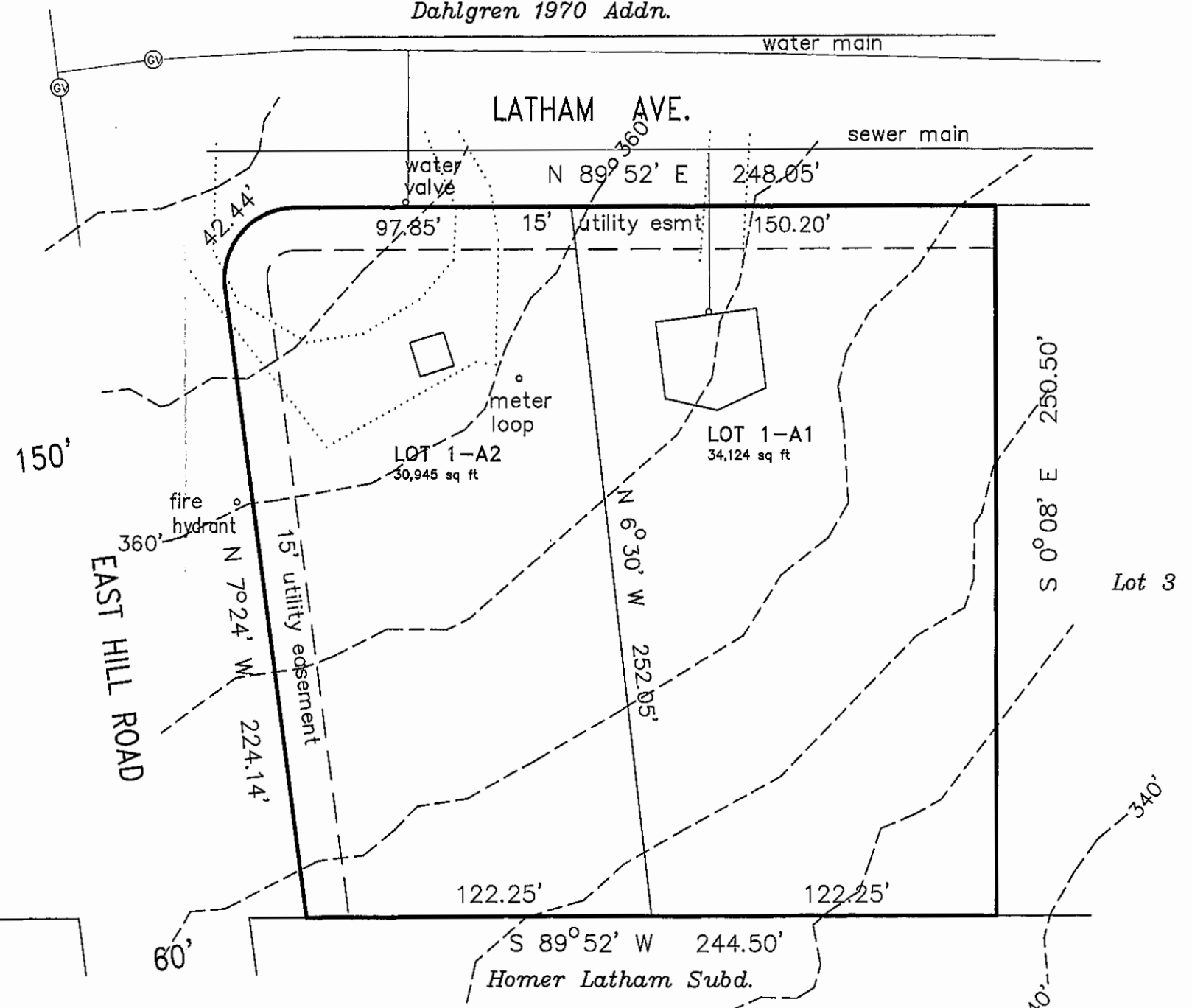
*Homer Latham Subd.  
Dahlgren 1970 Addn.*

Prepared for  
Kurt St. Jean  
722 Waddell St.  
Homer, AK 99603

Prepared by  
Johnson Surveying  
Box 27  
Clam Gulch, Ak 99568

**NOTES**

1. Contour interval 4'. There are no areas over 20% grade on this property. There are no wet areas.
2. Development activities are subject to City of Homer zoning regulations.
3. Lots to be served by City Water and Sewer.





## NOTICE OF SUBDIVISION

Public notice is hereby given that a preliminary plat has been received proposing to subdivide or replat property. You are being sent this notice because you are an affected property owner within 500 feet of a proposed subdivision and are invited to comment.

Proposed subdivision under consideration is described as follows:

### **Vineyard Estates 2014 Addition Preliminary Plat**

The location of the proposed subdivision(s) affecting you is provided on the attached map(s). A preliminary plat showing the proposed subdivision may be viewed at the City of Homer Planning and Zoning Office. Subdivision reviews are conducted in accordance with the City of Homer Subdivision Ordinance and the Kenai Peninsula Borough Subdivision Ordinance. A copy of the Ordinance is available from the Planning and Zoning Office. **Comments should be guided by the requirements of those Ordinances.**

A public meeting will be held by the Homer Advisory Planning Commission on Wednesday, July 16, 2014 at 6:30 p.m. at Homer City Hall, Cowles Council Chambers, 491 East Pioneer Avenue, Homer, Alaska.

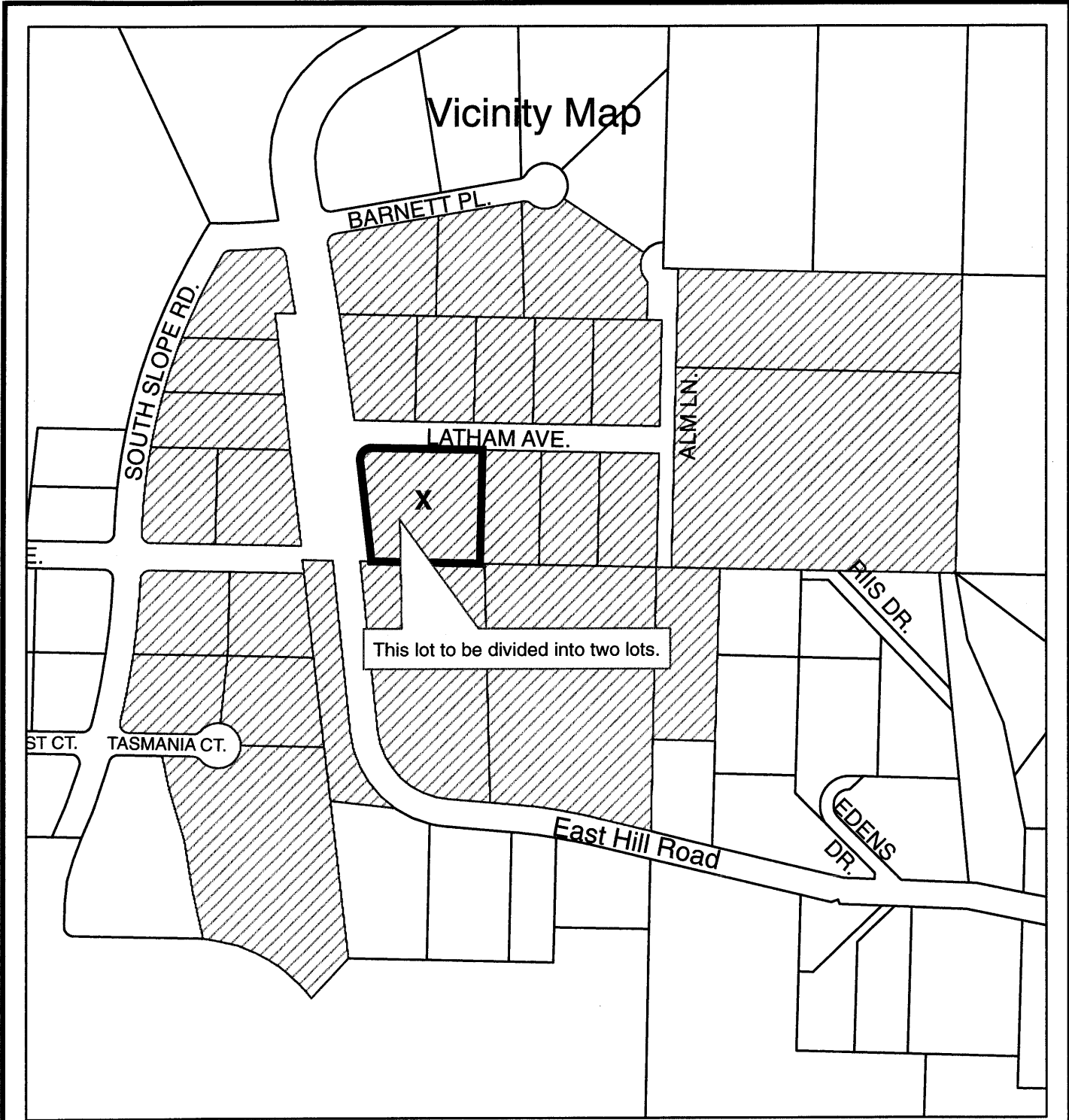
Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Travis Brown in the Planning and Zoning Office, 235-3106.

**NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 500 FEET OF PROPERTY.**

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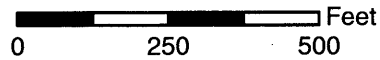
**VICINITY MAP ON REVERSE**



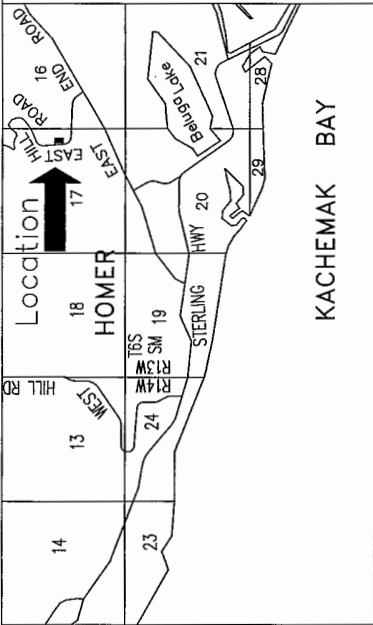
*City of Homer*  
 Planning and Zoning Department  
 June 13, 2014

Vineyard Estates 2014 Addition  
 Preliminary Plat

Properties within 500 feet are marked  
 and property owners notified.



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



# VINEYARD ESTATES 2014 ADDITION PRELIMINARY PLAT

A subdivision of Lot 1-A Vineyard Estates, Replat 2005, HRD 2005-26.  
Located in the NE1/4 Section 17, T6S R13W, SM, City of Homer, Alaska.  
Homer Recording District Kendal Peninsula Borough

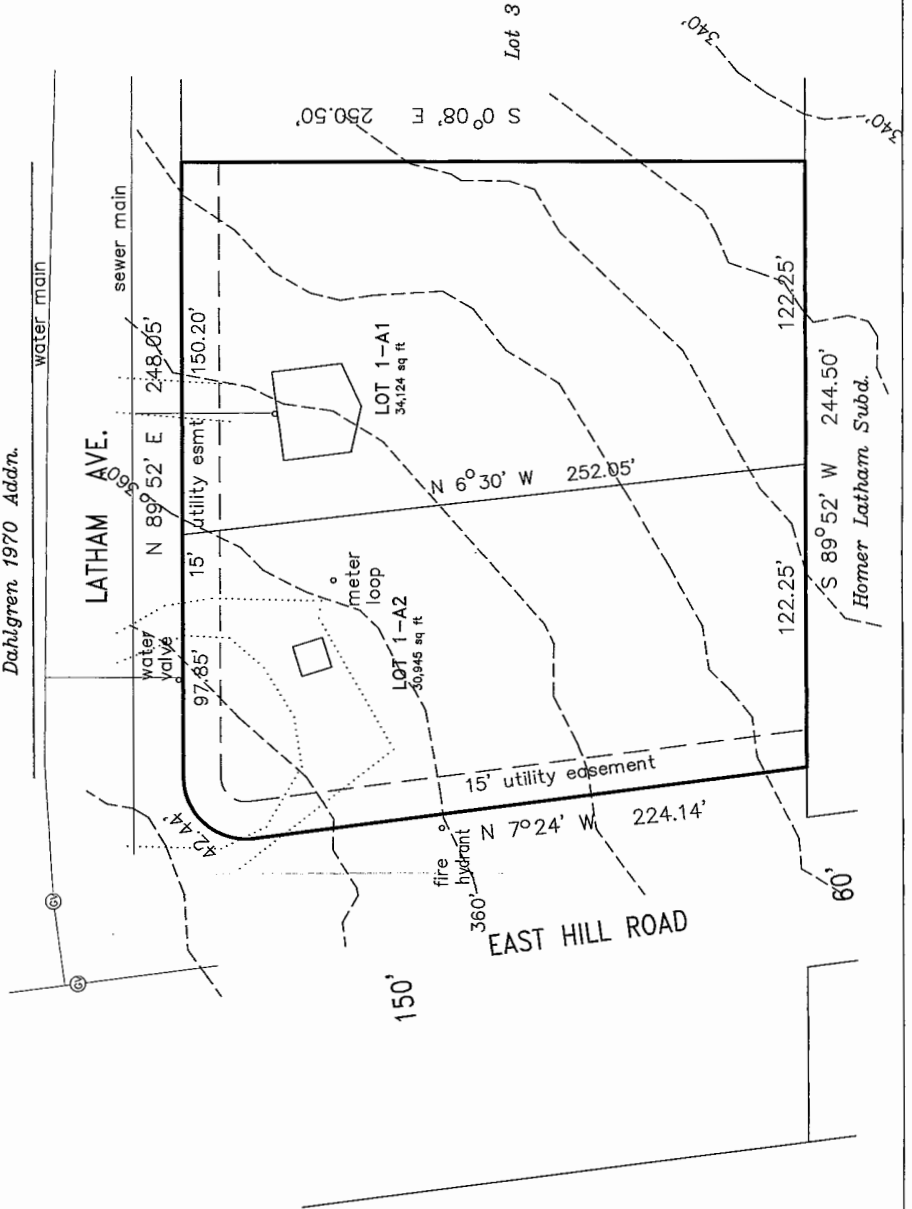
SCALE 1" = 50' 1.494 acres 29 May, 2014

Homer Latham Subd.  
Dahlgren 1970 Addn.

RECEIVED

JUN 2 - 2014

CITY OF HOMER  
PLANNING/ZONING



Prepared for Kurt St. Jean  
722 Waddell St.  
Homer, AK 99603

Prepared by Johnson Surveying  
Box 27  
Clam Gulch, Ak 99568

223

**NOTES**

1. Contour interval 4'. There are no areas over 20% grade on this property. There are no wet areas.
2. Development activities are subject to City of Homer zoning regulations.
3. Lots to be served by City Water and Sewer.





## **Dotti Harness**

---

**From:** Simpson, Danika L (DOT) <danika.simpson@alaska.gov>  
**Sent:** Tuesday, July 01, 2014 1:55 PM  
**To:** Dotti Harness  
**Subject:** RE: East End Rd & Latham Avenue

From the 1986 As-Builts there is no approach that was placed under Project A-80901 East Hill Road Grading, Drainage, Paving, Striping, Signing and Water. Should the project have put it in it would be considered "permitted" by the Department. No such luck.

The ROW mapping is from 1985 and not shown on the ROW mapping. Strike 2

There are no approaches on East Hill Road permitted through the epermits online system. Strike 3

The approach is was not placed under permit and you are correct. We would not approve an approach to a main road when alternate access is available and constructed by DOT.

Cordially,  
**Danika Simpson**  
Right of Way Agent  
(907) 269-0687

---

**From:** Dotti Harness [<mailto:DHarness@ci.homer.ak.us>]  
**Sent:** Tuesday, July 01, 2014 12:17 PM  
**To:** Simpson, Danika L (DOT)  
**Subject:** East End Rd & Latham Avenue

Danika,

KPB 17702086  
Lot 1-A vineyard Estates Replat 2005

I'm working on a preliminary plat which divides one 1.49 acre parcel into two smaller lots. There is an existing driveway onto East Hill Road, though it doesn't appear to be used. There is a second driveway onto Latham Avenue which is used, safer, and a reasonable distance from the intersection.

Can you tell me if there is an existing AkDOT driveway permit for access directly onto East Hill Road? This is a curvy part of East Hill Road so I'm curious if AkDOT would even permit a DW onto East Hill when there is a safer alternative, Latham Avenue.

Thanks for your help,

Dotti Harness-Foster  
City of Homer  
Planning  
907-435-3118





# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Planning

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### Staff Report 14-65

TO: Homer Advisory Planning Commission  
THROUGH: Rick Abboud, City Planner  
FROM: Julie Engebretsen, Deputy City Planner  
DATE: July 16, 2014  
SUBJECT: Safe Streets Program

**Requested action:** Read through the staff report, discuss recommendations and make comments. Staff would like to work with both the Planning Commission and the Park and Recreation Advisory Commission on this topic, and incorporate the program into the 2015 budget. Staff anticipates spending several meetings discussing this issue.

### Introduction

The Safe Streets Program is intended to facilitate city and community members to form partnerships to solve local problems. It streamlines the City response to citizen concerns, and opens the door to better communication and coordination.

The City has been working with the Old Town neighborhood on pedestrian and safety improvements. This partnership has become a pilot project for the Safe Streets Program. As new methods of traffic calming are tried in our community, the Safe Streets program will evolve with lessons learned, and new ideas.

### Safe Streets Program

**Mission Statement:** Empower neighborhoods to partner with the City to solve safety concerns for pedestrians and bicyclists on area streets.

**Program Goal:** Increase pedestrian and cyclist safety in the City of Homer.

### Program Parts:

1. Public Education
2. Funding for safety improvements
3. Technical assistance and partnerships to solve safety problems

## **Part 1. Public Education**

What the City will do:

1. Advertise annually in local papers and radio stations to draw attention to safety issues such as crosswalk and share the road laws. Encourage newspaper articles and radio coverage.
2. Participate in appropriate community events such as Safe Kids Fair, Bike to Work Week and other relevant community activities.
3. Create a pamphlet and city website about the Safe Streets program, and city resources.

## **Part 2. Funding for safety improvements**

The Safe Streets Program will be funded primarily by the Homer Accelerated Roads and Trails fund. Funds will pay for improvements such as signage, striping roads and crosswalks, speed bumps, and minor paving or gravel improvements. Large projects, at the Council's discretion, may follow the Special Assessment District Process, or may be placed on the CIP. HART funds may be used to leverage other outside funding.

Council will allocate HART funding each year in the annual budget process based on demand for the program and sales tax revenues. Improvements that were made under the program may also be maintained using HART funds. Maintenance may include things like replacing signs, or restriping pavement.

## **Part 3. Technical assistance and partnerships to solve safety problems**

The City will provide technical assistance to neighborhoods in the form of staff time. All safety improvements should meet basic safety standards and best management practices, such as AASHTO, or other recognized standards. For example, stop signs and crosswalks will be used only when warranted. \* A warrant is a set of criteria which can be used to define the relative need for, and appropriateness of, a particular traffic device. The warrant analysis process is just one of the tools to be used to determine if the traffic control improvement is warranted.

How does a neighborhood work with the City?

### **Steps**

1. The first step when a citizen approaches the City is for a City staff member to visit the site and listen to the concerns of the citizen. That staff member could be from parks maintenance, road maintenance, public works superintendent, police office, planner, etc.

2. The staff member will document the preliminary observation, citizen concerns, and the next steps that should be taken by the citizen and by the City. This documentation would likely be a written memo to the citizen and copied to appropriate city staff.

Recommendations could include many options, such as:

- Using the Traffic Speed Trailer to measure speeding
- Request for Public Works to trim vegetation, or address a right of way visibility issue
- Request new signage or replace missing signs
- Provide guidelines for neighborhoods to work together to solve problems
- City staff attends a neighborhood gathering to talk about the problem
- Request increase in city services to address the issue (road maintenance, traffic tickets)
- Do nothing
- Referral to a traffic engineer or other professional level service

\*\*\*\*The City could purchase traffic counters, to measure traffic volume and speeds on a street. If a neighborhood had a problem, measuring traffic volume and speed might be one of the first city responses. Many traffic solutions are based on the speed and volume information. The City does not have this information for most city roads (the state has it for state roads only).

3. The citizen can then take this memo and share with the neighborhood for discussion. City Staff will follow through with 'easy' recommendations, like signage and vegetation clearing.

4. It's up to the neighborhood to request more follow up beyond what staff said they would do. Neighborhood groups can request this by letter. (Example: tree trimming may solve a problem and that's the end of the interaction. If the problem still exists, it's up to the neighborhood to initiate further response from the City).

The point is that city staff can address some basic concerns, or recommend a course of action. Basic things like street signs are an easy and simple thing to request, with timely response by the City. Larger requests that are more expensive, or more complicated, will require a higher level of approval – likely the City Council, and a higher level of interaction by the neighborhood. This could include forming a special assessment district.

**Examples of methods and relative costs**

**Improvement**

<b>Cost</b>	Low	Street signs Pavement Striping Deploy speed trailer
	Moderate	Paving existing road shoulder to create a wide shoulder Installing speed limit signs with speed display
	High	Installation of speed humps or tables Sidewalk with storm drain, curb and gutter

*Table 1*

**Q&A**

**How does the program become a reality?**

City Council adopts a resolution for the program. A budget ordinance would follow, creating funding for the initial purchase of equipment and establishing a budget for the program.

**What about road standards for new subdivisions?**

Ideas for better road design do need to be explored. Design specifics are not included in the program at this time. The program is intended to shift how the City and community view these safety issues; it's not a paper brochure or a web page, it's an attitude about viewing streets, people and cars in a different manner. As the program matures and we figure out what works, successful methods will be added to the list of options.

**What basic equipment is needed to start this program?**

Planning staff asked the Police Department what kinds of equipment would help. If this program is adopted, a budget request will be forwarded to Council for these items. Staff expects this list may grow as more equipment needs are identified.

- Additional traffic cones and barriers
- Portable speed bumps. These could be deployed to any short term situation needing them and used to control a neighborhood problem until other means of control are put in place
- Portable pedestrian caution signs
- Additional SMART cart (Speed Monitoring Awareness Trailer)
- Traffic counting device

**Staff Recommendation:** Discuss the proposed program and make comments. Staff has started working on a brochure so the information is in a more user friendly format.



## Staff Report 14-67

TO: Homer Advisory Planning Commission  
FROM: Rick Abboud, City Planner  
DATE: July 16, 2014  
SUBJECT: Creation of the East End Residential/Commercial Mixed Use District

---

**Review:** Several concepts were forwarded at the last Planning Commission meeting. Staff is attempting to incorporate the ideas expressed. This staff report will outline changes and these will need motion(s) to approve or modify to complete our record. Hopefully, with direction from the Planning Commission, we will be ready to plan for some public hearings on a draft ordinance.

### Follow up/Discussion:

Daycare facilities are currently listed as both permitted and conditional use. I recommend adding them as a permitted use in consideration that this is a quasi-commercial type of district and the amount of activity associated is easily accommodated in such a district.

Open air business was also discussed. I find that the activity is most likely (council has not voted on the recommendation for GC2 as of yet) accepted in our commercial 2 and 1 districts, as well as in the East End Mixed Use District. These are our most intense commercial districts followed by CBD, Town Center and Gateway business, where open air businesses are not allowed. To allow open air business in this proposed district upsets the hierarchy. For instance, the most likely district to succeed this one would be CBD. If this happened, it would create a nonconformity. I believe that farmers market is acceptable as it is found in both town center and CBD, but recommend against permitting open air business.

Screening and landscape was also discussed. I have added the language used in the East End Mixed Use District as a starter for discussion. I would expect that this would be the minimum standard, with perhaps some conversation of additional requirements (found on the ordinance lines 102-114).

**Conclusion:** After this amount of work and nearing a final draft, I am finding that this concept district is just not that different than our current RO district. Several of the use additions are actually just duplicates of permitted RO uses on which the draft ordinance was based. At this point, one has to ask if creating another district is appropriate. We could just amend the current RO code with a few uses and add design standards to commercial uses and expand the district along East End Road. I believe we have had the conversation that has discussed just what amount of business intensity was appropriate for the proposed district. Going to more intense commercial and industrial activity violates the comprehensive plan's goal of not encouraging strip development and encouraging concentration of commercial activities in the downtown core.

**Staff Recommendation:** Review and make recommendations with motions.

### Attachments:

1. Ordinance 14-xx EERCMDUD





1 CITY OF HOMER  
2 HOMER, ALASKA

3  
4 ORDINANCE 14-xx July 16, 2014 Draft

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 AMENDING HOMER CITY CODE xx.xx.xxx, CREATING THE EAST  
8 END RESIDENTIAL C COMMERCIAL MIXED USE DISTRICT.

9  
10 THE CITY OF HOMER ORDAINS:

11  
12 Section 1. HCC xx.xx. East end residential commercial mixed use district:

13  
14 xx.xx.010 Purpose. Allow a number of small scale commercial developments to be  
15 mixed with residential uses. Opportunities for commercial and retail uses are to be more  
16 extensive than the Rural Office District.

17  
18 Section 2. HCC xx.xx.020, Permitted uses and structures.

19  
20 The following uses are permitted outright in the Residential Office District:

- 21 a. Single-family and duplex dwelling, excluding mobile homes;  
22 b. Multiple-family dwelling, provided the structure conforms to HCC 21.14.040(a)(2)  
23 and excluding mobile homes;  
24 c. Public parks and playgrounds;  
25 d. Rooming house, bed and breakfast and hostel;  
26 e. Home occupations; provided they conform to the requirements of HCC 21.51.010;  
27 f. Professional offices and general business offices;  
28 g. Personal services;  
29 h. Museums, libraries and similar institutions;  
30 i. Nursing facilities, convalescent homes, homes for the aged, assisted living homes;  
31 j. Religious, cultural and fraternal assembly;  
32 k. Storage of the occupant's personal commercial fishing gear in a safe and orderly  
33 manner and separated by at least five feet from any property line as an accessory use  
34 incidental to a permitted or conditionally permitted principal use;  
35 l. Private exterior storage of the occupant's personal noncommercial equipment,  
36 including noncommercial trucks, boats, campers and not more than one recreational  
37 vehicle in a safe and orderly manner and separated by at least five feet from any  
38 property line as an accessory use incidental to a permitted or conditionally permitted  
39 principal use;  
40 m. Other customary accessory uses to any of the permitted uses listed in the  
41 Residential Office District; provided, that no separate permit shall be issued for the  
42 construction of any detached accessory building prior to that of the main building;  
43 n. The outdoor harboring or keeping of dogs, small animals and fowl as an accessory

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

- 44 use in a manner consistent with the requirements of the Homer City Code and as long  
45 as such animals are kept as pets and their numbers are such as not to unreasonably  
46 annoy or disturb occupants of neighboring property;
- 47 o. Day care homes; provided, however, that outdoor play areas must be fenced;
  - 48 p. Recreational vehicles, subject to the standards set out in HCC 21.54.320;
  - 49 q. As an accessory use, one small wind energy system per lot having a rated capacity  
50 not exceeding 10 kilowatts;
  - 51 r. One detached dwelling unit, excluding mobile homes, as an accessory building to a  
52 principal single-family dwelling on a lot;
  - 53 s. Apartment units located in a building primarily devoted to business or commercial  
54 uses;
  - 55 t. Day care homes and facilities: provided, however, that outdoor play areas must be  
56 fenced;
  - 57 u. Mortuaries;
  - 58 v. Publishing, printing and bookbinding;
  - 59 w. Studios;
  - 60 x. Cemeteries.

61

62 Section 3. HCC xx.xx.xxx, Conditional uses and structures.

63

64 xx.xx.030 Conditional uses and structures. The following uses may be permitted in the  
65 East End Residential Commercial Mixed Use District when authorized by conditional use  
66 permit issued in accordance with Chapter 21.71 HCC:

- 67 a. Planned unit developments, excluding all industrial uses;
- 68 b. Townhouses;
- 69 c. Public or private schools;
- 70 d. Hospitals and medical clinics;
- 71 e. Public utility facilities and structures;
- 72 f. Day care facilities; provided, however, that outdoor play areas must be fenced;
- 73 g. More than one building containing a permitted principal use on a lot;
- 74 h. Group care homes;
- 75 i. One small wind energy system having a rated capacity exceeding 10 kilowatts;  
76 provided, that it is the only wind energy system of any capacity on the lot;
- 77 j. Other uses approved pursuant to HCC 21.04.020

78

79

80 Section 4. HCC xx.xx.040, Dimensional requirements. The following dimensional  
81 requirements shall apply to all structures and uses in the East End Residential Commercial  
82 Mixed Use District.

83

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

- 84 a. The minimum lot size is 7,500 square feet.  
85 b. Building Setbacks.  
86 1. Buildings shall be set back 20 feet from all dedicated rights-of-way.  
87 2. Residential buildings shall be set back from all other lot boundary lines according to  
88 the number of stories as follows:

<b>Number of Stories</b>	<b>Setback (in feet)</b>
1 story	5 feet
1 1/2 stories	6 feet
2 stories	7 feet
2 1/2 stories	8 feet

- 89  
90 3. Nonresidential buildings shall be set back 15 feet from all other lot boundary lines,  
91 except that this setback may be reduced to not less than the setback that would apply  
92 under subsection (b)(2) of this section if the reduction is approved by the State Fire  
93 Marshal.  
94 c. The maximum building height shall be 35 feet.  
95 d. Detached accessory buildings may not occupy more than 25 percent of a required  
96 rear or side yard and no portion of a required front yard, and shall be located at least  
97 five feet from the nearest part of a main building and five feet from all property lines.  
98 e. No lot shall contain more than 8,000 square feet of building area (all buildings  
99 combined), nor shall any lot contain building area in excess of 30 percent of the lot area,  
100 without an approved conditional use permit.

101 **f. Screening.**

102  
103 **1. When one or more side or rear lot lines abut land within an RO, RR, or UR**  
104 **district or when a side or rear yard area is to be used for parking, loading,**  
105 **unloading or servicing, then those side and rear yard areas shall be**  
106 **effectively screened by a wall, fence, or other sight-obscuring screening.**  
107 **Such screening shall be of a height adequate to screen activity on the lot**  
108 **from outside view by a person of average height standing at street level.**

109  
110 **2. Outside storage of materials, equipment and trash/dumpsters adjacent to**  
111 **rights-of-way shall be screened. Screening may consist of walls, fences,**  
112 **landscaped berms, evergreen plantings, or any combination thereof**

113  
114 **Section 5. HCC xx.xx.050, Site and access.**

- 115  
116 a. A zoning permit for any nonresidential use or structure shall not be issued by the City  
117 without an approved site plan and an approved level two right-of-way access plan that

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

118 conform to the standards of Chapter 21.73 HCC.  
119 b. All access points to rights-of-way shall conform to the standards of a level two right-  
120 of-way access plan stated in Chapter 21.73 HCC. This applies to all uses and structures.

121  
122 Section 6. HCC xx.xx.060, Traffic requirements.

123  
124 A conditional use permit is required for every use that:  
125 a. Is estimated to generate more than 100 vehicle trips during any hour of the day  
126 calculated utilizing the Trip Generation Handbook, Institute of Transportation  
127 Engineers, 9th Edition;  
128 b. Is estimated to generate more than 500 vehicle trips per day calculated utilizing the  
129 Trip Generation Handbook, Institute of Transportation Engineers, 9th Edition;  
130 c. Is estimated to generate an increase in the traffic to more than 100 vehicle trips  
131 during any hour of the day due to a change in land use or intensity of use; or  
132 d. Is expected to generate traffic that will detract from the safety of, or degrade by one  
133 level of service, the highway, road, street, alley or intersection.

134  
135  
136 Section 8. HCC xx.xx.070, Site development standards.

137  
138 a. All single-family and duplex residential development in the East End Residential  
139 Commercial Mixed Use District shall comply with the level one site development  
140 standards contained in HCC 21.50.020.  
141 b. All multifamily residential and all commercial development on lands in this district  
142 shall conform to the level two site development standards set forth in HCC 21.50.030.

143  
144 Section 9. HCC xx.xx.080, Nuisance standards.

145  
146 The nuisance standards of HCC 21.59.010 apply to all development, uses, and structures  
147 in this zoning district.

148  
149 Section 10. HCC xx.xx.090 Lighting Standards.

150  
151 The level one lighting standards of HCC 21.59.030 apply to all development, uses, and  
152 structures in this zoning district.

153  
154 Section 11. This Ordinance is of a permanent and general character and shall be  
155 included in the City Code.

