

REGULAR MEETING AGENDA

- 1. Call to Order**
- 2. Approval of Agenda**
- 3. Public Comment**

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

 - A.** Approval of minutes of February 1, 2017 **p. 1**
 - B.** Staff Report PL 17-18, Greatland Street Extension **p. 7**
- 6. Presentations**
 - A.** Captain Christi of Salvation Army Church to speak about Temporary Cold Weather Shelters for the Homeless
- 7. Reports**
 - A.** Staff Report PL 17-15, City Planner's Report **p. 25**
- 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.** Report PL 17-16, Hearing Officer for Appeals to Homer Advisory Planning Commission Decisions **p. 27**
- 9. Plat Consideration**
 - A.** Staff Report PL 17-14, Lloyd Race 2016 Preliminary Plat **p. 45**
- 10. Pending Business**
- 11. New Business**
 - A.** Staff Report PL 17-17, Temporary Cold Weather Shelter for the Homeless **p. 61**
 - B.** Staff Report PL 17-13, Auto sales in Marine Industrial District **p. 81**
- 12. Informational Materials**
 - A.** Letter from Nina Faust regarding vehicle use on Bishop's Beach **p. 93**
- 13. Comments of the Audience**

Members of the audience may address the Commission on any subject. (3 min limit)
- 14. Comments of Staff**
- 15. Comments of the Commission**
- 16. Adjournment**

The next regular meeting is scheduled for March 1, 2017. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.

Session 17-03, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Stead at 6:30 p.m. on February 1, 2017 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS ABRAHAMSON, BOS, STEAD, VENUTI

ABSENT: ARNOLD, BRADLEY, HIGHLAND

STAFF: CITY PLANNER ABBODD
PUBLIC WORKS DIRECTOR MEYER
DEPUTY CITY CLERK JACOBSEN

Approval of Agenda

Chair Stead asked for a motion to approve the agenda.

VENUTI/BOS SO MOVED

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

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).

None

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 Minutes of January 18, 2017
- B. Decisions and Findings for CUP 2017-01 to build 7 single-family rental cabins at 2080 Shannon Ln.
- C. Staff Report PL 17-09, Hickerson Memorial Cemetery Expansion

Chair Stead called for a motion to adopt the consent agenda.

VENUTI/BOS SO MOVED

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Presentations

Reports

A. Staff Report PL 17-10, City Planner's Report

City Planner Abboud reviewed his staff report in the packet.

The group discussed temporary housing for homeless people, particularly the need for transitional housing, getting an estimate of the number of homeless, determining what support organizations there are such as the Food Pantry, Haven House, and Salvation Army, and connecting with KPHI to see where the gaps are for transitional housing in the community.

Commissioner Abrahamson agreed to attend the February 27th City Council meeting.

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.

Plat Consideration

Pending Business

A. Staff Report PL 17-11, Revision of HAWSP Manual

City Planner Abboud reviewed the staff report and reviewed the manual.

There was brief discussion regarding codifying conservation easement exemptions and circumstances where that could apply. Public Works Director Meyer participated in the discussion on double fronted properties.

Suggestions for the HAWSP Manual included:

1. Special Provisions being broken up into two parts, Policy Provisions and include provisions 1, 2, 4 and 5 and Exemption Provisions and include 3, 4, and 6.
2. Eliminate reference to case-by-case basis in number 6 and define what basis we have for including an exemption.
3. Improve the term spaghetti line and provide a clear definition of what it is.

B. Staff Report PL 17-12, Revision of HART Fund Manual

City Planner Abboud reviewed the staff report. The Commission discussed the questions in the staff report with the City Planner and Public Works Director. Commission suggestions are bulleted below.

1A. *If the Commission finds this too restrictive, please comment to staff.*

“E. Sidewalks. To use HART funds, projects must be mapped as either sidewalks, paved shoulders or separated pathways, or directly serve the special populations discussed in sections 3.1 and 3.2 of the HNMTP. Effort will be made to find grants or non-city funding sources to match city construction funds, whenever possible.”

- The language as presented is not too restrictive.
- When the HNMTP is reviewed, review this section again.

1B: *Sidewalk funding: Does the Commission want to recommend a dollar amount that benefitted properties would pay? Is it worth the effort? The Commission discussed that property owners should contribute to sidewalks. This raises a conundrum. Let’s say the City caps the property owner cost of a sidewalk at \$1,500. If there is a SAD and the property owners vote against it due to cost, does that mean we won’t build a sidewalk? Recall we’re only building them in the places prioritized in the HNMTP, near schools, downtown, etc. These sidewalks are paid for by the larger community through sales tax, and the sidewalk routes benefit the larger community to some degree. Additionally, the SAD process is very time consuming and somewhat costly for the City. I think the cost sharing should be decided on an individual project basis. Commission thoughts? Is there a dollar amount you think the city should assess when a sidewalk is constructed?*

- Not in support of a capped fee.
- Cost share that is decided on an individual project basis, depending on grant availability benefits to the general citizenry, etc.

2. Additional Policy Considerations; comments to the City Council

a. *Debt Service Ratio. Consider eliminating this provision for HART. Currently, all HART projects are paid for by the fund balance – the City is not borrowing money for these projects. Additionally, this program ends in 10 years, unless extended by the voters. So it doesn’t make sense to go in to debt for a project when the City has a fund balance to pay cash, and the repayment mechanism is going to expire. There should not be any debt service!*

2a Recommendation: *Eliminate the 1.25 debt service ratio in HART.*

- Eliminate the debt service ratio for HART, especially since the program ends in 10 years.

b. *If the HART fund goes back to the voters (to contribute to the general fund), consider revising the purpose of the program and better define when HART funds are used for capital projects (big maintenance projects). Also, consider eliminating the sunset provision.*

2b Recommendation: *Consider better defining HART to include major capital projects, and eliminating the sunset provision.*

No specific comments or recommendations were expressed.

3. Recommended code changes

a. *Staff recommends codifying the exemptions for conservation parcels. Are the parcels still part of the district, but the city pays the full assessment? Or does the rest of the SAD pay more because there is a conservation parcel (reduces the number of properties paying for the improvement)?*

3a: *Recommend codifying conservation easement exemptions and project payment mechanism*

The Commission had lengthy discussion about conservation easement exemptions and made no recommendation.

b. 3b: *Request legal review of 17.04.180(a) – is it still valid and current regulation? (Pertains to lots with double frontage).*

- There was agreement with requesting a legal review.

New Business

Informational Materials

A. City Manager’s Report dates January 23, 2017

Comments of the Audience

None

Comments of Staff

None

Comments of the Commission

Commissioner Venuti said it was an interesting meeting and it was unfortunate the others were gone tonight. The storm water pollution and prevention refresher class is coming up on the 9th.

Commissioner Bos said it was a good meeting and this isn’t his favorite stuff to work on as a commissioner. He looked at the cemetery information in the packet and liked but likes the questions in the laydown item and answers provided by Public Works.

Commissioner Abrahamson commented it’s nice to be back. She mentioned the Woodard Creek Watershed plan is in it’s final stages. There should be a final draft and presentation to the Commission.

Chair Stead said it was a worthwhile meeting with nice discussion.

Adjourn

There being no further business to come before the Commission, the meeting adjourned at 8:20 p.m. The next regular meeting is scheduled for February 15, 2017 at 6:30 p.m. in the City Hall Cowles Council Chambers. A worksession will be held at 5:30 p.m.

MELISSA JACOBSEN, MMC, DEPUTY CITY CLERK

Approved: _____



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Staff Report PL 17-18

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Deputy City Planner
DATE: February 15, 2017
SUBJECT: Greatland Street Extension

Introduction

Public Works introduced a project to the City Council to extend Greatland Street north to Pioneer Ave. The City Council has referred this issue to the Planning Commission for any comments (HCC 2.72.030(g)). The basic question is, how should Greatland connect to Pioneer Ave. Option A, preferred by Council, connects Greatland directly north between Sav U More and Northwind Home Collection to Pioneer Ave, along the existing dedicated right of way. Option C follows the 2005 Transportation Plan, connecting with Pioneer at Bartlett, creating a four-way intersection.

Please read the attachments and see the maps. Council has moved to support option A, the straight north connection to Pioneer. There was also discussion of connecting Greatland to the east to Main Street, but from Council's discussion it doesn't look like the City is looking to build that link that at this time. The main question is where Greatland should intersect with Pioneer Ave.

Analysis

Option A is cheaper. Option C is in the Transportation Plan, and more expensive. While we do generally follow our adopted plans, the work on that plan is from 2001 and addressed the overall transportation system of downtown Homer. In the big picture, it may not really matter how Greatland connects to Pioneer, but rather that there is a connection at all. If further analysis is desired beyond what was provided by Public Works, the City should hire a traffic engineer for advice on the pros and cons of connecting with Bartlett vs keeping the road straight.

Staff Recommendation

1. Recommend option A to the City Council.
2. If the Commission wants to further discuss this item or make another recommendation, pull the item from the Consent Agenda for discussion under New Business.
3. If further analysis is desired beyond what was provided by Public Works, the City should hire a traffic engineer.

Attachments

1. Pages 95-103, January 23rd 2017 City Council Packet
2. January 23rd CC meeting minutes excerpt
3. Maps from the 2005 Transportation Plan
4. Page I-38, 2005 Transportation Plan



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Memorandum 17-019

TO: Katie Koester - City Manager
FROM: Carey Meyer - Public Works Director
DATE: January 4, 2017
SUBJECT: **Proposed Greatland Street Extension**

Background:

Extending Greatland Street north to Pioneer Avenue has been contemplated for some time. The driving force has been interest in providing more direct vehicular and pedestrian access to Save-U-More and eliminating the need to access the area from and back onto the Sterling Highway. Moving forward with this extension is complicated by the recommendations of the Homer 2005 Transportation Plan, which recommends that the northern portion of Greatland Street be vacated and a new east/west road be extended to connect to Pioneer at Bartlett Street (to the west) and Main Street (to the east). See attached Exhibit A and B showing what extending Greatland to the north (Option A) would look like and how the Transportation Plan recommendations (Option B) could be implemented.

One of the major recommendations of the Transportation Plan was to develop a new road corridor through the central business district that could provide additional east/west traffic/pedestrian access and reduce traffic on Pioneer Avenue and the Sterling Highway. The plan envisioned extending a new road from Lake Street to Heath Street along Waddell Way (accomplished in 2016); pushing through a road from Poopdeck to Main (through "town center"); and extending the corridor west of Main Street, across Greatland Street, and connecting into Pioneer Avenue at Bartlett Street. This would allow for the northern portion of Greatland Street to be vacated, eliminating a poorly aligned Pioneer/Greatland intersection (Greatland north of Pioneer Avenue has already been vacated), and creating a four-way intersection at Pioneer and Bartlett (reducing the number of intersections and conflicting turning movements along Pioneer Avenue).

Discussion:

Projects like this are best accomplished when there is consensus among those affected. Public Works has contacted several of the property owners that will be most affected by

either alternative. I will not speak for them here, but in general they see value in both alternatives.

Option A – Extend Greatland North

Option A is the least expensive alternative. The estimated cost is \$643,600 (see table below). It does provide access to all area properties, has less impact to benefitting adjacent properties, and creates a connection to Pioneer Avenue. It does not provide for the recommended new east/west corridor that would benefit the entire community.

Public Works envisions that this option would be completed by creating a Special Assessment District (SAD) in which the City would pay 75% of the cost; the benefitted property owners would pay 25%. There are 3 affected property owners along Greatland who would each pay approximately \$14,679 under SAD. A SAD can be initiated by a property owner or by Council.

**Greatland Street Improvements
 Overall Cost Comparision - Option A, B and C**

	Option A	Option B	Option C
Design/Survey	\$ 56,028	\$ 113,160	\$ 64,944
Platting	\$ 7,500	\$ 29,000	\$ 20,000
Property Acquisition	\$ 6,000	\$ 331,125	\$ 163,500
Inspection (4%)	\$ 18,676	\$ 37,720	\$ 21,648
Road Construction	\$ 466,900	\$ 943,000	\$ 541,200
Contingency (15%)	\$ 83,266	\$ 141,450	\$ 121,694
Project Management (3%)	\$ 14,007	\$ 28,290	\$ 16,236
City Administration (4%)	\$ 18,676	\$ 37,720	\$ 21,648
Total Project Cost	\$ 671,053	\$ 1,661,465	\$ 970,870
Property Owner Contribution	\$ 167,763	\$ 146,793	\$ 146,793
City Cost	\$ 503,289	\$ 1,514,672	\$ 824,077

Option B – Vacate Greatland/Connect East/West to Main and Bartlett

Option B is the more expensive option, but conforms to the recommendation of the Transportation Plan. The cost is \$1,591,000.

Public Works envisions that this option would be completed by creating a City project, in which the one benefitted property owner through a development agreement would contribute no more than what they would pay under Option A; and the City would pay the remaining costs.

Option C – Vacate Greatland/Connect Only to West to Bartlett/Pioneer Intersection

Option C is based on Option B, but only constructs the western portion; leaving the connection to Main Street for another day. The cost is \$971,000.

Public Works envisions that this option would be completed by creating a City project, in which the one benefitted property owner through a development agreement would contribute no more than what they would pay under Option A; and the City would pay the remaining costs.



Greatland Street Improvement - Option A

1 inch = 100 feet



Greatland Street Improvement - Option B

1 inch = 100 feet



Greatland Street Improvement - Option C
1 inch = 103 feet

homeless become involved in a mental health personal development program, moving forward in phases to get substance abuse recovery. To view the concept go to www.opportunityvillageeugene.org

Mark Hemstreet, Save U More Store Manager, supports the Greatland Street expansion Option A as listed in Memorandum 17-109. The unfinished street is used now for pedestrian traffic and vagrants and homeless occupy the wooded area. He would like to see the ability to make a left turn out of both streets.

RECONSIDERATION

CONSENT AGENDA

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- A. Homer City Council unapproved Regular meeting minutes of January 9, 2017. City Clerk. Recommend adoption.
- B. **Memorandum 17-014** from Mayor Zak, Re: Reappointments of Robert Hartley and Catherine Ulmer to the Port and Harbor Advisory Commission.
- C. **Memorandum 17-015** from City Clerk, Re: Liquor License Renewals for Boardwalk Fish & Chips and Don Jose's Mexican Restaurant.
- D. **Memorandum 17-016** from City Clerk, Re: Travel Authorization for Mayor Zak and Councilmembers Aderhold and Smith to Attend the Alaska Municipal League/Conference of Mayors Winter Legislative Conference in Juneau, Alaska, February 21 – 23, 2017.
- E. **Ordinance 17-04**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.30.020 to Add "Auto Equipment Sales, Rentals, Service, Repair and Storage" to the List of Permitted Uses in the Marine Industrial District. Lewis. Recommended dates: Introduction January 23, 2017, Refer to Planning Commission.

Moved to Ordinances, Item A. Aderhold.

- F. **Ordinance 17-05**, An Ordinance of the City Council of Homer, Alaska, Amending the 2017 Operating Budget by Appropriating \$970,870 From the Homer Accelerated

City Planner Abboud expressed appreciation to the Council for providing their input to pass on to the Planning Commission.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Ordinance 17-05**, An Ordinance of the City Council of Homer, Alaska, Amending the 2017 Operating Budget by Appropriating \$970,870 From the Homer Accelerated Roads/Trails Program (HART) for the Greatland Street Improvements (Option C) Project, and Authorizing the City Manager to Execute All Appropriate Documents. Erickson. Recommended dates: Introduction January 23, 2017, Refer to Planning Commission.

Memorandum 17-019 from Public Works Director as backup.

Mayor Zak called for a motion for the introduction of Ordinance 17-05 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

There are three different plans for the extension. Council heard from citizens who support Option A. When the Transportation Committee was active they recommended Option C.

LEWIS/STROOZAS - MOVED TO AMEND TO CHANGE OPTION C TO OPTION A AND JUST DO THE STRAIGHT LINE AND IN THE LONG RUN IT WOULD BE CHEAPER.

Councilmember Aderhold would like to see the Planning Commission evaluate each of the options and come back to us with a recommendation.

Public Works Director Meyer said at first glance Option A that uses the existing right-of-way seems to be the appropriate action. The Transportation Plan approved by Council in 2005 suggests Homer could use another east/west corridor. Part of that was constructed this last summer with the Waddell portion. Many of the intersections are not planned well; there are quite a few that are not at 90 degree angles. Option B is in conformance with the Transportation Plan and Option C is a compromise between the two. The Transportation Plan called for the connection to Bartlett Street. The extension of Greatland Street up to Pioneer Avenue creates a weird alignment on the intersection. Greatland Street on the other side of Pioneer Avenue has already been vacated. Option C is a compromise that will make a connection to Pioneer Avenue and will allow for future construction in compliance with the Transportation Plan.

Council discussed the options and offered the following comments: Option A maximizes the usability of the lots which increases land values and property taxes. At the four-way stop at Main Street there is already consternation with the large rigs that have to stop in the winter and traction up to get through the intersection. A straight line would be more efficient to plow. Both directions of Greatland could be right hand turn only. Option A loses less green space and trees. Option A is also the least expensive at a \$300,000 savings from Option C. Option A is not compliant with the Transportation Plan.

Public Works Director Meyer noted there is a short, relatively steep grade from Greatland Street before reaching Pioneer Avenue. The road will still meet the design criteria manual that has a maximum grade of 6%, but provides up to 15% grade for short sections away from intersections. Water and sewer service already runs along Greatland Street. The plan is to have a sidewalk from the Bypass to Pioneer Avenue with curb and gutter and sidewalks on both sides.

City Manager Koester advised Council Option A has multiple property owners and would require a special assessment district. Council would need to initiate it by resolution. She suggested Council include the three options to allow the Planning Commission to have the conversation. If their recommendation comes back as Option A we will then need to proceed with a special assessment district. Adding a whereas clause to the ordinance for Council's preference to Option A was suggested.

VOTE: (amendment) YES. REYNOLDS, LEWIS, STROOZAS, SMITH, ERICKSON

VOTE: NO. ADERHOLD

Motion carried.

Councilmember Aderhold commented there should be the option for the Planning Commission to review all options. There should also be a chance for the public to weigh in. It is a project that will affect everyone in the city.

Councilmember Stroozas noted when the Transportation Plan was put into force in 2005 the state coffers were full of money. We had no issues with money and could get state funding on projects. Times have changed. Here's an opportunity to meet our objective and build this road and save \$300,000.

VOTE: (main motion as amended) YES. REYNOLDS, ERICKSON, STROOZAS, SMITH, LEWIS

VOTE: NO. ADERHOLD



Motion carried.

Mayor Zak called for a recess at 7:43 p.m. and reconvened the meeting at 7:50 p.m.

CITY MANAGER'S REPORT

A. City Manager's Report

Industry Forum Travel Report

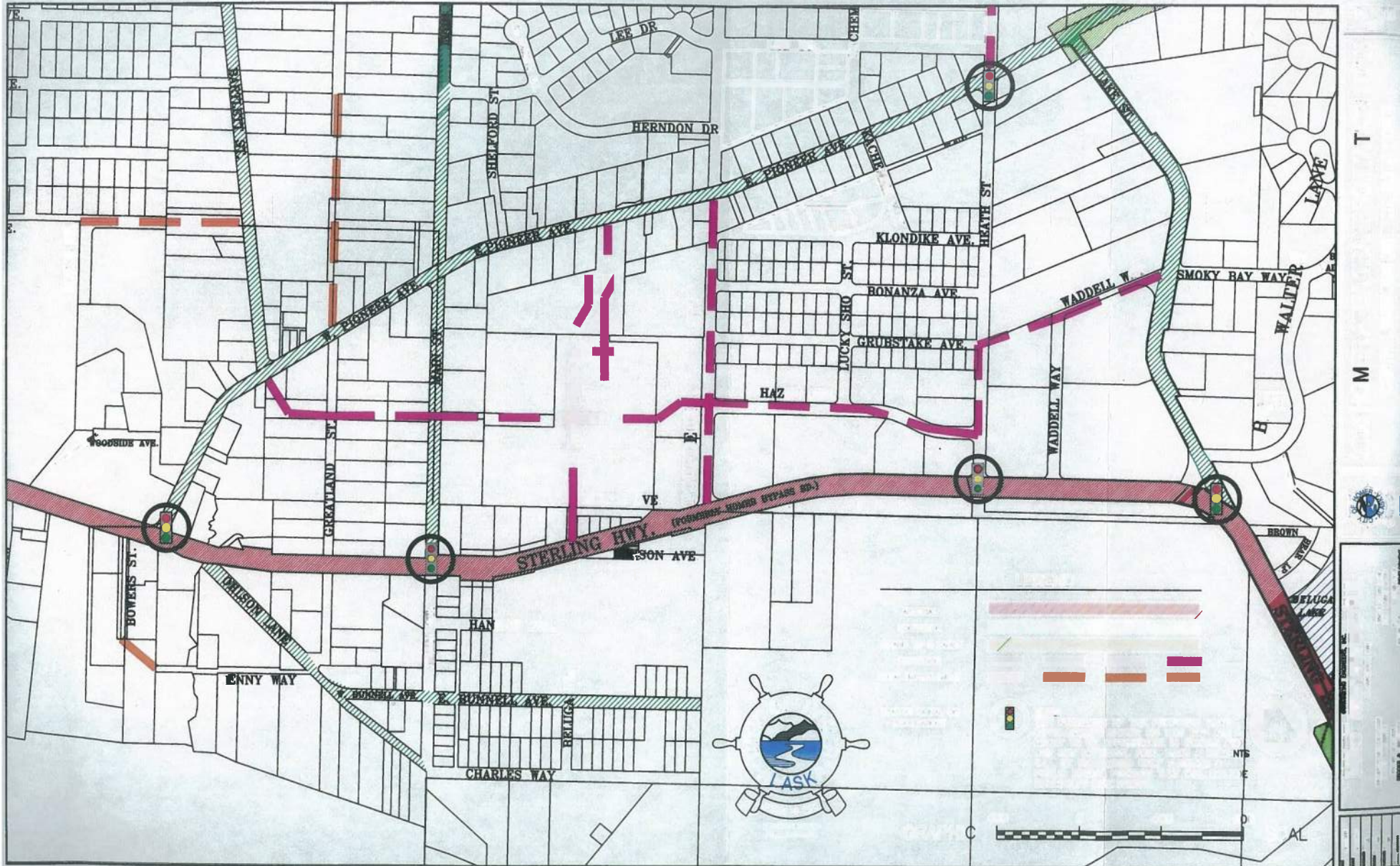
I, along with other City staff, a representative of the EDC and Mayor Zak, attended the 2017 Industry Outlook Forum on the 11th in Kenai. It was an informative update on the industries that make the Peninsula economy tick including oil and gas, tourism, health care and commercial fishing. Presentations can be found at the Kenai Peninsula Economic Development District website <https://kpedd.org/>

Seawall Report

The attached letter was sent to property owners along the Ocean Drive Seawall updating them on the maintenance procedures and finances of the seawall. As you recall, the City Council established a separate mill rate (special service area) for the purpose of funding maintenance to the seawall. The City also contributes \$10,000 a year to a seawall reserve account. It is my intention to update property owners annually with a maintenance and finance report. It is evident when researching the history of the Seawall that the property owners would benefit from a homeowner's association. This would give them more control over maintenance of the wall and how their tax dollars are spent, a unified voice when communicating with government entities and the ability to insure the infrastructure. I have also attached an impactful picture of the Seawall during a storm that highlights the power of the ocean.

Assistant Fire Chief Update

The hiring climate proved difficult the first round in our search for an Assistant Fire Chief. The City of Homer and KESA both had jobs posted (KESA, for a Deputy Chief) during the same recruitment period. The City re-posted the Assistant Chief position after an unsuccessful search for the right candidate, and KESA fell into the same position. Our original posting was from September 29 – November 13, with 13 candidates applying for the position. The top two candidates were invited to attend in-person interviews scheduled for January. However, one candidate decided against leaving his current job, and the other was offered another position. The position was re-advertised, and does not close until February 7. The hiring committee will meet on February 9 to go over applications, following up with essay questions for the most qualified applicants and Skype interviews. Face to face interviews, a meet and greet with the volunteers, and an instructional component will take place in a two-day process scheduled for mid to late March.



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- Greatland Street construction. The proposed route will intersect Pioneer Avenue at Bartlett. The Planning Commission recommends that if Greatland Street is extended to Pioneer Avenue that it be a right turn only intersection, reducing the backup of traffic trying to cross Pioneer Avenue. This will keep traffic entering Pioneer Avenue separated from the Bartlett Street intersection. It should be noted this recommendation will conflict with the proposed one-way couplet.
- CBD east west-connection. The proposed route will connect Greatland to Poopdeck. The specific route has not been identified to accommodate Town Center plans.

The following new streets or street extensions are recommended by the Road Standards Committee. They have not been included in the 2001 transportation model.

- Fairview west to Fairview. The proposed extension would connect Fairview Avenue in the Harrington Heights area to Fairview Avenue in the Lillian Walli Estates Subdivision. This route will include traffic calming techniques.
- Lynn Way extended east. A specific route has not been identified. The proposed extension will provide access to currently undeveloped areas south of East End Road.
- Interconnecting street system. South of Little Fireweed and west of Kachemak Drive – as the area develops and subdivisions are created, an interconnecting street system is recommended.

The 2021 summer model with these new streets is included under Appendix D. When comparing the 2021 summer model with dock (existing conditions with Table 7 improvements, or “no-build” scenario), we find that several streets would have less volume with the above improvements. Most notably, the model shows that the following central business district streets would have substantial reductions with the new extensions.

- Pioneer Avenue would have about a 50 to 60% less summer ADT in 2021.
- Sterling Highway would have less volume in summer 2021, with about a 10% decrease in ADT near Heath.
- Main Street would have about a 50% less summer ADT in 2021.
- Lake Street would have about a 40% less summer ADT in 2021.

The proposed street extensions would reduce congestion on some of the more heavily traveled streets. They also provide connectivity and will enhance emergency services access.

As a result of these new streets, daily traffic volumes would be reduced on some of the outlying streets as well. Skyline Drive daily volumes east of East Hill Road would drop by 60% to 80%. West of East Hill to the intersection at West Hill, Skyline Drive would experience almost 50% less



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TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: February 15, 2017
SUBJECT: City Planner's Report PL 17-15

City Council - Meeting of 2/13/17

The HART conversation is on the work session agenda starting at 4pm in council chambers.

Regular meeting

Resolution 17-015, A Resolution of the Homer City Council Awarding Wireless Edge Towers, LLC of New Rochelle, New York, a Lease for a Wireless Communication Tower on the Homer Spit, With an Initial Ten-Year Term and Four Ten-Year Renewal Terms on Lot 11 Homer Spit Subdivision No. 5, and Authorizing the City Manager to Move Forward With Cityscape Consultants, Inc. on Lease Negotiations and Execute the Appropriate Documents. City Manager. Recommend adoption.

Resolution 16-128(S), A Resolution of the City Council of Homer, Alaska, Creating a Police Station Building Task Force and Establishing the Scope of Work and Parameters Under Which the Task Force Will Conduct Its Work. Mayor.

Training

Travis attended the two day Certified Erosion and Sediment Control Lead (CESCL) class offered in Soldotna on the 6th and 7th of February. This keeps one of us in the office current on certification. I plan to have Travis as the main contact for permitting and the training will serve us well. Julie and I have been trained but our certification has lapsed.

Christopher Flavelle who is a Climate Policy Reporter for Bloomberg News interviewed me, in person. He was interested in our Climate Action Plan and our efforts to deal with the consequences of climate change. I have been interviewed or used a source of information for college students at least annually regarding our Climate Action Plan.

Here is the current schedule for Commissioners to present to the council.

February 13, 2017: Tom

February 27, 2017: Syverine

March 13, 2017:

March 27, 2017:



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Staff Report PL 17-16

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: February 15, 2017
SUBJECT: Ordinance 17-07(S),
An Ordinance of the City Council of Homer, Alaska, Amending
Homer City Code 4.10.040, 8.08.120, 14.05.425, 21.93.060, 21.93.070,
21.93.100, 21.93.110, 21.93.500, 21.93.540, 21.93.550, 21.93.560,
21.93.570, 21.93.700, and 21.93.710 to Replace the Board of Adjustment
With a Hearing Officer to Decide Administrative Appeals Under the
Homer City Code, Including But Not Limited to, the Use of a Hearing
Officer to Order Impoundment of Dangerous Animals, Decide Disputes
Regarding Itinerant Merchant Licenses, and Decide Disputes Regarding
Qualifications of a Candidate for Office. Aderhold.
Recommended dates: Introduction January 23, 2017, Refer to Planning
Commission.

Introduction: The City Attorney has drafted an amendment to make provisions for Board of Adjustments (BOA) to consist of a Hearing Officer instead of the City Council.

Analysis: Several benefits of this change were discussed at the City Council work session. They include:

- Frees up City Attorney to provide substantive advice and not just regarding process (currently due to possible conflict of the attorney's interests representing the Commission and Council).
- Do not have to hire additional attorneys now needed for the appeal process.
- Streamlines the process
 - o Do not have to be concerned with the possible conflicts of the Council people and the Mayor
 - o Do not have to deal with scheduling 7 people to hear cases
- A hearing officer would hear other current administrative determinations
- Costs are currently \$165/hr. This compares to the \$175 cost per meeting for just the Council members and the additional attorney cost that are above \$165/hr.
- Hearing officers have a high rate of successful resolution and are trained in administrative law.

Staff Recommendation: I consider this a non-controversial proposal that attempts to improve our system with a more efficient and non-bias process and procedure for appeals of Planning Commission decisions. Make motion to recommend the proposed amendment to the City Council.