156

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

157 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_\_ day of  
158 \_\_\_\_\_ 2014.

159  
160

CITY OF HOMER

161  
162

163  
164

\_\_\_\_\_  
MARY E. WYTHE, MAYOR

165  
166

ATTEST:

167  
168

169  
170

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

171  
172

YES:

173  
174

NO:

ABSTAIN:

175  
176

ABSENT:

177  
178

First Reading:

Public Hearing:

179  
180

Second Reading:

Effective Date:

181  
182

Reviewed and approved as to form:

183  
184

185  
186

\_\_\_\_\_  
Walt E. Wrede, City Manager

\_\_\_\_\_  
Thomas F. Klinkner, City Attorney

187

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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





## City of Homer

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### STAFF REPORT PL 14-68

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Deputy City Planner  
**MEETING:** July 16, 2014  
**SUBJECT:** Capital Improvement Plan Recommendations

The draft *City of Homer Capital Improvement Plan 2015-2020* is attached. Please keep your copy for use at the August 6<sup>th</sup> meeting. Katie Koester can attend that meeting if the Commission has questions. The goals of the July 16<sup>th</sup> meeting are discussion of the CIP to become familiar the process, and ask any questions about projects. At the August 6<sup>th</sup> meeting, the Commission will make a recommendation on the top 5 priorities for the City.

Each commission will have the opportunity to make recommendations to City Council for which projects they consider a priority. City Council's final list will be used to lobby money from state and federal sources and for grant applications.

#### Attachments:

1. Draft City of Homer Capital Improvement Plan 2015-2020





# City of Homer Capital Improvement Plan 2015-2020



Daniel D Takak being hauled out of the harbor for repairs. Infrastructure for a haulout to facilitate boat work on large vessels is on the 2015-2010 City of Homer CIP.



City of Homer  
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907-235-8121





## City of Homer

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September 8, 2014

To The Honorable Mayor and Homer City Council:

This document presents the City of Homer 2015 through 2020 Capital Improvement Plan. The CIP provides information on capital projects identified as priorities for the Homer community. Descriptions of City projects include cost and schedule information and a designation of Priority Level 1 (highest), 2, or 3. Projects to be undertaken by the State of Alaska and other non-City organizations are included in the CIP in separate sections. An overview of the financial assumptions can be found in the Appendix.

The projects included in the City of Homer's 2105-2020 CIP were compiled with input from the public, area-wide agencies, and City staff, as well as various advisory commissions serving the City of Homer.

It is the City of Homer's intent to update the CIP annually to ensure the long-range capital improvement planning stays current, as well as to determine annual legislative priorities and assist with budget development. Your assistance in the effort is much appreciated.

Sincerely,

Walt Wrede  
City Manager





# Table of Contents

---

**Letter from City Manager . . . . .iii**

**Table of Contents . . . . . v**

**Funded Projects from 2011-2017 CIP List . . . . .viii**

**Introduction: The Capital Improvement Program . . . . . ix**

**PART 1 LEGISLATIVE REQUEST FY2015. . . . . 1**

    Water Storage Distribution Improvements . . . . . 3

    Public Safety Building . . . . . 4

    Harbor Sheet Pile Loading Dock . . . . . 5

    Fire Department Equipment Upgrades. . . . . 6

    East to West Transportation Corridor. . . . . 7

**PART 2 MID-RANGE PROJECTS . . . . . 8**

**Local Roads. . . . .9**

    Heath Street - Pioneer to Anderson. . . . .10

    Land Acquisition for New Roads . . . . .11

    Town Center Infrastructure . . . . .12

**Parks and Recreation . . . . . 13**

    Ben Walters Park Improvements, Phase 2. . . . .14

    Jack Gist Park Improvements, Phase 2. . . . .15

    Karen Hornaday Park Improvements, Phase 2 . . . . .16

    Mariner Park Restroom . . . . .17

    Baycrest Overlook Gateway Park . . . . .18

**Port and Harbor . . . . . 19**

    Deep Water/Cruise Ship Dock Expansion, Phase 1 . . . . .20

    East Boat Harbor. . . . .21

    Barge Mooring Facility . . . . .22

    HH Float Improvements . . . . .23

    Marine Ways Large Vessel Haulout Facility . . . . .24

    Homer Spit Dredged Material Beneficial Use Project. . . . .25

    Ice Plant Upgrade . . . . .26

Update

Continued>



# Table of Contents

---

System 4 Vessel Mooring Float System .....	27
Truck Loading Facility Upgrades at Fish Dock .....	28
Ramp 5 Restroom .....	29
Ramp 8 Restroom .....	30
<b>Public Safety .....</b>	<b>31</b>
South Peninsula Fire Arms Training Facility .....	32
<b>State Projects .....</b>	<b>33 Update</b>
Homer Intersection Improvements .....	34
Main Street Reconstruction/Intersection .....	35
Pioneer Avenue Upgrade .....	36
Kachemak Drive Rehabilitation/Pathway .....	37
Sterling Highway Realignment MP 150-157 .....	38
Sterling Highway Reconstruction - Anchor Point to Baycrest Hill .....	39
Alaska Maritime Academy .....	40
<b>PROJECTS SUBMITTED BY OTHER ORGANIZATIONS .....</b>	<b>41</b>
Pratt Museum: New Facility and Site Redesign .....	42
Kachemak Bay Equestrian Association: Cottonwood Horse Park .....	43
Haven House: Stainability/Energy Efficiency Projects .....	44
Kachemak Nordic Ski Club: Rogers Loop Trailhead Land Acquisition .....	45
Homer Chamber: Visitor Information Center Beautification, Phase 1: Parking Lot .....	46
Homer Senior Citizens: Natural Gas Conversion .....	47
South Peninsula Hospital: Site Evaluation and Planning for Hillside Reinforcement .....	48
Kenai Peninsula Borough: Homer High School Turf Field .....	49
Kachemak Nordic Ski Club: Ohlson Mountain Rope Tow Safety Equipment Upgrades .....	50
Kachemak Shellfish Growers Association: Kachemak Shellfish Hatchery .....	51
<b>PART 3 LONG-RANGE PROJECTS .....</b>	<b>52</b>
Local Roads .....	52
Parks and Recreation .....	52
Public Facilities .....	54
Utilities .....	55
State Projects .....	56



## Table of Contents

---

<b>Appendices</b> .....	<b>57</b>
CIP Development Schedule .....	.58
Resolution 13-087(A) .....	.59
City of Homer Financing Assumptions.....	.61

**Update**



## **Funded Projects from 2014-2019 CIP List**

---

The City of Homer is pleased to note that partial funding to complete the following projects has been identified or procured. Though these projects are significantly advanced with partial funding, they will be included in the CIP until funding is identified to complete the project:

- Harbor Sheet Pile Loading Dock
- Fire Department Equipment Upgrades: (Refurbish Fire Engine 4 and Tanker 2 funded)
- East to West Transportation Corridor

The City of Homer is pleased funding has been identified for the following state projects:

- Pioneer Avenue Upgrade
- Sterling Highway Reconstruction - Anchor Point to Baycrest Hill

The City of Homer would like to congratulate area non-profits on securing funding for the below mentioned projects formerly listed in the City of Homer CIP under 'Projects Submitted by Other Organizations:'

- Kachemak Bay Equestrian Association: Cottonwood Horse Park
- Haven House: Sustainability/Energy Efficiency Projects
- Homer Chamber of Commerce: Visitor Information Center Parking Lot
- Kenai Peninsula Borough: Homer High School Turf Field
- Kachemak Ski Club Ohlson Mountain Rope Tow Safety Equipment Upgrades

**Updated with funded  
project information.**





## Introduction: The Capital Improvement Program

---

A capital improvement plan (CIP) is a long-term guide for capital project expenditures. The CIP includes a list of capital projects a community envisions for the future, and a plan that integrates timing of expenditures with the City's annual budget. The program identifies ways projects will benefit the community. The CIP also indicates the priorities assigned to different projects and presents a target construction schedule.

A carefully prepared capital improvement plan has many uses. It can assist a community to:

- Anticipate community needs in advance, before needs become critical.
- Rank capital improvement needs in order to ensure the most important projects are given consideration for funding before projects not as urgently needed.
- Plan for maintenance and operating costs so expenses are budgeted in advance, and projects communities cannot afford to operate are avoided.
- Provide a written description and justification for projects submitted for state funding so the legislature, governor, and appropriate agencies have the information necessary to make decisions about funding capital projects.
- Provide the basis for capital projects as part of the annual budget.

A capital improvement project is one that warrants special attention in the municipal budget. Normally, public funds are not expended if the project is not listed in the CIP. A capital expenditure should be a major, nonrecurring budget item that results in a fixed asset with an anticipated life of at least two years. Projects eligible for inclusion in the City of Homer CIP have a lower cost limit of \$50,000 for City projects and \$25,000 for those proposed by non-profit organizations. Projects proposed by non-profit organizations and other non-City groups may be included in the CIP with City Council approval, but such inclusion does not indicate that the City intends to provide funding for the project.

The municipality's capital improvement plan is prepared in accordance with a planning schedule, usually adopted by City Council at the onset of the CIP process. A copy of the City of Homer CIP schedule appears in the appendix of this document.

The number of years over which capital projects are scheduled is called the capital programming period. The City of Homer's capital programming period coincides with the State's, which is a six year period. The CIP is updated annually, since only some of the projects are funded and completed each year.

A capital improvement plan is not complete without public input. The public should be involved throughout the CIP process, including the nomination and adoption stages of the process. The City of Homer solicits input from City advisory bodies, advertises for public input during the CIP public hearing, and invites the public to participate throughout the entire process.

The City's capital improvement program integrates the City's annual budget with planning for larger projects that meet community goals. Though the CIP is a product of the City Council, the administration provides important technical support and ideas and suggestions from the public are incorporated through the entire process.

**Determining project priorities:** City of Homer CIP projects are assigned a priority level of 1, 2, or 3, with 1 being the highest priority. To determine priority, the Council considers such questions as:

- Will the project correct a problem that poses a clear danger to human health and safety?
- Will the project significantly enhance City revenues or prevent significant financial loss?
- Is the project widely supported within the community?
- Has the project already been partially funded?
- Is it likely that the project will be funded only if it is identified as being of highest priority?
- Has the project been in the CIP for a long time?
- Is the project specifically recommended in other City of Homer long-range plans?
- Is the project strongly supported by one or more City advisory bodies?

Once the overall CIP list is finalized, the City Council names a subset of projects that will be the focus of efforts to obtain state and/or federal funding in the coming year. The overall CIP and the legislative priority list are approved by resolution.

## Integration of the CIP with Comprehensive Plan Goals

Each project listed in the CIP document has been evaluated for consistency with the City's goals as outlined in the Comprehensive Plan. The following goals were taken into account in project evaluation:

**Land Use:** Guide the amount and location of Homer's growth to increase the supply and diversity of housing, protect important environmental resources and community character, reduce sprawl by encouraging infill, make efficient use of infrastructure, support a healthy local economy, and help reduce global impacts including limiting greenhouse gas emissions.

**Transportation:** Address future transportation needs while considering land use, economics, and aesthetics, and increase community connectivity for vehicles, pedestrians, and cyclists.

**Public Service & Facilities:** Provide public services and facilities that meet current needs while planning for the future. Develop strategies to work with community partners that provide beneficial community services outside of the scope of City government.

**Parks, Recreation & Culture:** Encourage a wide range of health-promoting recreation services and facilities, provide ready access to open space, parks, and recreation, and take pride in supporting the arts.

**Economic Vitality:** Promote strength and continued growth of Homer's economic industries including marine trades, commercial fishing, tourism, education, arts, and culture. Preserve quality of life while supporting the creation of more year-round living wage jobs.

**Energy:** Promote energy conservation, wise use of environmental resources, and development of renewable energy through the actions of local government as well as the private sector.

**Homer Spit:** Manage the land and other resources of the Spit to accommodate its natural processes, while allowing fishing, tourism, other marine-related development, and open space/recreational uses.

**Town Center:** Create a community focal point to provide for business development, instill a greater sense of pride in the downtown area, enhance mobility for all forms of transportation, and contribute to a higher quality of life.

# **City of Homer State Legislative Request FY2016 Capital Budget**



Homer Volunteer Fire Department is joining forces with the Homer Police Department to replace the Fire Hall and Police Department with a new Public Safety building. The new facility will meet both department's current and future needs so they can continue to save lives, protect property, and keep the peace. Photo by Josephine Ryan.

**City of Homer  
491 E. Pioneer Avenue  
Homer, Alaska 99603  
907-235-8121**



## **Legislative Request FY2015**

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**City of Homer FY2015 State Legislative Priorities list  
approved by the Homer City Council  
via Resolution 13-087(A)**

- 1. Water Storage/Distribution Improvements - \$3,510,000**
- 2. Public Safety Building - \$1,231,904**
- 3. Harbor Sheet Pile Loading Dock- \$xxx,xxx**
- 4. Fire Department Equipment Upgrades -\$1,035,000**
- 5. East to West Transportation Corridor - \$4,744,250**

**Update**



# 1. Water Storage/Distribution Improvements

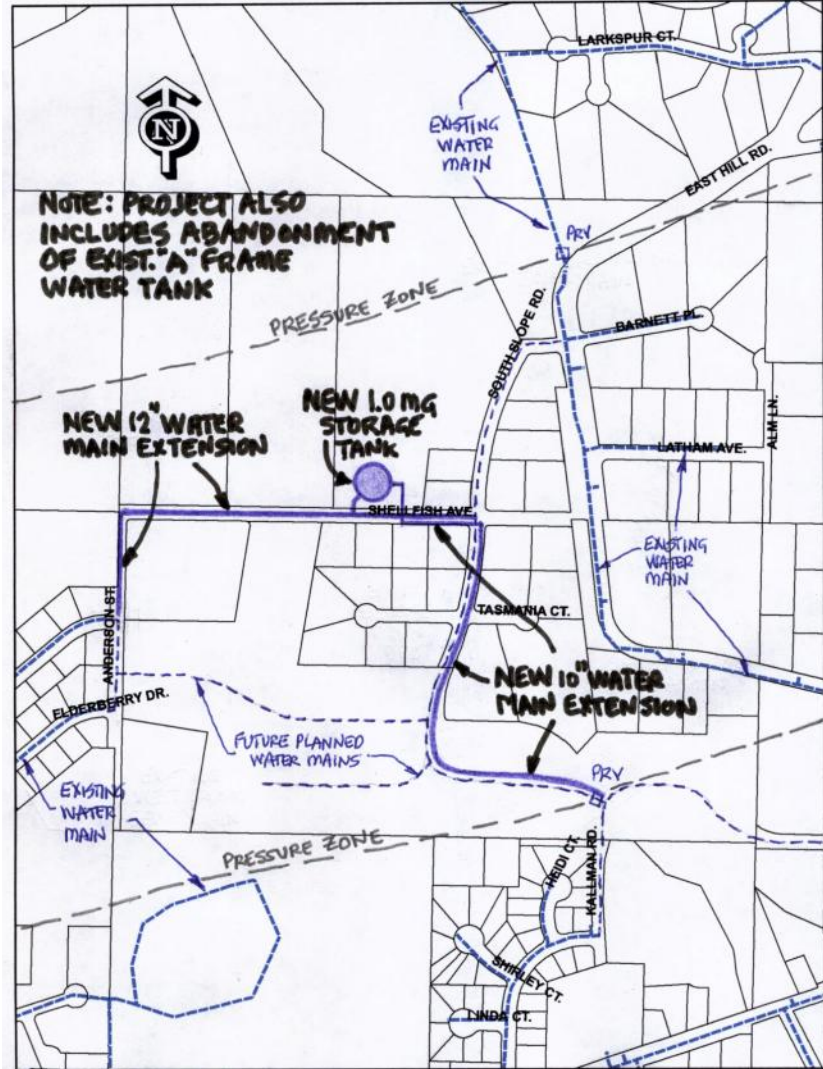
**Project Description & Benefit:** This project will design and construct improvements that will increase water storage, improve water system distribution, drinking water quality/ public health, and treatment plant and water transmission effectiveness.

The project consists of the installation of an underground 1.0 MG water storage tank; 2,000 linear feet of 12-inch distribution main (connecting two isolated parts of town); the installation of 2,000 linear feet of water main between the new tank and the water system; and the abandonment of an existing, functionally obsolete (+50 years old), steel water tank.

**Plans & Progress:** The need for this project has been documented in the Homer Water & Sewer Master Plan (2006). The City received a \$390,000 Special Appropriation Project grant for the design phase of the project in 2012 from the Environmental Protection Agency. Design is underway and will be complete in 2014.

Total Project Cost: \$3,900,000  
 2014 (Design, funding secured): \$390,000  
 2016-2017 (Construction): \$3,510,000

**FY2015 State Request: \$3,510,000**  
 (10% Match: \$390,000)



This needs to be the number one priority to score well on grant.



## 2. Public Safety Building

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**Project Description & Benefit:** New Fire and Police Stations have been on the City of Homer Capital Improvement Plan independently for over 10 years. Both buildings are from the early 80s and suffer from a series of inadequacies such as lack of office, storage and training space and health and safety violations from inadequate ventilation.

The current fire hall does not have adequate equipment storage bays. Expensive equipment has to be stored outside and exposed to the elements. In the winter, equipment has to be winterized and decommissioned due to lack of heated garage space. The fire hall does not meet fire station design criteria with separated biohazard decontamination/ cleaning areas or separated storage areas for cleaning medical supplies. It also lacks adequate space to accommodate more than four overnight crew members. Space is needed for eight people to sleep in the station without disrupting normal operations.

The current police station has no area for evidence processing of large items, a crisis cell for special needs prisoners, or a proper juvenile holding area. Existing dispatch facilities are too small. The jail entry area, booking room, and jail offices are poorly designed. Both facilities are inefficient and require electric heat despite the availability of natural gas. A new building will take advantage of efficient building practices and be plumbed for natural gas.

A joint public safety building will create a central location for emergency response and benefit the entire Homer area. The Homer Police Department provides 9-1-1 services for many of the communities on the southern Kenai Peninsula and area-wide dispatching and support services to a host of agencies. Agencies such as the Coast Guard and State Parks could benefit from the expanded training spaces. A new building will allow the departments to work better together for the safety of the Homer residents and take advantage of shared spaces such as training rooms, a physical fitness area, a kitchen and break room, an entry with public restrooms, and a vehicle bay for washing city vehicles.

**Plans & Progress:** The City has fully funded preliminary concept design (\$300,000) and formed a Public Safety Building Review Committee to oversee the design and construction process. The City has initiated the first phase, a collaborative effort to explore the options and costs for an up-to-date combined facility specifically tailored to local needs and resources. To achieve a more cost-effective facility, Homer is using a General Contractor Construction Manager approach and has hired a consultant team including USKH, Loren Berry Architect and Cornerstone General Contractors. That work will produce a space needs analysis, siting criteria, concept design, and cost projections for a new Homer Public Safety Building.

**Total Project Cost:** \$15,319,040

2014-2015 Design: \$1,531,904

2014 (to 10% Design): \$306,381

2015 (to 100% Design): \$1,225,523

2016-2017 (Construction): \$13,021,184

2018 (Inspection): \$765,952

**FY2016 State Request: \$1,231,904**

(City of Homer 25% Match: \$300,000)



Homer Fire Hall in winter



Homer Police Department in winter

**Preliminary concept design work will be complete by fall. Will have more updates then for CIP.**



### 3. Harbor Sheet Pile Loading Dock

**Project Description & Benefit:** This project will construct a sheet pile loading pier between the existing barge ramp and the fuel dock on the east side of the Small Boat Harbor. It is estimated that the dock will be 225 feet long and dredged to -17 feet. This dock would be used to transfer heavy loads by crane onto barges and landing crafts. During peak fishing time it can be used for delivering fish when the Fish Dock is at capacity. It would also serve as mooring for large shallow-draft vessels that are now mooring on the System 5 float. The project will stimulate the shipping and freight sectors of the local economy, creating jobs and providing revenues for Port & Harbor operations. A sheet pile loading dock is a cost effective way to increase docking facilities available at the Homer Port and Harbor.

**Plans and Progress:** This project was first identified as a need at the time the State of Alaska transferred ownership of the harbor to the City of Homer in 1999. However, it was dropped from the TORA harbor improvement project list because it was not a repair or replacement item but rather a completely new facility. The Alaska State Legislature awarded \$350,000 in FY2015 that will be used to design the facility.

Total Project Cost: \$xxx,xxxx

2015 (Design Funding Secured): \$350,000

2015 (Construction): \$XXX,XXX

**FY2016 State Request: \$xxx,xxx**

(City of Homer 10% Match: \$)



Sheet Pile Bulkhead Location



Received \$350,00 in FY15 Capital Budget, but project will cost more.



## 4. Fire Department Equipment Upgrades

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**Project Description & Benefit:** The Homer Volunteer Fire Department is in need of a number of vehicle upgrades to be able to safely and efficiently protect the lives and property of Homer residents.

**Quint (Ladder Truck):** An Aerial truck will greatly enhance the City of Homer's firefighting capability. As Homer continues to grow and the size and complexity of buildings increases it is no longer safe or practical to fight fire from the ground or off of ground ladders (the Homer Volunteer Fire Department's tallest ground ladder is only 35 feet.) Large footprint and tall buildings (two stories or more) often require the use of elevated hose streams to fight fire effectively. HVFD has no ability to provide for elevated hose streams except off of ground ladders, which severely limits the application of water and endangers the lives of firefighters. Aerial apparatus allow for the application of water to the interior of a building without placing firefighters in immediate danger. They also allow for the rescue of persons that become trapped in upper stories or on rooftops by fire or other incidents that impede the use of interior stairways. An aerial truck will increase fighting capability for large public buildings recently built (West Homer Elementary School, the Islands and Ocean Visitor Center, the Homer Ice Rink, and the South Peninsula Hospital Expansion), potentially lowering insurance rates for the community. Cost: \$800,000

**Brush/Wildland Firefighting Truck:** The Department's existing brush truck is a Ford F-350 that was converted to a brush unit in-house in 1990 by adding a manufactured tank, portable pump and a home-built tool storage compartment. The existing truck is severely deficient due to age-related wear and lack of capacity to handle the weight of firefighting equipment. A new Ford F-450/550 4x4 with wildland pump unit, tank, and tool compartments will provide critical and reliable service. In addition to fighting wildfires, the truck provides fire protection to areas inaccessible with traditional large fire apparatus due to poor road conditions during winter and break-up. Cost: \$120,000

**Harbor Fire Cart Replacement:** The Homer Harbor is outfitted with nine custom motorized fire carts that on multiple occasions have saved vessels and prevented the spreading of fire in the small boat harbor. These full response fire carts act as mini mobile fire hydrants and are capable of delivering AFFF foam to two attack lines at the same time. Unfortunately, the carts are over 20 years old and even though they are maintained with monthly and annual check-ups, many are failing due to the harsh marine environment. This project would purchase the pieces necessary to assemble nine new fire carts. Because of the special conditions in Alaska - harsh weather, extreme tides and the size of vessels - there is no pre-made fire cart that meet needs of the Homer Harbor. The City will assemble the fire carts using pieces that can be salvaged from the existing fire carts. Cost: \$230,000

Total Project Cost: \$1,150,000

**State Request FY2016: \$1,035,000**

(City of Homer 10% Match: \$115,000)



A ladder truck like the one shown here will increase firefighting capability, firefighter safety, and potentially reduce insurance rates for homeowners.

**First 2 pieces of equipment: fire engine refurb and tanker refurb funded in FY15 Capital Budget (\$350,000).**





## 5. East to West Transportation Corridor

**Project Description & Benefit:** Currently the only way for drivers to get through town is via Pioneer Avenue or the Sterling Highway. Extending Bartlett Street, putting in a road through Town Center, and acquiring and upgrading Waddell Way will provide an alternate east - west route for traffic, easing congestion and allowing drivers to more quickly and efficiently get to their desired destination. This project fulfills a major objective of the City's 2005 Transportation Plan.

Building a road through Town Center, 30 acres of undeveloped land in the heart of Homer, is the first step in opening up this prime real estate. The Homer Comprehensive Plan, Town Center Development Plan and Comprehensive Economic Development Strategy all call for careful development of Town Center. The roads will be built to urban road standards and include such amenities as sidewalks, storm drains, and street lighting. Development on newly opened lots will help grow Homer's downtown business sector.

**Plans & Progress:** The City has purchased a lot for the Bartlett Street extension. The City dedicates a percentage of sales tax to the Homer Area Roads and Trails (HART) fund for road improvement projects and has pledged over 2.1 million dollars from the fund as a match for this project. The Alaska State Legislature funded \$1.6 million in the FY2015 Capital Budget to initiate the first leg of the east to west transportation corridor, Waddell Way.

Total Project Cost: \$8,459,000

2014 (Land Acquisition): \$1,400,000

2015 (Design): \$543,000

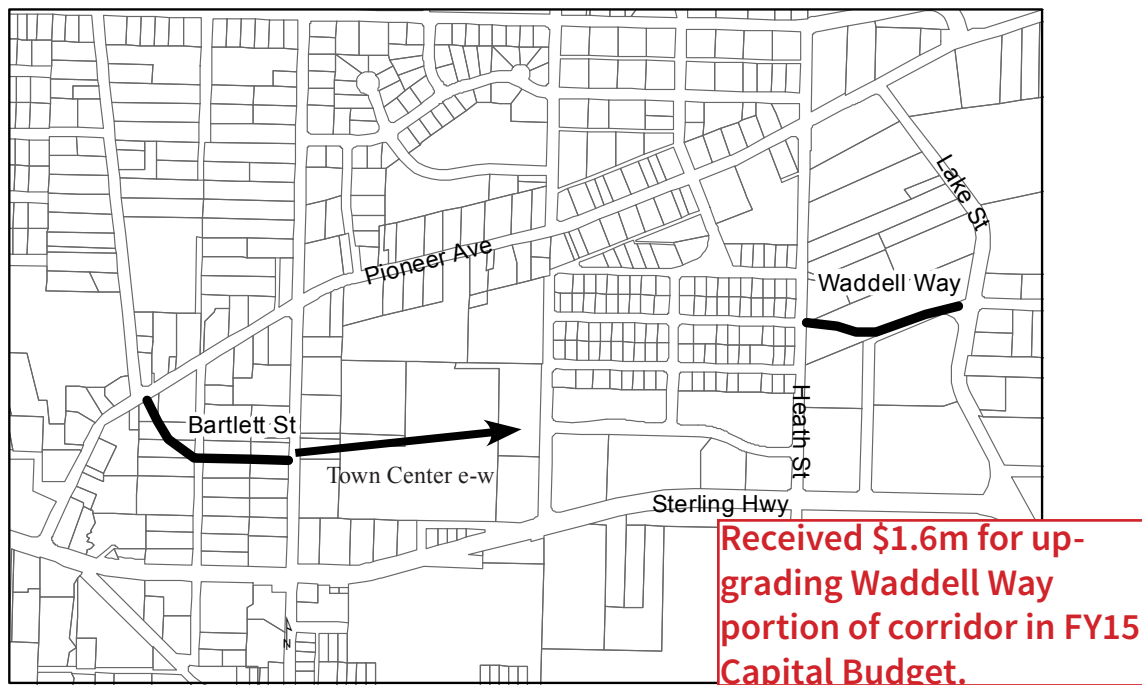
2016 (Construction): \$5,430,000

2017 (Inspection & Contingency): \$1,086,000

**State Request FY2016: \$4,744,250**

(City of Homer 25% Match: \$2,114,750)

(Waddell Way FY15 State Grant: \$1,600,000)





## **Mid-Range Projects**

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### **Part 2: Mid-Range Projects**

- **Local Roads**
- **Parks and Recreation**
- **Port and Harbor**
- **Public Safety**



## **Local Roads**

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- **Heath Street - Pioneer to Anderson**
- **Land Acquisition for New Roads**
- **Town Center Infrastructure**



## Heath Street - Pioneer to Anderson

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**Project Description & Benefit:** This project provides for the design and construction of a connection from East End Road to Anderson Street. The project will address concerns raised by Alaska Department of Transportation and Public Facilities (ADOT&PF) regarding the Heath Street/Pioneer and Lake Street/Pioneer intersections and will provide access from East End Road past Homer High School to a developing residential area north of the high school. The City of Homer will work with ADOT&PF engineers to determine the best route (extension of Heath Street vs. extension of Lake Street) to provide safer and more effective circulation, improve emergency access to and from the high school, provide for pedestrian access from the high school to a hillside trail system, and reduce congestion at existing intersections.

**Plans & Progress:** The improvement is recommended in the 2005 Homer Area Transportation Plan and would implement recommendations of the 2005 Homer Intersections Planning Study (ADOT&PF). The City of Homer has agreed to fund 50% of the project.

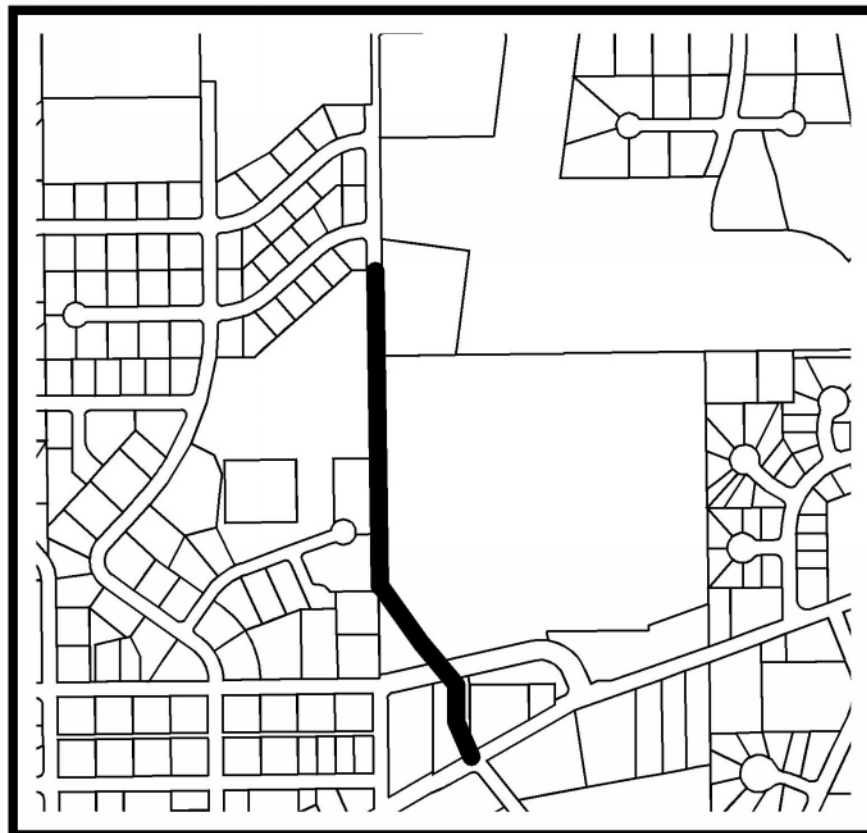
**Total Project Cost:** \$4,500,000

**Schedule:**

2018 (Design): \$500,000

2020 (Construction): \$4,000,000

**Priority Level:** 3





## Land Acquisition for New Roads

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**Project Description & Benefit:** This project will help meet current and future transportation needs by acquiring specific land parcels and rights of way to extend five local roads: It will improve traffic flow in Homer by providing an alternative east to west corridor.

- **Lake/Heath Street to Anderson Avenue**
- **Poopdeck Street extension north to Pioneer Avenue**
- **Early Spring Street extension north to East End Road**

**Plans & Progress:** All three road projects are recommended in the 2005 Homer Area Transportation Plan.

**Total Project Cost:** \$1,000,000

**Schedule:** 2015-2017

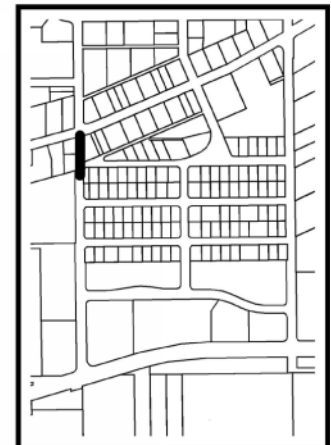
**Priority Level:** 1



Lake/Heath Street to Anderson Avenue.



Early Spring Street to East End Road.



Poopdeck Street to Pioneer Avenue.



## Town Center Infrastructure

**Project Description & Benefit:** In the Central Business District between Pioneer Avenue and the Sterling Highway and between Main Street and Poopdeck lie approximately 30 acres of undeveloped land, providing a unique opportunity to develop an attractive and lively downtown district in the heart of Homer. The Homer Comprehensive Plan, Town Center Development Plan, and Comprehensive Economic Development Strategy all call for careful development of Town Center. Establishing infrastructure is an important step in attracting further investment that will make Town Center a success.

The Town Center Infrastructure Project will begin Phase 1 development of Town Center, as described in the April 2006 Town Center Development Plan. This planning should be carried out in conjunction with an overall master plan for Town Center that will also identify areas for commercial development, public space, and parks. It could coincide with the Farmers Market project proposed for Town Center.

Specifically, the project will establish routes and acquire rights-of-way for roads, trails, and sidewalks; identify and carry out needed land exchanges between property owners; and develop the first trails through Town Center along with primary roadways with sidewalks, crosswalks, and utilities.

**Plans & Progress:** The Homer Town Center Project began in 1998 (as the Town Square Project) with a goal “to envision and create, through inclusive community planning, an area within the Central Business District of Homer that will be a magnet for the community, provide for business development, instill a greater sense of pride in the downtown area, make Homer more pedestrian-friendly, and contribute to a higher quality of life.” The Town Center Development Plan was adopted by the City Council in 2006 as part of Homer’s Comprehensive Plan.

**Total Project Cost:** \$2,250,000

**Schedule:**

**2016 (Design):** \$250,000

**2017 Construction:** \$2,000,000

**Priority Level:** 1



East-west and north-south road connections combined with trails, sidewalks, and parking in Town Center will set the stage for development of an economically vibrant and attractive downtown district in the heart of Homer.



## **Parks and Recreation**

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- **Ben Walters Park Improvements, Phase 2**
- **Jack Gist Park Improvements, Phase 2**
- **Karen Hornaday Park Improvements, Phase 2**
- **Mariner Park Restroom**
- **Baycrest Overlook Gateway Project**



## Ben Walters Park Improvements, Phase 2

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**Project Description & Benefit:** Ben Walters Park comprises 2.5 acres on the shore of Beluga Lake, near the intersection of Lake Street and the Sterling Highway. With its central location, proximity to McDonalds restaurant, and access to the lake for winter and summer recreation, it is one of Homer's most frequently visited parks. Phase 2 will enlarge the parking area and renovate the picnic shelter that has become worn with heavy use over the years.

**Plans & Progress:** Phase 1 of the park improvement project, to replace the dock, was completed in 2009. Since then the Kachemak Bay Rotary Club has adopted the park under the City of Homer's Adopt-a-Park Program. They have made improvements such as painting the restrooms, installing a bench, resetting the posts and tending flower beds in the summer months.

**Total Project Cost:** \$250,000

**Schedule:** 2015

**Priority Level:** 2



Improvements are needed at Ben Walters Park including enlarging the parking lot and renovating the shelter.





## Jack Gist Park Improvements, Phase 2

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**Project Description & Benefit:** Jack Gist Park has been in development since 1998 on 12.4 acres of land donated to the City of Homer by a private landowner. As originally envisioned by the Jack Gist Recreational Park Association, this parcel was to be developed primarily for softball fields. The proposed project will complete Phase 1 of Jack Gist Park by improving drainage, constructing a concession stand/equipment storage building adjacent to the softball fields, and developing an irrigation system utilizing a stream on the property in conjunction with a cistern. Phase 3 will provide potable water (water main extension), construct a plumbed restroom, and acquire land for soccer fields.

**Plans & Progress:** Phase 1 of this project was completed in 2011. In 2005-2006, a road was constructed to Jack Gist Park from East End Road, a 70-space gravel parking area was constructed, and three softball fields were constructed including fencing, dugouts, and backstops. In 2008, bleachers were installed at all three softball fields. In 2009, three infields were resurfaced. In 2010, with volunteer help, topsoil was spread and seeded on two fields and the parking area was improved and expanded. In 2011, drainage work was completed on the outside perimeter (right and left field lines) of the third ball field, material was imported to improve the infield, and the outfield was improved with topsoil and seeding.

**Total Project Cost:** \$160,000

**Drainage:** \$50,000

**Concession Stand and Equipment Storage:** \$75,000

**Irrigation System:** \$35,000

**Schedule:** 2015

**Priority Level:** 2



**Project description and budget was updated to include drainage improvements at \$50,000.**



## Karen Hornaday Park Improvements, Phase 2

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**Project Description & Benefit:** Homer’s popular Karen Hornaday Park encompasses baseball fields, a day use/ picnic area, a playground, a campground, and a creek on almost 40 acres. It is also used to host community events such as the Highland Games and KBBI’s Concert on the Lawn. The Karen Hornaday Park Master Plan, updated and approved in 2009, sets forth goals and objectives to be accomplished over a 10-year period.

Phase 2 consists of parking lot improvements, moving the road, a trail along Woodard Creek and a restroom. The road to access the park runs between the park and the parking lot, causing kids to have to cross in front of traffic to get to the park’s attractions. The master plan proposes moving the road to the east and placing the improved gravel parking lots in between the road and the park. Woodard creek is one of the jewels of Karen Hornaday Park but gets little attention because there is no convenient way to access it. A trail along the creek would allow people to enjoy the city’s only creek. One of the most common complaints of the park is the old restroom with crumbling cement and a leaking roof. A new restroom is in great demand from the parents, children and picnickers that frequent the park.

**Plans & Progress:** The Alaska Legislature appropriated \$250,000 for park improvements in FY 2011. This money together with City funds and fundraising by an independent group organized to make playground improvements (HoPP), has funded Phase 1 (drainage improvements, ballfield improvements, new playground, new day use area and northern parking lot improvements). The City received a Land and Water Conservation Fund (LWCF) grant for campground improvements and the development of a new day use area between the two ball fields which was completed in 2014. The City spent \$25,000 on preliminary engineering for moving the road in Phase 2.

**Total Project Cost:** \$1,978,750

**Schedule:** 2015 - 2017

**Priority Level:** 2



Karen Hornaday Park was a construction site for one week during the Summer of 2012 when the community came together to build a state of the art play ground.



## Mariner Park Restroom

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**Project Description & Benefit:** As one of Homer's most popular recreation areas, Mariner Park attracts campers, beach walkers, kiteflyers, Spit Trail users, birders, people with dogs, and others who come to enjoy the views and open-air recreation opportunities. This project will accomplish the most pressing need at Mariner Park: the construction of a plumbed restroom to better meet the needs of campers and beach walkers during the busy summer months.

**Plans & Progress:** Mariner Park is in a flood plain and any structure built there will require unique design to address flooding issues.

**Total Project Cost:** \$330,000

**Schedule:** 2016

**Priority Level:** 2



The outhouses at Mariner Park campground get heavy use during the summer season.



## Baycrest Overlook Gateway Project

**Project Description & Benefit:** The Homer Public Arts Committee has designated the Baycrest Hill Overlook as one of the major elements of the Gateway Project, which entails enhancing visitor and resident experiences at the entrances to Homer. The other Gateways are the Homer Airport and the Homer Port.

Everyone who has driven to Homer remembers the first time they came around the corner on the Sterling Highway and saw the breathtaking panorama of Kachemak Bay. For many that was the same moment they made the decision to become part of this diverse, eclectic, and energetic community. In the 1990s visionaries at Alaska Department of Transportation and Public Facilities constructed the current pullout during the Sterling Highway reconstruction effort. However, the current site does not adequately meet the goals of the Gateway Program.

Improving the landscaping and comfort of Baycrest Overlook will inspire locals and visitors and enhance this phenomenal setting. Interpretive signage will tell the story of Homer and the surrounding communities and highlight the phenomenal natural resources of Kachemak Bay. Improvements to the overlook will spur economic development, welcoming everyone and encouraging commerce and trade in a community dedicated to unique and natural quality of life experiences.

**Plans & Progress:** The first Gateway Project was undertaken in 2009. A collaborative effort with the City of Homer Public Arts Committee, City of Homer Airport Manager, City of Homer Public Works Director, Alaska State Parks, National Park Service, Kachemak Research Reserve and U.S. Fish and Wildlife created a beautiful diorama highlighting the wealth of public and private resources available to everyone who comes to Kachemak Bay.

This group plus representatives from Alaska Department of Fish and Game, Alaska Department of Transportation, Pratt Museum, Homer Chamber of Commerce, Kachemak Bay Conservation Society and Homer Garden Club have come together to work on the Baycrest Overlook Gateway Project.

The State and the City of Homer spent \$6,000 in 2013 to produce the Baycrest Overlook Interpretive Plan. The Plan included design, development, and locations for welcome and interpretive signage and was officially adopted by Homer City Council in 2013. Public Arts Committee meetings on the project are ongoing and a public comment meeting was held on September 18, 2012.

### The project will consist of three phases:

1. Interpretive signage, benches and picnic areas
2. Enhanced landscaping
3. New restrooms and paving upgrades.

### Total Project Cost: \$262,000

2013 (Preliminary Design): \$6,000

2015 (Construction): \$256,000

Signage/Benches: \$50,000

Landscaping: \$25,000;

Restrooms and Paving: \$181,000



**Updated cost estimate.**



## **Port and Harbor**

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- **Deep Water/Cruise Ship Dock Expansion, Phase 1**
- **East Boat Harbor**
- **Barge Mooring Facility**
- **HH Float Improvements - delete?**
- **Marine Ways Large Vessel Haulout Facility**
- **Homer Spit Dredged Material Beneficial Use Project**
- **Ice Plant Upgrade**
- **System 4 Vessel Mooring Float System**
- **Truck Loading Facility Upgrades at Fish Dock**
- **Ramp 5 Restroom**
- **Ramp 8 Restroom**



## Deep Water/Cruise Ship Dock Expansion, Phase 1

**Project Description & Benefit:** To provide a facility that can accommodate multiple industry groups and provide the greatest economic benefit to the area, upgrades to the Deep Water/Cruise Ship Dock are necessary. Phase 1 of the project will widen the existing dock to 88 feet, increase overall length to 744 feet, and widen and strengthen the existing trestle. Later phases will expand the dock further, add a terminal building and other upland improvements, and add a rail for a 100-foot gauge gantry crane.

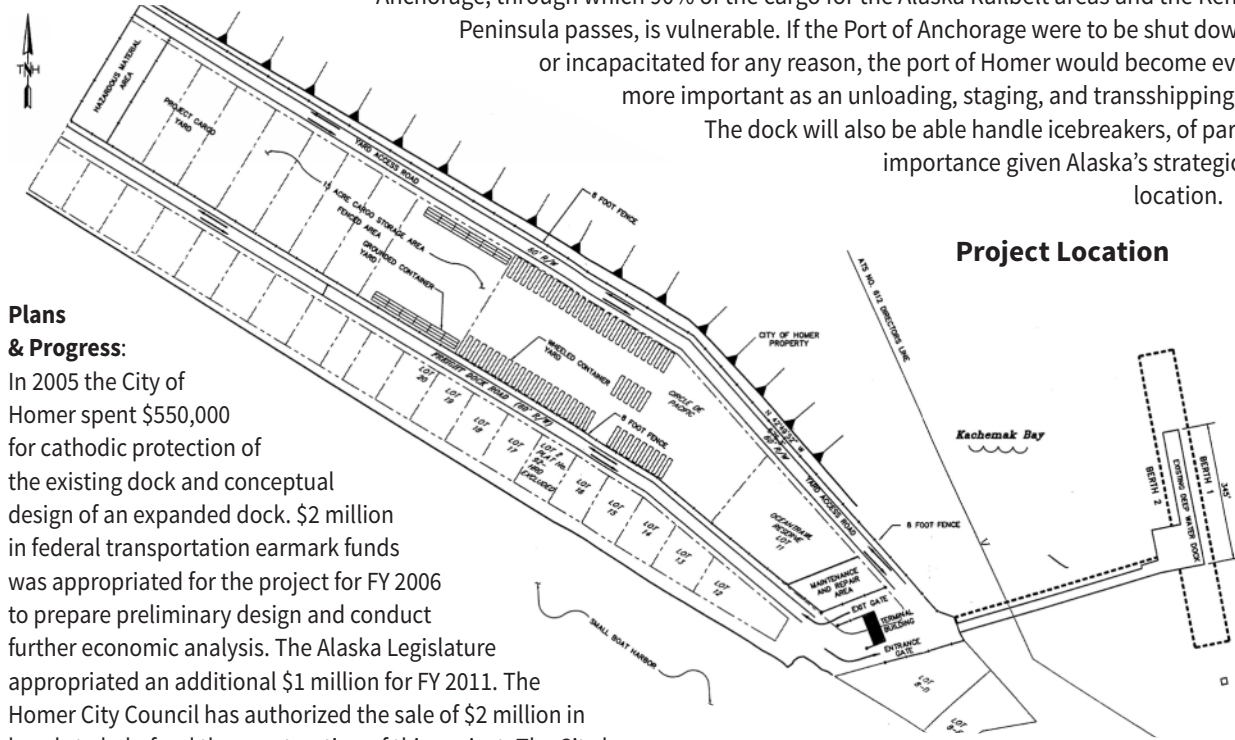
**Resource Development Capabilities:** The facility will provide staging for barged freight service to the Lake and Peninsula Borough via the Williamsport-Pile Bay Road or other facilities built to meet the need of future resource development. There is demand in the near term for modifications of the existing dock to accommodate long term mooring of large resource development vessels such as timber, mining and oil and gas barges.

**Cargo Capabilities:** The facility will be capable of handling containerized freight delivery to the Kenai Peninsula, thus reducing the cost of delivering materials and supplies to much of the Peninsula. The City has a 30-acre industrial site at the base of the dock which can support freight transfer operations and serve as a staging area for shipping to and from the Alaska Peninsula, Aleutians, and Bristol Bay.

**Visitor Industry Capabilities:** The dock expansion will also enhance cruise ship-based tourism in Homer by providing moorage at the dock for two ships (a cruise ship and a smaller ship) at the same time, reducing scheduling conflicts.

Improvements to the dock will fulfill a contingency planning requirement under Homeland Security provisions. The Port of Anchorage, through which 90% of the cargo for the Alaska Railbelt areas and the Kenai Peninsula passes, is vulnerable. If the Port of Anchorage were to be shut down and/or incapacitated for any reason, the port of Homer would become even more important as an unloading, staging, and transshipping port.

The dock will also be able handle icebreakers, of particular importance given Alaska's strategic arctic location.



### Plans & Progress:

In 2005 the City of Homer spent \$550,000 for cathodic protection of the existing dock and conceptual design of an expanded dock. \$2 million in federal transportation earmark funds was appropriated for the project for FY 2006 to prepare preliminary design and conduct further economic analysis. The Alaska Legislature appropriated an additional \$1 million for FY 2011. The Homer City Council has authorized the sale of \$2 million in bonds to help fund the construction of this project. The City has initiated the feasibility study and preliminary design for this project.

### Project Location

- Total Project Cost:** \$35,000,000
- Feasibility:** \$1,250,000
- Design:** \$1,750,000
- Construction:** \$26,000,000

**Priority:** 1

**Feasibility should be underway by Sept. Eliminated schedule dates due to size of project.**



## East Boat Harbor

**Project Description & Benefit:** This project will construct a new harbor ranging in size from 11 to 15 acres. It would enhance harbor capabilities by:

- Accommodating the large commercial vessels (fishing vessels, workboats, landing craft, tugs, barges, etc.) that are currently congesting the harbor at System 4 and System 5 transient floats, rafting two and three abreast due to shortage of moorage space at the floats, thus overstressing the floats;
- Enabling Homer to accommodate and moor the additional 40 to 60 large commercial vessels that potentially would use Homer Harbor as a home port but which have in the past been turned away due to lack of space;
- Providing a long-term solution to mooring problems the USCGC Hickory experiences on Pioneer Dock during the northeasterly storm surges and to the security problem faced by both the USCG cutters home-ported at Homer. These vessels are unable to maintain an adequate security zone around their current moorings in the existing small boat harbor (USCGC Roanoke Island) and on the Pioneer Dock west trestle (USCGC Hickory).

The Port of Homer and Homer Small Boat Harbor are regional facilities serving and supporting the northern Gulf of Alaska, Prince William Sound, Cook Inlet, and Kachemak Bay and are also a “place of refuge” for Gulf of Alaska, Cook Inlet, and Kennedy Entrance marine traffic in event of severe weather or machinery malfunctions.



Several conceptual designs have been proposed for a new Homer boat harbor. This one would add a new basin with its own entrance adjacent to the existing Small Boat Harbor.

The proposed new harbor basin will be dredged to minus 20 feet Mean Lower Low Water (MLLW) to accommodate large commercial vessels so they will not touch bottom on the lowest tides of the year (minus 5.6 feet). It will need to be dredged to minus 22 feet MLLW in the entrance channel, fairway, and one side of the basin to accommodate the USCGC *Hickory* at the proposed Coast Guard float. The new basin will provide the security zone and private moorings for the U.S. Coast Guard vessels at one side and will accommodate the large, deep draft commercial vessels at the other side.

**Plans & Progress:** The Army Corps of Engineers completed a reconnaissance study in 2004 that indicated a federal interest in having a new harbor in Homer; however, subsequent analysis found that the cost/benefit ratio was too low for the Corps to recommend the project. The City of Homer has requested a technical report from the Corps and is seeking funding from other sources.

**Total Project Cost:** \$115,725,000

**Design and Permitting:** \$1,750,000

**Breakwater Construction and Dredging:** \$90,275,000

**Inner Harbor Improvements:** \$23,700,000

**Priority Level:** 1

**Cost estimate was increased by 15% to reflect inflation since preliminary cost estimate was done. Schedule detail was eliminated due to size of project.**



## Barge Mooring Facility

**Project Description & Benefit:** Constructing a barge mooring facility at Lot TR 1A (east of the Nick Dudiak Fishing Lagoon) will meet the growing freight needs of existing Homer businesses and attract additional large vessel business. Phase 1 of the mooring facility will consist of a row of piles driven perpendicular to the beach that extend down through the tidal area in conjunction with a stern anchoring system and bollards above the high water line. This will provide secure moorings for vessels that cannot currently be accommodated within the harbor's basin due to lack of space. Phase 2 includes uplands support facilities such as a wash down pad and stormwater pollution prevention plan (SWPPP). The project is a response to requests from vessel owners and managers seeking safe moorage and uplands haulout area for large shallow draft vessels.

**Total Project Cost (2014):** \$xxx,000

Phase 1 - Pilings and Bollards

Design and Engineering (2015): \$54,000

Construction - (2016): \$486,000

Phase 2 - Uplands Improvements

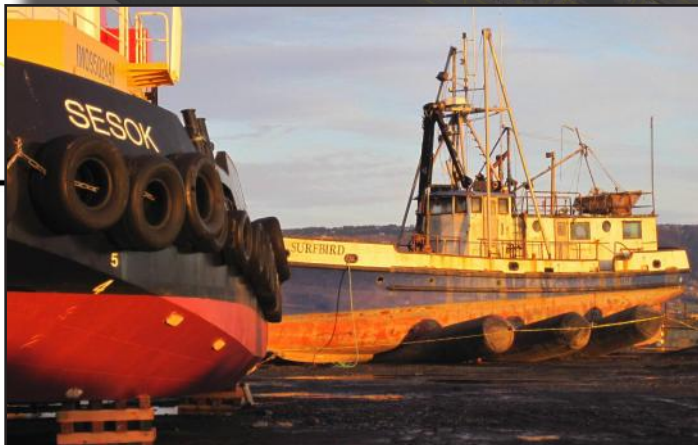
Design and Engineering (20xx): \$xxx,xxx

Construction - (20xx): \$xxx,000



Site of proposed barge mooring facility

Added a phase 2 to the project.



A ramp has been 'roughed in' at the site of the barge mooring facility allowing for the Sesok and Surfbird, pictured left, to undergo winter repairs in Homer. The proposed improvements would greatly expand the capacity of the Homer Port for large vessel haul out and maintenance.





## HH Float Improvements

**Project Description & Benefit:** The HH Float in the Homer Small Boat Harbor was part of the original harbor construction in 1964 and is in very poor condition. This project will replace HH with a new float system that provides 50-foot stalls on one side (same as existing HH float) and 60-foot stalls on the other side. The 60-foot stalls would be extra wide to accommodate wider specialty fishing vessels (e.g., 58-foot super longliners) and pleasure craft that are appearing with increased frequency in the harbor. Deeper dredging will likely be required to accommodate the deeper-draft vessels.

It can be expected that the larger stalls will help attract additional boats and encourage them to home-port in Homer, thus increasing Port & Harbor revenues. The new float will be equipped with modern amenities such as: shore power and water. Stall fees for the wide-berth stalls will reflect the increased size and amenities.

**Total Project Cost:** \$3,000,000

Schedule: 2017

Priority: 2



May be able to remove  
as a funded project.  
Will know by August.



## Marine Ways Large Vessel Haulout Facility

**Project Description & Benefit:** This project will construct a “marine ways” facility for hauling out large vessels (over 70 tons) for dry-dock, maintenance, inspection, and repairs utilizing the existing 5-acre concrete pad at Lot 12. Currently there are no private facilities in Homer capable of hauling out vessels of this size. With construction of the marine ways facility, the Port of Homer would also be able to serve large freight barges that require inspections in order to be Coast Guard certified for their trade.

Since the wood chip business that formerly used Lot 12 left Homer, the lot and its concrete pad have been under utilized. Construction of the Marine Ways facility will accomplish a project that has been discussed for years and capitalize on the marine trades skill set that already exists in Homer. It is estimated that the facility would eventually support at least 50 full-time, long-term jobs.

**Plans & Progress:** A Large Vessel Haulout Task Force has been established to discuss how best to meet the need of this class of vessels. Different haulout options are being considered to serve our large vessel fleet, such as a travel lift, cylindrical air bags, a large vessel boat trailer, or possibly creating long ramp and marine ways to the East of the Chip pad that would allow operators to pull these vessels from the bay on rails up onto the chip pad for repair.

**Total Project Cost:** \$6,000,000 - \$10,000,000  
(Project cost is dependent on method of haulout chosen)

**Schedule:** 2016

**Priority Level:** 2





## Homer Spit Dredged Material Beneficial Use Project

**Project Description & Benefit:** The purpose of this project is to dispose of dredged material from the entrance of the Small Boat Harbor and the Pioneer Dock berth in a beneficial manner. The material will be used to replenish eroded material along the beaches and create additional parking on the Spit. The beach replenishment points would be at Mariner Park (replenishing beaches on the west side of the Spit) and just north of the Fishing Lagoon (replenishing beaches on the east side of the Spit). A new parking pad would be created between the boardwalks across from Ramp 3 and Mariner Park parking lot would be improved. Armor rock will be installed across from Ramp 3 to protect against erosion.

Dredged material will be placed on the beaches as part of the Army Corps of Engineers' dredging/disposal operations. Hauling costs will be supplemented by Harbor Funds when hauling to Mariner Park and the City will spread, cap and place riprap along the beach where fill is placed near or in the tidal zone. A Corps permit will be needed to accomplish this work.

**Total Project Cost:** \$738,000

**Schedule:**

**2015 (Design and Inspection):** \$50,000

**2015:** \$10,000 (Spread available material in upland parking pad areas)

**2016-17:** \$678,000

(Compact material: 20,000; Instal riprap: \$350,000; Gravel cap: \$95,000; Paving: \$100,000 Contingency \$63,000)

**Priority Level:** 2



The Homer Spit has been shaped over the years by nature as well as human intervention. (2008 NOAA photo)

**Project & cost updated to remove seafarers memorial parking (created new proposed project for that) and reflect paving.**



## Ice Plant Upgrade

---

**Project Description & Benefit:** The ice plant at the Fish Dock is a critical component of the overall Port and Harbor enterprise, providing more than 3,500 tons of flake ice each year to preserve the quality of more than 20 million pounds of salmon, halibut, sablefish, and pacific cod landed at the Port of Homer. Built in 1983, the ice plant is in serious need of an upgrade to increase efficiency and reduce operating costs. This project will replace six of the seven old compressors within the ice plant with two new state-of-the-art high efficiency refrigeration compressors.

**Total Project Cost:** \$500,000

**Schedule:** 2015

**Priority:** 2



Four of the Ice Plant's aging compressors are shown here.



## System 4 Vessel Mooring Float System

**Project Description & Benefit:** System 4 is made up mostly of floats that were relocated from the original harbor of 1964. In the 2002 Transfer of Responsibility Agreement (TORA) project, System 4 was completed by moving the old floats into place. Within two years it was filled to maximum capacity. System 4 floats are over 20 years beyond their engineered life expectancy and are showing their age. This project can be done in phases.

**Plans & Progress:** Floats HH, JJ and headwalk float AA between those floats is scheduled to be replaced in fall of 2014. Power and water will be extended from ramp 6 to JJ as part of the same project. A new landing float was installed for Ramp 7 Spring of 2014.

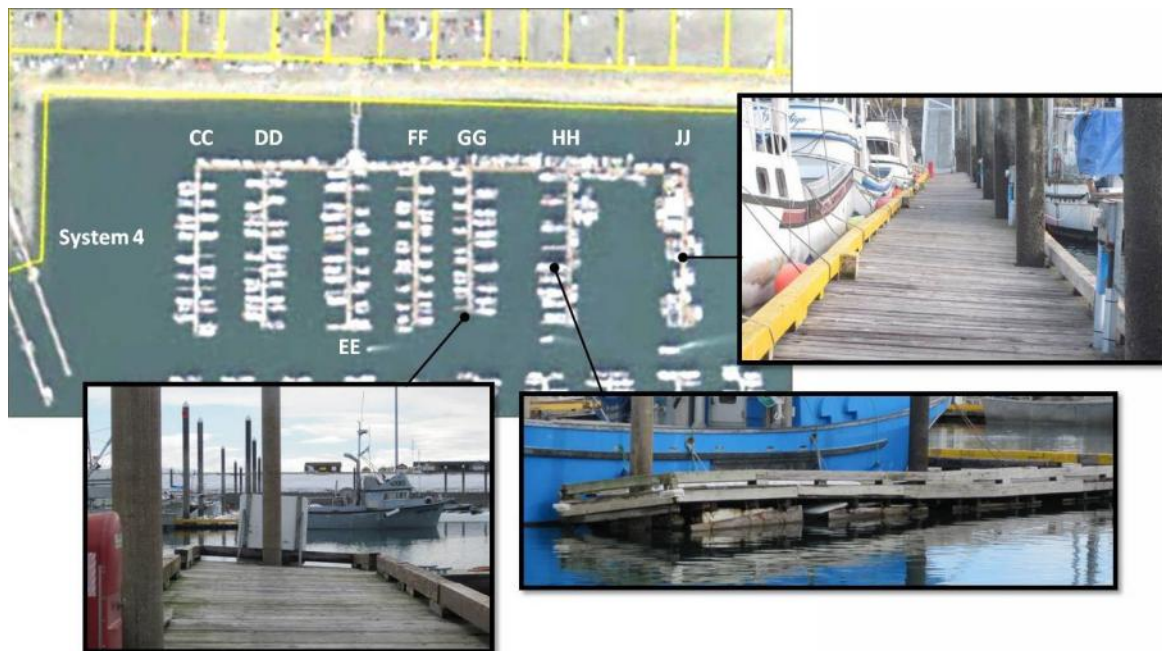
**Total Project Cost:** \$6,600,000

**Schedule:**

**2015 (Design):** \$600,000

**2016-2019 (Construction):** \$6,000,000

**Priority Level:** 2



Plans and progress were updated to reflect work that will be done this fall b/c of ability to stretch grant/bond dollars and include additional float replacement (will confirm by Aug 1)



## Truck Loading Facility Upgrades at Fish Dock

---

**Project Description & Benefit:** Approximately 22 million pounds of fish are landed at the Homer Fish Dock each year and loaded onto trucks. The resulting truck, fork lift, and human traffic creates considerable congestion as fish buyers jockey for space to set up portable loading ramps. Lack of adequate drainage in the area creates further problems as the vehicles must maneuver in soft and often muddy conditions.

This project will construct a loading dock to facilitate the loading of fish onto trucks. In addition, it will provide for paving of Lot 12-B and other improvements to address the drainage problems that impact the area now.

**Total Project Cost:** \$300,000

**Schedule:** 2017

**Priority:** 1



Currently at the Fish Dock, fish buyers have to contend with a muddy lot and lack of a loading dock to facilitate the transfer of fish to trucks.



## Ramp 5 Restroom

---

**Project Description & Benefit:** Ramp 5 is located at the southwest corner of the harbor at Freight Dock and Homer Spit Road and serves float System 2. This system provides moorage space for as much as 3,951 linear feet of moorage, including 81 reserved stall lessees. Currently, restroom service for these vessels and the City-maintained campground across the highway is an outhouse facility capable of occupying only two people at a time.

**Plans & Progress:** Design costs for this project would be minimal as the City has standard public restroom plans engineered that can be easily modified for this location.

**Total Project Cost:** \$295,000

**Schedule:** 2016

**Priority Level:** 2



The outhouse at Ramp 5 is often the first time out of state visitors use an outhouse.



## Ramp 8 Restroom

---

**Project Description & Benefit:** Ramp 8 serves System 5, the large vessel mooring system. Presently Ramp 8 restroom is an outhouse facility capable of occupying only two people at a time. Vessel crews have come to the Harbormaster's office with complaints of this lack of basic service. Potable water, adequate shore power, and even basic restroom facilities are expected in a modern competitive harbor such as the Homer Small Boat Harbor.

**Plans & Progress:** Design costs for this project would be minimal as the City has standard public restroom plans engineered that can be easily modified for this location.

**Total Project Cost:** \$295,000

**Schedule:** 2015

**Priority Level:** 3



This outhouse sees heavy use from crews of large vessels moored at Ramp 8.





## **Public Safety**

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- **South Peninsula Fire Arms Training Facility**



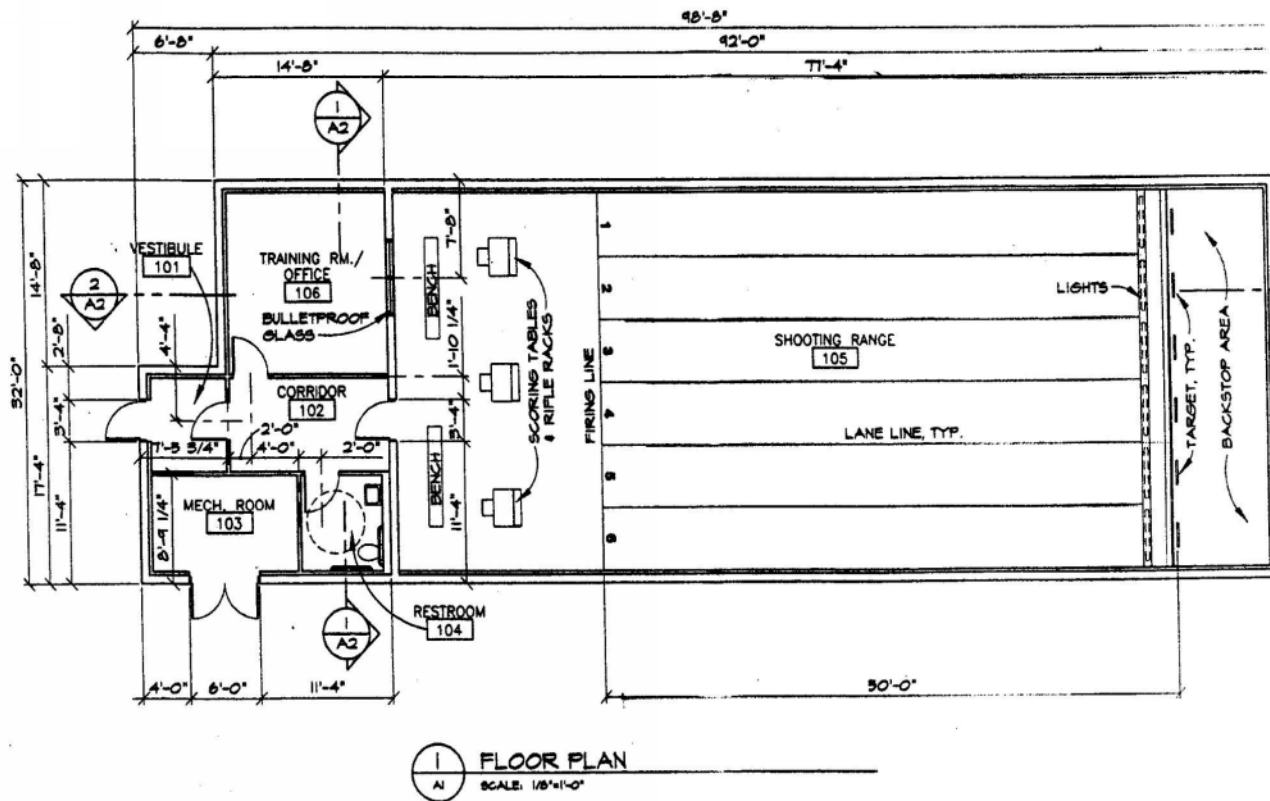
## South Peninsula Fire Arms Training Facility

**Project Description & Benefit:** This project will construct a multi-agency training facility for law enforcement on the lower Kenai Peninsula. Beneficiaries will include the Homer Police Department, local units of the Alaska State Troopers, Alaska State Parks, and various federal law enforcement agencies. Properly managed, the facility could also be used by local gun clubs and sporting groups. The facility, which will include a modern indoor shooting range, will provide a proper and safe environment for firearms training. It will enable local law enforcement personnel to conduct training at any time of day, year-round, regardless of weather.