Attachments

Ordinance 17-07(s)

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

Aderhold

3
4 **ORDINANCE 17-07(S)**
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE 4.10.040, 8.08.120, 14.05.425,
8 21.93.060, 21.93.070, 21.93.100, 21.93.110, 21.93.500, 21.93.540,
9 21.93.550, 21.93.560, 21.93.570, 21.93.700, AND 21.93.710 TO
10 REPLACE THE BOARD OF ADJUSTMENT WITH A HEARING OFFICER
11 IN APPEALS OF PLANNING COMMISSION DECISIONS AND PERMIT
12 THE USE OF A HEARING OFFICER TO DECIDE ADMINISTRATIVE
13 APPEALS UNDER THE HOMER CITY CODE, INCLUDING BUT NOT
14 LIMITED TO, THE USE OF A HEARING OFFICER TO ORDER
15 IMPOUNDMENT OF DANGEROUS ANIMALS, DECIDE DISPUTES
16 REGARDING ITINERANT MERCHANT LICENSES, AND DECIDE
17 DISPUTES REGARDING QUALIFICATIONS OF A CANDIDATE FOR
18 OFFICE.
19

20 WHEREAS, It is in the City's best interest to have the flexibility and authority to use the
21 most cost-effective and knowledgeable decision-maker in the administrative appeals
22 processes offered by the City; and
23

24 WHEREAS, The use of experienced hearing officers that do not otherwise advise the City
25 on legislative land use matters promotes public confidence in the City of Homer's
26 administrative appeals process in the land use arena,
27

28 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
29

30 Section 1. Section 4.10.040 is amended to read as follows:
31

32 The Clerk shall determine whether each candidate for municipal office is qualified as
33 provided by law. At any time before the election the Clerk may disqualify any candidate
34 whom the Clerk finds is not qualified and immediately notify that candidate by certified
35 mail. A candidate who is disqualified may request a hearing before the Clerk within five
36 days of receiving the notice. **The Clerk may appoint a hearing officer to conduct the**
37 **hearing and determine whether or not the Clerk's disqualification of the candidate**
38 **was supported by the evidence.** The hearing shall be held no later than five days after
39 the request unless the candidate agrees in writing to a later date.
40

41 Section 2. Section 8.08.120 is amended to read as follows:
42

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

- 43 **a.** Any person aggrieved by the action of the Chief of Police in the denial of an
44 application for a permit or license as provided in HCC 8.08.040, or in the decisions
45 with reference to the revocation of license as provided in HCC 8.08.050, shall have
46 the right of appeal to **a hearing officer appointed by the City Manager**~~the City~~
47 ~~Council~~. Such appeal shall be taken by filing with the **City Clerk**~~City Council~~, within
48 14 days after the action of the Chief of Police, a written statement setting forth fully
49 the grounds for appeal. The **City Clerk**~~City Council~~ shall set a time and place for a
50 hearing on such appeal, and notice of such hearing shall be mailed to the appellant
51 postage prepaid at his **or her** last known address at least five days prior to the date
52 set for the hearing. The decision and order of the **hearing officer**~~City Council~~ on
53 such appeal shall be final and conclusive.
- 54 **b. The hearing officer shall be identified in the notice of hearing. The appellant**
55 **may object to the hearing officer by providing the City Clerk a written objection**
56 **no more than ten days after the date of the notice of hearing. If the appellant**
57 **does not file an objection, any right to object to the hearing officer shall be**
58 **deemed waived.**
- 59 **c. The hearing officer shall disclose any conflict of interest or personal bias as**
60 **soon as he or she is aware of such conflicts or bias and shall refrain from acting**
61 **as the hearing officer if he or she has a conflict of interest or personal bias.**

62
63 Section 3. Section 14.05.425 is amended to read as follows:

64
65 If a violation of this chapter is not corrected by administrative adjustment under
66 HCC 14.05.420, then the City Manager shall order the user to show cause why
67 service should not be terminated or other enforcement action, including
68 imposition of a civil penalty, should not be taken. A written notice shall be served
69 on the user by personal service, or by certified or registered mail, return receipt
70 requested, specifying the time and place of the hearing to show cause. The
71 notice of the hearing shall be served no less than 10 days before the hearing.
72 Service may be made on any agent, officer or authorized representative of the
73 discharger. **The hearing shall be before the City Manager or his or her**
74 **designee.** After the hearing, the City Manager **or his or her designee** shall issue
75 a written decision which may include appropriate orders with respect to the
76 violations of the chapter and may include a civil penalty in accordance with HCC
77 14.05.435. The ~~City Manager's~~ decision **of the City Manager or his or her**
78 **designee** constitutes final administrative action for purposes of judicial review.

79
80 Section 4. Section 20.20.040 is amended to read as follows:

81
82 All animals seized pursuant to HCC 20.20.030 shall be held in impound pending
83 an administrative hearing concerning their potential destruction. The
84 administrative hearing shall be conducted as follows:

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

85 a. An administrative ~~h~~**Hearing officer** Board shall be **appointed by the**
86 **City Manager** ~~convened consisting of the City Manager (who shall chair~~
87 ~~the proceedings), the Chief of Police, and one member of the City Council~~
88 ~~(selected by the City Manager).~~

89
90 b. A notice of administrative hearing shall be served upon the animal's
91 owner or his designee under the procedures set for service of summons
92 in a civil action. The notice shall specify the date, time, and location of
93 the hearing. The hearing may not be less than three days following the
94 service of the hearing notice on the animal owner or his designee.

95
96 c. The hearing shall consider all information pertinent to the specific
97 violation of HCC 20.20.030 which initiated the impoundment and hearing
98 process, and may additionally consider any information concerning prior
99 violations or incidents with this same animal, as well as any information
100 concerning the animal owner's or his designee's prior violations of the
101 Homer animal ordinances with any other animal.

102
103 d. The hearing shall address and enter its formal findings as to whether:

104 1. The animal is a vicious animal under HCC 20.04.020;

105
106 2. The owner or designee thereof failed to use all reasonable
107 precautions to control his animal and protect the public;

108
109 3. The circumstances of this incident under consideration
110 constitute a danger to the public.

111 e. If **the hearing officer** ~~a majority of Board members~~ **finds** in the
112 affirmative as to all three of the provisions of subsection (d) of this
113 section, the ~~h~~**Hearing officer** Board shall order the animal destroyed. The
114 owner or designee, if present at the hearing, shall be verbally notified of
115 the findings and order at the conclusion of the hearing. Written findings
116 shall also be prepared and served upon the owner or designee. If the
117 owner or designee is not present at the hearing, written findings and
118 destruction order shall be served on that person as soon as possible
119 following the hearing.

120
121 f. Absent an affirmative finding by the **hearing officer** ~~Hearing Board~~ as
122 to one or more of the provisions of subsection (d) of this section, the
123 animal shall be immediately released to its owner or designee. The
124 **hearing officer** ~~Hearing Board~~ shall, in the event of release under this
125 provision, prepare a written notice which shall be delivered or mailed to
126 the animal's owner, outlining the **hearing officer's** ~~Hearing Board's~~

127 recommendations as to actions that owner should take to prevent future
128 incidents and to protect the public.

129
130 g. Any appeal of the ~~hearing officer's~~**hearing officer's** ~~Hearing Board's~~ finding and
131 destruction order shall be taken through the Alaska Court System within
132 10 days of the receipt of said findings and order by the owner. The filing
133 of an appeal will automatically stay the order of destruction pending
134 resolution of the appeal. The animal shall remain in impound at the
135 owner's expense pending resolution of the appeal.

136
137 Section 5. Section 20.20.050 shall be amended to read as follows:

138
139 Vicious animals to be destroyed upon administrative ~~Board~~ **hearing officer** ~~Hearing~~
140 order shall be destroyed as follows:

141
142 a. The animal shall remain in impound for 10 days following the date the
143 owner (or his designee) is verbally notified of the ~~hearing~~
144 ~~officer's~~**hearing officer's** ~~Hearing Board's~~ decision, or the date that a written finding and
145 destruction order is served on the owner (or his designee) to allow that
146 person to appeal the destruction order through the courts.

147
148 b. If the City is not served with a notice of appeal of the destruction order
149 within the 10-day holding period outlined in subsection (a) of this
150 section, the City shall immediately proceed to humanely destroy the
151 animal.

152
153 Section 6. Section 21.41.400 shall be amended to read as follows:

154
155 a. The Planning Commission shall hear and decide appeals when it is alleged
156 there is an error in any requirement, decision, or determination made by the
157 Planning Department.

158
159 b. A ~~hearing officer appointed by the City Manager~~ **hearing officer appointed by the City Manager** shall hear and decide
160 appeals when it is alleged there is an error in any requirement, decision, or
161 determination made by the Planning Commission.

162
163 Section 7. Article II of Section 21.91 shall be amended to read as follows:

164
165 Article II. ~~Board of Adjustment~~ **Appeals of Planning Decisions.**

166
167 Section 8. Section 21.91.100 shall be repealed in its entirety.

168
[**Bold and underlined added.** Deleted language stricken through.]

169 Section 9. Section 21.91.110 shall be renumbered 21.91.100 and amended to read as
170 follows:

- 171
- 172 a. ~~The Board of Adjustment shall hear and decide appeals pursuant to the~~
173 ~~provisions of the code, zoning code.~~ **A hearing officer appointed by the City**
174 **Manager shall hear and decide appeals pursuant to the provisions of the**
175 **zoning code.**
- 176
- 177 b. **A hearing officer appointed by the City Manager to act as the decision maker**
178 **in appeals of decisions made by the Planning Commission must have at least**
179 **five years experience acting as an administrative law judge or**
180 **administrative hearing officer and must be licensed to practice law in the**
181 **State of Alaska and in good standing.**
- 182

183 Section 10. Section 21.91.120 shall be renumbered 21.91.110 and amended as follows:

184

185 Appeals heard by the hearing officer shall be conducted according to applicable
186 procedures specified in Chapter 21.93 HCC.

187

188 Section 11. Section 21.91.130 shall be renumbered 21.91.120 and amended as follows:

- 189
- 190 a. An appeal from a final decision of the ~~Board of Adjustment~~ **hearing officer**
191 may be taken directly to the Superior Court by a party who actively and
192 substantively participated in the proceedings before the ~~Board of Adjustment~~
193 **hearing officer** or by the City Manager or City Planner or any governmental
194 official, agency, or unit.
- 195
- 196 b. An appeal to the Superior Court shall be filed within 30 days of the date of
197 distribution of the final decision to the parties appearing before the ~~Board of~~
198 **Adjustment hearing officer.**
- 199
- 200 c. An appeal from a final decision of the ~~Board of Adjustment~~ **hearing officer** to
201 the Superior Court is governed by court rules.
- 202

203 Section 12. Section 21.93.030 shall be amended to read as follows:

204

205 21.93.030 Decisions subject to appeal to **a hearing officer.**~~Board of Adjustment.~~

206

207 The following acts or determinations of the Commission, when final, may be
208 appealed to the **a hearing officer appointed by the City Manager**~~Board of~~
209 ~~Adjustment~~ by a person with standing:

210

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

- 211 a. Grant or denial of a conditional use permit.
212
213 b. Grant or denial of a variance.
214
215 c. Grant or denial of formal recognition of a nonconforming use or structure, or
216 a decision terminating a nonconforming use or structure.
217
218 d. Grant or denial of a conditional fence permit.
219
220 e. A decision by the Commission in a matter appealed to the Commission under
221 HCC 21.93.020.
222
223 f. Any other final decision that is expressly made appealable to ~~the Board of~~
224 ~~Adjustment~~ **a hearing officer** by other provisions of the code.
225

226 Section 13. Section 21.93.060 shall be amended to read as follows:
227

228 21.93.060 Standing – Appeal to ~~Board of Adjustment~~ **Hearing Officer**.
229

230 Only the following have standing to appeal an appealable action or
231 determination of the Planning Commission to the ~~Board of Adjustment~~ **hearing**
232 **officer**:
233

- 234 a. Applicant for the action or determination, or the owner of the property that is
235 the subject of the action or determination under appeal.
236
237 b. The City Manager, the City Planner or the City Planner’s designee, or any
238 governmental official, agency, or unit.
239
240 c. Any person who actively and substantively participated in the proceedings
241 before the Commission and is aggrieved by the action or determination.
242
243 d. Any person who actively and substantively participated in the proceedings
244 before the Commission and would be aggrieved if the action or determination
245 being appealed were to be reversed on appeal.
246

247 Section 14. Section 21.93.070 shall be amended to read as follows:
248

- 249 a. An appeal to the Planning Commission must be filed within 30 days after the
250 date of distribution of the final action or determination to the applicant or other
251 person whose property is the subject of the matter being appealed.
252

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

253 b. An appeal to **a hearing officer**~~the Board of Adjustment~~ must be filed within
254 30 days after the date of distribution of the final action or determination to the
255 applicant and other parties, if any.

256
257 Section 15. Section 21.93.100 shall be amended to read as follows:

258
259 a. All appeals must be heard within 60 days after the appeal record has been
260 prepared. The body **or officer** hearing the appeal may for good cause shown
261 extend the time for hearing. The decision on appeal must be rendered within 60
262 days after the appeal hearing.

263
264 b. The appellant, the applicant for the action or determination that is the subject
265 of the appeal, the owner of the property that is the subject of the action or
266 determination, and all parties who have entered an appearance shall be
267 provided not less than 15 days' written notice of the time and place of the appeal
268 hearing. Neighboring property owners shall be notified as set forth in HCC
269 21.94.030.

270
271 **c. A notice identifying the hearing officer shall be filed with the notice of the**
272 **hearing. All parties shall have ten days from the date of the notice to object**
273 **to the hearing officer based upon conflicts of interest, personal bias or ex**
274 **parte contacts. Failure to file an objection to the hearing officer within the**
275 **ten days shall waive any objection to the hearing officer.**

276
277 **d.** An electronic recording shall be kept of the entire proceeding. Written
278 minutes shall be prepared. The electronic recording shall be preserved for one
279 year unless required for further appeals. No recording or minutes shall be kept
280 of deliberations that are not open to the public.

281
282 Section 16. Section 21.93.110 shall be amended to read as follows:

283
284 a. All final decisions on appeals shall be in writing, and shall state the number of
285 members of the body **or officer** hearing the appeal who participated in the
286 appeal, number voting in favor of the decision, and the number voting in
287 opposition to the decision.

288
289 b. A decision shall include an official written statement of findings and reasons
290 supporting the decision. This statement shall refer to specific evidence in the
291 record and to the controlling sections of the zoning code. Upon express vote, the
292 body may adopt, as its statement of findings and reasons, those findings and
293 reasons officially adopted by the body or officer below from which the appeal
294 was taken.

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

295 c. Copies of the written decision shall be promptly mailed to the appellant, the
296 applicant for the action or determination that is the subject of the appeal, the
297 owner of the property that is the subject of the action or determination, and all
298 parties who entered a written notice of appearance in the appeal proceeding.
299

300 Section 17. Section 21.93.500 shall be amended to read as follows:

301
302 21.93.500 Parties eligible to appeal **Planning Commission decision to a**
303 **hearing officer**~~to Board of Adjustment~~ – Notice of appearance.

304 a. Only persons who actively and substantively participated in the matter before
305 the Commission and who would be qualified to appeal under HCC 21.93.060 may
306 participate as parties in an appeal from the Commission to **a hearing officer** ~~the~~
307 ~~Board of Adjustment.~~

308
309 b. Any person so qualified who desires to participate in the appeal as a party,
310 other than the appellant, the City Planner or the City Planner’s designee, the
311 applicant for the action or determination that is the subject of the appeal and
312 the owner of the property that is the subject of the action or determination,
313 must, not less than 14 days before the date set for the appeal hearing, file with
314 the City Clerk a written and signed notice of appearance containing that party’s
315 name and address, and proof that the person would be qualified under HCC
316 21.93.060 to have filed an appeal.
317

318 Section 18. Section 21.93.510 shall be amended to read as follows:

319
320 a. Except as provided in subsections (b) and (c) of this section, **the hearing**
321 **officer**~~the Board of Adjustment~~ shall not consider allegations of new evidence
322 or changed circumstances and shall make **his or her**~~its~~ decision based solely on
323 the record. If new evidence or changed circumstances are alleged, the **hearing**
324 **officer**~~Board~~ may, in **his or her**~~its~~ discretion, either hear the appeal without
325 considering the allegations or may remand the matter to the appropriate lower
326 administrative body or official to rehear the matter, if necessary.
327

328 b. When the standing of a person is in issue, the **hearing officer** ~~Board of~~
329 ~~Adjustment~~ may take additional evidence for the limited purpose of making
330 findings on the question of the person’s standing. No evidence received under
331 this subsection shall be considered for purposes other than determining
332 standing.
333

334 c. ~~When the disqualification of a member of the Board of Adjustment for conflict~~
335 ~~of interest, ex parte contact, partiality or other cause is in issue, the Board of~~
336 ~~Adjustment may take additional evidence for the limited purpose of making~~

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

337 findings on the question of disqualification. No evidence received under this
338 subsection shall be considered for purposes other than determining
339 disqualification.

340
341 Section 19. Section 21.93.520 shall be amended to read as follows:

342
343 a. The appeal record shall be completed within 30 days after receipt of a timely
344 and complete notice of appeal to the ~~Board of Adjustment~~ **hearing officer**, shall
345 consist of the items, and shall be prepared in the manner, described in this
346 subsection.

347
348 1. The Clerk will assemble and paginate all relevant documents involved
349 in the original decision, including any staff reports, minutes, exhibits, notices,
350 and other documents considered in making the original decision.

351
352 2. A party may elect to include a verbatim transcript of the testimony
353 before the Planning Commission in the appeal record by making a written
354 request to the City Clerk for a recording of the testimony within 14 days after the
355 Clerk mails copies of the notice of appeal to the parties pursuant to HCC
356 21.93.080(d). The requesting party shall arrange and pay for the preparation of
357 the transcript. Only a transcript prepared and certified as accurate by a qualified
358 court reporter shall be accepted. The original transcript must be filed with the
359 City Clerk to be provided to the ~~Board of Adjustment~~ **hearing officer** with the
360 record on appeal.