**Total Project Cost:** \$1,500,000

**Schedule:** 2017

**Priority Level:** 2



Cost estimate updated.



## State Projects

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The City of Homer supports the following state projects which, if completed, will bring significant benefits to Homer residents

Transportation projects within City limits:

- **Homer Intersection Improvements**
- **Main Street Reconstruction/Intersection**
- **Pioneer Avenue Upgrade**
- **Kachemak Drive Rehabilitation/Pathway**

Transportation projects outside City limits:

- **Sterling Highway Realignment, MP 150-157**
- **Sterling Highway Reconstruction, Anchor Point to Baycrest Hill**

Non-transportation projects:

- **Alaska Maritime Academy**



## Homer Intersection Improvements

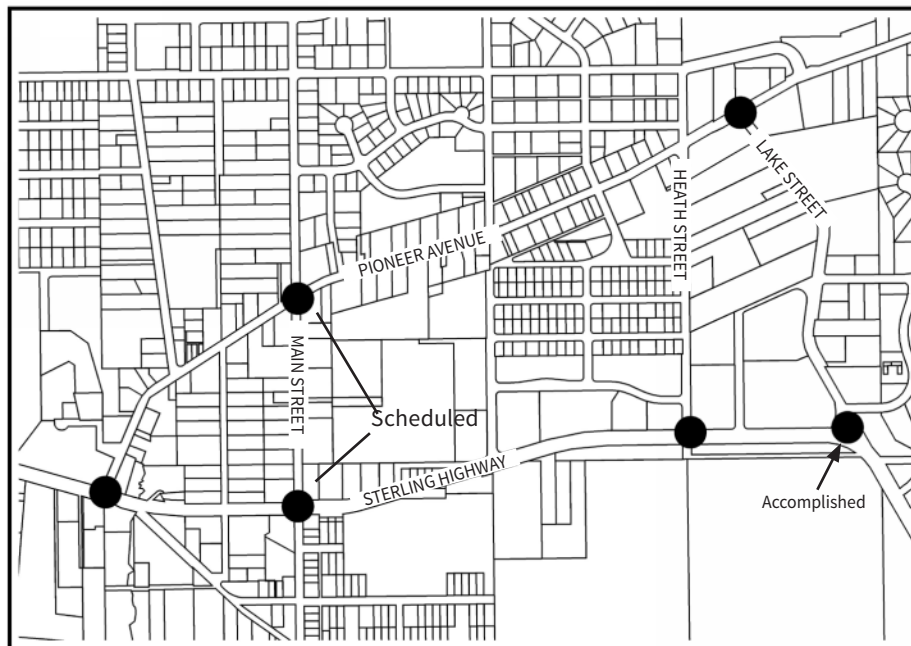
**Project Description & Benefit:** This project will implement recommendations of the 2005 Homer Intersections Planning Study commissioned by the Alaska Department of Transportation and Public Facilities. The study, which focused on 12 intersections, involved traffic forecasts and analysis of intersection safety, intersection options, and pedestrian needs. The benefit of the project will be to enhance traffic safety and quality of driving and pedestrian experiences for residents and visitors, particularly as the community continues to grow.

The study notes that for the intersections that need roundabouts or traffic signals, either option will function well; however, “the Alaska Department of Transportation and Public Facilities supports the development of modern roundabouts at these locations because of the good operational performance of roundabouts, superior safety performance, and reduced maintenance.”

Problem intersections and recommended improvements noted in the study but not yet funded are as follows:

- Sterling Highway and Heath Street - Roundabout or traffic signal
- Sterling Highway and Main Street - Roundabout or traffic signal (This project has been partially funded.)
- Pioneer Ave. and Lake Street/East End Road - Roundabout or traffic signal
- Sterling Highway and Pioneer Ave. - Roundabout or traffic signal
- Pioneer Avenue and Main Street - Roundabout or traffic signal

**Plans & Progress:** State of Alaska DOT/PF has obtained \$2.8 million to make safety improvements to Main Street Intersection and is moving forward with a preferred alternative that installs a flashing overhead beacon at the Pioneer and Main Street intersection (2014) and a traffic signal at the Sterling Highway and Main Street intersection (2017.)



Alaska DOT/PF has recommended roundabouts or traffic signals at six central Homer intersections, to be accomplished as soon as possible. A traffic signal was installed at the Lake Street/Sterling intersection in 2005 and improvements to the intersections on either side of Main Street are scheduled over the next few years.

**Updated with the preferred alternative improvements to Main Street intersection.**



## Main Street Reconstruction

---

**Project Description & Benefit:** This project will provide curb and gutter, sidewalks, storm drainage, and paving for Main Street from Pioneer Avenue to Bunnell Street.

Homer's Main Street is a primary north-south corridor running from Bayview Avenue (near the hospital) to Ohlson Lane (near Bishop's Beach). In the process, it connects Homer's primary downtown street, Pioneer Avenue, with the Sterling Highway and provides the most direct access to the Old Town district. It also provides the western border to Homer's undeveloped Town Center district.

Despite its proximity to the hospital, businesses, and residential neighborhoods, Main Street has no sidewalks, making pedestrian travel unpleasant and hazardous. Sidewalks on this busy street will enhance the quality of life for residents and visitors alike and provide economic benefits to local businesses and the community as a whole.

**Plans & Progress:** Main Street is a City street from Pioneer Avenue northward, and a State street from Pioneer Avenue south. The Homer Non-Motorized Transportation and Trail Plan, adopted by the City Council in 2004, calls for construction of sidewalks on both sides of Main Street to provide a safe means for pedestrians to travel between Old Town and Pioneer Avenue, and stresses that this should be regarded as a "near term improvement" to be accomplished in the next two years. The Homer City Council passed Resolution 06-70 in June 2006 requesting that Alaska Department of Transportation and Public Facilities (DOT/PF) "rebuild and upgrade Main Street from Pioneer Avenue to Bunnell Avenue as soon as possible in exchange for the City assuming ultimate ownership, maintenance, and operations responsibility."

State of Alaska DOT/PF has obtained \$2.8 million to make safety improvements to Main Street Intersection and is moving forward with a preferred alternative that installs a flashing overhead beacon at the Pioneer and Main Street intersection (2014) and a traffic signal at the Sterling Highway and Main Street intersection (2017.) However, there remains much work to be done to improve and reconstruct of the entire section of Main Street from Pioneer Avenue to Bunnell Street.



A mother pushes a stroller along Main Street between the Sterling Highway and Bunnell Street, while another pedestrian walks on the other side of the road.

Updated with  
the preferred  
alternative  
improvements  
to Main Street  
intersection.



## Pioneer Avenue Upgrade

**Project Description & Benefit:** "Complete streets" are defined as streets which are designed and operated to enable safe access for all users: pedestrians, bicyclists, and motorists. Pioneer Avenue is a mile-long arterial road in the part of Homer typically thought of as "downtown." However, in its current form, Pioneer Avenue does not function well as a downtown street. While the posted speed limit is 25 mph, wide lanes and lack of traffic calming features encourage drivers to go much faster. Using a bicycle on a sidewalk in a business district is against state law, but the practice is tolerated on Pioneer Avenue because it is generally acknowledged that the street is unsafe for cyclists. Crosswalks are few and far between (five total) and many drivers fail to notice pedestrians in time to stop when pedestrians are waiting to cross. Some east-west crossings are particularly long and intimidating (e.g., at Main Street and Heath Street). For all these reasons, walking is not very popular along Pioneer Avenue, to the detriment of downtown businesses.

The Pioneer Avenue Complete Street Project will encourage non-motorized transportation by narrowing the driving lanes, adding distinct bicycle lanes and additional well-marked crosswalks, and incorporating other traffic calming features to further slow traffic and improve pedestrian and bicycle safety. Landscaping and appropriate "downtown" lighting will also be included in the project. It will be most cost effective to complete this work in conjunction with Pioneer Avenue Intersection safety improvements recommended in the 2005 Homer Intersections Planning Study (ADOT).

**Plans & Progress:** The project Pioneer Avenue Rehabilitation is included in the 2012-2015 Alaska Statewide Transportation Improvement Program.



**Recommend remove. State has chosen an alternative and City has passed a reso supporting it.**



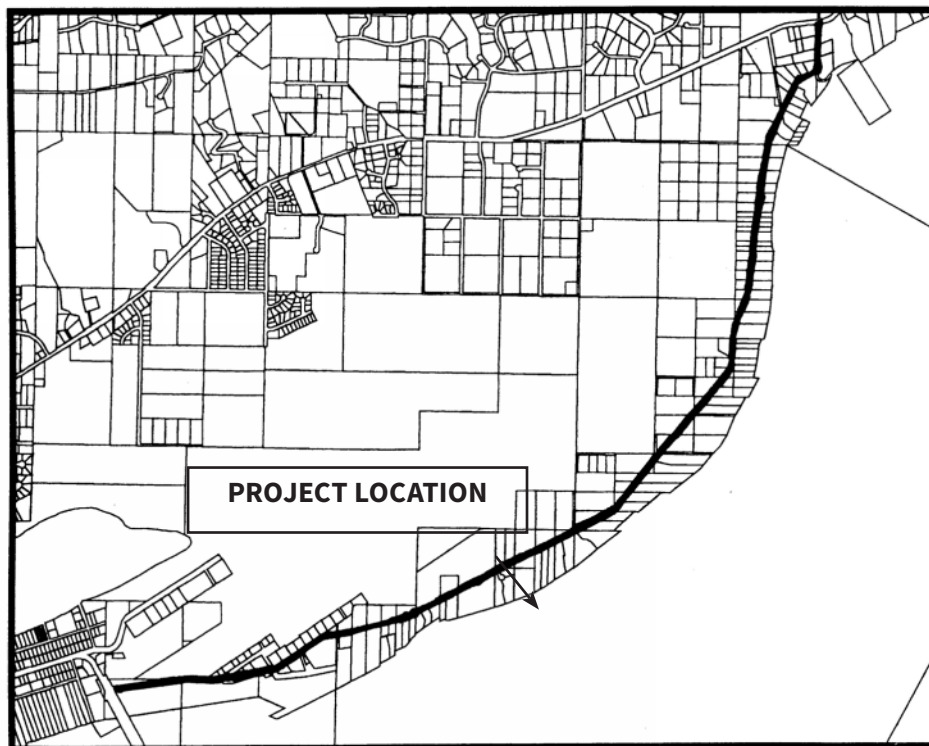
## Kachemak Drive Rehabilitation/Pathway

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**Project Description & Benefit:** Kachemak Drive connects Homer Harbor with Homer’s industrial boat yards, serves drivers as a connector from the Homer Spit to East End Road, has a residential community, and serves as an alternate route to the airport. Truck, boat trailer, residential and commuter traffic are often heavy, with an approximate daily traffic of 1,500 vehicles. The road needs rehabilitation including raising the embankment, resurfacing, widening the road, and drainage improvements.

Bicyclists, pedestrians and occasional moms with strollers use Kachemak Drive to connect to the Spit, Ocean Drive, and East End Road bike paths. Kachemak Drive has narrow to non-existent shoulders, forcing cyclists to the left of the fog line. Motorists typically slow down behind bicyclists, wait until there is no oncoming traffic, then pass by crossing the center line. This procedure is dangerous to motorists and cyclists, especially on the hill leading up from the base of the Spit to the airport, where visibility is low. Bicycle traffic has increased in the past couple of years due to the advent of wide-tire winter bicycles and Homer’s increasing popularity as a bicycle friendly town. Construction of a separated pathway along East End Road will increase recreational and commuter bicycle and pedestrian traffic on Kachemak Drive and will improve driver, bicycle, and pedestrian safety. Because of the significant right-of-way acquisition involved, this project will likely take several years to complete.

**Plans & Progress:** The Kachemak Drive Path Committee has worked with the City of Homer Advisory Parks and Recreation Commission and Transportation Advisory Committee to explore potential alternatives. The City performed preliminary engineering in 2012 on a portion of the trail and found significant grade and easement challenges to the project.





## **Sterling Highway Realignment MP 150-157**

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**Project Description & Benefit:** The Sterling Highway is a vital transportation corridor serving most of the communities on the Kenai Peninsula, including Homer at the southern terminus, and is the only road connecting these communities to the larger North American road system. The vast majority of people and goods routed in and out of Homer utilize the Sterling Highway as compared to air or water transportation.

This project will protect the Sterling Highway from erosion that is threatening the highway north of Anchor Point. Completion of the project will involve re-routing the highway away from areas that are eroding, utilizing existing road right-of-way as much as possible. The Alaska Department of Transportation has noted that the first effort needed is for reconnaissance study to evaluate alternatives and quantify costs.

**Plans & Progress:** The project “Sterling Highway Erosion Response MP 150-157” is included in the 2012-2015 Statewide Transportation Improvement Program (STIP).



As seen in this aerial image, the eroding edge of the bluff is now only 30 feet away from the Sterling Highway at a section just north of Anchor Point.





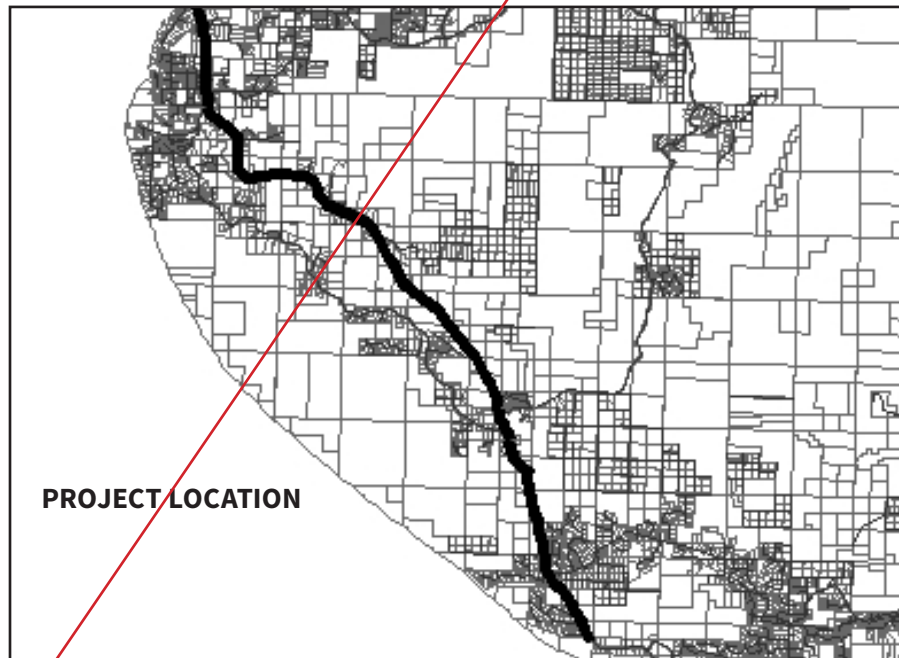
## **Sterling Highway Reconstruction Anchor Point to Baycrest Hill**

**Project Description & Benefit:** This project will reconstruct 12 miles of the Sterling Highway between Anchor Point (MP 157) and the top of Baycrest Hill in Homer (MP 169) to address severe safety issues resulting from curves, hills, and blind spots on the existing road. The project has been identified as a high priority of the Kenai Peninsula Borough.

Many major side road intersections, gravel hauling operations, and school bus stops contribute to dangerous conditions on the 12-mile section of highway, which has been the scene of several serious accidents, many with fatalities, over the past several years. Continued population growth has led to more subdivisions with intersecting roads and more traffic on the highway, exacerbating the problem. School buses must stop in some locations with blind corners and hills.

The project calls for construction of an improved two-lane highway paralleling the alignment of the existing highway. The reconstructed highway will be designed to allow two additional lanes to be added at a future date.

**Plans & Progress:** This project (“Sterling Highway: MP 157-169 Rehabilitation - Anchor Point to Baycrest Hill”) is included in the 2012-2015 Alaska Statewide Transportation Improvement Program (STIP). Two and a half million dollars was included in the FY2013 capital budget for design and right of way phases of this project. Total costs are expected to exceed \$36 million; consequently, the project may be constructed in phases.



**Recommend Remove. This section of road was improved recently.**



## Alaska Maritime Academy

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**Project Description & Benefit:** This project will establish an accredited maritime academy providing quality post-secondary education primarily focused on marine related programs for developing career-oriented skills relating to engineering, ship operations, marine science, maritime management, and small vessel design and operation. The academy would provide both classroom and hands-on training, taking advantage of Homer’s existing marine trades industry cluster and opportunities for time onboard vessels in port and at sea.

The federal Maritime Administration provides training vessels and other support to state maritime academies. Currently there are six academies in the U.S.; none in Alaska. Alaska Statute Sec. 44.99.006 specifies that the governor may enter into an agreement with the Federal Maritime Administration to provide for an Alaska Maritime Academy.

**Plans And Progress:** The Homer City Council approved Resolution 10-22(A) requesting that Alaska’s governor select Homer as the site of an Alaska Maritime Academy and specifying that a citizens task force be established to facilitate the effort to develop a maritime academy here. A maritime academy is also included as a potential economic development opportunity in the City of Homer Comprehensive Economic Development Strategy.



Maritime academies utilize both classroom and hands-on training. The training ship for the Great Lakes Maritime Academy in Traverse City, Michigan is shown in the background of this photo.



## Projects Submitted by Other Organizations

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The City of Homer supports the following projects for which local non-profit organizations are seeking funding and recognizes them as being of significant value to the Homer community:

- **Pratt Museum: New Facility and Site Redesign**
- **Kachemak Bay Equestrian Association: Cottonwood Horse Park: REMOVE**
- **Haven House: Sustainability/Energy Efficiency Projects: REMOVE**
- **Kachemak Nordic Ski Club: Rogers Loop Trailhead Land Acquisition: MOVE TO CITY PROJECT P&R**
- **Homer Chamber of Commerce: Visitor Information Center Parking Lot: REMOVE**
- **Homer Senior Citizens: Natural Gas Conversion**
- **South Peninsula Hospital: Site Evaluation and Planning for Hillside Reinforcement**
- **Kenai Peninsula Borough: New Turf Field: REMOVE**
- **Kachemak Ski Club: Ohlson Mountain Rope Tow Safety Equipment Upgrades: REMOVE**
- **Kachemak Shellfish Growers Association: Kachemak Shellfish Hatchery**



## Pratt Museum New Facility and Site Redesign

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**Project Description & Benefit:** The national award-winning Pratt Museum preserves the stories of the Kachemak Bay region and provides a gathering place for people to learn and to be inspired by this region and its place in the world. The Pratt's exhibits, education programs, and collections seek to foster self-reflection and dialogue among the Museum's community and visitors. Each year, the Pratt serves up to 30,000 visitors, with more than 4,000 young and adult learners participating in its programs. One of only six accredited museums in Alaska, the Pratt is consistently viewed as one of Alaska's most important cultural institutions and as a leader among small museums across the country.

Today the Pratt Museum exists in a structure that does not meet the Museum or the community's needs. The existing 10,500 square foot building is more than 45 years old, and the building's galleries, collections storage, public meeting, and education spaces do not support the Pratt's goals or embrace current opportunities. The Pratt is now working on a project to better serve this community and visitors long into the future, through the construction of a new facility and redesign of the Pratt's 9.8 acres. Benefits of this project will include: 1) improved education programs and exhibits; 2) creation of a community learning space to promote education and community dialogue; 3) an expanded trail system and outdoor exhibits; 4) the ability to serve larger visitor and school groups; 5) greater representation at the Museum of the region's diverse cultural groups; 6) the ability to care for growing collections, including community archives and stories; and 7) full disability accessibility. The Planning Phase spanned the Fall of 2007 to December 2010. The Design Phase started in January 2011 and will be complete in the Spring of 2015. Construction will begin as early as the Fall of 2015, with the new facility opening in 2017. The total budget is \$9.5 million.

**Plans & Progress:** Nearly a decade of thorough organizational evaluation, professional assessment, and community dialogue led the Pratt Museum Board of Directors and staff to the decision to embark on an ambitious capital project and carry out a comprehensive redesign of the Pratt's property. A fundraising feasibility study was conducted in 2009 in tandem with the development of draft architectural and site concepts. Additionally, the McDowell Group conducted an analysis of the economic impact of the Pratt's operations and construction project on the local community, finding that the Museum generates substantial economic activity in the region. Now in the Design Phase, the Pratt has secured cash and pledges that represent 35% of the project budget and has laid the groundwork for the successful completion of this project through the following critical steps:

- The Pratt has gathered diverse community and stakeholder input through public meetings, surveys, and other means to guide the Planning Phase and will continue to gather input throughout the Design Phase;
- With leadership from the Patrons of the Pratt Society, 9.8 acres of urban green space have been acquired in the heart of Homer, which the Museum now owns debt-free;
- The Pratt participated in the Rasmuson Foundation's prestigious "Pre-Development Program," which provided more than \$70,000 in in-kind planning services, resulting in substantial Planning Phase cost savings;
- The Museum has recruited community leaders for the capital campaign who represent the Pratt's multiple disciplines in the arts, sciences, and humanities;
- The Pratt is working on Phase II community input planning and research for Master Exhibit Plan permanent exhibit renovations to be installed in the new building;
- The Museum has secured \$3.3 million (35% of the project total) in cash, grants, and pledges;
- An upgrade and expansion of the trail system, the first part of the project, was completed in 2012; and
- Schematic designs are complete, and the balance of the Design Phase will be completed in early 2015.

**Total Project Cost:** \$9,500,000  
(FY16 State Request: \$1,650,000)

**Preconstruction:** \$1,000,000  
**Construction:** \$8,500,000

**Schedule:**

**Planning:** 2010  
**Design/Preconstruction:** 2015  
**Construction:** 2017

**\$900,000 in  
FY15 Capital  
Budget**





## **Kachemak Bay Equestrian Association Cottonwood Horse Park**

**Project Description And Benefit:** Kachemak Bay Equestrian Association (KBEA) is seeking capital acquisition funds to complete the purchase of Cottonwood Horse Park located near Jack Gist Park in Homer.

Development of Cottonwood Horse Park began in 2006, when KBEA secured 501(c)3 status and constructed an arena on 3.29 acres of land acquired through a purchase agreement. During the first five summer seasons events at the horse park drew more than 1,200 participants and 2,000 spectators.

The Horse Park fulfills a goal identified in past Homer recreation plans. This multi-use park is used for horse shows, clinics, riding lessons, picnics, dog walking, a preschool outdoor adventure club and horse camps. KBEA partnered with the local chapter of Connecting Children with Nature to develop a mud wallow. Also, the community celebrated Estuary Day with a BioBlitz on the property to identify all the organisms in the local park environment.

In 2006 the City of Homer acquired, through donation, .89 acres of land adjacent to the proposed horse park and has stipulated that the property be used for parks/recreation or green space. City of Homer Resolution 06-116 expresses the intent of the City to donate the property to KBEA. KBEA is now seeking to raise the remaining funds needed to acquire full title to the existing property.

**Plans and Progress:** As of June 2013, KBEA has raised \$180,00 towards land purchase and approximately \$175,000 in donations of cash, goods, and services towards the development of the park's infrastructure and facilities. Initial development of the property has included a 130 x 200 foot arena, a round pen, horse pens, handicapped accessible restrooms, installation of water, a mud wallow, two cabins, and a place for children to play. KBEA has been awarded grants from Rasmuson Foundation, Homer Electric Association, American Seafoods Company, Homer Foundation and the 2012 Alaska State Legislature that have allowed completion of the parking lot, an upgrade to the restrooms, construction of benches and tables, and installation of electricity. Grants were received from Jansen Foundation towards purchase of the land.

KBEA has sponsored numerous revenue-generating events including cowboy cabarets, chili cook-offs, garage sales, horse shows, pony club camps, lessons, clinics, and cowboy races.

The organization has a business plan and continues to fundraise.

**Total project cost:** \$317,000

**Funding already secured:** \$297,000

**Amount needed to complete land purchase:** \$20,000

**Land paid off! Re-  
move project. Con-  
grats KBEA!**



A rider negotiates an obstacle in the Cowboy Race 2010.



## **Haven House**

### **Sustainability/ Energy Efficiency Improvements**

**Project Description & Benefit:** South Peninsula Haven House is a 24-hour staffed shelter with a mission to support and empower people impacted by domestic violence and sexual assault. As part of the area's comprehensive public safety network, Haven House operates a 10-bed shelter and child advocacy center and has responded to community crisis needs by expanding services. This increased service demand has occurred while the shelter faces dramatic increases in the cost of fuel and utilities.

The proposed project seeks to enhance sustainability and reduce costs at Haven House through replacement/repair of the existing roof, including updated attic insulation; and modification of the current entry way, including replacement of entry way doors with more heat-efficient models. This modification will also increase the security of the property and safety of the residents.

These projects will build on sustainability programs that have already been undertaken at Haven House. These include an internal recycling program, replacement of old inefficient plumbing fixtures and windows, and the addition of a greenhouse.

**Total Project Cost:** \$26,000

**Roof Replacement/Repair and Attic Insulation:** \$18,000

**Entry Way Modifications:** \$8,000



**Project funded in FY15 budget (\$20,000). Haven House would like to replace with Security Improvement project under 'proposed new projects.'**



## Rogers Loop Trailhead Land Acquisition

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**Project Description and Benefit:** This project will provide a parking/staging area at the Roger's Loop trailhead. This parking lot will provide year round access to the Baycrest Ski Trails, the Demonstration Forest, and the City of Homer Diamond Creek properties. The City hopes to purchase the land by leveraging City trail funds and matching grant funds.

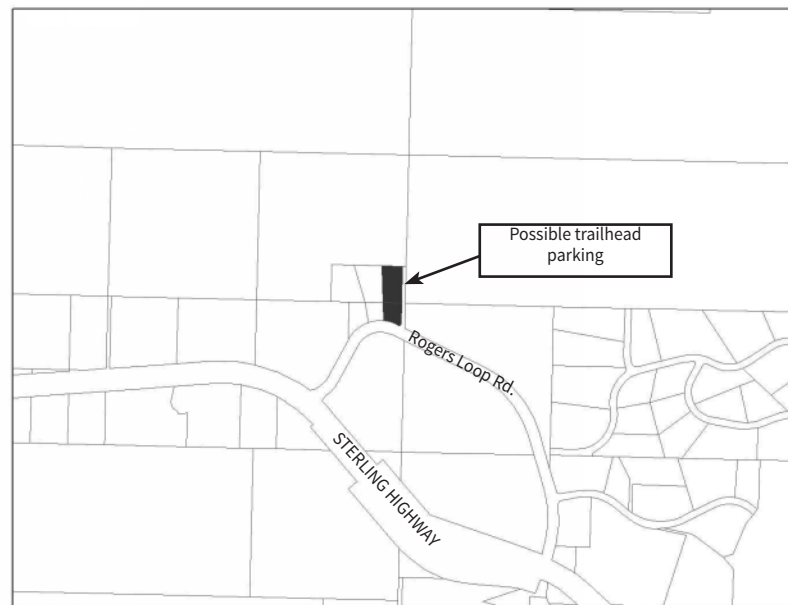
Currently the only parking for this large recreational area is on the shoulder of Rogers' Loop Road. The limited parking creates problems even for typical everyday use by skiers and hikers and makes the trailhead impractical as an access point for ski events or ski team practice.

In addition to winter use, the property would provide summer parking for the Homestead hiking trail, the nature trail boardwalk, and arboretum trails maintained by the Home Soil and Water Conservation District. Community members of all ages and abilities use the Baycrest/Homestead Trail system, as do visitors to Homer.

In recent years, Kachemak Nordic Ski Club and Kachemak Heritage Land Trust have undertaken successful campaigns to acquire property in the Baycrest/Diamond Creek area, ultimately transferring ownership of these parcels to the City for the benefit of the entire community. Phase one of the project would purchase the land. Later phases would develop the parking lot and construct amenities such as a restroom.

**Plans and Progress:** The City of Homer adopted the Diamond Creek Master Plan in May of 2013 that includes developing a parking lot at Rogers Loop.

**Total Project Cost:** \$70,000



**Kachemak Nordic Ski Club and P&R would like to make this a City project. As a City Project, write up was rewritten as separate phases, only asking for land purchase now. Also increased price estimate of land. Administration is ok with making it a City project.**



## Visitor Information Center Beautification Phase 1: Parking Lot

**Project Description & Benefit:** The Homer Chamber of Commerce (HCOC) is seeking funds to pave the HCOC Visitor Information Center parking lot as part of a phased Beautification Project.

This project will enhance development of the City's new Scenic Gateway Overlay District and has further potential to tie in with proposed Town Center development. The funds requested will be used to pave the parking lot, add ditches and culverts for drainage, stripe the lot for parking spaces, and add signage to deter pass-through traffic from the Sterling Highway to Bunnell Street.

Paving the Visitor Information Center parking lot will improve the appearance of the area, allow better access for the influx of visitors during the summer season, and year-round Chamber events, ensure handicap accessibility, and provide improved overflow parking for neighboring businesses. In addition, it will help address health and safety issues related to poor air quality, speeding vehicles, and pebbles kicked up by cars cutting through the parking lot between the Sterling Highway and Bunnell Street.



One of the first places visitors come to when they drive into Homer is the Homer Chamber of Commerce Visitor Information Center. Approximately 150,000 people visit Homer every year. First impressions are what visitors to a community use to judge that area. Attracting new businesses and families to our community—while also maintaining community pride for existing residents—is one of the key missions of the Homer Chamber of Commerce. An attractive Visitor Information Center, parking area, and surrounding grounds should be regarded as an important asset benefiting the entire community.

At various times of year, the Visitor Information Center parking lot is plagued by dirt, dust, mud, and potholes – sometimes all at once.

Other phases of the Visitor Information Center Beautification Project include adding a deck and rest area. A final phase will develop the parcel located between the Chamber building and Bunnell Street.

**Plans & Progress:** The HCOC has completed excavation, grading, and backfill at a cost of \$40,000 raised specifically for this project. In 2012 the landscaping and gardens were installed at the very low cost of approximately \$10,000! We were able to do this only because of literally hundreds of hours of community volunteers!

**Total Project Cost:** \$200,000

**Funding Requested for Paving Parking Lot:** \$85,000

**\$60,000 funded  
in FY15 budget.  
Remove.**





## Homer Senior Citizens Natural Gas Conversion

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**Project Description & Benefit:** This project would convert the Homer Senior Center (HSC) facilities to natural gas. The project budget includes City of Homer Special Assessment costs, service line and meter costs from Enstar, converting boilers on six structures, as well as gas ranges and dryers in senior housing units.

HSC has been the sole non-profit senior services provider for Homer for the past 39 years. HSC relies upon grants, private donations and fees for service for funding. With budgets tight and the economy still in recovery, private donations are not at the same level. Expenditures increase annually, while revenue continues to remain at the same level, and in some cases declines.

Converting to natural gas as a supplemental energy source will reduce our cost for heating oil. This will save the Center as well as the 85 seniors who pay for electric heat at this time. Currently HSC expends over \$100,000 in fuel oil. With natural gas HSC will save \$37,000 annually, according to projections. HSC will save approximately \$10,000 annually due to the replaced appliances. The combined savings represents approximately \$35,000 annually, equating to one full-time employee.

**Plans & Progress:** The Alaska State Legislature awarded Homer Senior Citizens Inc. \$100,000 in FY2015 towards this project.

**Total Project Cost:** \$504,898

**Funding Already Secured:** \$100,000

**Schedule:**

**Preconstruction:** 2014

**Construction:** 2015



Homer Senior Citizen's main building.

**HSC received \$100,000 in FY15 budget. However, it is not sufficient to initiate the project.**



## **South Peninsula Hospital Site Evaluation & Planning for Hillside Reinforcement**

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**Plans and Progress:** South Peninsula Hospital sits on a very steep hillside, with all parking lots and outbuildings being terraced down from the main hospital building. Both the lot the hospital sits on and the lot behind it continue with a very steep elevation incline. The buffer is only 12 feet behind the building cut into the hillside before the terrain continues with the steep incline for as far as 300 yards. The remaining hillside has thick vegetation and is not utilized or developed in any way at this time.

The facility has had numerous additions and structural work completed in the last 10 years which may have impacted and affected the stability of the hillside. The hillside runs continuous from the entrance of parking the entire length of the building and beyond. No part of the main hospital building is out of the risk zone for damages from hillside erosion and sloughing.

A site evaluation is necessary to establish the current condition of the hillside, and make any recommendations to secure it from further erosion and sloughing. Such evaluation would include a survey, soils testing, geologic hazard assessment and mitigation report, landslide evaluation, earthquake assessment, and recommendations for options to minimize risk to the facility. The recommended options would include cost estimates.

**Plans and Progress:** The estimated cost of such a study, evaluation, and report is \$100,000. This could include work by the Army Corps of Engineers, and/or a private engineering firm.

**Total Project Cost:** \$100,000

**Schedule:** 2014





## Kenai Peninsula Borough Homer High School Turf Field

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**Project Description & Benefit:** The competitive athletic field at Homer High School would benefit greatly by being upgraded to artificial turf. An artificial turf field would enable the school district community to use the facility for a greater portion of the year by allowing use earlier in the spring, and later in the fall than is currently possible. Additionally, artificial turf fields are able to handle a significantly greater amount of use than natural turf fields without risking damage. Upgrading the existing grass field with synthetic field entails removing the existing sod, excavating and back-filling with structural fill, installing a membrane and drainage tile, and installing the turf field with sand and rubber infill.

The project will provide broad community benefit and address a safety hazard. An artificial turf field would protract the playing season for school and community soccer and football teams, as well as other user groups. It allows gym classes to get outdoors and provides an earlier start to outdoors play for our school sports teams. Homer has a very popular summer program for youth soccer, with 180 participating youths. Currently, the summer community soccer season is shortened by field closures that are required to allow the soil to dry. Closure is also required for field maintenance, including protection of newly planted grass seed. Artificial turf would not only afford earlier and later season use of the field, it will also create a community economic development opportunity by increasing the number of visiting summer soccer teams and the revenue they bring to Homer. There are also potential community health benefits offered by a turf field. Allowing field use between games by students and community addresses current data from DHSS that 36% of students in the KPBSD are overweight or obese. Additionally, depending on the type of artificial turf, there is evidence that impact absorption may be greater than for natural turf (grass), and it is certainly greater than gym floors where pre-season practices currently occur, thus reducing injury. The muddy and uneven field conditions are major safety hazards during the spring sports season, causing sprained ankles, often serious enough to keep players out of the game for weeks.

**Plans & Progress:** A related project, the Homer High School Track Renovation, was included in the 2012-2017 Homer CIP and was funded through a legislative appropriation of \$1,100,000 in FY 2013. Approximately \$150,000 from the track renovation project was expended to address field drainage in anticipation of the turf field project. With the drainage already in place for a turf field, a significant cost driver for the current project is eliminated. In addition to this major cost savings for the project, there is already a completed design study report, field application, and cost estimate in place. The Kenai Peninsula Borough Capital Projects Director has expended considerable time and effort in preparing detailed study, design, and engineering materials to support the project. The Borough has applied to the Department of Education and Early Development for bond reimbursement (70%), should the measure pass in Fall 2013. The City of Homer has also supported fundraising efforts through resolution 13-025. No project funds have been secured to date.

**Total Project Cost:** \$ \$1,991,737

**Preconstruction:** \$95,851

**Construction:** \$1,895,886

**Schedule:** 2014

**Funded through  
bonds/state. Remove.**



## Kachemak Ski Club Ohlson Mountain Rope Tow Safety Equipment Upgrade

**Project Description & Benefit:** The Kachemak Ski Club (non-profit operators of the Ohlson Mountain Rope Tow) needs winter safety equipment for the continued safe operation of its ski hill. The KSC ski tow is located over a quarter mile off the Ohlson Mountain Road. All skiers and volunteers must currently walk a snow covered right of way to access the base of the ski hill.

This project would purchase snow machine capable of evacuating an injured skier uphill to the parking lot (where local club first aid responders would transfer care to local EMS providers), as well as for use packing both the access right of way and the tow path of the rope tow itself. Both of the latter are weekly maintenance tasks that must be done to open the hill to the skiing public. A covered, open sled capable of being towed by a snowmachine to evacuate an injured skier would be part of this initial purchase.

A four-wheel drive ATV is the second major capital item in this request, which would be used for pre-season maintenance of the right-of-way path, and brush clearing on the hill for hauling firewood to maintain the heating needs of the woodstove-equipped ski lodge.

The final phase of the project would include construction or purchase of secure, covered storage to protect the purchased equipment from the elements, as well as a grooming device to break up icy or rutted conditions on the access trail or ski hill itself.

**Total Project Cost:** \$30,000

**Schedule:** 2015



Map depicts the location of the Ohlson Mountain Rope Tow in relation to Ohlson Mountain Road.

**Funded in FY15  
capital budget. Rec-  
ommend remove.**



## Kachemak Shellfish Growers Association Kachemak Shellfish Hatchery

**Project Description and Benefit:** For over twenty years Kachemak Shellfish Mariculture Association (KSMA), a 501-c5 organization, has worked to fulfill its primary mission of assisting shellfish growers in Kachemak Bay to establish an economically sustainable oyster industry. Today through its partnership with the Kachemak Shellfish Growers Cooperative (KSGC), a co-op formed to market and distribute mussels and oysters, there are 14 farms in the Bay and a sorting, marketing and shipping facility on the Homer Spit supplying shellfish and mariculture related goods to local restaurants, residents and tourists while shipping oysters all over Alaska and the nation.

Five years ago the industry identified an oyster seed shortage affecting the shellfish industry on the entire Pacific Coast. Local leaders developed a small proof of concept experiential oyster hatchery/setting facility at the KSGC building to address this issue. Over the past two years, on a thin budget, with the assistance of industry professionals, and with the support of State of Alaska, the co-op raised over 7.5 million oyster seed. KSMA supports this highly technical hatchery and laboratory with two employees who oversee the 24-hour a day, five-month process culturing oysters and propagating algae (oyster food) in conjunction with their other duties. Please note that this should not be understated; others have invested more with lesser success. Some experts gave this experimental nursery only a 10% chance of success. However, thanks to the nutrient rich waters of Kachemak Bay and the dedication and expertise of staff the oysters thrived at the Homer Spit facility and into the upweller (a nursery for the young oysters) in Halibut Cove. With the commitment of KSMA's employees and the Bays farmers this proof of concept is ready to mature to the next step—a third year of production and expanding the hatchery to a financially sustainable operation through the scale of production. By supplying oyster seed to shellfish farmers throughout the state of Alaska, it will reduce cost to farms and the impact of seed shortage through another seed source for Alaska and the west coast farmers.

Over the past two years KSMA produced 7.5 million seed and has purchased or developed much of the expertise and equipment necessary for the hatchery expansion including technician training, the expensive salt water well, and algae production. However a larger lab, natural gas heat and storm damage prevention are needed to mature the proof of concept to a production facility supporting the greater Bay and its residents. The Kachemak Mariculture building on the Spit needs professional engineering, design, and planning to transition its available space from an experimental, small hatchery to the next phase of a permanent hatchery enabling KSMA to commercially produce oyster seed.

The benefit of a thriving oyster farming industry in Homer is huge. Oyster production in Kachemak Bay is currently in its 22st year. Oysters have become a sparkling year-round addition to the seafood options available to residents and tourists in Homer. Every cooler of oysters delivered to the dock represents approximately \$150 to the grower. By the time the end user receives those oysters, the economic ripple effect becomes approximately \$725. Oysters clearly benefit the community and economy.

A local hatchery and nursery can also provide a great learning lab for high school and university students, who currently have to travel to the hatchery in Seward for their studies. (The Seward hatchery hatches opilio crab; however the waters of Resurrection Bay are less conducive to oyster seed.) A course in mariculture could easily be developed in conjunction with aspects of oyster seed development, culturing and marketing.

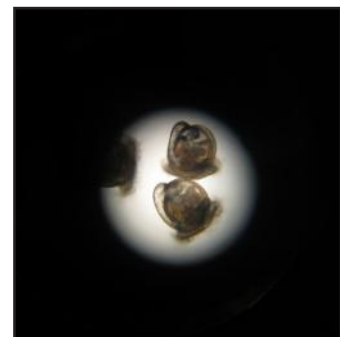
**Plans and Progress:** The design and expansion of the shellfish hatchery is in process. Successful seed will be sold first to growers in Kachemak Bay. Excess seed can easily be sold to other farmers in the state who are eager for a reliable supplier.

KSMA's Hatchery consultant has many designs from hatcheries where he has assisted. Final design for the Homer Spit Facility would occur in conjunction with permitting.

**Total Project Cost:** \$400,000  
**Preconstruction:** \$75,000  
**Funding Already Secured:** \$50,000  
**Construction:** \$325,000

**Schedule:** 2014

**\$50,000 in  
FY15 Capital  
Budget**



Microscopic view of two tiny oysters.



## Capital Improvement Long-Range Projects

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The following projects have been identified as long-range capital needs but have not been included in the Capital Improvement Plan because it is not anticipated that they will be undertaken within the six-year period covered by the CIP. As existing CIP projects are funded or as other circumstances change, projects in the long-range list may be moved to the six-year CIP.

### Local Roads

**Fairview Avenue – Main Street to East End Road:** This project provides for the design and construction of Fairview Avenue from Main Street to East End Road. The road is approximately 3,000 linear feet and the project will include paving, water and sewer mains, stub-outs, storm drains, and a sidewalk or trail. The project extends from the intersection of Main Street to the Homer High School, and finally to East End Road, and will provide an alternative to Pioneer Avenue for collector street access east/west across town. This roadway would benefit the entire community by reducing congestion on Pioneer Avenue, the major through-town road, and would provide a second means of access to the high school. It would also allow for development of areas not currently serviced by municipal water and sewer.

This improvement is recommended by the 2005 Homer Area Transportation Plan. Necessary right of way has already been dedicated by the Kenai Peninsula Borough across the High School property.

**Cost:** \$1.75 million      **Priority Level 3**

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**Fairview Avenue – Main Street to West Hill Road:** This project provides for the design and construction of Fairview Avenue from Main Street to West Hill Road. The road is approximately 4,200 linear feet and the project will include paving, water and sewer mains, stub-outs, storm drains, and a sidewalk or trail. Along with the Fairview to East End Road project, this project will benefit the entire community by providing an alternative to Pioneer Avenue for collector street access east/west across town, thereby reducing congestion on Pioneer Avenue and developing alternative access for emergency vehicle response. The need for the road extension has increased markedly with the development of three major residential subdivisions in the area.

This improvement is recommended in the 2005 Homer Area Transportation Plan.

**Cost:** \$3 million      **Priority Level 3**

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### Parks And Recreation

**Beach Access from Main:** This project will provide residents and visitors with coastal viewing stations and access to the beach at the southern end of Main Street, utilizing City-owned land. The project will enhance connectivity in Homer's developing trails and park system, providing additional access so that beachgoers can walk onto the beach at one point and off at another, on a loop through Old Town, Town Center, etc. For those not physically able to walk all the way to the beach, platforms near the roads will provide nice views and benches on which to relax. Interpretive signage could provide information on Homer history, beach formation, and other topics.

The Main Street beach access point is envisioned to have a small parking area, a viewing platform with a bench, and stairs with landings.

**Cost:** \$250,000      **Priority Level 3**

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**Deleted access from Crittenden from project since basic access was developed with LID last summer.**



## Capital Improvement Long-Range Projects

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**East Trunk/Beluga Lake Trail System:** This project will create two connecting trails:

- The Beluga Lake Trail will partially encircle Beluga Lake with a raised platform trail that includes a wildlife observation site. The trail will connect neighborhoods and business districts on the north and south sides of the lake.
- The East Trunk Trail will provide a wide gravel pathway from Ben Walters Park east along the City sewer easement, along the north side of Beluga Lake (connecting with the Beluga Lake Trail), and eventually reaching East End Road near Kachemak City.

The completed trail system will connect Paul Banks Elementary School, the Meadowood Subdivision, and other subdivisions and residential areas to Ben Walters Park. It will additionally provide hiking, biking, and wildlife viewing opportunities around Beluga Lake. In addition, it will provide an important non-motorized transportation route.

The Beluga Lake Trail and a trail connection to Paul Banks Elementary School and East End Road are included in the 2004 City of Homer Non-Motorized Transportation and Trail Plan.

**Cost:** Beluga Lake Trail—\$1.5 M      East Trunk Trail—\$2 M      Priority Level 3

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**Horizon Loop Trail, Phase 1:** The Homer Horizon Loop Trail is proposed as a four to five mile route that would run clockwise from Karen Hornaday Park up around the top of Woodard Creek Canyon, traverse the bluff eastward, and then drop down to Homer High School. The parking lots of Karen Hornaday Park and Homer High School would provide trailhead parking. Those wishing to complete the loop will easily be able to walk from the high school to Karen Hornaday Park or vice versa via Fairview Avenue. A later stage of trail development will connect the Horizon Loop Trail with the Homestead Trail at Bridge Creek Reservoir.

**Cost:** Staff Time      Priority Level 3

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**Jack Gist Park Improvements, Phases 3:** Jack Gist Park has been in development since 1998 on 12.4 acres of land donated to the City of Homer by a private landowner. As originally envisioned by the Jack Gist Recreational Park Association, this parcel was to be developed primarily for softball fields. The long-term goal is to acquire adjacent properties that will provide space for soccer fields. Phase 3 development will construct a plumbed restroom at the park. Phase 3 will be to develop soccer fields.

**Cost:** \$400,000      Priority Level 3

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**Karen Hornaday Park Improvements, Phase 3:** Phase 3 park improvements will include building a concession stand, shed, landscaping, signage, and revegetating Woodard Creek.

**Cost:** \$860,000      Priority Level 2

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**Mariner Park Improvements:** This project will provide significant improvements to Mariner Park as called for in the park's master plan: Construct a bike trail from the "Lighthouse Village" to Mariner Park (\$325,000); Construct a pavilion, additional campsites, and interpretive kiosk (\$150,000); and improve the appearance of the park with landscaping (\$75,000).

**Total:** \$725,000      Priority Level 3

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**Deleted moving entrance from project since that has been accomplished. Re-visit bike path once work DOT is doing this year is accomplished (may fill that need).**



## Capital Improvement Long-Range Projects

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**Public Restrooms – Homer Spit:** With increased activity on the Homer Spit, including the popular Homer Spit Trail, the need for restroom facilities has also increased. Restrooms are needed in the following locations, in priority order. (Note: It is anticipated that a new restroom in the vicinity of the Fish Dock will be constructed in 2013. Restrooms for Mariner Park, Ramp 5 & 8 and End of the Road Park are addressed elsewhere).

- The restroom at Ramp 2 is in poor condition and needs to be replaced.
- A restroom is needed at the trailhead parking area on Kachemak Drive. The parking area is at the intersection of the Ocean Drive bike route and the Homer Spit trail; thus the restroom will benefit users of both trails.

**Cost:** \$295,000 each; \$590,000

Priority Level 2 for Ramp 2; Level 3 for Spit trailhead

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### PUBLIC FACILITIES

**Homer Conference Center:** Homer is a popular visitor destination and the visitor industry is a critical component of the local economy. However, millions more dollars might be spent in Homer if a meeting facility large enough to attract conferences with several hundred participants was available. Currently, Homer has no facility capable of providing meeting space for groups of more than 180 people.

Homer's reputation as an arts community will help attract meetings and audiences if a facility exists to accommodate and showcase these events. The conference center, featuring banquet/ballroom space and flexible meeting space, will fill this need. If the facility is located in Homer's developing Town Center, other area businesses would also benefit from the increased number of visitors attending meetings at the conference center.

A conference center will increase Homer's ability to compete with other communities in that important niche of the visitor industry, and will also provide a venue for meetings and cultural events hosted by local organizations, such as the Kachemak Bay Writers Conference and Shorebird Festival events.

In partnership with the Homer Chamber of Commerce, the City of Homer commissioned a conference center feasibility study completed in summer 2005. The study predicts moderate demand from outside groups for a conference center in Homer. The Conference Center Feasibility Study Steering Committee made a formal recommendation that the City support efforts to encourage the construction of a conference center in Homer's Town Center. In August 2005, the Homer City Council passed Resolution 05-86(A) which recommends further consideration and authorizes the City Manager to pursue ideas and discussions that will increase the likelihood of a conference center being built in Homer.

**Cost:** \$5 million

Priority Level 3

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**Public Works Complex:** The City of Homer Public Works complex on the Sterling Highway was constructed in phases from 1974-1986 (except for the recently completed large equipment storage shed). In 1980, Homer's population was 2,209. Since that time, the population has grown more than 150%, with a corresponding increase in roads, water/sewer lines, and other construction activity that requires employee and equipment time. The existing facility is no longer adequate to meet these needs and the problem will become more acute with continued growth.

A new Public Works complex will include the following:

- Increased office space to provide adequate room for employee work areas, files, supplies, and equipment storage
- Adequate space for Parks Division and Engineering staff and equipment
- A waiting area for the public, contractors, etc.
- A conference room that doesn't double as the employee break room
- A break room with adequate seating, storage, and locker space
- A laundry room
- A garage for the motor pool large enough to accommodate more than one or two projects at a time
- Improvements in ventilation throughout the facility and wiring for computer technology

**Cost:** Design—\$500,000

Construction—\$4.5 M

Priority Level 2

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## Capital Improvement Long-Range Projects

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**Homer Greenhouse:** Homer's growth in population and area, the importance of tourism to the local economy, and increased community requests for beautification illustrate the need for a new greenhouse capable of producing 100,000 plants annually. In addition to spring planting, the greenhouse can be used to grow hanging baskets for the Central Business District; poinsettias, etc. for the winter holiday season; and shrubs and trees for revegetation and park improvements. The library grounds and Town Center development will further increase the need for summer annuals planting. The greenhouse could also serve as a community resource for meetings, weddings, winter visits, etc.

**Cost:** \$400,000      Priority Level 3

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**Public Market Design and Financing Plan:** This project will facilitate implementation of a recommendation in the City's Comprehensive Economic Development Strategy discussed in both the "Agriculture" and "Downtown Vitalization" sections. It is also consistent with the goals of the Homer Town Center Development Plan and the Climate Action Plan. Specifically, the project will provide a permanent, weather-protected venue for the Homer Farmers Market in Town Center. In conjunction with Town Center infrastructure development (a separate capital improvement project aimed at providing initial road/trail access and utilities), the project will kick off development in the Town Center district, providing immediate benefits to downtown Homer and serving as a catalyst for further development.

**Cost:** \$60,000      Priority Level 3

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### UTILITIES

**Spit Water Line – Phase 4:** The existing Homer Spit water line is 40 years old and is constructed of 10-inch cast iron. In recent years it has experienced an increasing number of leaks due to corrosion. The condition has been aggravated by development on the Spit resulting in increased load from fill material on an already strained system. Phase 4 of this project consists of slip lining approximately 1,500 linear feet of water main to the end of the Spit. Slip lining the Homer Spit waterline, versus replacing, will reduce cost while ensuring an uninterrupted water supply for public health, fire/life safety needs, and expanding economic activities on the Spit. The City received a grant for the EPA for design of the project which was completed in fall of 2014.

**Cost:** \$400,000      Priority Level 3

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updated with design  
work from EPA grant.

**Bridge Creek Watershed Acquisition:** Currently, the Bridge Creek watershed is the sole source of water for Homer. To protect the watershed from development that could threaten the water supply and to ensure the availability of land for possible future expansion of water treatment operations within the watershed, the City seeks to acquire additional acreage and/or utilize conservation easements to restrict development that is incompatible with clean water.

**Cost:** \$1,000,000      Priority Level 3

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**Alternative Water Source:** Currently Homer's sole water source is the Bridge Creek Reservoir. Population growth within the city, increased demands for City water from residents outside city limits, increasing numbers of tourists and summer residents, and climate change that has reduced surface water availability are all factors in the need for a new water source to augment the existing reservoir.

**Cost:** \$16,750,000      Priority Level 3

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## Capital Improvement Long-Range Projects

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**West Hill Water Transmission Main and Water Storage Tank:** Currently, water from the Skyline treatment plant is delivered to Homer via two transmission mains. One main (12-inch) is located along East Hill Road and delivers water to the east side of town. The other (8-inch) runs directly down to the center of town. A third transmission main is needed to deliver water to the west side of town, provide water to the upper West Hill area, and provide backup support to the two existing transmission mains. A new water storage facility is also needed to meet the demands of a rapidly growing community.

The addition of a third water transmission main has been identified in comprehensive water planning documents for over 20 years.

**Cost:** Design—\$500,000      Construction—\$4.5 M      Priority Level 2

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### State Projects

**Ocean Drive Reconstruction with Turn Lane:** Ocean Drive, which is a segment of the Sterling Highway (a state road) connecting Lake Street with the Homer Spit Road, sees a great deal of traffic, particularly in the summer, and has become a source of concern for drivers, bicyclists, pedestrians, and tour bus operators. This project will improve traffic flow on Ocean Drive and reduce risks to drivers, bicyclists, and pedestrians by creating a center turn lane, providing well-marked crosswalks, and constructing a separated bike path. The project will also enhance the appearance of the Ocean Drive corridor by moving utilities underground and providing some landscaping and other amenities.

Currently, a bicycle lane runs on the south side of Ocean Drive. However, it is common for cars and trucks to use the bicycle lane to get around vehicles which have stopped in the east-bound traffic lane in order to make a left turn. Some frustrated drivers swing around at fairly high speeds, presenting a significant risk to bicyclists and pedestrians who may be using the bike lane. In recent years, the Homer Farmers Market has become a popular attraction on the south side of Ocean Drive during the summer season, contributing to traffic congestion in the area. In addition, Homer is seeing more cruise ship activity which also translates into more traffic on Ocean Drive. All of these factors have led to increased risk of accidents.

**Recommend reassessing this project after DOT work on Ocean Drive is complete. Project goals may be accomplished.**



## **Capital Improvement Appendices**

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- **Part 4: Capital Improvement Appendices**
- **CIP Development Schedule**
- **Resolution CORRECT NUMBER**
- **City of Homer Financing Assumptions**



## Capital Improvement Appendices

**CITY OF HOMER  
2015-2020 CAPITAL IMPROVEMENT PLANNING PROCESS  
FY 2016 LEGISLATIVE REQUEST DEVELOPMENT SCHEDULE**

ACTION	TIME FRAME
City Council approval of schedule	May 27, 2014
Solicit new/revised project information from City departments, local agencies and non-profits	May 27
Input for new draft requested by	June 30
Prepare and distribute draft CIP to City advisory groups for review and input. (Administration compilation of draft CIP June 30-July 9)	(Meeting dates): Planning Commission July 16, August 6
	Parks and Recreation Commission August 21
	Port and Harbor Commission July 23
	Library Advisory Board August 5
	Economic Development Commission July 8, August 12
	Public Arts Committee August 14
Administrative review and compilation	August 15 - August 20
City Council worksession to review proposed projects	August 25
Public Hearing on CIP/Legislative request	September 8
Adoption of resolutions by City Council	September 22
Administration compilation of CIP	September 23 – September 30
Administration forwards requests for Governor’s Budget (Local Election)	October 1
Distribution of CIP and State Legislative Request	October 2014 & January 2015
Compilation/distribution of Federal Request	February 2015



## Capital Improvement Appendices

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**CITY OF HOMER  
HOMER, ALASKA**

Mayor/City Council

**RESOLUTION 13-087(A)**

A RESOLUTION OF THE HOMER CITY COUNCIL ADOPTING THE  
2014-2019 CAPITAL IMPROVEMENT PLAN AND ESTABLISHING  
CAPITAL PROJECT LEGISLATIVE PRIORITIES FOR FISCAL YEAR  
2015.

WHEREAS, Duly published hearings were held on August 26 and September 9, 2013 in order to obtain public comments on capital improvement projects and legislative priorities; and

WHEREAS, The Council received comments from all of the Commissions and held an all day Worksession on August 17, 2013; and

WHEREAS, It is the intent of the City Council to provide the Governor, the State Legislature, State agencies, the Alaska Congressional Delegation, and other potential funding sources with adequate information regarding the City's capital project funding needs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Homer, Alaska, that the "City of Homer Capital Improvement Plan 2014-2019" is hereby adopted as the official 6-year capital improvement plan for the City of Homer.

BE IT FURTHER RESOLVED that the following capital improvement projects are identified as priorities for the FY 2015 State Legislative Request:

1. Water Storage/Distribution Improvements
2. Public Safety Building
3. Harbor Sheet Pile Loading Dock
4. Fire Department Equipment Upgrades
5. East to West Transportation Corridor

**replace w current reso.**

BE IT FURTHER RESOLVED that projects for the FY 2015 Federal Legislative Request will be:

1. Deep Water/Cruise Ship Dock Expansion, Phase 1
2. East Boat Harbor

BE IT FINALLY RESOLVED that the City Manager is hereby instructed to advise the appropriate State and Federal representatives and personnel of the City's FY 2015 capital project priorities and take appropriate steps to provide necessary background information.



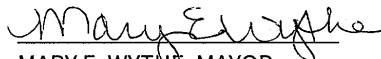
## Capital Improvement Appendices

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Page 2 of 2  
RESOLUTION 13-087(A)  
CITY OF HOMER

45 PASSED AND ADOPTED by a duly constituted quorum of the City Council for the City of  
46 Homer on this 9<sup>th</sup> day of September, 2013.

47 CITY OF HOMER

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51 MARY E. WYTHE, MAYOR

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53 ATTEST:

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56 \_\_\_\_\_  
57 JO JOHNSON, MMC, CITY CLERK

58  
59 Fiscal Note: N/A  
60

replace w cur-  
rent reso.



## Capital Improvement Appendices

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### City of Homer Financing Assumptions: Capital Improvement Program

Implementation of the City of Homer Capital Improvement Plan requires utilization of various financing mechanisms. Financing mechanisms available to the City of Homer include:

- Federal grants or loans
- State grants or loans
- General obligation bonds
- Limited obligation bonds
- Revenue bonds
- Special assessment bonds
- Bank loans
- Pay as you go
- Private sector development agreements
- Property owner contributions
- Lease or lease–purchase agreements

The use of any of the financing mechanisms listed above must be based upon the financial capability of the City as well as the specific capital improvement project. In this regard, financing the CIP should take into consideration the following assumptions:

1. The six-mill property tax limitation precludes utilizing General Fund operating revenue to fund major capital improvements. Available revenue should be utilized to fund operation and maintenance activities.
2. The operating revenue of enterprise funds (Port & Harbor, Water & Sewer) will be limited and as such, currently only fund operation and maintenance activities.
3. The utilization of Federal and State grants will continue to be significant funding mechanisms. Grants will be pursued whenever possible.
4. The 1½ percent sales tax approved by voters of Homer for debt service and CIP projects is dedicated at ¾ percent to sewer treatment plant debt retirement, with the remaining balance to be used in water and sewer system improvement projects, and ¾ percent to the Homer Accelerated Roads and Trails (HART) Program.
5. The HART Program will require property owner contributions of \$30 per front foot for road reconstruction, with an additional \$17 per front foot for paving.
6. The Accelerated Water and Sewer Program will require substantial property owner contributions through improvement districts/assessment funding, set currently at 75 percent.
7. The private sector will be encouraged to finance, construct, and operate certain nonessential capital improvements (e.g., overslope development).
8. The utilization of bonds will be determined on a project-by-project basis.
9. The lease and/or lease–purchase of capital improvements will be determined on a project-by-project basis.







# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

(p) 907-235-8121 x2222

(f) 907-235-3148

### MANAGER'S REPORT

June 23, 2014

TO: MAYOR WYTHE / HOMER CITY COUNCIL

FROM: WALT WREDE

#### UPDATES / FOLLOW-UP

NOTE: Some of these items appeared in the last report. I have updated them and brought them back in case the Council wanted to discuss.

1. Town Center Clearing: The Community and the Police Department continue to struggle with illegal activities that are taking place in makeshift camping areas. One of the biggest problem areas for camping and illegal activity is on City land in the Town Center. One of the City lots, directly behind the laundry, is very densely wooded and it is difficult for the Police to see in there, or to leave their vehicles and walk in there safely. We are proposing to do some clearing in that area. The small, densely packed black spruce would come out. Tall healthy trees would stay but be limbed high enough that the police can see in. Carey is talking to the Corps of Engineers about possible permits due to wetlands and to various local contractors about mechanized clearing vs. hand cutting. We will have cost estimates and maybe an action item at the next meeting. Police Chief Mark Robl is prepared to discuss this problem with you in detail. This is a public safety issue that the Police feel should be a priority.
2. PARC Committee: This Committee is scheduled to meet on June 18 to provide final guidance on the contract with the selected consultant re: the needs assessment. The guidance will include the scope of work, benchmarks, deliverables, timetables, etc. Once I get that information, I will negotiate and execute the contract.
3. Load and Launch Ramp: This agenda contains a resolution which if adopted, would approve an amendment to the Cooperative Agreement between the City and ADF&G regarding repair and replacement work at the boat harbor load and launch ramp. The purpose of the amendment is to clarify and more specifically spell out how Phase II of the project, the construction phase, will work. ADF&G, Sport Fish division has taken responsibility for all of the pre-construction work, engineering, design, permitting, through the bidding process. The City will manage the construction phase. The amended Cooperative Agreement will work like a reimbursable grant to the City. We can get into this in a little more detail at the meeting.
4. Green Dot Program: The City has provided support to the Green Dot Program in several ways. You may have noticed the big green dot outside of City Hall. On June 24<sup>th</sup>, I will meet

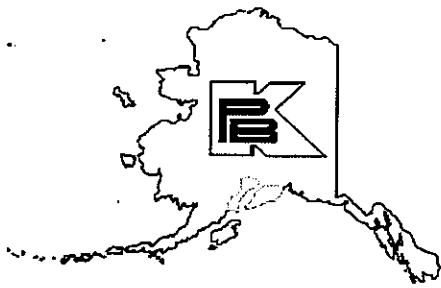
with Tara Schmidt to talk about Green Dot Training for City staff. I believe this will be important for all City staff members but I want to concentrate first on staff members that have high contact with the public could be in positions where intervening could be helpful. The Library comes immediately to mind.

5. E-Cigarettes: Apparently, there is quite a bit of discussion going on about e-cigarettes and whether they should be included as part of smoking ban rules in public spaces. I have to admit, I am clueless on this subject and will have to get more information. Library Director Ann Dixon informed me that there is a discussion going on among Library Directors and Library Associations about how to handle this. Several Libraries have already included e-cigarettes as part of their smoking regulations, including Palmer and Juneau. Ann thought it would be wise to get out in front of this because it is only a matter of time before somebody lights up an e-cigarette in the library (or City Hall for that matter). Ann wanted to know if the City's current code on smoking was applicable and enforceable. Tom Klinkner is looking into that. So, this is just a heads-up that you might be hearing more about this later. The LAB will discuss it as a policy matter at the next meeting. If we change the code, or decide that the current code covers it, it would likely apply to all city buildings, not just the library.
6. Safety Training: On Wednesday, June 25, the City will conduct an almost all day safety training for new employees and summer temporaries. We are working hard to create a safe working environment, improve awareness of safety generally, and reduce the City's risk. The City recently formed a safety committee that includes representatives from all departments.
7. HR Position: The advertising period for this position closed on June 15<sup>th</sup>. Interviews will be conducted the week of June 23. We hope to have that position filled. In the meantime, Andrea Petersen is still on the payroll and helping us from Reno. Andrea Browning is filling in and helping also, where appropriate.
8. Natural Gas Distribution Project: You have probably noticed that the contractors are making good progress on phase two, the bluff area. It is possible that construction of the distribution system could be completed by early August. They will still be working on tie-ins, restoration work, clean-up, and service lines during that period. Only one easement remains to be obtained on Kachemak Drive and we are hopeful work can begin there soon. I think the contractors are doing an excellent job and most of the feedback I hear from property owners is very positive about what they are doing. Enstar reports that they have about 1,500 service lines either installed or applied for and around 900 meters that are "spinning." At the July 28 meeting, I hope to have a progress report for you. This will include a look at the actual build-out, the status of the project budget, preliminary assessment roll adjustments, and information about the assessments. The report will also include a recommended course of action with respect to assessments for condominium buildings.
9. Mercer Meeting: On June 17<sup>th</sup>, John Li and I met with Mercer Company representatives to discuss the status of the Health Insurance Plan. They provided us with a comprehensive set of statistics which were very informative. I won't go into great detail here but so far, it looks like the changes made to the program are resulting in significant cost savings for the City. We went over the solicitation of bids from the private sector and the type of information that would be most helpful to the Council when Jeff Paxton is here in August.