361
362 b. The appellant, the applicant for the action or determination that is the subject
363 of the appeal, the owner of the property that is the subject of the action or
364 determination, and other parties who have entered an appearance shall be
365 notified by mail when the record and transcript, if ordered, are complete. Any
366 person may obtain a copy upon payment of the costs of reproduction and any
367 applicable mailing costs.

368
369 Section 20. Section 21.93.540 shall be amended to read as follows:

370
371 a. ~~The meeting at which the Board of Adjustment hears an appeal~~ **before the**
372 **hearing officer** shall be open to the public. ~~The City Attorney or another~~
373 ~~attorney acting as legal counsel to the Board shall be present.~~

374
375 b. Each party (each appellant, cross-appellant, and respondent) may present
376 oral argument at the appeal hearing, subject to the order of presentation and
377 time limitations that the **hearing officer** ~~chair~~ adopts at the commencement of

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

378 the hearing. The taking of testimony or other evidence is limited by HCC
379 21.93.510.

380
381 c. The ~~hearing officer~~**Board of Adjustment** may undertake deliberations
382 immediately upon the conclusion of the hearing on appeal or may take the
383 matter under advisement and meet at such other time as is convenient for
384 deliberations until a decision is rendered. Deliberations need not be public, ~~and~~
385 ~~may be in consultation with the legal counsel to the Board.~~

386
387 d. The ~~hearing officer~~**Board of Adjustment** may exercise **his or her**its
388 independent judgment on legal issues raised by the parties. “Legal issues” as
389 used in this section are those matters that relate to the interpretation or
390 construction of the zoning code, ordinances or other provisions of law.

391
392 e. The ~~hearing officer~~**Board of Adjustment** shall defer to the findings of the
393 lower administrative body regarding disputed issues of fact. Findings of fact
394 adopted expressly or by necessary implication by the lower body shall be
395 considered as true if they are supported by substantial evidence. But findings of
396 fact adopted by less than a majority of the lower administrative body shall not
397 be given deference, and when reviewing such findings of fact the Board of
398 Adjustment shall exercise independent judgment and may make its own
399 findings of fact. If the lower administrative body fails to make a necessary finding
400 of fact and substantial evidence exists in the record to enable the **hearing**
401 **officer**~~Board~~ to make the finding of fact, **he or she** ~~the Board~~ may do so in the
402 exercise of **his or her**its independent judgment, or, in the alternative, the
403 **hearing officer**~~Board~~ may remand the matter for further proceedings.
404 “Substantial evidence,” as used in this section, means such relevant evidence as
405 a reasonable mind might accept as adequate to support a conclusion.

406
407 Section 21. Section 21.93.550 shall be amended to read as follows:

408
409 21.93.550 **Hearing Officer**~~Board of Adjustment~~ Decision

410
411 The ~~hearing officer~~**Board of Adjustment** may affirm or reverse the decision of
412 the lower administrative body in whole or in part. ~~A majority vote of the fully~~
413 ~~constituted Board is required to reverse or modify the action or determination~~
414 ~~appealed from. For the purpose of this section the fully constituted Board shall~~
415 ~~not include those members who do not participate in the proceedings due to a~~
416 ~~conflict of interest or disqualifying ex parte contacts, disqualifying partiality, or~~
417 ~~other disqualification for cause.~~ A decision affirming, reversing, or modifying the
418 decision appealed from shall be in a form that finally disposes of the case on
419 appeal, except where the case is remanded for further proceedings.

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

420 b. The ~~Board~~ may seek the assistance of legal counsel, City staff, or parties in the
421 preparation of a decision or proposed findings of fact.
422

423 Section 22. Section 21.93.560 shall be amended to read as follows:
424

425 a. The ~~Board of Adjustment~~ **hearing officer** may remand the appeal to the lower
426 administrative body when ~~he or she~~ **he or she** the ~~Board~~ determines that:

427
428 1. There is insufficient evidence in the record on an issue material to the
429 decision of the case;

430
431 2. There has been a substantial procedural error that requires further
432 consideration by the lower administrative body; or

433
434 3. There is other cause requiring further proceedings by the lower
435 administrative body.

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

440 c. The lower administrative body shall promptly act on the case upon remand in
441 accordance with the decision of the ~~Board of Adjustment~~ **hearing officer**. A case
442 on remand has priority on the agenda of the lower administrative body, except
443 cases remanded under HCC 21.93.510(a) are not entitled to priority. The
444 applicant or owner of the property in question may waive the priority given by
445 this subsection.
446

447 Section 23. Section 21.93.570 shall be amended to read as follows:
448

449 If no specific procedure is prescribed by the code, the ~~Board of~~ **hearing officer**
450 ~~Adjustment~~ may proceed in an administrative appeal in any lawful manner not
451 inconsistent with this title, statutes, and the Constitution.
452

453 Section 24. Section 21.93.700 shall be amended to read as follows:
454

455 a. A member of the Planning Commission or **a hearing officer appointed to**
456 **hear an appeal from a Planning Commission decision** ~~Board of Adjustment~~
457 may not participate in the deliberation or voting process of an appeal if,
458 following the procedures set forth in this chapter, the Commission or **hearing**
459 **officer** ~~Board member~~ is determined to have a substantial financial interest in
460 the official action, as defined in Chapter 1.18 HCC. In the absence thereof, all

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

461 Commission ~~or Board~~ members shall participate in the deliberation and voting
462 process unless excused pursuant to other provisions of this chapter.

463
464 b. When a financial interest of a member of the Planning Commission ~~or Board~~
465 ~~of Adjustment~~ is disclosed on the record, the remainder of the Commission ~~or~~
466 ~~Board, respectively,~~ shall determine whether the member should participate in
467 the matter. If it is determined the member should participate, any action taken
468 thereafter by the Commission~~body~~ shall be valid notwithstanding a later
469 determination by a court, ~~or an~~ appellate tribunal, **or the hearing officer** that
470 the member should have been disqualified from participation because of a
471 substantial financial interest in the matter; except the action shall be invalidated
472 when the disqualified member's vote was necessary to establish the required
473 majority to approve the decision of the Commission~~body~~. When a Commission
474 ~~or Board~~ decision is invalidated because such vote was necessary to establish
475 the required majority, the Commission~~body~~ shall commence new
476 consideration of the matter beginning at the point where the Commission~~or~~
477 ~~Board, respectively,~~ determines it is necessary to do so to eliminate the effect of
478 the member's improper participation.

479
480 **c. A hearing officer shall disclose any substantial financial interest, personal**
481 **bias or ex parte contact immediately upon being appointed by the City**
482 **Manager and shall refrain from accepting the appointment if a substantial**
483 **financial interest, personal bias or ex parte contact exists. If the substantial**
484 **financial interest, personal bias or ex parte contact arises after the hearing**
485 **officer's appointment, he or she shall disclose his or her interest and shall**
486 **be disqualified from serving as the hearing officer unless all parties waive**
487 **any objection to the hearing officer.**

488
489 **d.** For purposes of hearing an appeal, a quorum of the Commission is four
490 members and a quorum of the ~~Board is four members, one of whom may be the~~
491 ~~Mayor~~. If it is not possible to obtain a quorum of the Planning Commission ~~or~~
492 ~~Board of Adjustment~~ to hear an appeal without the participation of members
493 disqualified by reason of a substantial financial interest, then all members who
494 would be so disqualified shall nevertheless participate in the appeal, including
495 deliberations and voting, and the decision rendered in such a case shall be valid
496 notwithstanding the participation of such members. This subsection shall not
497 apply if the matter can be postponed to a later date (not later than 75 days after
498 the appeal record is prepared) when the Commission~~body~~ can obtain a quorum
499 of members who are not disqualified by a substantial financial interest.

500
501 Section 24. Section 21.93.710 shall be amended to read as follows:
502

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

503 a. No member of the Commission or **a hearing officer appointed by the City**
504 **Manager to review a decision issued by the Commission**~~Board of Adjustment~~
505 shall have ex parte communication with any person. “Ex parte communication”
506 means to communicate, directly or indirectly, with the appellant, other parties
507 or persons affected by the appeal, or members of the public concerning an
508 appeal or issues specifically presented in the notice of appeal, either before the
509 appeal hearing or during any period of time the matter is under consideration or
510 subject to reconsideration, without notice and opportunity for all parties to
511 participate in the communication.

512
513 b. This section does not prohibit:

514
515 1. **Commission** Members from discussing matters relating to the appeal
516 among themselves.

517
518 2. Communications between municipal staff and Commission ~~or Board~~
519 members **or the hearing officer** where:

520
521 a. Such staff members are not themselves parties to the appeal;

522 and

523 b. Such communications do not furnish, augment, diminish, or
524 modify the evidence in the record on appeal.

525
526 3. Communications between the Commission ~~or Board~~ and its legal
527 counsel.

528
529 c. If, before an appeal commences, a member of the Commission ~~or Board~~
530 receives an ex parte communication of a type that could not properly be
531 received while an appeal is pending, the member shall disclose the
532 communication in the manner prescribed in subsection (d) of this section at the
533 first meeting of the Commission ~~or Board~~ at which the appeal is addressed.

534
535 d. A member of the Commission ~~or Board~~ who receives an ex parte
536 communication at any time shall, at the first opportunity after the
537 communication, place on the record of the pending matter all written
538 communications received, all written responses to the communications, and a
539 memorandum stating the substance of all oral communications received, all
540 responses made, and the identity of each person from whom the member
541 received an ex parte communication. Any party to the appeal desiring to rebut
542 the ex parte communication must be granted a reasonable opportunity to do so
543 if a request is promptly made.

544

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

545 e. If the Commission ~~or Board~~ determines in its discretion it is necessary to
546 eliminate the harmful effect of an ex parte communication received in violation
547 of this section, the Commission ~~or Board~~ may disqualify the member who
548 received the communication from participation in the appeal. In addition, the
549 Commission ~~or Board~~ may impose appropriate sanctions, including default,
550 against a party to the appeal for any violation of this section.

551
552 f. It is a violation, subject to penalties and other enforcement remedies under
553 this title:

554
555 1. For any person to knowingly have or attempt to have ex parte
556 communication with a Commission or a hearing officer~~or Board~~
557 ~~member~~ in violation of subsection (a) of this section.

558
559 2. For any Commission ~~or Board~~ member or the hearing officer to
560 knowingly receive an ex parte communication in violation of subsection
561 (a) of this section.

562
563 3. For any Commission ~~or Board~~ member to knowingly fail to place on the
564 record any matter when and as required under subsections (c) and (d) of
565 this section.

566
567 Section 25. This ordinance shall take effect upon its adoption by the Homer City
568 Council.

569
570 Section 26. This ordinance is of a permanent and general character and shall be
571 included in the City Code.

572
573 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
574 _____, 2017.

575
576 CITY OF HOMER

577
578
579 _____
580 BRYAN ZAK, MAYOR

581
582 ATTEST:
583
584
585 _____
586 JO JOHNSON, MMC, CITY CLERK

587 YES:
588 NO:
589 ABSTAIN:
590 ABSENT:
591
592
593
594 First Reading:
595 Public Hearing:
596 Second Reading:
597 Effective Date:

598
599
600
601

602 Reviewed and approved as to form.

603
604

605 Mary K. Koester, City Manager

606
607

Date: _____

608
609

610 Fiscal Note: NA

Holly C. Wells, City Attorney

Date: _____



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 17-14

TO: Homer Advisory Planning Commission
 THROUGH: Rick Abboud, City Planner
 FROM: Travis Brown, Planning Technician
 DATE: February 15, 2017
 SUBJECT: Staff Report PL 17-14

Requested Action: Preliminary Plat approval to reconfigure the existing four lots into three new lots

General Information:

Applicants:	Scott and Cathy Ulmer P.O. Box 1950 Homer, AK 99603 Gary Nelson, PLS 152 Dehel Ave. Homer, AK 99603	Phillip J. Rojas 4812 Dal Ct. NE Rio Rancho, NM 87144
Location:	Mission Road East of East Hill Road	
Parcel ID:	17403020, 17403021, 17403014, 17403015	
Size of Existing Lot(s) in acres:	1.64, 1.66, 5.46, 6.01	
Size of Proposed Lots(s) in acres:	2.489, 8.744, 3.331	
Zoning Designation:	Rural Residential District	
Existing Land Use:	Vacant, Single Family Home, Single Family Home, Vacant	
Surrounding Land Use:	North: Single Family Home, Vacant South: Two 12-acre, undeveloped parcels East: Single Family Home West: Single Family Home	
Comprehensive Plan:	Chapter 4, Goal 3: Encourage high quality buildings and site design that complements Homer's beautiful natural setting.	
Wetland Status:	The 2005 wetland mapping shows no wetland areas.	
Flood Plain Status:	Zone D, flood hazards undetermined.	
BCWPD:	Not within the Bridge Creek Watershed Protection District.	
Utilities:	City water and sewer are not available at this time.	
Public Notice:	Notice was sent to 37 property owners of 45 parcels as shown on the KPB tax assessor rolls.	

Analysis: This subdivision is located within the Rural Residential District. This platting action reconfigures four existing lots into three new lots. The lot lines have essentially been redrawn to follow natural drainages. The surveyor has expressed his intent to alter the preliminary plat as submitted upon submittal to the Kenai Peninsula Borough for review. He intends to remove the entire 10' right-of-way dedication along Mission Road adjacent to lot 13-A as well as a portion of the 10' right-of-way adjacent to Lot 12-A. His reasoning for this change is that the deep gulley located on the south side of Mission Road where it meets lots 12-A and 13-A makes building a road in this location impractical. Public Works has recommended an alternative right-of-way dedication as depicted by Carey Meyer in attachment "Exhibit A." Further, Carey provides detailed comments on this matter in the attached email.

Homer City Code 22.10.051 Easements and rights-of-way

- A. The subdivider shall dedicate in each lot of a new subdivision a 15-foot-wide utility easement immediately adjacent to the entire length of the boundary between the lot and each existing or proposed street right-of-way.

Staff Response: The plat does not depict a 15' wide utility easement along Mission Rd. This will need to be added to the preliminary plat.

- B. The subdivider shall dedicate in each lot of a new subdivision any water and/or sewer easements that are needed for future water and sewer mains shown on the official Water/Sewer Master Plan approved by the Council.

Staff Response: The plat meets these requirements.

- C. The subdivider shall dedicate easements or rights-of-way for sidewalks, bicycle paths or other non-motorized transportation facilities in areas identified as public access corridors in the Homer Non-Motorized Transportation and Trail Plan, other plans adopted by the City Council, or as required by the Kenai Peninsula Borough Code.

Staff Response: The plat meets these requirements.

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 needs to include the total area in acres in the title block.

- 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: The plat meets these requirements.

- 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: The plat meets these requirements.

- 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: The plat meets these requirements.

- G. Status of adjacent lands, including names of subdivisions, lot lines, lock numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

Staff Response: The 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.

- 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: The plat meets these requirements.

- 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.

- 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: The plat meets these requirements.

- 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: The plat meets these requirements.

Public Works Comments:

- 1. A 15 foot wide utility easement should be shown adjacent to Mission Road.
- 2. Change preliminary plat name to Lloyd Race 2017.
- 3. The right-of-way dedication shown on the plat should be revised as shown on the attached drawing (Exhibit A).

A development agreement is not required

Fire Department Comments: No comments.

Staff Recommendation:

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

- 1. A 15 foot wide utility easement should be shown adjacent to Mission Road.
- 2. Accept the full right-of-way as submitted, or at minimum, the right-of-way dedication shown on the plat should be revised as shown on the attached drawing (Exhibit A).

Attachments:

- 1. Preliminary Plat
- 2. Surveyor's Letter
- 3. Public Notice
- 4. Aerial Map
- 5. Public Works recommended ROW dedication (Exhibit A)
- 6. Carey Meyer's comments from email dated Jan. 27, 2017

CERTIFICATE OF OWNERSHIP

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

SCOTT A. ULMER (for former lots 11B, & 11C)
P.O. Box 1950
Homer, AK 99603

CATHY M. ULMER (for former lots 11B, 11C, & 12)
P.O. Box 1950
Homer, AK 99603

NOTARY'S ACKNOWLEDGEMENT
Acknowledged before me this _____ day of _____ 2016.

For :

Notary public for Alaska _____ My Commission Expires _____

J. PHILLIP ROJAS (for former lot 13)
P.O. Box 1950
Homer, AK 99603

NOTARY'S ACKNOWLEDGEMENT
Acknowledged before me this _____ day of _____ 2016.

For :

Notary public for Alaska _____ My Commission Expires _____

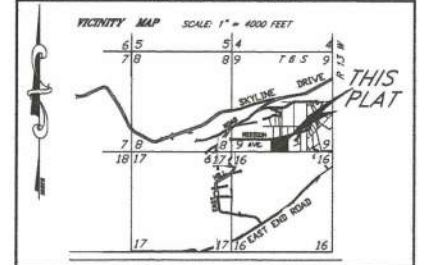
RECEIVED
JAN 20 2017
CITY OF HOMER
PLANNING/ZONING

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of _____ KENAI PENINSULA BOROUGH

BY _____
Authorized Official

VICINITY MAP
SCALE: 1" = 1 MILE



LLOYD RACE 2016

A REPLAT OF LOTS 11B, 11C, LEVESQUE SUBDIVISION (HM79-29), AND LOTS 12 AND 13 LLOYD RACE ADDITION (HM56-3009) WITHIN THE SW 1/4 AND THE SE 1/4 OF SECTION 9, T6S, R13W, S.M., IN THE CITY OF HOMER, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, HOMER RECORDING DISTRICT, STATE OF ALASKA
CONTAINING _____ ACRES

OWNER'S:
SCOTT A. ULMER, AND CATHERINE M. ULMER
P.O. BOX 1950
HOMER, AK 99603

PHILLIP J. ROJAS
4812 DAL. CT. NE
RIO RANCHO, NM 87144

ABILITY SURVEYS

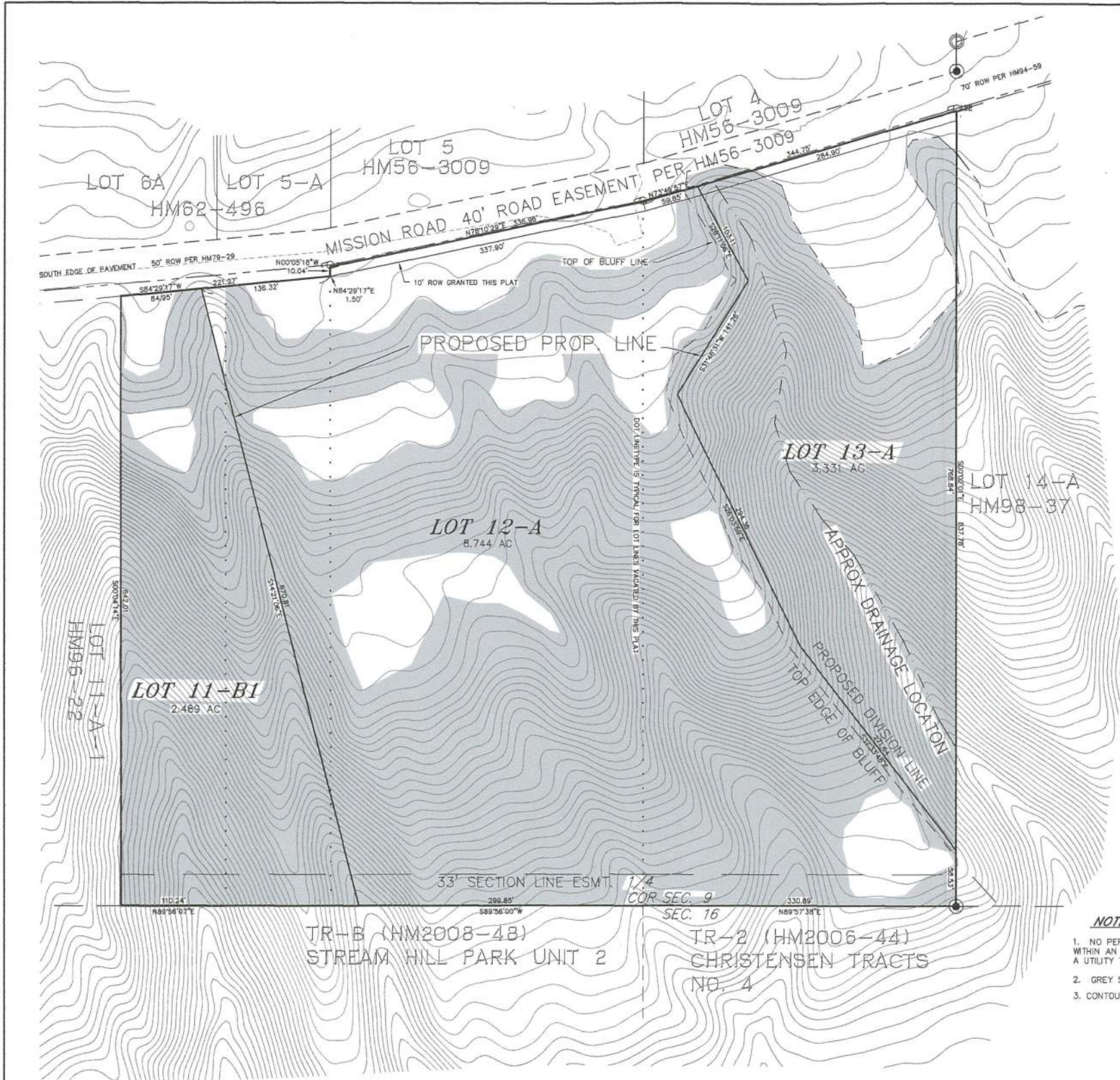
GARY NELSON, PLS
(907) 235-8440
152 DEHEL AVE., HOMER ALASKA 99603



REC DIST _____
Date _____ 20____
Time _____ M
Requested By _____
Address _____

NOTES

1. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
2. GREY SHADED AREAS REPRESENT SLOPES STEEPER THAN 20%.
3. CONTOUR INTERVAL IS 4'.



ABILITY SURVEYS

SURVEYING HOMER SINCE 1975

LAND SURVEYING - CONSTRUCTION SURVEYING - DESIGN SURVEYING
152 DEHEL AVE. , HOMER, AK. 99603 PH. 907-235-8440 FAX. 235-8440

09/16/2016

City of Homer Planning Dept.
491 E. Pioneer Ave.
Homer, AK 99603

Re: Preliminary Plat submittal of **LLOYD RACE 2016.**

Enclosed herewith are 1 reduced to 11 X 17 copy of the preliminary plat and 1 full sized 24"X 36" copy, and a check # 4296 in the amount of \$300 for the City of Homer filing fee.

The proposed subdivision is located on the south side of Mission Avenue. The existing Parcels are not serviced by city water and sewer.

I believe the area is zoned as "Rural Residential".

This plat action attempts to better the existing lot configuration by adding highland areas adjacent to ravines to adjoining highland parcels whereas those areas are not useable or beneficial to the highlands on the other side of the ravines.

I am not aware of necessary code exemptions at this time but reserve a right to ask for them if they are found to be necessary.

Thank you for your assistance and consideration in this endeavor. Please don't hesitate to call for any reason.

Sincerely, 
Gary Nelson, PLS

RECEIVED

JAN 20 2017

CITY OF HOMER
PLANNING/ZONING

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:

Lloyd Race 2016 Preliminary Plat

The location of the proposed subdivision affecting you is provided on the attached map. 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, February 15, 2017 at 6:30 p.m. at Homer City Hall, Cowles Council Chambers, 491 East Pioneer Avenue, Homer, Alaska.

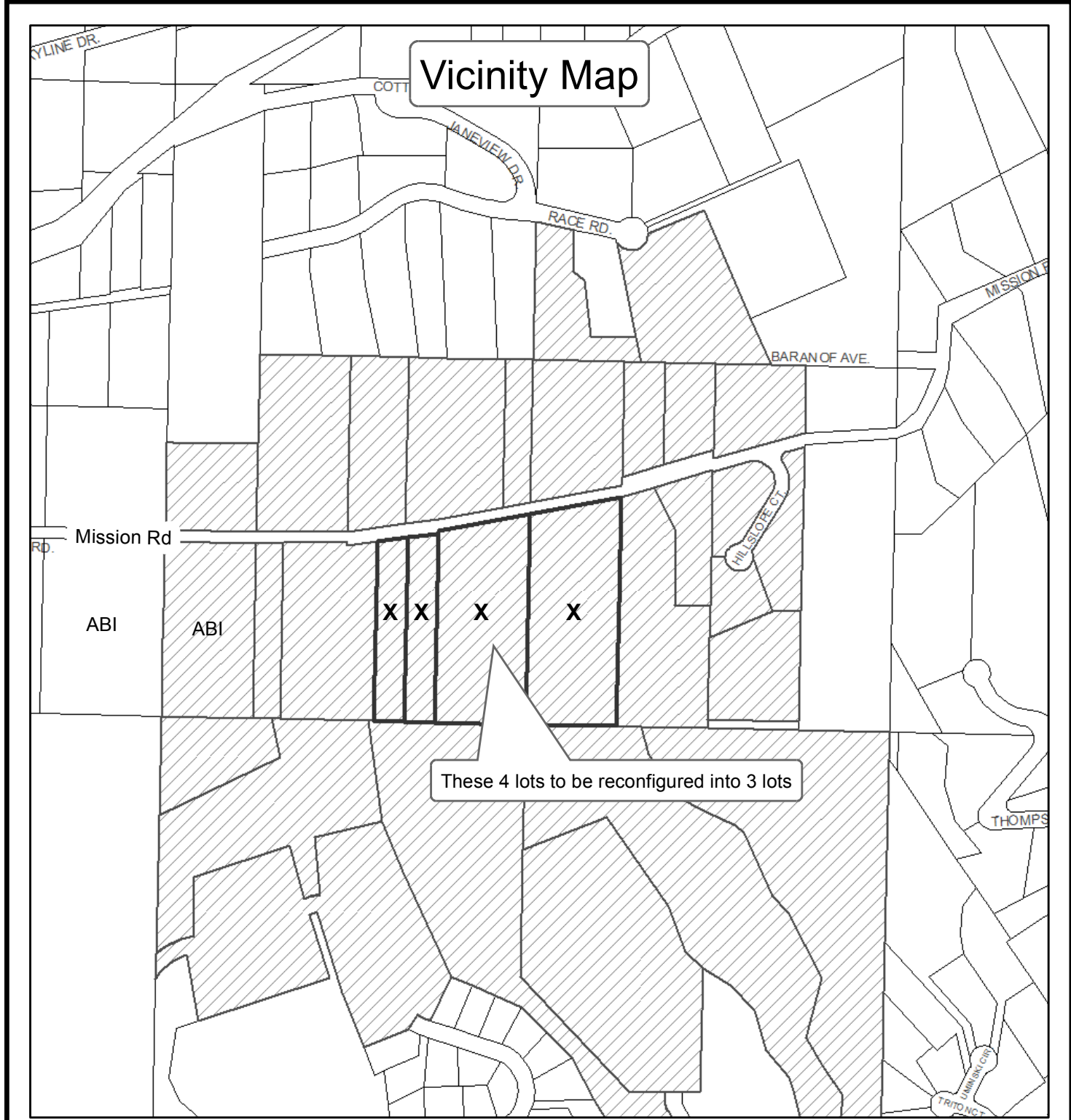
Anyone wishing to present testimony concerning these matters may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

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.

.....

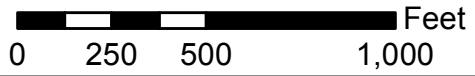
VICINITY MAP ON REVERSE



City of Homer
Planning and Zoning Department
 February 1, 2017

Lloyd Race 2016 Preliminary Plat

Marked lots are w/in 500 feet and property owners 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.

CERTIFICATE OF OWNERSHIP

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

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P.O. Box 1950
Homer, AK 99603

CATHY M. ULMER (for former lots 11B, 11C, & 12)
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Homer, AK 99603

NOTARY'S ACKNOWLEDGEMENT
Acknowledged before me this _____ day of _____ 2016.

For :

Notary public for Alaska _____ My Commission Expires _____

J. PHILLIP ROJAS (for former lot 13)
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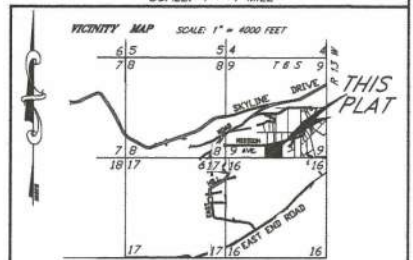
JAN 20 2017

**CITY OF HOMER
PLANNING/ZONING**

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of _____ KENAI PENINSULA BOROUGH

BY _____
Authorized Official
VICINITY MAP
SCALE: 1" = 1 MILE



LLOYD RACE 2016

A REPLAT OF LOTS 11B, 11C, LEVESQUE SUBDIVISION (HM79-29), AND LOTS 12 AND 13 LLOYD RACE ADDITION (HM56-3009) WITHIN THE SW 1/4 AND THE SE 1/4 OF SECTION 9, T6S, R13W, S.M., IN THE CITY OF HOMER, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, HOMER RECORDING DISTRICT, STATE OF ALASKA
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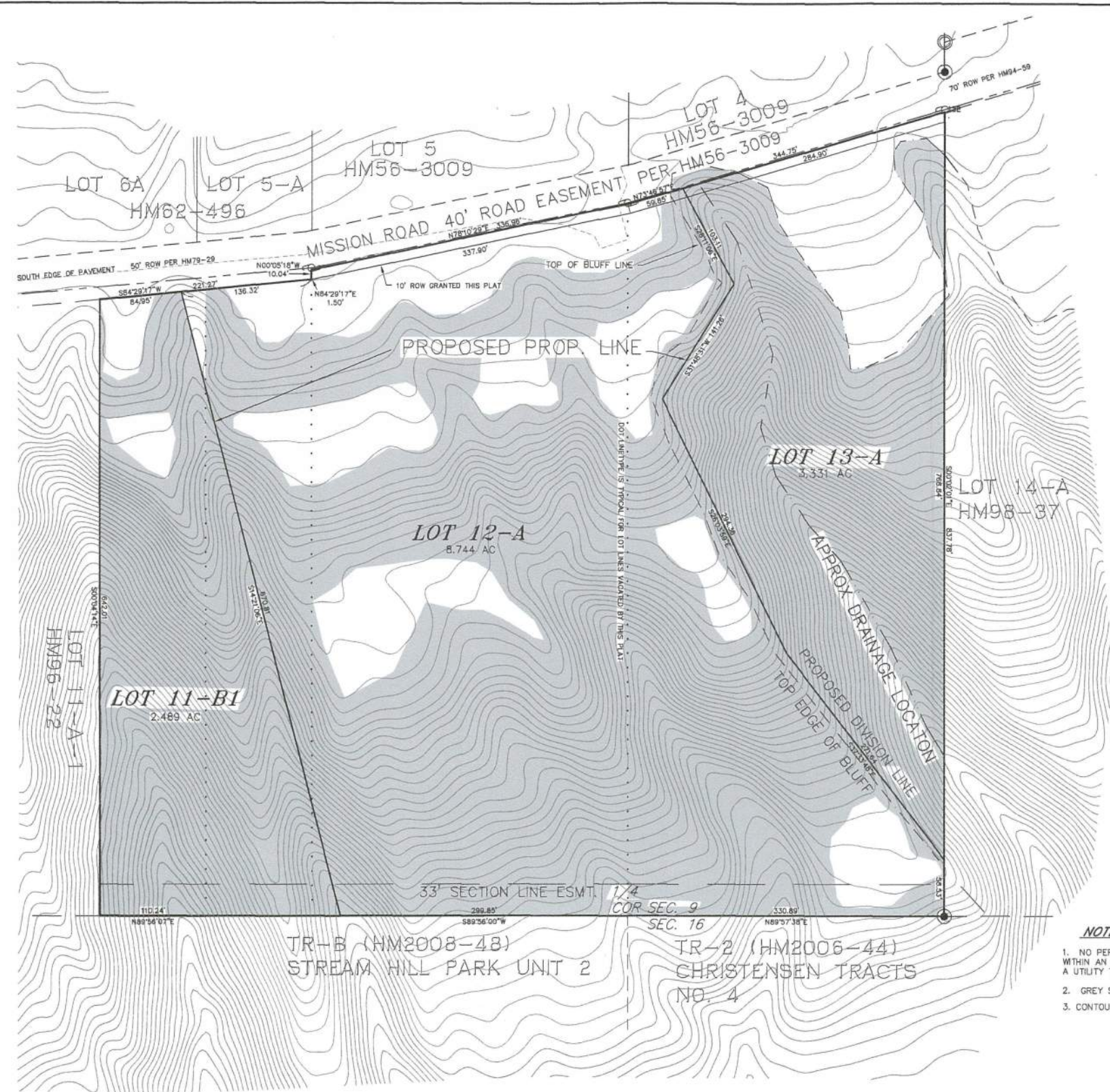
GARY NELSON, PLS
(907) 235-8440
152 DEHEL AVE., HOMER ALASKA 99603