## **ATTACHMENTS**

1. Community Recreation Program Report
2. Memorandum 14-099 Citizens Academy Report





# **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

**PHONE:** (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

[www.borough.kenai.ak.us](http://www.borough.kenai.ak.us)

**MIKE NAVARRE**  
**BOROUGH MAYOR**

June 25, 2014

## **NOTICE OF DECISION KENAI PENINSULA BOROUGH PLAT COMMITTEE MEETING OF JUNE 23, 2014**

RE: Ditton 2014 Replat Tract A Preliminary Plat

The Plat Committee reviewed and granted conditional approval of the subject preliminary plat during their regularly scheduled meeting of June 23, 2014 based on the findings that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.25; 20.30; and 20.40.

### **AMENDMENT A**

An amendment motion passed by unanimous consent to grant exception to KPB 20.30.030, No dedication of additional right of way based on the following findings of fact.

#### *Findings*

1. Terrain is unsuitable for construction within section line easement.
2. The plat is within the City of Homer.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. The submittal shows and labels slopes greater than 20 percent.
5. Per the submittal, none of the 33-foot section line easement has slopes greater than 20 percent.
6. Per KPB GIS, the subdivision is not affected by low wet areas.
7. Wolf Way and Seascape Drive are both open-ended rights-of-way to allow for future extension.
8. A portion of the section line easement is constructed and in use.
9. Per the Homer City staff report, city water and sewer are not available to the subject subdivision.
10. KPB GIS mapping indicates city utility lines serve the subdivision to the south.
11. Once lots are served by city utilities, lot sizes may be reduced in accordance with size requirements of city utility-served lots per the zoning district.
12. Fee right-of-way frontage on the southern boundary of the deed parcel to the northwest and Lots 5-7 Skyline Drive Subdivision would allow the owners the option to further subdivide their parcels when city water and/or sewer lines are extended to the area.
13. Homer Advisory Planning Commission conditionally approved the plat on May 21, 2014 with no recommendation for right-of-way extension.
14. Homer Advisory Planning Commission removed staff's recommendation for a 1/4 cul-de-sac at the end of Seascape Drive.
15. A 33-foot section line easement created by statute affects the northern boundary of the subject plat.
16. KPB records show a 33-foot section line easement created by recording a plat adjoins the 33-foot section line easement within the proposed plat.
17. A power line is within the section line easement created by recording a plat.

### **AMENDMENT A-1**

An amendment motion passed by unanimous consent to amend Finding 7 to be stated that; "*Wolf Way and Seascape Drive are geographically challenging and likely will not ever occur.*"



**AMENDMENT B**

An amendment motion passed by unanimous consent to grant exception to KPB 20.30.170, Block Length based on the following findings of fact.

Standard 1. That special circumstances or conditions affecting the property have been shown by application.

*Findings*

1. Terrain is unsuitable for construction within section line easement.
2. The plat is within the City of Homer.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. The submittal shows and labels slopes greater than 20 percent.
5. Per KPB GIS, the subdivision is not affected by low wet areas.
6. The north/south portion of the block meets 20.30.170; the east/west portion of the block is approximately 2,800 feet.
7. To meet the maximum length allowed (1,320 feet), a north/south right-of-way is needed through the subject plat.
8. Per the submittal, the area through which a north/south right-of-way is required would cross slopes exceeding 20 percent.
9. Homer Advisory Planning Commission conditionally approved the plat on May 21, 2014 with no recommendation for right-of-way extension.
10. Extending right-of-way through slopes exceeding 20 percent to meet KPB Code requirements is not an appropriate projection.
11. All lots in the block front two existing and/or constructed rights-of-way.

Standard 2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title.

*Findings*

1. Terrain is unsuitable for construction within section line easement.
2. The plat is within the City of Homer.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. The submittal shows and labels slopes greater than 20 percent.
5. Per KPB GIS, the subdivision is not affected by low wet areas.
6. The north/south portion of the block meets 20.30.170; the east/west portion of the block is approximately 2,800 feet.
7. To meet the maximum length allowed (1,320 feet), a north/south right-of-way is needed through the subject plat.
8. Per the submittal, the area through which a north/south right-of-way is required would cross slopes exceeding 20 percent.
9. Homer Advisory Planning Commission conditionally approved the plat on May 21, 2014 with no recommendation for right-of-way extension.
10. Extending right-of-way through slopes exceeding 20 percent to meet KPB Code requirements is not an appropriate projection.
11. All lots in the block front two existing and/or constructed rights-of-way.

Standard 3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

*Findings*

1. Terrain is unsuitable for construction within section line easement.
2. The plat is within the City of Homer.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. The submittal shows and labels slopes greater than 20 percent.
6. The north/south portion of the block meets 20.30.170; the east/west portion of the block is approximately 2,800 feet.
8. Per the submittal, the area through which a north/south right-of-way is required would cross slopes exceeding 20 percent.

9. Homer Advisory Planning Commission conditionally approved the plat on May 21, 2014 with no recommendation for right-of-way extension.
10. Extending right-of-way through slopes exceeding 20 percent to meet KPB Code requirements is not an appropriate projection.
11. All lots in the block front two existing and/or constructed rights-of-way.

This notice and unapproved minutes of the subject portion of the meeting were sent June 25, 2014 to:

**City of:** City of Homer  
491 East Pioneer Avenue  
Homer, AK 99603

**Advisory Planning Commission/Community Council:** Homer Advisory Planning Commission  
491 East Pioneer Avenue  
Homer, AK 99603

**Survey Firm:** Seabright Survey + Design  
1044 East Road, #A  
Homer, AK 99603

**Subdivider/Petitioner:** Robert & Charlene Ditton  
PO Box 601  
Homer, AK 99603-0601

**KPB File Number:** 2014-079

AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

3. Ditton 2014 Replat Tract A  
KPB File 2014-079; Seabright/Ditton

Staff Report given by Patti Hartley

Plat Committee Meeting: 6/23/14

Location: City of Homer  
Proposed Use: Residential  
Water/Sewer: On-site  
Zoning: Rural Residential  
Assessing Use: Residential  
Parent Parcel Number(s): 175-030-08

Supporting Information:

The proposed plat subdivides an approximate 5-acre lot into a 1.4 acre lot and 4-acre tract. The subdivision is not served by city water or sewer so a soils report is required, and an engineer will sign the plat. The subdivision fronts State maintained West Hill Road and a section line easement.

Homer Advisory Planning Commission approved the plat on May 21, subject to:

1. Add name and address of property owner(s) in title block.  
*Borough Staff Comments: Based on 20.25.070, **staff recommends** compliance with the Homer Commission's recommendation.*
2. Depict City boundaries in vicinity map.  
*Borough Staff Comments: Homer City Limits are depicted on the plat submitted for KPB review.*
3. Display and label areas in excess of 20% grade on the plat.  
*Borough Staff Comments: A second submittal showing slopes exceeding 20 percent was included in the preliminary plat submittal packet.*
4. Remove last sentence of Note #5, "which would interfere with the ability of the utility to use the easement."  
*Borough Staff Comments: This phrase is required by KPB 20.60.150. **Staff recommends** this part of the plat note remain on the plat.*

The Certificate to Plat was provided in accordance with KPB 20.25.090. The Certificate to Plat indicates no beneficial interests affect this property. Additional notification will not be required at this time.

A physical address may be affected by the replat. Homer Planning and Zoning Commission can answer questions about the effect of the replat on addresses.

**Staff recommends** that notes be placed on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

Exception(s) Requested:

- A. No dedication of additional right-of-way (20.30.030).

Staff Discussion:

Per the submittal, the section line easement is partially constructed. The adjoining lots to the north contain 1.25, 1.4, 1.78, and 2.26 acres. This area is within the City of Homer. Per the Homer City staff report, water and sewer are not yet available to the subject plat. KPB GIS mapping indicate the city's utility lines serve the



subdivisions to the south and terminate at the southeast corner of the subject Tract A. It is not unreasonable to expect the city's utility lines to be extended to the north in the future.

Existing development on three of the lots appear to preclude further subdivision. If Seascapes Drive was extended to connect with Wolf Way, the deed parcel to the northwest and Lots 5 and 6 Skyline Drive Subdivision could be divided in half with the southern lot served by Seascapes Drive when the area is served by city water and/or sewer. Not extending fee right-of-way to connect Seascapes Drive and Wolf Way or dedicating a cul-de-sac at the end of Seascapes Drive may bar future subdivision of the adjoining lots to the north. The owners of the lots to the north may not want to subdivide/further subdivide their lots now but not extending Seascapes Drive or permanently ending it with a cul-de-sac will remove that option for future considerations.

Connecting Wolf Way with Seascapes Drive will create a loop access for the neighborhood. Based on terrain constraints, easements for side slopes or non-conventional (reinforced earth, Keystone) methods may be required to construct the future extension of Seascapes Drive. Based on KPB GIS contour information, staff feels a 20-foot wide finished surface Category I road can be conventionally constructed to the west boundary of Lot 5 Skyline Drive Subdivision on the north.

### **Surveyor's Findings**

1. Terrain is unsuitable for construction within section line easement.

### **Platting Staff Findings**

2. The plat is within the City of Homer.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. The submittal shows and labels slopes greater than 20 percent.
5. Per the submittal, none of the 33-foot section line easement has slopes greater than 20 percent.
6. Per KPB GIS, the subdivision is not affected by low wet areas.
7. Wolf Way and Seascapes Drive are both open-ended rights-of-way to allow for future extension.
8. A portion of the section line easement is constructed and in use.
9. Per the Homer City staff report, city water and sewer are not available to the subject subdivision.
10. KPB GIS mapping indicates city utility lines serve the subdivision to the south.
11. Once lots are served by city utilities, lot sizes may be reduced in accordance with size requirements of city utility-served lots per the zoning district.
12. Fee right-of-way frontage on the southern boundary of the deed parcel to the northwest and Lots 5-7 Skyline Drive Subdivision would allow the owners the option to further subdivide their parcels when city water and/or sewer lines are extended to the area.
13. Homer Advisory Planning Commission conditionally approved the plat on May 21, 2014 with no recommendation for right-of-way extension.
14. Homer Advisory Planning Commission removed staff's recommendation for a 1/4 cul-de-sac at the end of Seascapes Drive.
15. A 33-foot section line easement created by statute affects the northern boundary of the subject plat.
16. KPB records show a 33-foot section line easement created by recording a plat adjoins the 33-foot section line easement within the proposed plat.
17. A power line is within the section line easement created by recording a plat.

Based on Findings 2-12 and 14, staff cannot recommend approval of the exception. **Staff recommends** extension of Seascapes Drive to connect with Wolf Drive per KPB 20.30.030.

If the Committee approves the exception, staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following facts, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat

approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

Exception Requested:

- B. 20.30.170 (block length)

Staff Discussion: The block is generally defined by Seascapes Drive, Wolf Way, section line easement, Linstrang Way and West Hill Road.

**Surveyor's Findings**

1. Terrain is unsuitable for construction within section line easement.

**Platting Staff Findings**

2. The plat is within the City of Homer.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. The submittal shows and labels slopes greater than 20 percent.
5. Per KPB GIS, the subdivision is not affected by low wet areas.
6. The north/south portion of the block meets 20.30.170; the east/west portion of the block is approximately 2,800 feet.
7. To meet the maximum length allowed (1,320 feet), a north/south right-of-way is needed through the subject plat.
8. Per the submittal, the area through which a north/south right-of-way is required would cross slopes exceeding 20 percent.
9. Homer Advisory Planning Commission conditionally approved the plat on May 21, 2014 with no recommendation for right-of-way extension.
10. Extending right-of-way through slopes exceeding 20 percent to meet KPB Code requirements is not an appropriate projection.
11. All lots in the block front two existing and/or constructed rights-of-way.

Staff reviewed the exception request and recommends granting approval. Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following facts, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;  
**Findings 1-11 support this standard.**

2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;  
**Findings 1-11 support this standard.**
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.  
**Findings 1-4, 6, and 8-11 support this standard.**

STAFF RECOMMENDATION: Grant approval of the preliminary plat subject to any above recommendations, and the following conditions and findings:

**REVISE OR ADD TO THE PRELIMINARY PLAT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AS FOLLOWS:**

**20.25.070 - Form and contents required.**

Platting staff comments: The plat complies with the following portions of 20.25.070: B, E-G, J, and M.

Platting staff comments: The following portions of 20.25.070 are not applicable to the subject plat: I and O.

Platting staff comments: Additional information is provided for the following portions of 20.25.070 or additional information, revision or corrections are required

- A. Within the Title Block
  1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
  2. Legal description, location, date, and total area in acres of the proposed subdivision; and
  3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor;

*Platting Staff Comments: Staff recommends Tract A be removed from the plat's name. The parent plat is a boundary survey of Tract A, J.C. Reynolds Property, which is described in the title block.*
- C. The location, width, and name of existing or platted streets and public ways, railroad rights-of-way, and other important features such as section lines or political subdivisions or municipal corporation boundaries abutting the subdivision;  
*Platting Staff Comments: Staff recommends the nominal width of West Hill Road be labeled.*
- D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries, and prominent natural and manmade features, such as shorelines or streams;  
*Platting Staff Comments: Staff recommends the location of the proposed plat be adjusted, for example, the proposed plat does not adjoin the section line.*
- H. Approximate locations of areas subject to inundation, flooding, or storm water overflow, the line of ordinary high water, wetlands when adjacent to lakes or non-tidal streams, and the appropriate study which identifies a floodplain, if applicable;  
*Platting Staff Comments: Per KPB GIS, the subdivision is not affected by low wet areas. Homer City staff report says wetlands not noted.*  
  
*The submittal shows the plat is affected by drainage. Plat Note 8 puts the public on notice about contacting the Corps of Engineers prior to development.*
- K. Within the limits of incorporated cities, the approximate location of known existing municipal wastewater and water mains, and other utilities within the subdivision and immediately abutting

thereto or a statement from the city indicating which services are currently in place and available to each lot in the subdivision;  
*Platting Staff Comments: Per the Homer City staff report, city water and sewer lines do not extend to the proposed plat.*

- L. Contours at suitable intervals when any roads are to be dedicated unless the planning director or commission finds evidence that road grades will not exceed 6 percent on arterial streets, and 10 percent on other streets;  
*Platting Staff Comments: A map with 4-foot contours per KPB GIS mapping is in the plat file.*
- N. Apparent encroachments, with a statement indicating how the encroachments will be resolved prior to final plat approval; and  
*Platting Staff Comments: Per the submittal, a retaining wall encroaches into the 33-foot section line easement. Per KPB 20.90.010, a low retaining wall is a permanent structure. Staff recommends the surveyor/owner provide a statement indicating how the encroachment will be resolved.*

**20.25.080. Petition required. A petition shall be submitted with each subdivision, abbreviated subdivision and plat waiver subdivision and shall include:**

*Platting staff comments: The submittal complies with 20.25.080 (A, B, D, and E).*

*Platting staff comments: The following portion of 20.25.080 is not applicable to the subject plat: C*

#### **KPB 20.30 Design Requirements**

Platting staff comments: The plat complies with the following portions of 20.30: 20.30.050, 20.30.150, 20.30.200, 20.30.210, 20.30.220, and 20.30.250.

Platting staff comments: The following portions of 20.30 are not applicable to the subject plat: 20.30.020, 20.30.040, 20.30.130, 20.30.140, 20.30.240, 20.30.260, and 20.30.290.

Platting staff comments: Additional information is provided for the following portions of 20.30 or additional information, revision or corrections are required

20.30.030. Proposed street layout-Requirements.

- C. Preliminary plats fronting state maintained roads will be submitted by the planning department to the State of Alaska Department of Transportation and Public Facilities (DOT) for its review and comments.

*Platting Staff Comments: The State Department of Transportation asked that Sheet 2 HM 94-48 be referenced on the plat for their right-of-way. Staff recommends compliance with DOT's request.*

**Staff recommends** the following note be placed on the final plat: Place a note on the plat: "No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation."

20.30.060. Easements-Requirements.

*Platting Staff Comments: The affected utility providers were mailed the subdivision plat public hearing notice as part of the routine notification process. Staff recommends compliance with 20.30.060.*

20.30.070. Lots on major streets-Access requirements.

*Platting Staff Comments: Notice of the proposed subdivision was sent to the KPB Roads Department as part of the routine agency notification process. Rights-of-way fronting the subdivision are either State or City of Homer.*

20.30.080. Alleys. Alleys are prohibited unless allowed by city ordinance.

*Platting Staff Comments: Homer Advisory Planning Commission did not recommend alleys.*

20.30.090. Streets-Maximum grades allowed.

*Platting Staff Comments: Four-foot contour maps are in the plat file.*

20.30.100. Cul-de-sacs.

*Platting Staff Comments: Homer Advisory Planning Commission voted to remove Homer City staff's recommendation to dedicate a 1/4 cul-de-sac at the end of Seascapes Drive. KPB platting staff concurs with the Homer Commission's decision not to dedicate a cul-de-sac.*

*If Committee decides to extend right-of-way only to the end of the existing constructed travel way and not to extend Seascapes Drive to connect with Wolf Way at this time, staff would recommend a turnaround area granted by separate document if extra room is needed by emergency service providers.*

20.30.110. Half streets.

- A. Half streets shall generally not be allowed except where one of the following circumstances applies:
1. The street is identified on the borough road plan as an arterial;
  2. The street is a logical extension of an existing street; or
  3. The remaining half street can reasonably be expected to be dedicated.

*Platting Staff Comments: Parcels to the north range in size from 1.4 to 2.26 acres. Only the 2-acre parcel could be further subdivided at this time. KPB GIS mapping shows city water and sewer serve the subdivision to the south. When city water and/or sewer is extended to the subject area, the parcels could be further subdivided and matching right-of-way can be obtained.*

- B. When a design change required as a condition of preliminary approval results in a half right-of-way that was not shown on the original preliminary plat, adjoining to the new half right-of-way are parties of record and will be sent a copy of the plat committee minutes and a sketch showing the new half right-of-way. Pursuant to KPB 2.40.080 review of the plat committee decision by the planning commission may be requested by parties of record.

***Platting Staff Comments: If the Committee decides to extend Seascapes Drive to Wolf Way, the owners of the four parcels to the north need to receive the revised plat, meeting minutes, and be notified that they are parties of record in conjunction with this platting action.***

20.30.120. Streets-Width requirements.

*Platting Staff Comments: Parcels to the north range in size from 1.4 to 2.26 acres. Only the 2-acre parcel could be further subdivided at this time. KPB GIS mapping shows city water and sewer serve the subdivision to the south. Once city water or sewer is extended to the subject area, the parcels could be further subdivided and matching right-of-way obtained.*

*A 33-foot section line easement created by statute affects the subject plat. KPB records show a 33-foot section line easement created by recording a plat affects the parcels to the north.*

*Additional right-of-way or easement(s) may be required in the future.*

20.30.160. Streets-Name requirements. Streets shall be named to conform to KPB Chapter 14.10

*Platting Staff Comments: Connection of Seascapes Drive and Wolf Way will require one of the right-of-way names to be changed.*

20.30.180. Pedestrian ways required when.

*Platting Staff Comments: Homer Advisory Planning Commission did not recommend pedestrian ways.*

20.30.190. Lots-Dimensions.

*Platting Staff Comments: Tract A complies with the 3:1 depth to width ratio based on right-of-way frontage.*

20.30.230. Lots-Double frontage prohibited when. Double frontage lots with depths less than 250 feet will not be approved except where necessitated by topographic or other physical conditions, or to provide reverse frontage along arterial streets. Corner lots are not subject to the double frontage prohibition.

*Platting Staff Comments: Lot 1 fronts West Hill Road and a section line easement. The size and design of Lot 1 are dictated by the parent tract. No redesign of Lot 1 will make the western portion longer than 184.42 feet. **Staff recommends** the Committee concur that the double frontage is acceptable for Lot 1 based on other physical conditions.*

20.30.270. Different standards in cities.

*Platting Staff Comments: Homer Advisory Planning Commission did not recommend different standards.*

20.30.280. Floodplain requirements.

*Platting Staff Comments: The River Center review states subject parcel(s) lie within the City of Homer, therefore, development must comply with Homer City Code – Chapter 21.41 Flood Prone Areas. The Homer Planning Department should be consulted for an official floodplain determination. Per KPB GIS mapping, no anadromous streams flow through the subdivision.*

#### **KPB 20.40 -- Wastewater Disposal**

*Platting Staff Comments: **Staff recommends** compliance with 20.40. The City of Homer Staff Report PL 14-45 stated, "City water and sewer are not available at this time."*

#### **ADDITIONAL REQUIREMENTS FOR ADMINISTRATIVE APPROVAL OF THE FINAL PLAT (KPB 20.60)**

Platting staff comments: The plat complies with the following portions of 20.60: 20.60.110, 20.60.130, and 20.60.140.

Platting staff comments: The following portions of 20.60 are not applicable to the subject plat: 20.60.040, 20.60.060, 20.60.090, and 20.60.100.

Platting staff comments: Additional information is provided for the following portions of 20.60 or additional information, revision or corrections are required

20.60.010. Preparation requirements generally.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.010.*

20.60.020. Filing-Form and number of copies required.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.020.*

20.60.030. Certificate of borough finance department required.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.030.*

20.60.050. Dedication and construction of anadromous waterbody crossings.

*Platting Staff Comments: KPB GIS mapping and the Homer City staff report note no low wet areas. Two culverts serve the drainage shown on the plat.*

20.60.070. Plat specifications.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.070.*

20.60.080. Improvements-Installation agreement required.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.080.*

20.60.120. Accuracy of measurements. Boundary and lot closure computations must be submitted with the final plat.

*Platting Staff Comments: KPB GIS will verify closure complies with 20.60.120. **Staff recommends** compliance with 20.60.120.*

20.60.150. Utility easements.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.150.*

20.60.160. Easements.

*Platting Staff Comments: Staff recommends compliance with 20.60.160.*

20.60.170. Other data required by law.

*Platting Staff Comments: Staff recommends compliance with 20.60.170.*

20.60.180. Plat notes.

*Platting Staff Comments: Additional plat notes may be required based on easements/covenants in the final Certificate to Plat.*

20.60.190. Certificates, statements, and signatures required.

*Platting Staff Comments: Staff recommends compliance with 20.60.190.*

**Staff recommends** the owners' names match the Certificate to Plat, such as Robert L. Ditton.

*KPB 20.60.190 corrected the Notary's Acknowledgement so it is an acknowledgement instead of a combination of an acknowledgement and a jurat. Staff recommends the Notary's Acknowledgement on the final plat comply with 20.60.190.*

*If the Committee approves staff's recommendation to extend Seascapes Drive, an acceptance statement for the right-of-way by the City of Homer will be needed.*

20.60.200. Survey and monumentation.

*Platting Staff Comments: Staff recommends compliance with 20.60.200; show the controlling monumentation used to determine the east boundary.*

20.60.210. Approval-Authority-Certificate issued when.

*Platting Staff Comments: If the Plat Committee conditionally approves the preliminary plat, staff recommends compliance with 20.60.210.*

20.60.220. Administrative approval.

*Platting Staff Comments: If the Plat Committee conditionally approves the preliminary plat and the final plat conforms to the conditions, staff will issue an administrative approval with notice to the Planning Commission as set forth in 20.60.220.*

*The planning director may refer the final plat to the planning commission when:*

- 1. Major redesign was a condition of preliminary approval by the planning commission or the advisory planning commission of the city in which the subdivision is located;*
- 2. Final approval by the commission was a condition of preliminary approval; or*
- 3. The planning director determines there are other conditions to support referral to the commission.*

KPB 20.70 – Vacation Requirements

*Platting Staff comments: 20.70 is not applicable to the proposed plat.*

**NOTE: REVIEW OF A DECISION OF THE PLAT COMMITTEE MAY BE HEARD BY THE PLANNING COMMISSION ACTING AS PLATTING BOARD BY FILING WRITTEN NOTICE THEREOF WITH THE BOROUGH PLANNING DIRECTOR ON A FORM PROVIDED BY THE BOROUGH PLANNING DEPARTMENT. THE REQUEST FOR REVIEW SHALL BE FILED WITHIN 10 DAYS AFTER NOTIFICATION OF THE DECISION OF THE PLAT COMMITTEE BY PERSONAL SERVICE OR SERVICE BY MAIL.**

**A REQUEST FOR REVIEW MAY BE FILED BY ANY PERSON OR AGENCY THAT PARTICIPATED AT THE PLAT COMMITTEE HEARING EITHER BY WRITTEN OR ORAL PRESENTATION. THE REQUEST MUST HAVE AN ORIGINAL SIGNATURE; FILING ELECTRONICALLY OR BY FACSIMILE IS PROHIBITED. THE REQUEST FOR REVIEW MUST BRIEFLY STATE THE REASON FOR THE REVIEW**

**REQUEST AND APPLICABLE PROVISIONS OF BOROUGH CODE OR OTHER LAW UPON WHICH THE REQUEST FOR REVIEW IS BASED.**

**NOTICE OF THE REVIEW HEARING WILL BE ISSUED BY STAFF TO THE ORIGINAL RECIPIENTS OF THE PLAT COMMITTEE PUBLIC HEARING NOTICE. CASES REVIEWED SHALL BE HEARD DE NOVO BY THE PLANNING COMMISSION ACTING AS THE PLATTING BOARD (KPB 2.40.080).**

END OF STAFF REPORT

Chairman Ruffner opened the meeting for public comment.

1. Kenton Bloom, Seabright Survey + Design

Mr. Bloom referred to the first exception request of KPB 20.30.030, "No dedication of additional right of way" and thought additional information may be helpful. The City looked at it and thought about doing a ¼ dedication of a cul-de-sac and due to terrain constraints, they thought about doing a simple hammerhead turn around within the 66 foot easement that was already there to make use of what was already in place. The Homer Advisory Planning Commission agreed with that.

Mr. Bloom expressed appreciation for the work staff did to determine that a Category 1 road could possibly be built between Seascape and the road to the east. The City's minimum road requirement was 24 feet with a much thicker aggregate of fill that was required in the roadbed. There was not a 20% slope on the grade but it had fairly steep side slopes in the easement plus there was a power line in the middle of the easement. As noted by staff there was only one of those lots that could be conceivably subdivided. He felt it would rapidly become economically unviable with replacing the power line and building the road to city standards.

Mr. Bloom stated that the owners were subdividing the property to sell an acre to their daughter so that she could have a home there. The northwest corner of the parcel has a building site but was fairly limited so they were trying to edge it in there with as little of an impact to the property as possible. A 30 foot dedication would also be encumbered with an additional 20 foot building setback to a road that really has very little if any chance of ever getting built. Normally he was all about connectivity but in this case he thought there couldn't be an expectation that a road of that width could be built within the normal confines of the 66 foot easement nor did he think that it would ever be practical to be built.

Mr. Bloom stated that the City just passed an ordinance saying that if there was a lot that was over an acre in size then a separate dwelling could be placed on the land to rent out or have it inhabited by a family member. It would be entirely feasible to use these lower lots and build a 12 or 16 foot driveway that meanders back to their lot but it wouldn't be precluded with the existing section line easement that remains in place. Other than that possibility, he thought it puts an extraordinary burden on the landowners to try and fit their house on their property after all the proposed dedication and doesn't do a lot of benefit for the adjacent parcels. He was available to answer questions.

Chairman Ruffner asked if there were questions for Mr. Bloom.

Commissioner Foster asked if it was steep at this location. Mr. Bloom replied, yes, with side hills. There are a couple of little perches which is what they are trying to build upon. He stated that it was typical Homer side slopes. Commissioner Foster stated there were concerns of slides in major areas in Homer. He stated that it was not smart geologically to cut a road straight across to Wolf Way which looks like it doesn't have a chance of ever being built. He thought it would have to be built at some point to give access to the lots above Wolf Way. Mr. Bloom replied that those lots already have access off of Reber Rd. He stated that Wolf Way was a relic dedication that happened years ago which was just a formality.

Commissioner Foster asked if the people who live along West Hill had dedicated any part of a right of way on the other side of the section line. Mr. Bloom replied no. He stated they were dealing with a deed parcel with the proposed project. They are dealing with platted parcels that previously passed on dedication on their side.



Commissioner Foster asked if a dedication of a trail would be something his clients would support. Mr. Bloom replied that the section line would remain open. He thought there would be no reason it couldn't be used but thought it would fall into the class of a neighborhood collector into the main Reber trail. There is a value to the section line easement and supported keeping the section line easement in place. A trail could fit into the section line easement.

Commissioner Foster asked staff if the section line easement would be sufficient to be used as a trail to provide connectivity. Mr. Voeller replied that the section line would be sufficient for that.

Mr. Voeller understood that the section line easement would remain in place.

Chairman Ruffner asked if the right of way would overlap the 66 foot section line easement. Mr. Bloom replied that it would overlay the southerly 30 feet. Chairman Ruffner asked if it would still be within the section line easement. Mr. Bloom replied yes, 100%. Chairman Ruffner asked how the right of way further encumbers the property if the section line easement remains in place and the State controls it. Mr. Bloom replied that the City has a 20 foot building setback.

Mr. Bloom stated that the plat that created Seascape Dr to the west also shows a turnaround about 130 feet from the terminus of this road. He pointed that emergency vehicle access was sufficient to serve the subject parcel as the road was now constructed.

There being no further comments or questions, the public hearing continued.

Seeing and hearing no one else wishing to speak, Chairman Ruffner closed the public comment period and opened discussion among the Commission.

**MAIN MOTION:** Commissioner Gross moved, seconded by Commissioner Ecklund to grant approval of the plat as presented by staff.

**AMENDMENT A MOTION:** Commissioner Gross moved, seconded by Commissioner Foster to grant exception to KPB 20.30.030; No dedication of additional right of way; citing the 17 findings.

#### *Findings*

1. Terrain is unsuitable for construction within section line easement.
2. The plat is within the City of Homer.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. The submittal shows and labels slopes greater than 20 percent.
5. Per the submittal, none of the 33-foot section line easement has slopes greater than 20 percent.
6. Per KPB GIS, the subdivision is not affected by low wet areas.
7. Wolf Way and Seascape Drive are both open-ended rights-of-way to allow for future extension.
8. A portion of the section line easement is constructed and in use.
9. Per the Homer City staff report, city water and sewer are not available to the subject subdivision.
10. KPB GIS mapping indicates city utility lines serve the subdivision to the south.
11. Once lots are served by city utilities, lot sizes may be reduced in accordance with size requirements of city utility-served lots per the zoning district.
12. Fee right-of-way frontage on the southern boundary of the deed parcel to the northwest and Lots 5-7 Skyline Drive Subdivision would allow the owners the option to further subdivide their parcels when city water and/or sewer lines are extended to the area.
13. Homer Advisory Planning Commission conditionally approved the plat on May 21, 2014 with no recommendation for right-of-way extension.
14. Homer Advisory Planning Commission removed staff's recommendation for a 1/4 cul-de-sac at the end of Seascape Drive.
15. A 33-foot section line easement created by statute affects the northern boundary of the subject plat.
16. KPB records show a 33-foot section line easement created by recording a plat adjoins the 33-foot section line easement within the proposed plat.

17. A power line is within the section line easement created by recording a plat.

**AMENDMENT A-1 MOTION:** Commissioner Foster moved, seconded by Commissioner Gross to amend Finding 7 to state the following: *“Wolf Way and Seascape Drive are geographically challenging and likely will not ever occur.”*

Commissioner Foster stated that it appears that was the only finding that leaves it open to not be supportive of granting the exception request.

Commissioner Gross clarified that if the exception was granted then there would no dedication of additional right of way required. Chairman Ruffner stated that a yes vote would be granting the exception.

**AMENDMENT A-1 VOTE:** The motion passed by unanimous consent

ECKLUND YES	FOSTER YES	GROSS YES	RUFFNER YES	TAURIAINEN ABSENT	4 YES 1 ABSENT
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Mr. Voeller asked what findings were being cited in support of granting the exception request. Commissioner Foster replied that the motion cited Findings 1-17 with Finding 7 being amended in support of granting the exception request.