REC DIST _____
Date _____ 20____
Time _____ M
Requested By _____
Address _____

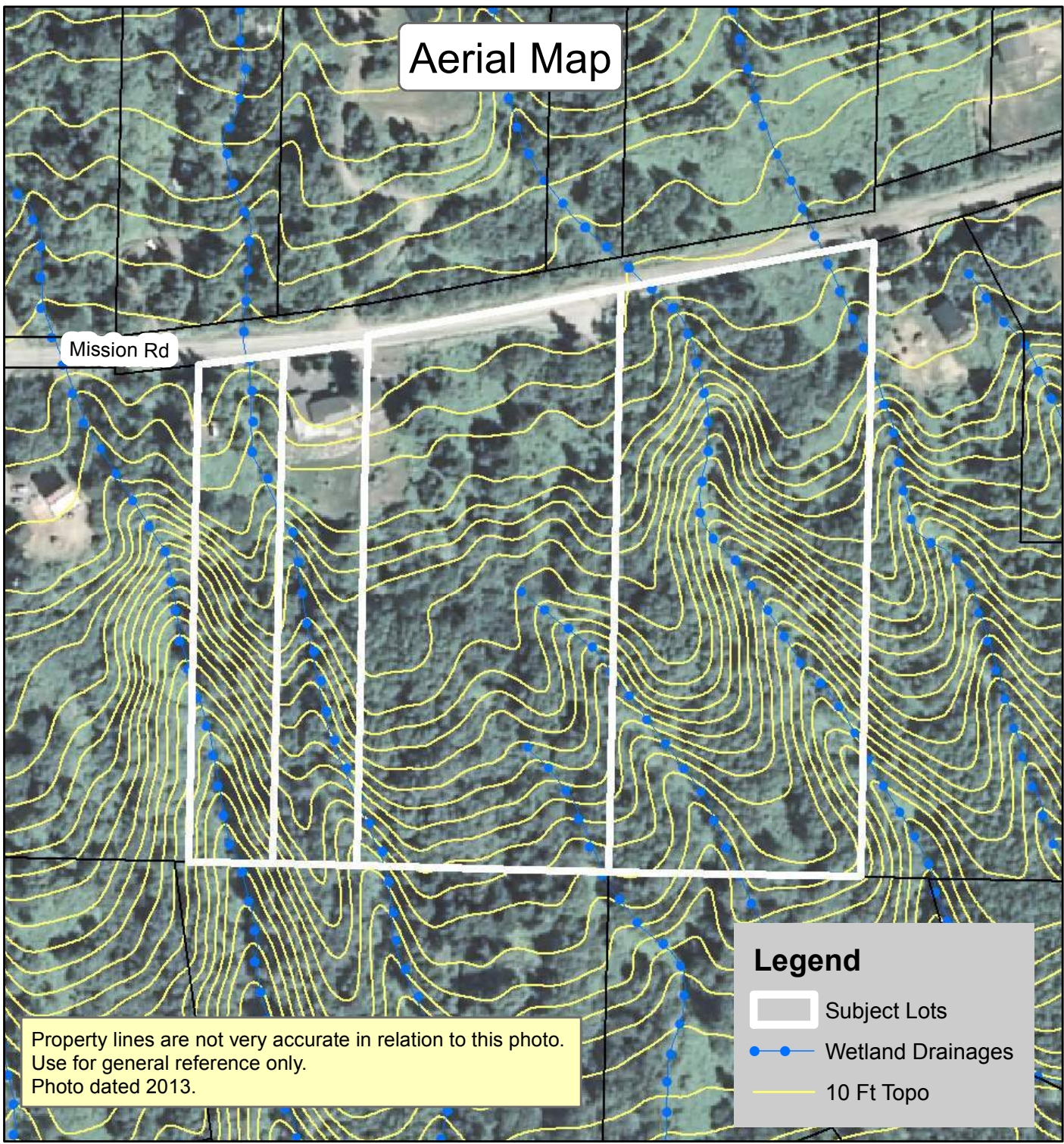


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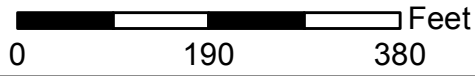


Aerial Map



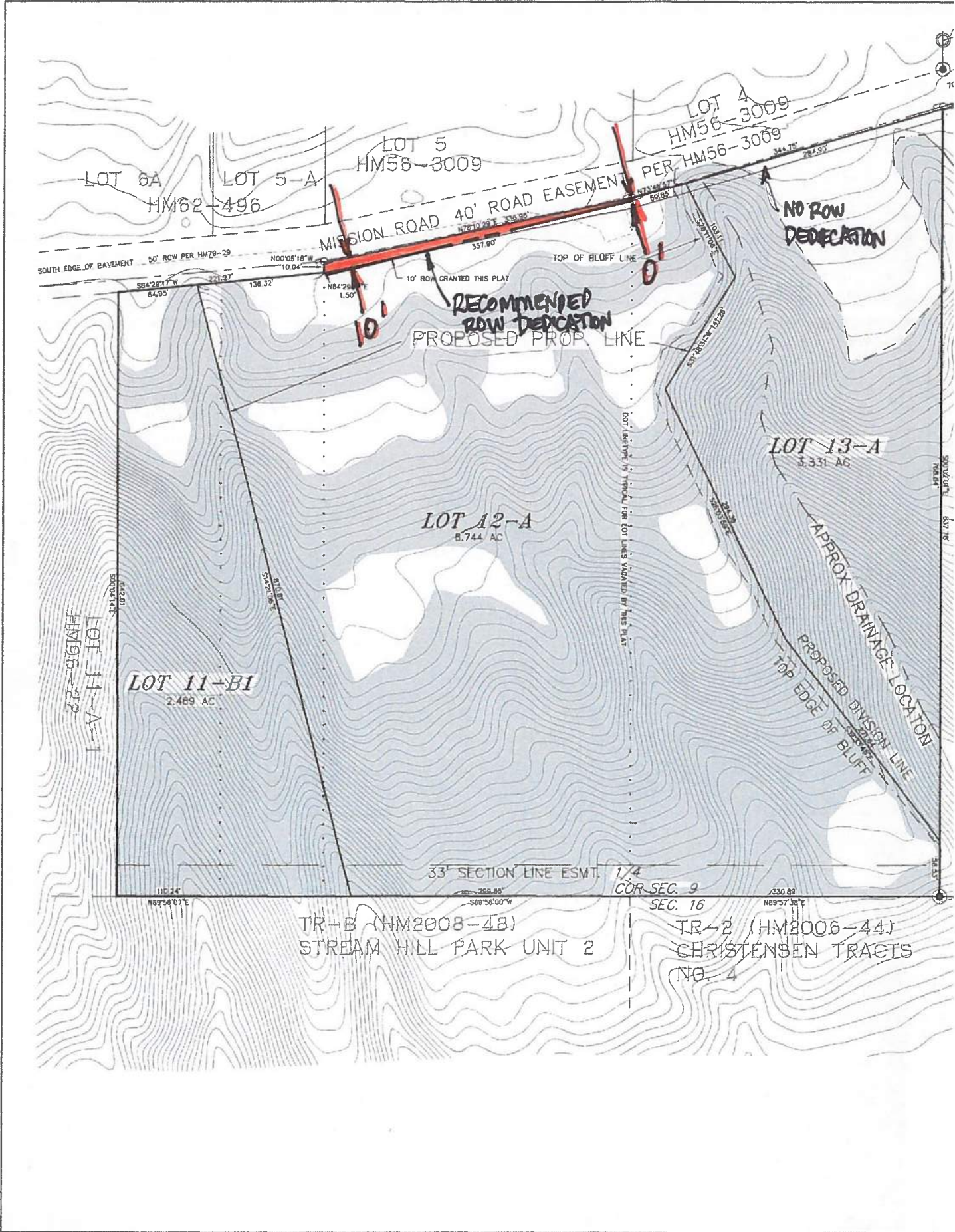
City of Homer
Planning and Zoning Department
February 1, 2017

Lloyd Race 2016 Preliminary Plat



Disclaimer:
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Exhibit A



From: Carey Meyer
Sent: Friday, January 27, 2017 5:29 PM
To: Travis Brown
Cc: Jean Hughes
Subject: RE: Preliminary Plat Submittal
Attachments: Lloyd Race 2016 plat - revised row dedication.pdf

Travis;

Jeanne is out for two weeks – I will be commenting on plats while she is gone.

Below are Public Works comments regarding the Lloyd Race 2016 preliminary plat:

- 1) A 15 foot wide utility easement should be shown adjacent to Mission Road.
- 2) Maybe change plat name to Lloyd Race 2017
- 3) The right-of-way dedication shown on the plat should be revised as shown on the attached drawing (see below).

Mission Road (to the east of this plat) is 70 foot wide.

The southern 40 feet was dedicated (1998) by the property owner to the south (over the original 40 road easement); and the property owner to the north dedicated the other 30 feet (1994). Additional right-of-way beyond the original 40' wide road easement was dedicated by the property to the north. There is a small ravine to the south.

Mission Road (to the west of this plat and the western 221.27 feet fronting the subject plat) is 50 foot wide.

All 50 feet was dedicated by the property owner to the south (the northern 40 feet over the original 40' wide road easement and other 10' south of said easement). Topography does allow for some additional right-of-way dedication south of the original 40' wide road easement.

Any significant additional Mission Road right-of-way width adjacent to the subject plat should come from the properties to the north, if we are going to be consistent with how additional right-of-way dedication has been dealt with in adjacent platting actions. The fact that there is a deep unbuildable ravine to the south of the current Mission Road makes usable additional right-of-way dedication to the south problematic; this fact supports the conclusion that additional right-of-way should come from the north side of Mission (as was done to the east).

To provide a straight continuous right-of-way line along the south side of Mission , Public Works recommends the dedication of a sliver of right-of-way as shown on the attached drawing.

Carey S. Meyer, P.E., MPA

Public Works Director/City Engineer

City of Homer, Alaska

3575 Heath Street

Homer, AK 99603

cmeyer@ci.homer.ak.us

(p) 907-435-3124

(f) 907-235-3145



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 17-17

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: February 15, 2017
SUBJECT: Temporary cold weather shelter for the homeless

Introduction: This subject was brought to the Planning Commission through the City Council by Council Member Erickson. The thought was to provide some room in code for the allowance of the provision of temporary shelter to those in need during inclement weather.

Analysis: The memo from Council Member Erickson outlines some considerations for the Commission to review. This conversation quickly escalates to evolve around many issues that homeless individuals may need to address. At this point, so far, we are just looking at getting people out of the wet and cold on what you could refer to as on an emergency basis.

I have invited people involved in providing services to this population to speak with the Commission to get a better understanding of the problem and solutions. Without their input, I was figuring on an allowance for use of institutional structures such as, churches and fraternal organization to offer temporary shelter. I would really like to hear form some representatives of those willing to provide services to get better details. Until then, we can review the code to see why we may need to make code.

In general, anyone could invite someone to stay with them in their dwelling. So, what is a dwelling (according to HCC). There are varieties of definitions that are dependent on the use of a dwelling including:

“Dwelling” or “dwelling unit” means any building or portion thereof designed or arranged for residential occupancy by not more than one family and includes facilities for sleeping, cooking and sanitation.

“Dwelling, duplex” means a building designed or arranged for residential occupancy by two families living independently, the structure having only two dwelling units.

“Dwelling, factory built” means a structure containing one or more dwelling units that is built off-site, other than a manufactured home, and: (1) is designed

only for erection or installation on a site-built permanent foundation; (2) is not designed to be moved once so erected or installed; and (3) is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing.

“Dwelling, multiple-family” means a building or a portion thereof designed for residential occupancy by three or more families living independently in separate dwelling units.

“Dwelling, single-family” means a detached dwelling unit designed for residential occupancy by one family.

All of these definitions, except “dwelling, factory built” rely on the provision of ‘family’. So, you may have thought you know the definition of family (so did I), but our code is unique.

“Family” means an individual or two or more persons related by blood, marriage or adoption, or a group not to exceed six unrelated persons living together as a single housekeeping unit in a [dwelling](#) unit.

With this definition, no more than six unrelated are allowed in a dwelling. But wait, the code has provisions for rooming houses and hostels,

“Rooming house” means a dwelling containing not more than five guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests. A rooming house shall not accommodate in excess of 15 guests. A rooming house shall also include any structures associated with the dwelling, such as guest cabins; provided, that a conditional use permit was obtained for any associated structures, if a permit is required in order to have more than one building containing a permitted principal use on the lot. “Rooming house” does not include bed and breakfast.

“Hostel” means any building or portion of a building containing dormitory-style sleeping accommodations for not more than 15 guests that are used, rented or hired out on a daily or longer basis.

Rooming houses have provision in RR, CBD, GC1, GB, TC, RO, and UR districts. Hostels have provision in the same districts except for GC1.

Now we could compare this to our definition of Homeless shelter,

“Shelter for the homeless” means a building used primarily to provide on-site meals, shelter and secondary personal services such as showers and haircuts to the homeless and the needy on a nonpermanent basis for no or nominal compensation.

OK, you may have noticed that these definitions may have inherited some conflict. These definitions do provide some guidance about how we deal with occupancy in the code. I am then lead down the path of considering just when is an occupancy a “shelter for the homeless” or something else. What has been introduced is the concept of temporary. We will want to explore this concept. We will need to investigate envisioned service and what would make this different from a shelter for the homeless.

Anchorage: The muni has adopted a Cold Weather Plan for the Homeless. The plan designates the conditions when the plan will go into effect. It makes provisions concerning health and safety of the shelter and operates outside of the terms of CUP’s and Title 21 requirements. It is an interesting example and I have included some background information.

Staff Recommendation: Ask questions of the presenter and discuss options to address the subject in code. Provide guidance for further exploration of the subject at the next meeting.

Attachments

1. Memo 17-017
2. CC minutes
3. Anchorage Temporary Cold Weather Shelters Plan
4. AFD cold weather policy
5. Anchorage Cold Weather Shelter Designation Application



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

Memorandum 17-017

TO: MAYOR ZAK AND HOMER CITY COUNCIL
FROM: COUNCILMEMBER ERICKSON
DATE: DECEMBER 30, 2017
SUBJECT: TEMPORARY SHELTER FOR PEOPLE FROM THE COLD WEATHER

The purpose of this memo is to introduce the concept for a draft ordinance to the City Council for review prior to recommending the Planning Commission work on an ordinance. This serves two purposes: 1. an opportunity for the public to be aware of the item and that the subject may get passed to the Planning Commission (hopefully for their comment and future participation) and 2. for the City Council to express their support for the concept and to discuss any refinement which would lead to a better recommendation to the Planning Commission.

I would like to address the needs of homeless people who need temporary shelter during times of inclement weather. The points suggested for the Planning Commission to address include:

Setting parameters for temporary shelters for during time when weather is poor.

- Generally from October through April.
- Time of operation 8 pm – 8 am, no loitering
- Length of stays, few days
- Allow for churches to operate
- Make a permitted use, no Conditional Use Permit (CUP)
- Consider allowance to use Fire Marshal to determine capacity
-

Recommendation

Council support for the ordinance and concepts.

Use of a Hearing Officer to Order Impoundment of Dangerous Animals, Decide Disputes Regarding Itinerant Merchant Licenses, and Decide Disputes Regarding Qualifications of a Candidate for Office. Aderhold.

Mayor Zak called for a motion for the approval of the agenda as amended.

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

MAYORAL PROCLAMATIONS AND RECOGNITIONS

A. Mayor's Proclamation – Congenital Heart Defect Awareness Week

Councilmember Reynolds read and presented the proclamation to Dottie Zopp, Chloe's grandmother.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Jan Rumble, Homer resident and Homer Hockey Association President, supports Ordinance 17-04. It will bring economic value to the City, could generate revenue for the ice rink, and provide local options to purchase cars.

Charlie Stewart, city resident, supports Ordinance 17-04. Selling of new cars is not being done anywhere in the city so it won't offend any established business. Last July the ice rink realized \$5,000 to \$6,000 in revenue from the sale of cars on their lot. They would like to be able to have cars sold at both the beginning and the end of the summer.

Salvation Army Captain Christin Fankhauser, city resident, supports Memorandum 17-017 and the drafting of an ordinance to allow zoning for cold weather shelters. She is willing to work with the City and the Planning Commission. It is a good step for something more permanent.

Peggy Kleinleder, city resident, expressed support for Memorandum 17-017 to address terms for long-term shelter and the continuation of care for people to move from homelessness.

Bob Bornt, city resident and SVT Behavioral Health Counselor, supports Memorandum 17-017. Homelessness contributes to mental health issues. He has purchased the old laundromat on Main Street with a goal to create low income housing to serve the population. He has an idea to put tiny houses in the area and create an opportunity village. He would like to see the



homeless become involved in a mental health personal development program, moving forward in phases to get substance abuse recovery. To view the concept go to www.opportunityvillageeugene.org

Mark Hemstreet, Save U More Store Manager, supports the Greatland Street expansion Option A as listed in Memorandum 17-109. The unfinished street is used now for pedestrian traffic and vagrants and homeless occupy the wooded area. He would like to see the ability to make a left turn out of both streets.

RECONSIDERATION

CONSENT AGENDA

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- A. Homer City Council unapproved Regular meeting minutes of January 9, 2017. City Clerk. Recommend adoption.
- B. **Memorandum 17-014** from Mayor Zak, Re: Reappointments of Robert Hartley and Catherine Ulmer to the Port and Harbor Advisory Commission.
- C. **Memorandum 17-015** from City Clerk, Re: Liquor License Renewals for Boardwalk Fish & Chips and Don Jose's Mexican Restaurant.
- D. **Memorandum 17-016** from City Clerk, Re: Travel Authorization for Mayor Zak and Councilmembers Aderhold and Smith to Attend the Alaska Municipal League/Conference of Mayors Winter Legislative Conference in Juneau, Alaska, February 21 – 23, 2017.
- E. **Ordinance 17-04**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.30.020 to Add "Auto Equipment Sales, Rentals, Service, Repair and Storage" to the List of Permitted Uses in the Marine Industrial District. Lewis. Recommended dates: Introduction January 23, 2017, Refer to Planning Commission.

Moved to Ordinances, Item A. Aderhold.

- F. **Ordinance 17-05**, An Ordinance of the City Council of Homer, Alaska, Amending the 2017 Operating Budget by Appropriating \$970,870 From the Homer Accelerated

PENDING BUSINESS

- A. **Resolution 17-006**, A Resolution of the City Council of Homer, Alaska, Amending the City Council Operating Manual to Remove Limitations Placed Upon Public Commenting Before City Council. City Manager. Postponed from January 9, 2017 to follow Ordinance 17-01.

Mayor Zak called for a motion for the adoption of Resolution 17-006 by reading of title only.
LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- A. **Memorandum 17-017** from Councilmember Erickson, Re: Temporary Shelter for People from the Cold Weather. Refer to Planning Commission.

Mayor Zak called for a motion for the approval of the recommendations of Memorandum 17-017 to refer to the Planning Commission.

LEWIS/REYNOLDS - SO MOVED.

Council concurred of the need for temporary shelter for people from the inclement weather. Additionally, agencies could help by setting parameters and helping people move towards a resolution to their homeless situation. The intent is to open zoning for temporary shelters, at the same time refraining from becoming a destination for homeless people. People will need to be working towards helping themselves.

City Planner Abboud said the first step is a shelter from immediate harm. There are ten-year plans sponsored by federal agencies to help eliminate homeless. Some of the bigger issues are the transitional housing. He is committed to working with the agencies and will gather more information as to who is willing to participate.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Memorandum 17-018** from Acting Finance Director, Re: Waiver of Penalties for Natural Gas Distribution Special Assessment.



**Municipality of Anchorage
Department of Health & Human Services
Cold Weather Plan for Homeless Persons**

Introduction:

This document outlines measures for the Municipality of Anchorage and its Community Partners to coordinate public and private resources when outside temperatures pose an immediate danger to the life and health of unsheltered people, especially families and those living with medical or mental health conditions that render them more vulnerable in inclement weather.

This document provides criteria which will:

- Initiate the Municipality of Anchorage's Cold Weather Plan for Homeless Persons (The Plan), as authorized by Anchorage Municipal Code Title 16, Chapter 16.120, Cold Weather Plan for Homeless Persons (AMC 16.120), as Amended
- Outline response & operating protocols for the Anchorage Safety Patrol & Anchorage Safety Center (ASP/ASC) when The Plan is in effect
- Enable Bean's Café (Beans) to temporarily shelter clients of Brother Francis Shelter (BFS) if BFS reaches capacity while The Plan is in effect, and to act as a temporary overnight cold weather shelter for homeless persons
- Enable Anchorage Churches, designated by the Director of the Municipal Department of Health & Human Services (DHHS), or their designee, to act as temporary overnight cold weather shelters for families and sober individuals when The Plan is in effect (when the outside temperature is 45 degrees Fahrenheit or below, by ambient or wind-chill measures)
- Enable social service facilities, designated by the Director of the Municipal Department of Health & Human Services (DHHS), or their designee, to act as temporary overnight cold weather shelters for homeless persons while The Plan is in effect (when the outside temperature is 45 degrees Fahrenheit or below, by ambient or wind-chill measures)

The objective of The Plan is to safeguard the lives of vulnerable homeless individuals by providing temporary shelter during inclement weather conditions that pose a threat to those living without adequate shelter, especially those at higher risk of death due to exposure.

Initiating The Plan:

When the outside temperature in the Municipality of Anchorage reaches 32 degrees Fahrenheit, or below, by ambient or wind-chill measures, according to the National Weather Service (NWS), Merrill Field Airport station, The Plan is automatically initiated under AMC 16.120, as Amended. If the NWS Merrill Field Airport station is offline, temperature readings from the NWS Lake Hood, Elmendorf, or Ted Stevens International Airport stations may be utilized.

While official notification from the Municipality is not necessary to initiate the plan, the Director of DHHS, or their designee, will develop and maintain a contact list for those Municipal Departments and Community Partners affected by initiation of The Plan, so Municipal Departments and Community Partners are able to coordinate their efforts.

Protocols For ASP/ASC, BFS & Beans Café Under The Plan:

ASP/ASC:

- When the outside temperature reaches 32 degrees Fahrenheit, or below, by ambient or wind-chill measure, as measured the National Weather Service, ASP/ASC protocols under The Plan are in effect, until the outside temperature reaches 33 degrees Fahrenheit or above.
- When the initiating temperature threshold is reached, the on-duty ASC EMT will immediately notify all on-duty ASP personnel that The Plan is in effect.
- The evening BRAC-out will be coordinated via a phone call to BFS to ascertain that there is sufficient space and beds for individuals departing sleep-off. The Safety Center shall not ask or require any person admitted after 8:00 pm to leave before 8:00 am the following day without good cause, regardless of intoxication or incapacitation level. Persons may leave voluntarily if otherwise released by staff.
- The morning BRAC-out will be coordinated with the opening time of Beans Cafe
- If a homeless individual comes to the ASC while The Plan is in effect, who is not a “client” (i.e. is not incapacitated by alcohol), depending on the time of day and options available, ASC staff will attempt to facilitate getting that person to another suitable shelter.
- When the outside temperature reaches 33 degrees Fahrenheit or above, as measured by the National Weather Service, the on-shift EMT will notify all on-duty ASP staff that services will return to normal operations as per Policy and Procedures.

BFS & Beans Café:

- When the outside temperature reaches 45 degrees Fahrenheit, or below, by ambient or wind-chill measure, as measured by the National Weather Service, protocols under The Plan for BFS and Beans are in effect until the outside temperature reaches 46 degrees Fahrenheit or above.
- While The Plan is in effect, if BFS reaches capacity, clients can be temporarily moved to Beans.
- While The Plan is in effect, Beans may act as a temporary shelter, regardless of Conditional Use Permit and Title 21 requirements, under AMC 16.120, as Amended
- While initiation of The Plan may exempt Beans from certain zoning regulations, the facility must be certified by the Anchorage Fire Department, and meet other requirements which may be deemed necessary by the Director of DHHS, or their designee, before Beans can accept overflow clients from BFS.
- When the outside temperature reaches 46 degrees Fahrenheit or above, as measured by the National Weather Service, the on-shift supervisors will notify all BFS and Beans staff that services will return to normal operations as per Policy and Procedures. Zoning requirements are once again in effect. The exemptions are only in effect when The Plan is activated, however, no client will be asked to leave before 8 am without cause.

Protocols For Anchorage Churches Designated Under The Plan:

- When the outside temperature reaches 45 degrees Fahrenheit, or below, by ambient or wind-chill measure, as measured the National Weather Service, as outlined in AMC 16.120, as Amended, Anchorage Churches who have been designated by the Director of DHHS, may act as temporary cold weather shelters regardless of Conditional Use Permit and Title 21 requirements, as permitted by AMC 16.120
- While initiation of The Plan may exempt designated Churches from certain zoning regulations:
 1. Facilities must be designated by the Director of DHSS, or their designee.
 2. Designation is at the discretion of the Director of DHHS, or their designee. Nothing in AMC 16.120 requires designation. Satisfaction of the requirements in AMC Title 16, Chapter 16.120 does not guarantee designation.
 3. The facilities must be certified by the Anchorage Fire Department as suitable for a temporary cold weather shelter
 4. Volunteers & paid staff must be adequately trained (as determined by DHHS)
 5. Applicants shall submit a written plan and protocols consistent with the Municipality's Cold Weather Plan for Homeless Persons, AMC Title 16, Chapter 16.20, DHHS Policy # 2010-001, AFD Fire Prevention Division Policy # 2010-002, and all other applicable codes, laws and ordinances. Said plans and protocols must be approved by DHHS.
 6. The plan and protocols shall include provisions indicating cooperation with other cold weather and emergency shelter providers identified by DHHS, and point of entry protocols.
 7. The plan and protocols for churches shall include provisions limiting use of their facilities as a temporary cold weather shelter for homeless families and individuals who are not under the influence of alcohol or controlled substances not prescribed to the individual. The Anchorage Police Department and/or Community Service Patrol should be notified if an inebriated individual requests shelter in a designated temporary cold weather shelter located in a church
 8. The facilities must meet any additional requirements deemed necessary by the Director of DHSS, or their designee

Protocols For Social Service Facilities Designated Under The Plan:

- When the outside temperature reaches 45 degrees Fahrenheit, or below, by ambient or wind-chill measure, as measured the National Weather Service, as outlined in AMC 16.120, Anchorage social service facilities who have been designated by the Director of DHHS, may act as temporary cold weather shelters regardless of Conditional Use Permit and Title 21 requirements, under AMC Title 16, Chapter 16.120, as Amended
- While initiation of The Plan may exempt designated social service facilities from certain zoning regulations:

1. Facilities must be designated by the Director of DHSS, or their designee.
2. Designation is a discretionary decision of DHSS; nothing in AMC 16.120 requires designation. Satisfaction of the requirements in AMC Title 16, Chapter 16.120 does not guarantee designation.
3. The facilities must be certified by the Anchorage Fire Department as suitable for a temporary cold weather shelter
4. Volunteers & paid staff must be adequately trained (as determined by DHSS)
5. Applicants shall submit a written plan and protocols consistent with the Municipality's Cold Weather Plan for Homeless Persons, AMC Title 16, Chapter 16.20, DHHS Policy # 2010-001, AFD Fire Prevention Division Policy # 2010-002, and all other applicable codes, laws and ordinances. Said plans and protocols must be approved by DHHS.
6. The facilities must meet any additional requirements deemed necessary by the Director of DHSS, or their designee

Churches and social service facilities designated as temporary cold weather shelters under AMC 16.120, as Amended may not accept/shelter unaccompanied (by a parent or legal adult guardian) youth under the age of 18. The State of Alaska requires that shelters accepting unaccompanied youth under the age of 18 be licensed to do so by the state. If an unaccompanied youth between the ages 13-17 arrives at a designated church or social service facility seeking shelter, staff/volunteers should immediately notify Covenant House Alaska: 907-272-1255. If an unaccompanied youth under the age of 13 arrives at a designated church or social service facility seeking shelter, staff/volunteers should immediately notify the Office of Children's Services: 907-269-4000, or if they are not available, the Anchorage Police Department: 907-786-8900.

When the outside temperature reaches 46 degrees Fahrenheit or above, as measured by the National Weather Service, The Plan is no longer in effect. While normal zoning requirements are once again in effect, no client will be asked to leave before 8 am without cause

Summary:

While the objective of The Plan is to safeguard the lives of vulnerable homeless families and individuals by providing temporary shelter during inclement weather conditions that pose a threat to those living without adequate shelter, all applicable Municipal and State health and safety codes and regulations remain in effect and must be adhered to. The Plan allows some exemptions from zoning regulations, but not health and safety codes and regulations.

**ANCHORAGE FIRE DEPARTMENT
FIRE PREVENTION
4700 Elmore Anchorage, Alaska 99507
(907) 267-4900**



Policy# 10-002 Temporary Cold Weather Shelters

The following policy shall be followed for all buildings or portion thereof, structures, facilities, or centers designated as a temporary cold weather shelter in accordance with Anchorage Municipal Code Title 16, Chapter 16.120, Cold Weather Plan for Homeless Persons, as Amended.

Section 1.0 Purpose and Objective

- A. The purpose of this policy is to provide guidelines for the use of buildings or portion thereof, structures, facilities, or centers designated as a Temporary Cold Weather Shelter.
- B. The objective of this policy is to work cooperatively with the Department of Health and Human Resources (DHHS) and other Agencies to provide a safe temporary shelter for those in need.

Section 1.1 Role of the Fire Prevention Division

- A. The role of the Fire Prevention Division is to become a team member of the Homeless Leadership Team by actively participating in the development and implementation of the Temporary Cold Weather Shelter Plan.
- B. The Fire Prevention Division will provide fire inspections and education for applicants participating in the Temporary Cold Weather Shelter Plan.

Section 1.2 Requirements for Designation Shelters

Before any building or portion thereof, structure, facility, or center can be designated as a Temporary Cold Weather Shelter, a fire inspection shall be performed and all non-compliance corrected. No provisional approval shall be given without written approval from the Fire Marshal.

1. A floor plan drawn to scale shall be submitted showing all areas in addition to those areas used to temporary house individuals. All rooms shall be properly labeled.
2. A responsible person, trained in fire life safety, shall be on-site the entire time the Cold Weather Plan is activated and until such time all occupants have left the shelter. A fire watch log shall be maintained.
3. A Fire Safety and Evacuation Plan shall be available for review on-site.
4. The sleeping area shall have a posted emergency plan with marked egress routes to a specific gathering place. All occupants shall be made aware of all exits.