Chairman Ruffner asked staff if any of those findings would not support granting the exception request. Mr. Voeller replied that staff felt that Findings 2-12 and 14 did not support granting the exception request. Chairman Ruffner thought the maker of the motion felt that the 17 findings with Finding 7 being amended and the section line easement remaining in place were neutral enough to be in support of granting the exception request for dedication of right of way. Mr. Voeller replied that was true.

Commissioner Ecklund agreed in citing all the findings in support of granting the exception request. Chairman Ruffner asked which findings were cited in support of granting the exception. Ms. Hartley clarified those Findings 1-17 with Finding 7 being amended were cited in support of granting the exception.

**AMENDMENT A VOTE:** The motion passed by unanimous consent

ECKLUND YES	FOSTER YES	GROSS YES	RUFFNER YES	TAURIAINEN ABSENT	4 YES 1 ABSENT
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**AMENDMENT B MOTION:** Commissioner Gross moved, seconded by Commissioner Ecklund to grant exception to KPB 20.30.170, Block Length; citing the 11 findings and tying them to the three standards in the following manner.

Standard 1. That special circumstances or conditions affecting the property have been shown by application.

*Findings*

1. Terrain is unsuitable for construction within section line easement.
2. The plat is within the City of Homer.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. The submittal shows and labels slopes greater than 20 percent.
5. Per KPB GIS, the subdivision is not affected by low wet areas.
6. The north/south portion of the block meets 20.30.170; the east/west portion of the block is approximately 2,800 feet.
7. To meet the maximum length allowed (1,320 feet), a north/south right-of-way is needed through the subject plat.
8. Per the submittal, the area through which a north/south right-of-way is required would cross slopes exceeding 20 percent.

9. Homer Advisory Planning Commission conditionally approved the plat on May 21, 2014 with no recommendation for right-of-way extension.
10. Extending right-of-way through slopes exceeding 20 percent to meet KPB Code requirements is not an appropriate projection.
11. All lots in the block front two existing and/or constructed rights-of-way.

**Standard 2.** That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title.

**Findings**

1. Terrain is unsuitable for construction within section line easement.
2. The plat is within the City of Homer.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. The submittal shows and labels slopes greater than 20 percent.
5. Per KPB GIS, the subdivision is not affected by low wet areas.
6. The north/south portion of the block meets 20.30.170; the east/west portion of the block is approximately 2,800 feet.
7. To meet the maximum length allowed (1,320 feet), a north/south right-of-way is needed through the subject plat.
8. Per the submittal, the area through which a north/south right-of-way is required would cross slopes exceeding 20 percent.
9. Homer Advisory Planning Commission conditionally approved the plat on May 21, 2014 with no recommendation for right-of-way extension.
10. Extending right-of-way through slopes exceeding 20 percent to meet KPB Code requirements is not an appropriate projection.
11. All lots in the block front two existing and/or constructed rights-of-way.

**Standard 3.** That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

**Findings**

1. Terrain is unsuitable for construction within section line easement.
2. The plat is within the City of Homer.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. The submittal shows and labels slopes greater than 20 percent.
6. The north/south portion of the block meets 20.30.170; the east/west portion of the block is approximately 2,800 feet.
8. Per the submittal, the area through which a north/south right-of-way is required would cross slopes exceeding 20 percent.
9. Homer Advisory Planning Commission conditionally approved the plat on May 21, 2014 with no recommendation for right-of-way extension.
10. Extending right-of-way through slopes exceeding 20 percent to meet KPB Code requirements is not an appropriate projection.
11. All lots in the block front two existing and/or constructed rights-of-way.

Commissioner Foster asked if this exception request was necessary since exception to KPB 20.30.030 was granted. Mr. Voeller replied probably not but it wouldn't hurt to pass it through.

**AMENDMENT B VOTE:** The motion passed by unanimous consent

ECKLUND YES	FOSTER YES	GROSS YES	RUFFNER YES	TAURIAINEN ABSENT	4 YES 1 ABSENT
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**MAIN MOTION VOTE:** The motion passed by unanimous consent

ECKLUND YES	FOSTER YES	GROSS YES	RUFFNER YES	TAURIAINEN ABSENT	4 YES 1 ABSENT
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**AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS**

8. Razdolna 2014 Replat Lot 6  
KPB File 2014-076; Mullikin/Basargin

Staff Report given by Patti Hartley

Plat Committee Meeting: 6/23/14

Location: On Basargin Road in Homer within Kachemak Bay APC  
Proposed Use: Residential  
Water/Sewer: On-site  
Zoning: Unrestricted  
Assessing Use: Residential  
Parent Parcel Number(s): 185-460-07

Supporting Information:

The proposed plat subdivides an approximate 11-acre lot into five lots ranging in size from 1 to 3.5 acres. A soils report is required, and an engineer will sign the plat. Lots 6-A and 6-E front KPB maintained Basargin Road. A 60-foot unnamed cul-de-sac provides interior access for the remainder of the lots.

The Certificate to Plat was provided in accordance with KPB 20.25.090. The Certificate to Plat indicates no beneficial interests affect this property. Additional notification will not be required at this time.

Kachemak Bay Advisory Planning Commission is inactive at this time.

A physical address may be affected by the replat. Carrie Henson, Addressing Officer, can answer questions about the effect of the replat on addresses.

**STAFF RECOMMENDATION:** Grant approval of the preliminary plat subject to any above recommendations, and the following conditions and findings:

**REVISE OR ADD TO THE PRELIMINARY PLAT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AS FOLLOWS:**

**20.25.070 - Form and contents required.**

Platting staff comments: The plat complies with the following portions of 20.25.070: B, D, E, G, J, L, and M.

Platting staff comments: The following portions of 20.25.070 are not applicable to the subject plat: I, K, and O.

Platting staff comments: Additional information is provided for the following portions of 20.25.070 or additional information, revision or corrections are required

- A. Within the Title Block
1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
  2. Legal description, location, date, and total area in acres of the proposed subdivision; and
  3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor;



# **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

**PHONE:** (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

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**MIKE NAVARRE**  
**BOROUGH MAYOR**

June 25, 2014

## **NOTICE OF DECISION KENAI PENINSULA BOROUGH PLAT COMMITTEE**

### **MEETING OF JUNE 23, 2014**

**RE:** Harrington Heights 2014 Replat Preliminary Plat

The Plat Committee reviewed and granted conditional approval of the subject preliminary plat during their regularly scheduled meeting of June 23, 2014 based on the findings that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.25; 20.30; and 20.40.

This notice and unapproved minutes of the subject portion of the meeting were sent June 25, 2014 to:

**City of:** City of Homer  
491 East Pioneer Avenue  
Homer, AK 99603

**Advisory Planning Commission/Community Council:** Homer Advisory Planning Commission  
491 East Pioneer Avenue  
Homer, AK 99603

**Survey Firm:** Johnson Surveying  
Box 27  
Clam Gulch, AK 99568

**Subdivider/Petitioner:** Marsha Korpi  
PO Box 1033  
Homer, AK 99603-1033  
  
Kenneth Bergman  
PO Box 726  
Anchor Point, AK 99556-0726

**KPB File Number:** 2014-068





AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

Staff Report given by Patti Hartley

Plat Committee Meeting: 6/23/14

Staff has grouped the plats located under **AGENDA ITEM E (AGENDA ITEM F - FINAL PLATS WILL NEED SEPARATE REVIEW)**. They are grouped as:

- A. **Simple** (lot splits, small number of lots, replats, no exceptions required) or non-controversial (may require redesigns, create larger number of lots, no public comments received, no exceptions required) – 6 Plats
  - 4. Harrington Heights 2014 Replat; KPB File 2014-068 [Johnson / Korpi, Bergman]
  - 5. Sumpter Sub 2014 Replat; KPB File 2014-069 [Integrity / KPB]
  - 6. Kenai Townsite 2014 Addition; KPB File 2014-074 [Integrity / ACS of the Northland]
  - 7. Eastgate Sub McLane Replat; KPB File 2014-070 [McLane / McLane]
  - 10. Swanson River Road Sub Redmond Addn; KPB File 2014-077 [Segesser / Redmond]
  - 11. Johnson Properties Sub; KPB File 2014-078 [Segesser / Johnson]

**Staff recommends** the committee determine whether any members of the public, surveyors or committee members wish to speak to any of the plats in this group and remove the specific plats from the group, voting on the remainder of plats in the group in a single action to grant preliminary approval to the plats subject to staff recommendations and the conditions noted in the individual staff reports.

END OF STAFF REPORT

**VERBAL STAFF REPORT ADDENDUM**

Verbal Staff Report Addendum given by Patti Hartley

Plat Committee Meeting: 6/23/14

Staff recommends that low wet areas be noted on the final plat for Agenda Item 10, Swanson River Road Subdivision Redmond Addition and Agenda Item 11, Johnson Properties Subdivision.

END OF VERBAL STAFF REPORT ADDENDUM

Chairman Ruffner opened the meeting for public comment. Seeing and hearing no one wishing to comment, Chairman Ruffner closed the public hearing and opened discussion among the Committee.

**MOTION:** Commissioner Gross moved, seconded by Commissioner Ecklund to grant approval of the following preliminary plats as presented by staff including the verbal modifications.

- 4. **Harrington Heights 2014 Replat; KPB File 2014-068 [Johnson / Korpi, Bergman]**
- 5. Sumpter Sub 2014 Replat; KPB File 2014-069 [Integrity / KPB]
- 6. Kenai Townsite 2014 Addition; KPB File 2014-074 [Integrity / ACS of the Northland]
- 7. Eastgate Sub McLane Replat; KPB File 2014-070 [McLane / McLane]
- 10. Swanson River Road Sub Redmond Addn; KPB File 2014-077 [Segesser / Redmond]
- 11. Johnson Properties Sub; KPB File 2014-078 [Segesser / Johnson]

**VOTE:** The motion passed by unanimous consent

ECKLUND YES	FOSTER YES	GROSS YES	RUFFNER YES	TAURIAINEN ABSENT	4 YES 1 ABSENT
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AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

- 4. Harrington Heights 2014 Replat  
KPB File 2014-068; Johnson/Korpi, Bergman

STAFF REPORT

Plat Committee Meeting: 6/23/14

Location: City of Homer  
Proposed Use: Residential  
Water/Sewer: City  
Zoning: Urban Residential  
Assessing Use: Residential  
Parent Parcel Number(s): 175-123-06, 175-123-17

Supporting Information:

The proposed subdivision moves the common interior lot line to the east, which increases the size of Lot 3 by approximately 4,000 square feet. City water and sewer serve the subdivision. The subdivision fronts constructed Noview Avenue. Lot 1-A1 also fronts constructed Wright Street.

Homer Advisory Planning Commission approved the plat on April 16, 2014 subject to:

1. Dedicate a 20-foot curb radius on Lot 1-A1.  
*Borough staff comments: The radius was provided on the plat submitted for KPB review. For clarity, staff recommends the radius being dedicated be labeled on the final plat.*
2. Dedicate a 30-foot wide drainage easement centered on the drainage.  
*Borough staff comments: Per Plat Note 5, the proposed plat grants a 20-foot drainage easement centered on the creek. Per KPB 20.60.190, staff recommends an acceptance statement to be signed by a City of Homer official be placed on the final plat for the drainage easement.*
3. List all owners for both lots on the plat.  
*Borough staff comments: Staff recommends all owners per the final Certificate to Plat be included under the Certificate of Ownership and Dedication per KPB 20.60.190.*

The beneficial interest holder was notified of the replat per KPB 20.25.090. The beneficial interest holder requires their signature on the final plat.

Physical addresses may be affected by the replat. Homer Planning and Zoning Department can answer questions about the effect of the replat on addresses.

STAFF RECOMMENDATION: Grant approval of the preliminary plat subject to any above recommendations, and the following conditions and findings:

**REVISE OR ADD TO THE PRELIMINARY PLAT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AS FOLLOWS:**

**20.25.070 - Form and contents required.**

Platting staff comments: The plat complies with the following portions of 20.25.070: B-F, H, J, K, and M.

Platting staff comments: The following portions of 20.25.070 are not applicable to the subject plat: I, N, and O.

Platting staff comments: Additional information is provided for the following portions of 20.25.070 or additional information, revision or corrections are required

- A. Within the Title Block



*Platting Staff Comments: Per the Certificate to Plat, the subdivision has two owners. All owners per the final Certificate to Plat will be listed under the Certificate of Ownership and Dedication per KPB 20.60.190.*

- G. Status of adjacent lands, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

*Platting Staff Comments: Staff recommends the status label to the west be corrected: Lot 4A*

- L. Contours at suitable intervals when any roads are to be dedicated unless the planning director or commission finds evidence that road grades will not exceed 6 percent on arterial streets, and 10 percent on other streets;

*Platting Staff Comments: 4-foot contours have been provided.*

**20.25.080. Petition required. A petition shall be submitted with each subdivision, abbreviated subdivision and plat waiver subdivision and shall include:**

*Platting staff comments:* *The submittal complies with 20.25.080 (A, B, and E).*

*Platting staff comments:* *The following portion of 20.25.080 is not applicable to the subject plat: C*

*Platting staff comments:* *Additional information is provided for the following portions of 20.12.070 or additional information, revision or corrections are required:*

- D. Name, address and signature of the subdivider for the purpose of processing the plat. This may be the state, the borough, a public utility, or the owners of a majority of the land within the subdivision. The entity submitting the petition may designate on the petition a surveyor or other agent to act on their behalf for submittals and presentations. All official contact by the commission and staff concerning the plat shall be with the entity signing the petition and their designee;

*Platting Staff Comments: All owners per the Certificate to Plat signed the plat submittal form.*

**KPB 20.30 Design Requirements**

*Platting staff comments:* *The plat complies with the following portions of 20.30: 20.30.050, 20.30.090, 20.30.120, 20.30.150, 20.30.170, 20.30.190, 20.30.200, 20.30.210, 20.30.220, and 20.30.250.*

*Platting staff comments:* *The following portions of 20.30 are not applicable to the subject plat: 20.30.020, 20.30.100, 20.30.110, 20.30.140, 20.30.240, and 20.30.260.*

*Platting staff comments:* *Additional information is provided for the following portions of 20.30 or additional information, revision or corrections are required*

20.30.030. Proposed street layout-Requirements.

*Platting Staff Comments: The subdivision fronts City of Homer rights-of-way.*

*Notice of the proposed subdivision was mailed to DOT as part of the routine agency notification process.*

20.30.040. Streets within 100 feet of waterbodies.

*Platting Staff Comments: Noview Avenue was dedicated as a 60-foot wide unnamed right-of-way by Harrington Heights Subdivision in 1964, prior to enactment of KPB's subdivision code.*

*The parent plat (HM 2002-66) and subdivision to the north (HM 2002-65) show the creek that flows through the subject subdivision crosses Noview Avenue. Google Earth imagery shows the creek (drainage) crossing beneath the right-of-way.*

20.30.060. Easements-Requirements.

*Platting Staff Comments: The affected utility providers were mailed the subdivision plat public hearing notice as part of the route notification process. **Staff recommends** compliance with 20.30.060.*

20.30.070. Lots on major streets-Access requirements.

*Platting Staff Comments: Noview Avenue and Wright Street are City of Homer rights-of-way.*

*Notice of the proposed subdivision was sent to the KPB Roads Department as part of the routine agency notification process.*

20.30.080. Alleys. Alleys are prohibited unless allowed by city ordinance.

*Platting Staff Comments: Homer Planning and Zoning Commission did not recommend alleys.*

20.30.130. Streets-Curve requirements.

*Platting Staff Comments: The proposed plat is dedicating a 20-foot radius at the intersection of Noview Avenue and Wright Street.*

20.30.160. Streets-Name requirements. Streets shall be named to conform to KPB Chapter 14.10

*Platting Staff Comments: Right-of-way being dedicated by this platting action will assume the existing street name.*

20.30.180. Pedestrian ways required when.

*Platting Staff Comments: Homer Planning and Zoning Commission did not recommend pedestrian ways.*

20.30.230. Lots-Double frontage prohibited when.

*Platting Staff Comments: Lot 1-A1 is a corner lot so it is not subject to 20.30.230.*

20.30.270. Different standards in cities.

*Platting Staff Comments: Homer Planning and Zoning Commission did not recommend application of different standards.*

20.30.280. Floodplain requirements.

*Platting Staff Comments: The River Center review stated that the City of Homer administers the floodplain program through HCC 21.41 Flood Prone Areas. Per the Homer City staff report, the plat is within Zone D, flood hazard undetermined.*

20.30.290. Anadromous habitat protection district.

*Platting Staff Comments: The River Center review for stated the proposed plat is not affected by the Anadromous Stream Habitat Protection District.*

*Per KPB GIS mapping, the creek that flows through the subdivision is not anadromous.*

#### **KPB 20.40 -- Wastewater Disposal**

*Platting Staff Comments: **Staff recommends** the wastewater disposal note per KPB 20.40.070 be placed on the final plat.*

#### **ADDITIONAL REQUIREMENTS FOR ADMINISTRATIVE APPROVAL OF THE FINAL PLAT (KPB 20.60)**

Platting staff comments: The plat complies with the following portions of 20.60: 20.60.110, and 20.60.130.

Platting staff comments: The following portions of 20.60 are not applicable to the subject plat: 20.60.040, 20.60.090, and 20.60.100.

Platting staff comments: Additional information is provided for the following portions of 20.60 or additional information, revision or corrections are required

20.60.010. Preparation requirements generally.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.010.*

20.60.020. Filing-Form and number of copies required.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.020.*

20.60.030. Certificate of borough finance department required.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.030.*

20.60.050. Dedication and construction of anadromous waterbody crossings.

*Platting Staff Comments: The parent plat and plat to the north indicate the unnamed creek that flows through the subdivision crosses Noview Avenue. Noview Avenue was dedicated in 1964, which was prior to enactment of the KPB subdivision code.*

20.60.060. Dedications within 100 feet of waterbodies.

*Platting Staff Comments: The parent plat and plat to the north indicate the unnamed creek that flows through the subdivision crosses Noview Avenue. Noview Avenue was dedicated in 1964, which was prior to enactment of the KPB subdivision code.*

20.60.070. Plat specifications.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.070.*

20.60.080. Improvements-Installation agreement required.

*Platting Staff Comments: **Staff recommends** compliance with KPB 20.60.080.*

20.60.120. Accuracy of measurements. Boundary and lot closure computations must be submitted with the final plat.

*Platting Staff Comments: KPB GIS will verify closure complies with 20.60.120. **Staff recommends** compliance with 20.60.120.*

20.60.140. Block and lot numbering.

*Platting Staff Comments: **Staff recommends** Block 3 be labeled on the face of the plat.*

20.60.150. Utility easements.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.150.*

20.60.160. Easements.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.160.*

20.60.170. Other data required by law.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.170.*

20.60.180. Plat notes.

*Platting Staff Comments: **Staff recommends** the following note be carried forward from the parent plat:*

*No construction shall take place within the drainage identified on the Homer Wetlands Maps as "R4SB" that would impede the water flow without prior approval of the City of Homer Public Works Department.*

*Additional plat notes may be required based on easements/covenants in the final Certificate to Plat.*

20.60.190. Certificates, statements, and signatures required.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.190.*

20.60.200. Survey and monumentation.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.200*

20.60.210. Approval-Authority-Certificate issued when.

*Platting Staff Comments:* If the Plat Committee conditionally approves the preliminary plat, staff recommends compliance with 20.60.210.

20.60.220. Administrative approval.

*Platting Staff Comments:* If the Plat Committee conditionally approves the preliminary plat and the final plat conforms to the conditions, staff will issue an administrative approval with notice to the Planning Commission as set forth in 20.60.220.

*The planning director may refer the final plat to the planning commission when:*

1. Major redesign was a condition of preliminary approval by the planning commission or the advisory planning commission of the city in which the subdivision is located;
2. Final approval by the commission was a condition of preliminary approval; or
3. The planning director determines there are other conditions to support referral to the commission.

KPB 20.70 – Vacation Requirements

*Platting Staff comments:* 20.70 is not applicable to the proposed plat.

**NOTE: REVIEW OF A DECISION OF THE PLAT COMMITTEE MAY BE HEARD BY THE PLANNING COMMISSION ACTING AS PLATTING BOARD BY FILING WRITTEN NOTICE THEREOF WITH THE BOROUGH PLANNING DIRECTOR ON A FORM PROVIDED BY THE BOROUGH PLANNING DEPARTMENT. THE REQUEST FOR REVIEW SHALL BE FILED WITHIN 10 DAYS AFTER NOTIFICATION OF THE DECISION OF THE PLAT COMMITTEE BY PERSONAL SERVICE OR SERVICE BY MAIL.**

**A REQUEST FOR REVIEW MAY BE FILED BY ANY PERSON OR AGENCY THAT PARTICIPATED AT THE PLAT COMMITTEE HEARING EITHER BY WRITTEN OR ORAL PRESENTATION. THE REQUEST MUST HAVE AN ORIGINAL SIGNATURE; FILING ELECTRONICALLY OR BY FACSIMILE IS PROHIBITED. THE REQUEST FOR REVIEW MUST BRIEFLY STATE THE REASON FOR THE REVIEW REQUEST AND APPLICABLE PROVISIONS OF BOROUGH CODE OR OTHER LAW UPON WHICH THE REQUEST FOR REVIEW IS BASED.**

**NOTICE OF THE REVIEW HEARING WILL BE ISSUED BY STAFF TO THE ORIGINAL RECIPIENTS OF THE PLAT COMMITTEE PUBLIC HEARING NOTICE. CASES REVIEWED SHALL BE HEARD DE NOVO BY THE PLANNING COMMISSION ACTING AS THE PLATTING BOARD (KPB 2.40.080).**

END OF STAFF REPORT

NDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

5. Sumpter Subdivision 2014 Replat  
KPB File 2014-069; Integrity/KPB

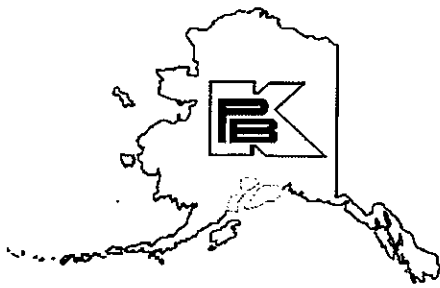
STAFF REPORT

Plat Committee Meeting: 6/23/2014

Location: On Sterling Highway & Elva Street in Sterling  
Proposed Use: Residential, Commercial  
Water/Sewer: On-site  
Zoning: Unrestricted  
Assessing Use: Vacant  
Parent Parcel Number(s): 063-064-05, 063-064-06

Supporting Information:

The proposed subdivision is a simple replat of two small lots into one lot containing approximately 41,000 square feet. Per KPB 20.40.020, a soils report is not required. The plat fronts the Sterling Highway and platted Elva Street.



# **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

**PHONE:** (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

[www.borough.kenai.ak.us](http://www.borough.kenai.ak.us)

**MIKE NAVARRE**  
**BOROUGH MAYOR**

June 25, 2014

## **NOTICE OF DECISION KENAI PENINSULA BOROUGH PLAT COMMITTEE**

### **MEETING OF JUNE 23, 2014**

**RE:** Barnett Subdivision Quiet Creek Addition 2014 Preliminary Plat

The Plat Committee reviewed and granted conditional approval of the subject preliminary plat during their regularly scheduled meeting of June 23, 2014 based on the findings that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.25; 20.30; and 20.40.

An amendment motion passed by unanimous consent to grant exception to KPB 20.30.240, Removal of the 20 foot building setback note per HM 77-21 and HM 78-99 based on the following findings of fact.

#### *Findings*

1. The subdivision is within the City of Homer.
2. Plat Note 2 on HM 77-61 states there is a twenty-foot building setback from all front lot lines. Plat Note 2 on HM 78-99 states there is a twenty-foot (20') building setback from all dedicated rights-of-way.
3. HM 77-61 and HM 78-99 are parent plats of the proposed subdivision.
4. KPB Ordinance 80-4, Amending the Subdivision Ordinance to Clarify Building Setback Requirements in the Area of the Borough within the Boundaries of a First-Class City, was enacted on February 19, 1980.
5. Ordinance 83-25, enacted on May 3, 1983, delegated zoning regulations to the City of Homer.
6. The parent plats were recorded prior to zoning regulations being delegated from KPB to the City of Homer.

This notice and unapproved minutes of the subject portion of the meeting were sent June 25, 2014 to:

**City of:** City of Homer  
491 East Pioneer Avenue  
Homer, AK 99603

**Advisory Planning Commission/Community Council:** Homer Advisory Planning Commission  
491 East Pioneer Avenue  
Homer, AK 99603

**Survey Firm:** Ability Surveys  
152 Dehel Ave  
Homer, AK 99603



**Subdivider/Petitioner:** Quiet Creek Community Association, Inc.  
PO Box 1623  
Homer, AK 99603

Alaska USA Federal Credit Union  
4000 Credit Union Dr.  
Anchorage, AK 99503-6636

**KPB File Number:** 2014-075

AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

2. Barnett Subdivision Quiet Creek Addn. 2014  
KPB File 2014-075; Ability/Quiet Creek Community Association, Inc.

Staff Report given by Patti Hartley

Plat Committee Meeting: 6/23/14

Location: City of Homer  
Proposed Use: Residential  
Water/Sewer: City  
Zoning: Rural Residential  
Assessing Use: Condominium  
Parent Parcel Number(s): 177-010-82

Supporting Information:

**February 13, 2012**

The Plat Committee reviewed the preliminary plat that subdivided Tract A into two tracts containing approximately 7 and 10 acres. An exception to extending right-of-way to the parcel to the west was denied. The Committee granted conditional preliminary approval.

Thirteen requests for the Planning Commission to review the preliminary plat approval were received after the Plat Committee's notice of decision was distributed.

**April 23, 2012**

The Planning Commission listened to extensive public testimony and reviewed the Plat Committee's decision. After lengthy discussion, the Commission decided to return the plat to the surveyor for modification to determine the owners of the majority of land that was subject to the replat petition.

The preliminary plat with the requested information has not been received to date. Preliminary plat approval expired in 2013.

**June 2, 2014**

A preliminary plat that subdivides Tract A into two tracts containing approximately 1.5 and 15 acres was submitted for Plat Committee review. The subdivision design is different from the 2012 proposed plat and was submitted by a different survey firm.

A Certificate to Plat stating the property is owned by Quiet Creek Community Association, Inc. was provided per KPB 20.25.080. The president of the corporation signed the plat submittal form.

Prior to scheduling the preliminary plat for public hearing, the City of Homer Public Works Director met with the Platting Officer (KPB 20.25.010) to discuss the subdivision design and access for the parcel to the west. The Public Works Director provided a centerline profile demonstrating said parcel can be constructed to city road standards and accessed from Shellfish Avenue.

Aerial photography with a slope overlay showing the parcel the west is subject to slopes ranging from 10 to more than 30 percent was also provided.

The preliminary plat was scheduled for the next available Plat Committee meeting.

**June 23, 2014**

The Public Works Department has been working with the owners regarding this platting action. Per the Homer City Public Works Director, the purpose of the plat is to create a lot (Lot A2) for a future city water tank. A conditional use permit to be issued by the city will be required for the storage tank.

Homer Advisory Planning Commission approved the proposed plat on May 7, 2014.

The Certificate to Plat was provided in accordance with KPB 20.25.090. The Certificate to Plat indicates no beneficial interests affect this property. Additional notification will not be required at this time.

A physical address may be affected by the replat. Homer Planning and Zoning Department can answer questions about the effect of the replat on addresses.

**Staff recommends** that notes be placed on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

Exception Requested:

A. KPB 20.30.240 – Removal of 20-foot building setback note per HM 77-61 and HM 78-99

Plat Note 2 on HM 77-61 states there is a twenty-foot building setback from all front lot lines. Plat Note 2 on HM 78-99 states there is a twenty-foot (20') building setback from all dedicated rights-of-way. Both plats are parent plats of the proposed subdivision. HM 2003-56 did not carry forward the 20-foot building setback note; however, inadvertently omitting a plat note does not remove the encumbrance from the property.

KPB Ordinance 80-4, Amending the Subdivision Ordinance to Clarify Building Setback Requirements in the Area of the Borough within the Boundaries of a First-Class City, was enacted on February 19, 1980. Ordinance 83-25 delegated zoning regulations to the City of Homer three years later.

The proposed plat is subject to the requirements of the zoning district. Removal of the 20-foot building setback from the plat, basically a housekeeping measure, will allow the building setback to conform to current city codes as well as create the flexibility of changing if the building setback in the zoning district changes.

**Findings**

1. The subdivision is within the City of Homer.
2. Plat Note 2 on HM 77-61 states there is a twenty-foot building setback from all front lot lines. Plat Note 2 on HM 78-99 states there is a twenty-foot (20') building setback from all dedicated rights-of-way.
3. HM 77-61 and HM 78-99 are parent plats of the proposed subdivision.
4. KPB Ordinance 80-4, Amending the Subdivision Ordinance to Clarify Building Setback Requirements in the Area of the Borough within the Boundaries of a First-Class City, was enacted on February 19, 1980.
5. Ordinance 83-25, enacted on May 3, 1983, delegated zoning regulations to the City of Homer.
6. The parent plats were recorded prior to zoning regulations being delegated from KPB to the City of Homer.
7. Building setbacks within the subdivision must comply with the requirements of the zoning district per KPB 20.30.250
8. Removing the 20-foot building setback from the plat will allow the building setback to conform to current city codes as well as create the flexibility of changing if the building setback in the zoning district changes.
9. Plat Note 2 states the subdivision is subject to the City of Homer zoning regulations.

Staff reviewed the exception request and recommends granting approval. Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following facts, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the



requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;  
**Findings 1-9 support this standard.**
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;  
**Findings 1-9 support this standard.**
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.  
**Findings 1-9 support this standard.**

STAFF RECOMMENDATION: Grant approval of the preliminary plat subject to any above recommendations, and the following conditions and findings:

**REVISE OR ADD TO THE PRELIMINARY PLAT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AS FOLLOWS:**

**20.25.070 - Form and contents required.**

Platting staff comments: The plat complies with the following portions of 20.25.070: A-E, H, K, and M.

Platting staff comments: The following portions of 20.25.070 are not applicable to the subject plat: I, L, N, and O.

Platting staff comments: Additional information is provided for the following portions of 20.25.070 or additional information, revision or corrections are required

- F. The names and widths of public streets and alleys and easements, existing and proposed, within the subdivision;  
*Platting Staff Comments: Staff recommends the second 10-foot drainage easement centered on the drainage along the western boundary of the plat be carried forward from the parent plat.*
- G. Status of adjacent lands, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;  
*Platting Staff Comments: Staff recommends the status labels to the west (Lot 2) and to the northwest (Lot 2A-1B) be corrected.*
- J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;  
*Platting Staff Comments: To be consistent with the parent plat, staff recommends the parcel designations remain Tract.*

**20.25.080. Petition required. A petition shall be submitted with each subdivision, abbreviated subdivision and plat waiver subdivision and shall include:**

Platting staff comments: The submittal complies with 20.25.080 (A & B).

Platting staff comments: The following portion of 20.25.080 is not applicable to the subject plat: C

Platting staff comments: Additional information is provided for the following portions of 20.12.070 or additional information, revision or corrections are required:

- D. Name, address and signature of the subdivider for the purpose of processing the plat. This may be the state, the borough, a public utility, or the owners of a majority of the land within the subdivision. The entity submitting the petition may designate on the petition a surveyor or other agent to act on their behalf for submittals and presentations. All official contact by the commission and staff concerning the plat shall be with the entity signing the petition and their designee;  
*Platting Staff Comments: Per the Certificate to Plat, the property is owned by Quiet Creek Community Association, Inc. The president of Quiet Creek Community Association, Inc. signed the plat submittal form.*
- E. A certificate to plat current to not more than 28 business days prior to submittal, issued by a title company authorized to issue title policies in the State of Alaska, which shall be considered as prima facie evidence of all parties having an interest in the land being subdivided. An updated certificate to plat in compliance with KPB 20.60.190(A)(2) will be required for the final plat.  
*Platting Staff Comments: The Certificate to Plat states Quiet Creek Community Association, Inc. owns the subject property. KPB records show Alaska USA Federal Credit Union owns the property. Ownership of property to be subdivided is determined by a Certificate to Plat. The State of Alaska corporation database confirms Harlow Lockwood is the president of the corporation. Notice of the proposed plat was mailed to the Alaska USA Federal Credit Union.*
- F. Other information the subdivider may care to present.  
*Platting Staff Comments: The City of Homer Public Works Department submitted a centerline profile of a possible roadway accessing Lot 2 Barnett Subdivision No. 2 from Shellfish Avenue; aerial photography of said parcel to the west that labels slopes ranging from 10 to more than 30 percent, and a written statement confirming said roadway can be constructed to city road standards.*

### **KPB 20.30 Design Requirements**

Platting staff comments: The plat complies with the following portions of 20.30: 20.30.050, 20.30.120, 20.30.130, 20.30.190, 20.30.200, 20.30.210, and 20.30.220.