5. A minimum of two exits shall be provided from all sleeping areas (at least one of the room's exits shall be directly to the exterior of the building). Alternate means and methods shall be approved in advance by the Fire Marshal.
6. Smoke detectors shall be properly installed in the sleeping area(s) and immediately adjacent to the sleeping area. More than one may be required in a sleeping area.
7. Carbon monoxide detectors shall be provided in the sleeping area and immediately outside of the sleeping area.
8. A fire drill shall be conducted before final approval is given. Only staff need participate. A fire drill conducted in the presence of a fire code official shall serve the purpose of training in fire life safety required in #2, section 1.2.
9. In buildings equipped with an automatic sprinkler system, a current deficient free annual service report shall be available on-site.
10. In buildings equipped with a fire alarm system, a current deficiency free annual service report shall be available on-site.
11. Whenever the Cold Weather Plan is activated, the shelter coordinator shall notify AFD dispatch (267-4950) with the location and the number of individuals utilizing the shelter. A written record shall be maintained listing the individuals occupying the shelter.

The Fire Marshal may amend this policy as needs arise. Nothing in this policy shall limit the use of buildings during an emergency situation as permitted by the Fire Marshal.



Municipality of Anchorage
 DEPARTMENT OF HEALTH & HUMAN SERVICES
 825 "L" Street • Anchorage, Alaska 99501 • Telephone 343-6718



APPLICATION TO OPERATE A COLD WEATHER SHELTER

Designation is at the discretion of the Director of the Department of Health & Human Services, or their designee. Satisfaction of the requirements in AMC CHAPTER 16.120 does not guarantee designation.

APPLICANT

Date of Application:	Name of Organization:	<input type="checkbox"/> Church <input type="checkbox"/> Social Service Agency <input type="checkbox"/> Other		
Physical Address:		City:	State:	Zip:
Mailing Address (<i>only if different from physical</i>):		City:	State:	Zip:
Primary Contact Person:	Phone:	Work:	Cell:	Email:
Alternate Contact Person:	Phone:	Work:	Cell:	Email:

GENERAL FACILITY INFORMATION

Maximum Occupancy Load	"Are children's/preschool services offered in this facility?"	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Shelter Will House (<i>check all that apply</i>)			
<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Families	<input type="checkbox"/> Teens

ATTACHMENTS

- ◆ Copy of Insurance Certificate (*required*)
- ◆ Plan of Operations For Sheltering (*required*)
- ◆ Copy of Last AFD Inspection (*required*)
- ◆ Red Cross Certification For The Facility (*if applicable*)

APPLICANT AUTHORIZATION AND SIGNATURE

By signature below, I certify that I am authorized by the church/organization named above to submit this application on its behalf and that I have read Anchorage Municipal Code, Chapter 16.120, and the Municipality's Cold Weather Plan for Homeless Persons (The Plan), and agree, on behalf of the church/organization named above, to abide by all requirements of AMC Chapter 16.120, The Plan, the Anchorage Fire Department and the Department of Health & Human Services. In consideration of the protection afforded by AMC chapter 16.120 and designation as a participant in the Municipality's Cold Weather Plan for Homeless Persons, the Applicant hereby consents to and does hereby agree to indemnify, defend, save and hold the MOA and its' employees and agents harmless from any claims, lawsuits, or liability, including attorney's fees and costs, allegedly arising out of loss, damage or injury to the Applicant and its' employees, customers or congregants, occurring during the course of or as a result of the Applicant's participation in The Plan.

Signature:	Printed Name:	Date Signed:
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APPROVALS

Anchorage Fire Department		
<input type="checkbox"/> Approved	Signature: _____	Printed Name: _____ Date: _____
<input type="checkbox"/> Not Approved	Reason: _____	Date: _____
DHHS Staff		
<input type="checkbox"/> Approved	Signature: _____	Printed Name: _____ Date: _____
<input type="checkbox"/> Not Approved	Reason: _____	Date: _____
DHHS Director		
<input type="checkbox"/> Approved	Signature: _____	Printed Name: _____ Date: _____
<input type="checkbox"/> Not Approved	Reason: _____	Date: _____

Designation is for a 24 month period. It is the responsibility of the applicant, or their agent, to contact DHHS 90 days before expiration of their designation, and apply for renewal.	Beginning Date	Ending Date
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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 17-13

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: February 1, 2017
SUBJECT: Auto sales in the Marine Industrial District

Introduction: The City Council introduced this item at their meeting of January 23, 2017 and moved for the Planning Commission to make a recommendation. The ordinance at the meeting added “Marine **and auto** equipment sales, rental, service, repair and storage” to the list of permitted uses in the MI District. It became apparent that the council intended to have temporary auto sales (exclusive) for consideration in the district, **not** equipment sales, rental, service, repair, and storage.

In consideration of the intent of the proposed ordinance, it may be in order to make a motion to recommend deleting the proposed amendment and replace with adding “automobile sales” or “automobile sales, temporary” to the list of permitted uses in the Marine Industrial District.

At the meeting, representatives of the Homer Hockey Association testified that they would like to be able to use the hockey rink parking lots for temporary new car sales. They mentioned that they wanted to be able to have a 14-day event in July. A dealer would use the lot and provide the organization with donations related to the amount of vehicles that they sold on the lot. They also stated interest in hosting other similar events.

Analysis: In order to consider an addition of a use in code we must use the Comprehensive Plan and the Code itself to see if it is supported. The use must be appropriate for the entire district and not be confined to just the hockey rink, in order to avoid spot zoning.

The Spit Comprehensive Plan is rather silent on this particular subject. The closest the plan comes to the subject is in Goal 1.1, maintain the variety of land uses that establish the unique “Spit” character and mix of land uses. This includes the objective of, revise zoning to protect character and enhance commercial, industrial, and public facilities development. It goes on to recommend clustering together similar land uses. Nothing more in the implementation table goes into the support of such an activity in the Marine Industrial District.

The Plan does talk about Industrial Development starting on page 23. It identifies the potential for future fishing, marine, and shipping industries. Further identifying key issues including the

need to: “Better utilize the limited land available for industrial and economic development; Reserve sufficient land by the Deep Water Dock for future industrial development; and Encourage development related to the fishing, fish processing, and boating industries.” It goes on to mention aesthetic and safety concerns. Perhaps the most telling paragraph, “Finally, creep of commercial land uses into an industrial area should be avoided because it reduces future options for marine industrial uses and harbor facilities. Marine industrial and transportation are strategically important long term-uses, and commercial activity should be located so that future opportunities are preserved.”

We may also look at the zoning code for direction. HCC 21.30.010 Purpose. “The purpose of the Marine Industrial District is primarily to provide adequate space for those water-dependent industrial uses that require direct marine access for their operation, such as fishing, fish processing, marine transportation, off-shore oil development and tourism, giving priority to those water-dependent uses over other industrial, commercial and recreational uses.”

At this point, we want to review the district map. Besides the skating rink, it is tough to conclude that auto sales would not displace possible future industrial activities, even if only temporarily. The sale of automobiles is a commercial activity. I am unaware of the tourism potential for such a venture. A council member was concerned that we would not sell cars around the deep-water dock. I did reply that, in any case, we could control city owned property with administrative policy. This is telling because we should be able to support a proposed use throughout the entire district.

This is a tough item to gain my support. In order to best justify such a proposition, I would like to see an amended comprehensive plan and chapter purpose. If auto sales is found to be appropriate in an industrial zoning district, it bears to mind the thought of allowance in commercial districts that are better suited to support a commercial retail operation. Basically, how have we come to review a proposal for expansion of a commercial activity outside of the commercial business district. If additional allowances for auto sales were found to be in Homers best interests, we would first want to explore the commercial districts.

Staff Recommendation: Discuss the merits of adding temporary auto sales as a use in the Marine Industrial District and move to hold a public hearing.

Attachments

1. Ordinance 17-04
2. Letter
3. CC minutes excerpt of meeting on 1/23/17

- 41 h. Warehouse and marshaling yards for storing goods awaiting transfer to marine
42 vessels or off-loaded from a marine vessel and awaiting immediate pickup by
43 land-based transportation;
- 44
- 45 i. Mobile food services;
- 46
- 47 j. Itinerant merchants;
- 48
- 49 k. Recreational vehicle parks, provided they shall conform to the standards in
50 Chapter 21.54 HCC;
- 51
- 52 l. Caretaker, business owner or employee housing as an accessory use to a
53 primary use, and limited to no more than 50 percent of the floor area of a
54 building and for use by an occupant for more than 30 consecutive days;
- 55
- 56 m. More than one building containing a permitted principal use on a lot;
- 57
- 58 n. Restaurant as an accessory use;
- 59
- 60 o. Parks;
- 61
- 62 p. As an accessory use, one small wind energy system per lot;
- 63

64

65 Section 2. This ordinance shall take effect upon its adoption by the Homer City Council.

66

67 Section 3. This ordinance is of a permanent and general character and shall be included
68 in the City Code.

69

70 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
71 _____, 2017.

72

73 CITY OF HOMER

74

75

76 _____

77 BRYAN ZAK, MAYOR

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81

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83 ATTEST:

84

85

86 _____

87 JO JOHNSON, MMC, CITY CLERK

88

89

90 YES:

91 NO:

92 ABSTAIN:

93 ABSENT:

94

95 First Reading:

96 Public Hearing:

97 Second Reading:

98 Effective Date:

99

100 Reviewed and approved as to form.

101

102 _____

103 Mary K. Koester, City Manager

104

105 Date: _____

106

107

108 Fiscal Note: NA

Holly C. Wells, City Attorney

Date: _____

From: Frank Griswold
To: [Jo Johnson](#)
Cc: [Department Planning](#)
Subject: Ordinance 17-xx/Temporary Auto Sales/Spot Zoning
Date: Thursday, January 12, 2017 1:54:23 PM

Re: Ordinance 17-xx, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 21 to Allow Temporary Auto Sales in the Marine Commercial District for Up to 90 Days. Lewis. Recommended dates: Introduction January 23, 2017, Refer to Planning Commission.

In *Griswold vs. City of Homer*, 925 P.2d 1015, 1020, at footnote 6, the Alaska Supreme Court defined spot zoning as follows: “[S]pot zoning is simply the legal term of art for a zoning decision which affects a small parcel of land and which is found to be an arbitrary exercise of legislative power. Cf. *Concerned citizens of S. Kenai Peninsula*, 527 P.2d at 452 [“T]he constitutional guarantee of a substantive due process assures only that a legislative’s decision is not arbitrary but instead based upon some rational policy.”]. “The common [spot zoning] situation is one in which an amendment is initiated at the request of an owner or owners who seek to establish a use prohibited by the existing regulations.” Robert M. Anderson, *American Law of Zoning* 3d Sect. 5.12, at 358 (1986). See also, *Ballenger v. Door County*, 131 Wis. 2d 422, 388 N.W. 2d 624, 627 (App. 1986) (applying spot zoning analysis in a case where the zoning district remained the same but the permitted uses within the district were expanded.).

Spot zoning is illegal in Alaska. Before considering Ordinance 17-xx, it would be prudent for the City Council and Planning Commission to request a formal legal opinion addressing whether allowing auto sales, temporary or otherwise, in the Marine Commercial District (or in the Marine Industrial District or in any other zoning district where they are not currently allowed) would constitute spot zoning. The following questions need to be addressed: 1. What rational *public* policy constitutes the basis for the proposed ordinance? 2. How does the proposed ordinance comport with the Homer Comprehensive Plan? 3. Does the small size of the area proposed for rezone require a finding of spot zoning? 4. If the proposed ordinance is enacted, on what grounds could anybody be denied the right to sell vehicles in any other zoning district?

Frank Griswold

Use of a Hearing Officer to Order Impoundment of Dangerous Animals, Decide Disputes Regarding Itinerant Merchant Licenses, and Decide Disputes Regarding Qualifications of a Candidate for Office. Aderhold.

Mayor Zak called for a motion for the approval of the agenda as amended.

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

MAYORAL PROCLAMATIONS AND RECOGNITIONS

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Councilmember Reynolds read and presented the proclamation to Dottie Zopp, Chloe's grandmother.

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Memorandum 17-009 from City Planner as backup.

Mayor Zak opened the public hearing. In the absence of public testimony, Mayor Zak closed the public hearing.

Mayor Zak called for a motion for the adoption of Resolution 17-010 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ORDINANCE(S)

- A. **Ordinance 17-04**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.30.020 to Add “Auto Equipment Sales, Rentals, Service, Repair and Storage” to the List of Permitted Uses in the Marine Industrial District. Lewis. Recommended dates: Introduction January 23, 2017, Refer to Planning Commission.

Mayor Zak called for a motion for the introduction of Ordinance 17-04 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

Opening up the auto uses in the entire Marine Industrial District will avoid spot zoning. Reference was made to Frank Griswold’s comments on spot zoning. In the 1992 court case, Griswold vs. City of Homer, the plaintiff prevailed because a council member did not recuse themselves from voting on a zoning change when he owned land there. Council supports helping the Homer Hockey Association, but wants to avoid spot zoning. The Planning Commission will review the ordinance and then it will go to the Port and Harbor Advisory Commission.

Council expressed consensus on not allowing auto repair work and keeping all other uses temporary. The ordinance also needs to be sensitive to auto rental businesses so it does not undermine the people that have built businesses over the years.

City Planner Abboud expressed appreciation to the Council for providing their input to pass on to the Planning Commission.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Ordinance 17-05**, An Ordinance of the City Council of Homer, Alaska, Amending the 2017 Operating Budget by Appropriating \$970,870 From the Homer Accelerated Roads/Trails Program (HART) for the Greatland Street Improvements (Option C) Project, and Authorizing the City Manager to Execute All Appropriate Documents. Erickson. Recommended dates: Introduction January 23, 2017, Refer to Planning Commission.

Memorandum 17-019 from Public Works Director as backup.

Mayor Zak called for a motion for the introduction of Ordinance 17-05 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

There are three different plans for the extension. Council heard from citizens who support Option A. When the Transportation Committee was active they recommended Option C.

LEWIS/STROOZAS - MOVED TO AMEND TO CHANGE OPTION C TO OPTION A AND JUST DO THE STRAIGHT LINE AND IN THE LONG RUN IT WOULD BE CHEAPER.

Councilmember Aderhold would like to see the Planning Commission evaluate each of the options and come back to us with a recommendation.

Public Works Director Meyer said at first glance Option A that uses the existing right-of-way seems to be the appropriate action. The Transportation Plan approved by Council in 2005 suggests Homer could use another east/west corridor. Part of that was constructed this last summer with the Waddell portion. Many of the intersections are not planned well; there are quite a few that are not at 90 degree angles. Option B is in conformance with the Transportation Plan and Option C is a compromise between the two. The Transportation Plan called for the connection to Bartlett Street. The extension of Greatland Street up to Pioneer Avenue creates a weird alignment on the intersection. Greatland Street on the other side of Pioneer Avenue has already been vacated. Option C is a compromise that will make a connection to Pioneer Avenue and will allow for future construction in compliance with the Transportation Plan.

From: Nina Faust <kachbay@gmail.com>
Sent: Thursday, February 02, 2017 7:32 PM
To: Mark Robl
Cc: Department Planning; Jo Johnson
Subject: Trespass at Bishops Beach

Dear Chief Robl,

Around 2 pm I photographed this vehicle on the beach where vehicles are allowed. About half hour later the vehicle was further east past the barrier and still down on the flats. From where I was originally further to the west, I could not be sure they were beyond the barrier in the pedestrian zone. Once I returned to the parking area, it was clear they were well past the rock barrier in the pedestrian zone. Perhaps Homer Police could at least let these folks know that they were in a no vehicle zone.

My second question is, why is the bulldozer still parked on the beach in the pedestrian zone. Why is parked anywhere on the beach for that matter? It has been there for many weeks. I do not believe the Army Corps of Engineers permit allows beach storage of bulldozers like this, especially not in a pedestrian zone. Is it possible to give the owner 24 hour notice to remove the bulldozer to his or her own property? I hope it is not leaking fluids on the beach.

Best regards,
Nina Faust

For City Clerk—Please pass this on to the Planning Commission members. Thanks.

Nina Faust and Edgar Bailey
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reports@cranewatch.org
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A Center for Alaskan Coastal Studies Project