Platting staff comments: The following portions of 20.30 are not applicable to the subject plat: 20.30.020, 20.30.090, 20.30.100, 20.30.110, 20.30.140, 20.30.150, 20.30.160, 20.30.230, and 20.30.260.

Platting staff comments: Additional information is provided for the following portions of 20.30 or additional information, revision or corrections are required

20.30.030. Proposed street layout-Requirements.

*Platting Staff Comments: Notice of the proposed subdivision was mailed to DOT as part of the routine agency notification process. Shellfish Avenue and South Slope Drive are city rights-of-way.*

*During the review for the previous preliminary plat, staff recommended right-of-way be extended to the parcel to the west. Extending Quiet Creek Drive seemed logical since it was paved and already extended across most of Tract A. An exception to extending right-of-way (20.20.030) was denied.*

*The Homer Public Works Department provided slope information for the parcel to the west. The area of the parcel to the west adjoining the location where Quiet Creek Drive would extend has slopes exceeding 30 percent. Per the aerial with the slope information for the parcel to the west, the only area that has slopes with a 10 percent grade is so close to Shellfish Avenue that extending right-of-way from the subject parcel would bring the block even further out of compliance (too short in this case).*

*Extending right-of-way along the northern boundary of Lot A1 to the parcel to the west is not practical because of slopes exceeding 20 percent.*

*Based on the slope information available at this time, the only practical right-of-way for the parcel to the west is the existing 60-foot wide Shellfish Avenue.*

20.30.040. Streets within 100 feet of waterbodies. No dedications are allowed within 100 feet of the ordinary high water line of a waterbody unless necessary for access to a lot where no reasonable alternative access exists or the dedication provides access to a bridge or public facility, waterbody or watercourse. Final plats must comply with KPB 20.60.050 and 20.60.060.

*Platting Staff Comments: Shellfish Avenue through which a drainage channel crosses is not constructed at this time. Construction through any wet area may require permit(s) from the Corps of Engineers. Plat Note 4 puts the public on notice about the possibility of having to obtain wetland determination(s) and/or permits.*

20.30.060. Easements-Requirements.

*Platting Staff Comments: The affected utility providers were mailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** compliance with 20.30.060.*

20.30.070. Lots on major streets-Access requirements.

*Platting Staff Comments: Notice of the proposed subdivision was sent to the KPB Roads Department as part of the routine agency notification process. Both Shellfish Avenue and South Slope Drive are city rights-of-way.*

20.30.080. Alleys. Alleys are prohibited unless allowed by city ordinance.

*Platting Staff Comments: Homer Planning and Zoning Commission did not recommend alleys.*

20.30.170. Blocks-Length requirements.

*Platting Staff Comments: The block is longer than allowed by 20.30.170; however, the block may never comply with KPB Code due to extreme terrain.*

*Imagery shows a travel way extends north of the existing Anderson Street and nicely aligns with the right-of-way. Extension of Anderson Street would bring the block closer to compliance with KPB Code. However, KPB 4-foot contours and contours provided by the Homer Public Works Department indicate the existing travel way will probably not be extended much further. The nearby short cul-de-sacs, flag lots, and serpentine design of East Hill Road are indicative of the general area's steep terrain.*

*On paper, extension of the travel way named Quiet Creek Drive would bring the block closer to compliance with the code; however, the western end of the drive would abut slopes ranging from 20 to more than 30 percent. Extending right-of-way to an adjacent parcel with slopes exceeding 20 percent is not an appropriate or practical projection; and Quiet Creek Drive is a private roadway.*

*Slopes along the northern boundary of Lot A1 exceed 20 percent so right-of-way in this area is not practical.*

*The 66-foot section line easement to the north was vacated, which brought the block even further out of compliance with block length.*

*The only portion of the parcel to the west that has slopes less than 10 percent is so close to Shellfish Avenue that extending right-of-way within the subject plat would create a block that is too short.*

*Based on KPB GIS contours and the contour information provided by the Homer Public Works Director, the proposed plat cannot provide a practical option to address block length. **Staff recommends** the Committee concur that an exception to 20.30.170 is not required in this case.*

20.30.180. Pedestrian ways required when.

*Platting Staff Comments: Homer Advisory Planning Commission did not recommend pedestrian ways.*

20.30.250. Building setbacks-Within cities. The building setback requirements for subdivisions located within cities shall be governed by the provisions of municipal zoning districts.

*Platting Staff Comments: The plat will come into compliance with 20.30.250 upon approval of the exception to remove the 20-foot building setback note that was put into place by two parent plats.*

20.30.270. Different standards in cities.

*Platting Staff Comments: Homer Advisory Planning Commission did not recommend application of different standards.*

20.30.280. Floodplain requirements.

*Platting Staff Comments: The River Center review states subject parcel(s) lie within the City of Homer, therefore, development must comply with Homer City Code – Chapter 21.41 Flood Prone Areas. The Homer Planning Department should be consulted for an official floodplain determination.*

*The City of Homer administers the floodplain program through HCC 21.41 Flood Prone Areas. The plat is within Zone D, flood hazards undetermined.*

20.30.290. Anadromous habitat protection district.

*Platting Staff Comments: The River Center review states the subdivision is not affected by the Anadromous Stream Habitat Protection District.*

*Per KPB GIS mapping, no anadromous streams flow through the subdivision.*

#### **KPB 20.40 – Wastewater Disposal**

*Platting Staff Comments: Per the submittal and the Homer City staff report, A2 is not served by city water or sewer. **Staff recommends** compliance with 20.40 and a soils report be provided.*

#### **ADDITIONAL REQUIREMENTS FOR ADMINISTRATIVE APPROVAL OF THE FINAL PLAT (KPB 20.60)**

Platting staff comments: The plat complies with the following portions of 20.60: 20.60.130 and 20.60.140.

Platting staff comments: The following portions of 20.60 are not applicable to the subject plat: 20.60.040, 20.60.050, 20.60.060, 20.60.090, and 20.60.100.

Platting staff comments: Additional information is provided for the following portions of 20.60 or additional information, revision or corrections are required

20.60.010. Preparation requirements generally.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.010.*

20.60.020. Filing-Form and number of copies required.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.020.*

20.60.030. Certificate of borough finance department required.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.030.*

20.60.070. Plat specifications.

*Platting Staff Comments: **Staff recommends** compliance with 20.60.070.*

20.60.080. Improvements-Installation agreement required.

*Platting Staff Comments: Per Homer City staff report PL 14-40, an installation agreement is not required.*

20.60.110. Dimensional data required.

*Platting Staff Comments: The curve data for the eastern boundary of A1 are missing. The surveyor alerted staff that the distance on the western boundary of A2 should be 180.00' instead of 120.00'.*

**Staff recommends** compliance with 20.60.110.

20.60.120. Accuracy of measurements. Boundary and lot closure computations must be submitted with the final plat.

*Platting Staff Comments:* KPB GIS will verify closure complies with 20.60.120. **Staff recommends compliance with 20.60.120.**

20.60.150. Utility easements.

*Platting Staff Comments:* **Staff recommends compliance with 20.60.150.**

20.60.160. Easements.

*Platting Staff Comments:* **Staff recommends compliance with 20.60.160.**

20.60.170. Other data required by law.

*Platting Staff Comments:* Per the Certificate to Plat the recording information for some covenants and amendments to the covenants are missing. **Staff recommends** the recording information for all private restrictive covenants and amendments to the covenants be noted on the final plat.

**Staff recommends compliance with 20.60.170.**

*The borough will not enforce private covenants, easements, or deed restrictions per KPB 21.44.080.*

20.60.180. Plat notes.

*Platting Staff Comments:* Additional plat notes may be required based on easements/covenants in the final Certificate to Plat.

*If Quiet Creek Drive is a private drive, **staff suggests** the following note be placed on the final plat to avoid possible confusion about public use: Quiet Creek Drive is for use of owners only and is not granted/dedicated to public use.*

20.60.190. Certificates, statements, and signatures required.

*Platting Staff Comments:* **Staff recommends compliance with 20.60.190.**

**Staff recommends** an acceptance statement be placed on the final plat for the drainage easements.

*Per the Certificate to Plat, a corporation owns the property. **Staff recommends** the final plat be signed and acknowledged by an individual(s) under written authority granted by its board of directors or shown by official documentation appropriate to the entity. **Staff recommends** documentation of such authority, such as a corporate resolution, be submitted with the final plat.*

*KPB 20.60.190 corrected the Notary's Acknowledgement so it is an acknowledgement instead of a combination of an acknowledgement and a jurat. **Staff recommends** the Notary's Acknowledgement on the final plat comply with 20.60.190.*

20.60.200. Survey and monumentation.

*Platting Staff Comments:* **Staff recommends compliance with 20.60.200.**

20.60.210. Approval-Authority-Certificate issued when.

*Platting Staff Comments:* If the Plat Committee conditionally approves the preliminary plat, staff recommends compliance with 20.60.210.

20.60.220. Administrative approval.

*Platting Staff Comments:* If the Plat Committee conditionally approves the preliminary plat and the final plat conforms to the conditions, staff will issue an administrative approval with notice to the Planning Commission as set forth in 20.60.220.

*The planning director may refer the final plat to the planning commission when:*

1. Major redesign was a condition of preliminary approval by the planning commission or the advisory planning commission of the city in which the subdivision is located;
2. Final approval by the commission was a condition of preliminary approval; or
3. The planning director determines there are other conditions to support referral to the commission.

KPB 20.70 – Vacation Requirements

Platting Staff comments: 20.70 is not applicable to the proposed plat.

**NOTE: REVIEW OF A DECISION OF THE PLAT COMMITTEE MAY BE HEARD BY THE PLANNING COMMISSION ACTING AS PLATTING BOARD BY FILING WRITTEN NOTICE THEREOF WITH THE BOROUGH PLANNING DIRECTOR ON A FORM PROVIDED BY THE BOROUGH PLANNING DEPARTMENT. THE REQUEST FOR REVIEW SHALL BE FILED WITHIN 10 DAYS AFTER NOTIFICATION OF THE DECISION OF THE PLAT COMMITTEE BY PERSONAL SERVICE OR SERVICE BY MAIL.**

**A REQUEST FOR REVIEW MAY BE FILED BY ANY PERSON OR AGENCY THAT PARTICIPATED AT THE PLAT COMMITTEE HEARING EITHER BY WRITTEN OR ORAL PRESENTATION. THE REQUEST MUST HAVE AN ORIGINAL SIGNATURE; FILING ELECTRONICALLY OR BY FACSIMILE IS PROHIBITED. THE REQUEST FOR REVIEW MUST BRIEFLY STATE THE REASON FOR THE REVIEW REQUEST AND APPLICABLE PROVISIONS OF BOROUGH CODE OR OTHER LAW UPON WHICH THE REQUEST FOR REVIEW IS BASED.**

**NOTICE OF THE REVIEW HEARING WILL BE ISSUED BY STAFF TO THE ORIGINAL RECIPIENTS OF THE PLAT COMMITTEE PUBLIC HEARING NOTICE. CASES REVIEWED SHALL BE HEARD DE NOVO BY THE PLANNING COMMISSION ACTING AS THE PLATTING BOARD (KPB 2.40.080).**

END OF STAFF REPORT

Chairman Ruffner opened the meeting for public comment.

1. Gary Nelson, Ability Surveys  
Mr. Nelson was the project surveyor and was available to answer questions.

Seeing and hearing no one else wishing to speak, Chairman Ruffner closed the public comment period and opened discussion among the Commission.

**MAIN MOTION:** Commissioner Foster moved, seconded by Commissioner Gross to grant preliminary approval of Barnett Subdivision Quiet Creek Addition 2014 with staff recommendations.

**AMENDMENT MOTION:** Commissioner Gross moved, seconded by Commissioner Gross to grant exception to KPB 20.30.240; Removal of 20-foot building setback note per HM 77-61 and HM 78-99; citing the 9 findings and tying them to the three standards.

*Findings*

1. The subdivision is within the City of Homer.
2. Plat Note 2 on HM 77-61 states there is a twenty-foot building setback from all front lot lines. Plat Note 2 on HM 78-99 states there is a twenty-foot (20') building setback from all dedicated rights-of-way.
3. HM 77-61 and HM 78-99 are parent plats of the proposed subdivision.
4. KPB Ordinance 80-4, Amending the Subdivision Ordinance to Clarify Building Setback Requirements in the Area of the Borough within the Boundaries of a First-Class City, was enacted on February 19, 1980.
5. Ordinance 83-25, enacted on May 3, 1983, delegated zoning regulations to the City of Homer.
6. The parent plats were recorded prior to zoning regulations being delegated from KPB to the City of Homer.

7. Building setbacks within the subdivision must comply with the requirements of the zoning district per KPB 20.30.250
8. Removing the 20-foot building setback from the plat will allow the building setback to conform to current city codes as well as create the flexibility of changing if the building setback in the zoning district changes.
9. Plat Note 2 states the subdivision is subject to the City of Homer zoning regulations.

**AMENDMENT VOTE:** The motion passed by unanimous consent

ECKLUND YES	FOSTER YES	GROSS YES	RUFFNER YES	TAURIAINEN ABSENT	4 YES 1 ABSENT
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**MAIN MOTION VOTE:** The motion passed by unanimous consent

ECKLUND YES	FOSTER YES	GROSS YES	RUFFNER YES	TAURIAINEN ABSENT	4 YES 1 ABSENT
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**AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS**

3. Ditton 2014 Replat Tract A  
KPB File 2014-079; Seabright/Ditton

Staff Report given by Patti Hartley

Plat Committee Meeting: 6/23/14

Location: City of Homer  
 Proposed Use: Residential  
 Water/Sewer: On-site  
 Zoning: Rural Residential  
 Assessing Use: Residential  
 Parent Parcel Number(s): 175-030-08

Supporting Information:

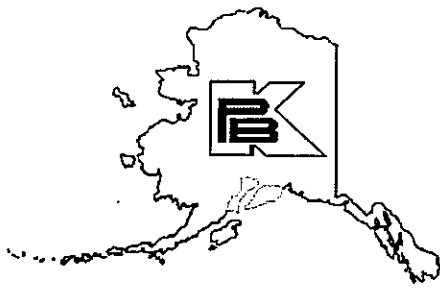
The proposed plat subdivides an approximate 5-acre lot into a 1.4 acre lot and 4-acre tract. The subdivision is not served by city water or sewer so a soils report is required, and an engineer will sign the plat. The subdivision fronts State maintained West Hill Road and a section line easement.

Homer Advisory Planning Commission approved the plat on May 21, subject to:

1. Add name and address of property owner(s) in title block.  
*Borough Staff Comments: Based on 20.25.070, staff recommends compliance with the Homer Commission's recommendation.*
2. Depict City boundaries in vicinity map.  
*Borough Staff Comments: Homer City Limits are depicted on the plat submitted for KPB review.*
3. Display and label areas in excess of 20% grade on the plat.  
*Borough Staff Comments: A second submittal showing slopes exceeding 20 percent was included in the preliminary plat submittal packet.*
4. Remove last sentence of Note #5, "which would interfere with the ability of the utility to use the easement."  
*Borough Staff Comments: This phrase is required by KPB 20.60.150. Staff recommends this part of the plat note remain on the plat.*







# **KENAI PENINSULA BOROUGH**

## **PLANNING DEPARTMENT**

144 North Binkley Street • Soldotna, Alaska 99669-7520

**PHONE:** (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

[www.borough.kenai.ak.us](http://www.borough.kenai.ak.us)

**MIKE NAVARRE**  
**BOROUGH MAYOR**

June 26, 2014

## **KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF DECISION**

### **MEETING OF JUNE 23, 2014**

**RE:** Vacate the 15-foot pedestrian and utility easement along the southwest property line of Lot 23 granted by Homer Spit No. Five (Plat HM 93-12); all located within Section 36, Township 6 South, Range 13 West, Seward Meridian, Alaska; Location: the City of Homer, Alaska and within the Kenai Peninsula Borough; KPB File 2014-066; KPBPC Resolution No. 2014-11

The Kenai Peninsula Borough Planning Commission granted conditional approval of the proposed Pedestrian Easement Vacation during their regularly scheduled meeting of June 23, 2013 based on the following findings of fact and conditions.

#### *Pedestrian Easement Vacation Findings*

1. Sufficient access exists to serve the surrounding properties.
2. No surrounding properties will be denied access.
3. The proposed vacation is in conjunction with construction of a new harbormaster office.
4. Per the submittal, the City of Homer will construct a boardwalk along the edge of the harbormaster building to connect to the harbor trail that is under construction.
5. Per the submittal, superior public access will be created by the construction of the boardwalk.
6. A sketch of the proposed vacation and alternate pedestrian access has been provided.
7. No statements of objection have been received.
8. Homer Advisory Planning Commission recommended approval of the proposed vacation on May 7, 2014.

#### *Conditions*

1. Sketch of the proposed pedestrian easement vacation is to be filed with Planning Commission Resolution 2014-11.
2. Concurrence of the Homer City Council.
3. KPB Planning Commission Resolution 2014-11 will be filed with the Homer District Recorder after written concurrence of the proposed vacation from the Homer City Council is received.
4. The Planning Department is responsible for filing KPBPC Resolution 2014-11 with the Homer District Recorder.
5. The petitioner is responsible to provide the recording fee for KPBPC Resolution 2014-11 to the Planning Department.

The Kenai Peninsula Borough Planning Commission granted conditional approval of the proposed Utility Easement Vacation during their regularly scheduled meeting of June 23, 2013 based on the following findings of fact and conditions.

#### *Utility Easement Vacation Findings*

1. Four affected utility companies have provided written non-objection to the vacation.
2. Homer Advisory Planning Commission approved the proposed vacation on May 7, 2014.
3. Per the submittal, the City of Homer will grant new utility easements to meet the needs of the utility companies.

4. Per the submittal, equal access will be provided by the new easements.
5. The proposed vacation is outside the KPB Roads Department's jurisdiction.
6. No surrounding properties will be denied utilities.
7. The proposed vacation is in conjunction with construction of a new harbormaster office.
8. A sketch of the proposed vacation has been provided.
9. No letters of objection have been received.
10. If the proposed vacation is approved, it will be finalized by filing KPBPC Resolution 2014-11 with the Homer District Recorder.

*Conditions*

1. Filing the sketch of the proposed vacation with KPBPC Resolution 2014-11.
2. KPB Planning Commission Resolution 2014-11 will be filed with the Homer District Recorder after written concurrence of the proposed vacation from the Homer City Council is received.
3. The Planning Department is responsible for filing KPBPC Resolution 2014-11 with the Homer District Recorder.
4. The petitioner is responsible to provide the recording fee for KPBPC Resolution 2014-11 to the Planning Department.

In accordance with AS 29.40.140, no vacation of a city right-of-way and/or easement may be made without the consent of the city council. The proposed vacation has been forwarded to the Homer City Council. The City Council has 30 days from June 23, 2013 in which to veto the decision of the Planning Commission. If no veto is received from the Council within the 30-day period, the decision of the Commission will stand.

Please contact the Homer City Office to verify the date the subject vacation will be reviewed by the Council.

This notice and unapproved minutes of the subject portion of the meeting were sent June 26, 2013 to:

Homer City Council  
491 East Pioneer Avenue  
Homer, AK 99603-7645

Homer Advisory Planning Commission  
491 East Pioneer Avenue  
Homer, AK 99603-7645

City of Homer  
491 East Pioneer Avenue  
Homer, AK 99603-7645

Ability Surveys  
152 Dehel Ave  
Homer, AK 99603

AGENDA ITEM F. PUBLIC HEARINGS

2. Vacate the 15-foot pedestrian and utility easement along the southwest property line of Lot 23 granted by Homer Spit No. Five (Plat HM 93-12); all located within Section 36, Township 6 South, Range 13 West, Seward Meridian, Alaska; Location: the City of Homer, Alaska and within the Kenai Peninsula Borough; KPB File 2014-066; KPBPC Resolution No. 2014-11

Staff Report given by Max Best

PC Meeting: 6/23/2014

Staff discussion

Two different but inter-related actions have been combined into the staff report and Planning Commission resolution. The actions are interdependent, and the justifications support both actions. Staff has separated findings, recommendations, and the appeal process into two separate categories to reflect the differences.

**Staff recommends** the Commission take separate action on the pedestrian easement vacation and the utility easement vacation.

**A. PEDESTRIAN EASEMENT VACATION**

Purpose as stated in petition: Various City of Homer staff members and commissions have selected the building site for the new Harbormaster building to be built over the existing pedestrian and utility easements which will provide enhanced viewing of Homer's Small Boat Harbor. To mitigate the pedestrian easement vacation, the pedestrian traffic is to be routed around the front of the building

Petitioner: Walt Wrede, City Manager for the City of Homer

Notification:

Public notice appeared in the June 12 issue of the Homer News and June 19, 2014 issues of the Peninsula Clarion, Homer News, and Seward Journal.

Three certified mailings were sent to owners of property within 300 feet of the parcels. All receipts have been returned. Fifteen notices of the public hearing were sent by regular mail to owners within 600 feet of the proposed vacation.

Thirteen notices were mailed to agencies and interested parties. Five notices were sent to KPB Departments. Notices were mailed to the Homer Community Library and Homer Post Office to be posted in public locations. The notice and maps were posted on the Borough web site and bulletin board.

Homer Advisory Planning Commission approved the proposed pedestrian easement vacation on May 7, 2014.

Staff Discussion: If the Planning Commission and Homer City Council approve the proposed pedestrian easement vacation, it will be finalized by recording KPB Planning Commission Resolution 2014-11

**Findings:**

1. Sufficient access exists to serve the surrounding properties.
2. No surrounding properties will be denied access.
3. The proposed vacation is in conjunction with construction of a new harbormaster office.
4. Per the submittal, the City of Homer will construct a boardwalk along the edge of the harbormaster building to connect to the harbor trail that is under construction.
5. Per the submittal, superior public access will be created by the construction of the boardwalk.
6. A sketch of the proposed vacation and alternate pedestrian access has been provided.
7. No statements of objection have been received.
8. Homer Advisory Planning Commission recommended approval of the proposed vacation on May 7, 2014.

STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the vacation as petitioned, subject to:

1. Sketch of the proposed pedestrian easement vacation is to be filed with Planning Commission Resolution 2014-11.
2. Concurrence of the Homer City Council.
3. KPB Planning Commission Resolution 2014-11 will be filed with the Homer District Recorder after written concurrence of the proposed vacation from the Homer City Council is received.
4. The Planning Department is responsible for filing KPBPC Resolution 2014-11 with the Homer District Recorder.
5. The petitioner is responsible to provide the recording fee for KPBPC Resolution 2014-11 to the Planning Department.

**If the vacation is approved, the Homer City Council has thirty days in which they may veto Planning Commission approval of the vacation.**

**DENIAL OF A VACATION PETITION IS A FINAL ACT FOR WHICH NO FURTHER CONSIDERATION SHALL BE GIVEN BY THE KENAI PENINSULA BOROUGH. APPEALS TO PLANNING COMMISSION DENIAL OF A VACATION MUST BE TAKEN WITHIN THIRTY (30) DAYS TO SUPERIOR COURT AT KENAI, ALASKA PURSUANT TO PART VI OF THE ALASKA RULES OF APPELLATE PROCEDURES. [20.28.110 AS AMENDED BY KENAI PENINSULA BOROUGH ORDINANCE 99-43].**

END OF PEDESTRIAN EASEMENT VACATION STAFF REPORT

**B. UTILITY EASEMENT VACATION**

Purpose as stated in petition: Various City of Homer staff members and commissions have selected the building site for the new Harbormaster building to be built over the existing pedestrian and utility easements which will provide enhanced viewing of Homer's Small Boat Harbor. Existing utilities will be routed around the back and side of the building with new dedicated utility easements.

Petitioner: Walt Wrede, City Manager for the City of Homer

Notification:

Public notice appeared in the June 12 issue of the Homer News and June 19, 2014 issues of the Peninsula Clarion, Homer News, and Seward Journal.

Three certified mailings were sent to owners of property within 300 feet of the parcels. All receipts have been returned. Fifteen notices of the public hearing were sent by regular mail to owners within 600 feet of the proposed vacation.

Thirteen notices were mailed to agencies and interested parties. Five notices were sent to KPB Departments. Notices were mailed to the Homer Community Library and Homer Post Office to be posted in public locations. The notice and maps were posted on the Borough web site and bulletin board.

Staff Discussion:

Notice of the proposed vacation was provided to the KPB Roads Department as part of the routine agency notification. The proposed vacation is within the City of Homer so it is outside KPB Roads Department jurisdiction.

Homer Advisory Planning Commission approved the proposed vacation on May 7, 2014.

Statement(s) of non-objection

Alaska Communications Systems  
Enstar Natural Gas

**Findings:**

1. Four affected utility companies have provided written non-objection to the vacation.
2. Homer Advisory Planning Commission approved the proposed vacation on May 7, 2014.
3. Per the submittal, the City of Homer will grant new utility easements to meet the needs of the utility companies.
4. Per the submittal, equal access will be provided by the new easements.
5. The proposed vacation is outside the KPB Roads Department's jurisdiction.
6. No surrounding properties will be denied utilities.
7. The proposed vacation is in conjunction with construction of a new harbormaster office.
8. A sketch of the proposed vacation has been provided.
9. No letters of objection have been received.
10. If the proposed vacation is approved, it will be finalized by filing KPBPC Resolution 2014-11 with the Homer District Recorder.

**STAFF RECOMMENDATION:** Based upon the above findings, **staff recommends** granting the proposed utility easement vacation as petitioned subject to:

1. Filing the sketch of the proposed vacation with KPBPC Resolution 2014-11.
2. KPB Planning Commission Resolution 2014-11 will be filed with the Homer District Recorder after written concurrence of the proposed vacation from the Homer City Council is received.
3. The Planning Department is responsible for filing KPBPC Resolution 2014-11 with the Homer District Recorder.
4. The petitioner is responsible to provide the recording fee for KPBPC Resolution 2014-11 to the Planning Department.

**DENIAL OF A VACATION PETITION IS A FINAL ACT FOR WHICH NO FURTHER CONSIDERATION SHALL BE GIVEN BY THE KENAI PENINSULA BOROUGH. APPEALS TO PLANNING COMMISSION DENIAL OF A VACATION MUST BE TAKEN WITHIN THIRTY (30) DAYS TO SUPERIOR COURT AT KENAI, ALASKA PURSUANT TO PART VI OF THE ALASKA RULES OF APPELLATE PROCEDURES. [20.28.110 AS AMENDED BY KENAI PENINSULA BOROUGH ORDINANCE 99-43].**

**END OF UTILITY EASEMENT VACATION STAFF REPORT**

Vice Chairman Martin opened the meeting for public comment but noted no members of the public were present. Vice Chairman Martin closed the public comment period and opened discussion among the Commission.

**MOTION:** Commissioner Foster moved, seconded by Commissioner Gross to approve the vacation of the 15-foot pedestrian easement citing the 8 findings and staff recommendations.

*Pedestrian Easement Vacation Findings*

1. Sufficient access exists to serve the surrounding properties.
2. No surrounding properties will be denied access.
3. The proposed vacation is in conjunction with construction of a new harbormaster office.
4. Per the submittal, the City of Homer will construct a boardwalk along the edge of the harbormaster building to connect to the harbor trail that is under construction.
5. Per the submittal, superior public access will be created by the construction of the boardwalk.
6. A sketch of the proposed vacation and alternate pedestrian access has been provided.
7. No statements of objection have been received.
8. Homer Advisory Planning Commission recommended approval of the proposed vacation on May 7, 2014.

Commissioner Ecklund asked if the pedestrian easement was facing the water. Mr. Best clarified that the utilities will go around the back which is away from the harbor. The pedestrian pathway will be in the front

which towards the ocean.

**VOTE:** The motion passed by unanimous consent.

BRYSON ABSENT	CARLUCCIO YES	COLLINS YES	ECKLUND YES	FOSTER YES	GROSS YES	HOLSTEN YES
ISHAM YES	LOCKWOOD NO	MARTIN YES	RUFFNER YES	TAURIAINEN YES	WHITNEY YES	12 YES 1 ABSENT

**MOTION:** Commissioner Whitney moved, seconded by Commissioner Collins to grant the utility easement vacation citing the 10 findings and subject to staff recommendations.

*Utility Easement Vacation Findings*

1. Four affected utility companies have provided written non-objection to the vacation.
2. Homer Advisory Planning Commission approved the proposed vacation on May 7, 2014.
3. Per the submittal, the City of Homer will grant new utility easements to meet the needs of the utility companies.
4. Per the submittal, equal access will be provided by the new easements.
5. The proposed vacation is outside the KPB Roads Department's jurisdiction.
6. No surrounding properties will be denied utilities.
7. The proposed vacation is in conjunction with construction of a new harbormaster office.
8. A sketch of the proposed vacation has been provided.
9. No letters of objection have been received.
10. If the proposed vacation is approved, it will be finalized by filing KPBPC Resolution 2014-11 with the Homer District Recorder.

**VOTE:** The motion passed by unanimous consent.

BRYSON ABSENT	CARLUCCIO YES	COLLINS YES	ECKLUND YES	FOSTER YES	GROSS YES	HOLSTEN YES
ISHAM YES	LOCKWOOD NO	MARTIN YES	RUFFNER YES	TAURIAINEN YES	WHITNEY YES	12 YES 1 ABSENT

**AGENDA ITEM F. PUBLIC HEARINGS**

3. Vacate a portion of the curved right-of-way of Appaloosa Lane along the northeast corner of Tract B-1 with a 60-foot right of way to remain in place as dedicated by Barkman Subdivision (Plat KN 2002-86), and vacate any associated utility easement; within Section 18, Township 5 North, Range 9West, Seward Meridian, Alaska and within the Kenai Peninsula Borough; KPB File 2014-067

Staff Report given by Max Best

PC Meeting: 6/23/14

Purpose as stated in petition: Barkman Subdivision dedicated an excessive amount of right of way where Appaloosa Lane meets Tract B. This ROW vacation will remove portion of the large curved area. A full 60' ROW dedication will remain allowing access to the east and creating a more perpendicular intersection. By removing a portion of this large curved ROW it will allow better use of the land for a potential home site.

Petitioners: James D and Karla Barkman of Soldotna, Alaska.

Notification:

Public notice appeared in the June 12 issue of the Peninsula Clarion and June 19, 2014 issues of the Peninsula Clarion, Homer News, and Seward Journal.

Four certified mailings were sent to owners of property within 300 feet of the proposed vacation. All receipts have been returned. Three notices were sent to owners within 600 feet of the proposed vacation.

Fifteen regular mailings were sent to agencies and interested parties. Five notices were sent to KPB Departments. Notices were mailed to the Soldotna Post Office and Soldotna Community Library to be posted



## **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

**PHONE:** (907) 714-2200 • **FAX:** (907) 714-2378

*Toll-free within the Borough: 1-800-478-4441, Ext. 2200*

[www.borough.kenai.ak.us](http://www.borough.kenai.ak.us)

**MIKE NAVARRE**  
**BOROUGH MAYOR**

June 26, 2014

Homer City Council  
491 East Pioneer Avenue  
Homer, AK 99603-7645

**RE:** Vacate the 15-foot pedestrian and utility easement along the southwest property line of Lot 23 granted by Homer Spit No. Five (Plat HM 93-12); all located within Section 36, Township 6 South, Range 13 West, Seward Meridian, Alaska; Location: the City of Homer, Alaska and within the Kenai Peninsula Borough; KPB File 2014-066; KPBPC Resolution No. 2014-11

Dear Homer City Council Members:

In accordance with AS 29.40.140, no vacation of a city right-of-way and/or easement may be made without the consent of the city council. The KPB Planning Commission approved the referenced vacation during their regularly scheduled meeting of June 23, 2014. This petition is being sent to you for your consideration and action.

The City Council has 30 days from June 23, 2014 in which to veto the decision of the Planning Commission. If no veto is received from the Council within the 30-day period, the decision of the Planning Commission will stand.

Attached are draft, unapproved minutes of the pertinent portion of the meeting and other related material.

Sincerely,

Max J. Best  
Planning Director

MJB:pdh

Attachments

