

## 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 June 20, 2018 **p. 1**

**B.** Decision and Findings for Staff Report 18-39, CUP 18-06 for more than one building containing a permitted principal use on a lot and for a multiple-family dwelling at 1170 Lakeshore Drive **p. 7**

**6. Presentations**

**A.** Paul Janke, PhD, PE, a Regional Hydrologist for the Alaska Department of Transportation & Public Facilities, will discuss water issues related to DOT facilities and answer questions of the commission.

**7. Reports**

**A.** Staff Report 18-42, City Planner's Report **p. 13**

**8. Public Hearings**

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

**A.** Staff Report 18-40, CUP 18-07 for a reduction of the right-of-way setback at 3781 Heath Street **p. 15**

**1.** Staff Report 18-44, CUP 2018-07 Supplemental Report **p. 47**

**9. Plat Consideration**

**10. Pending Business**

**A.** Staff Report 18-43, Comprehensive Plan Appendix **p. 93**

**11. New Business**

**12. Informational Materials**

**A.** City Manager Report for the June 25 Homer City Council meeting **p. 129**

**B.** KPB Notice of Decision for Barnett's South Slope Subdivision Quiet Creek Park Final Plat **p. 137**

**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**

HOMER ADVISORY PLANNING COMMISSION AGENDA

JUNE 6, 2018

PAGE 2 OF 2

The next regular meeting is scheduled for Wednesday August 1, 2018. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.

Session 18-11 a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Stead at 6:30 p.m. on June 20, 2014 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BANKS, BENTZ, BERNARD, BOS, HIGHLAND, STEAD, VENUTI

STAFF: CITY PLANNER ABOUD  
CITY CLERK JACOBSEN

Chair Stead asked for a 10 minute recess at 6:32 to allow the Commission time to review the laydown information provided regarding-

- CUP 18-07 at 3781 Heath Street- written comments from Sue Finney, Frank Griswold, and city documents related to a 1988 variance involving the subject property.
- CUP 18-06 at 1170 Lakeshore Drive - Bay View Subdivision Northwind 2017 Replat.

The meeting resumed at 6:40 p.m.

### **Approval of Agenda**

Chair Stead asked for a motion to approve the agenda.

BOS/BENTZ 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).

### **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 June 6, 2018

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

HIGHLAND/BENTZ SO MOVED.

There was no discussion.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **Presentations**

### **Reports**

A. Staff Report PL 18-38 City Planner's Report

City Planner Abboud reviewed the staff report included in the packet.

Upcoming commissioner attendance at City Council meetings was updated to include Commissioner Bernard on June 25<sup>th</sup>, Commissioner Bos on July 23<sup>rd</sup>, and Commissioner Highland on August 27<sup>th</sup>.

### **Public Hearings**

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

A. Staff Report 18-40, CUP 18-07 for a reduction of the right-of-way setback at 3781 Heath Street

City Planner Abboud explained that information from 1988 regarding a variance on this property came into the office earlier in the day. He contacted the City Attorney who needs time to review and evaluation the information, and he requested the Commission hold the public hearing as scheduled, not close the public hearing, and then postpone this item to the next agenda. He then reviewed the staff report.

The applicant was in attendance and said he had no comments at this time.

Chair Stead opened the public hearing and there were no public comments.

VENUTI/BENTZ MOVED TO POSTPONE THIS CUP UNTIL THE SETBACKS ARE REVIEWED BY LEGAL.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report 18-39, CUP 18-06 for more than one building containing a permitted principal use on a lot and for a multiple-family dwelling at 1170 Lakeshore Drive

City Planner Abboud reviewed the staff report.



Kenton Bloom, project surveyor, noted the packet information explaining they tried to show the open space data. He noted they preserved the lake front, kept everything on the perimeter, and tried to minimize the footprint with low impact design modeling.

Chair Stead opened the public hearing. There were no comments and the hearing was closed.

There were questions regarding Fire Marshall review, easements from Enstar that were shown on the plat, and Public Works comment on initiating community water/sewer design.

City Planner Abboud commented that the applicant will be asked to provide evidence on what is reviewed and what does not require review from the Fire Marshall. Regarding community water/sewer design, the time line depends on how complicated it is, but a design will have to be approved before he can issue a permit.

Mr. Bloom commented that Enstar probably wanted to make sure the easement was shown in the documents. He doesn't anticipate it will impact the waste disposal.

VENUTI/BOS MOVED TO APPROVE STAFF REPORT PL 18-39 AND CUP 18-06 FOR MORE THAN ONE BUILDING CONTAINING A PERMITTED PRINCIPAL USE ON A LOT AND FOR A MULTIPLE-FAMILY DWELLING AT 1170 LAKESHORE DRIVE WITH STAFF FINDINGS 1 THROUGH 10 AND CONDITION 1.

There were comments in support of the project and in appreciation of the drawings and graphics provided.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

### **Plat Consideration**

### **Pending Business**

A. Staff Report 18-21, Comprehensive Plan

City Planner Abboud reviewed the staff report, and noted the discussion during the worksession.

BENTZ/BANKS MOVED TO INCLUDE APPENDIX A AS PRESENTED FOR THE PLAN WITH THE EXCEPTION TO STRIKE OUT THE CBD SECTION ON APPENDIX A, A-4 PAGE 76 OF OUR PACKET.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

BENTZ/VENUTI MOVED TO MOVE THE PLAN TO FINAL PUBLIC HEARING PRIOR TO COUNCIL REVIEW.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

### **New Business**

### **Informational Materials**

A. City Manager's Report June 11, 2018

### **Comments of the Audience**

### **Comments of Staff**

City Planner Abboud hopes everyone enjoys the holiday.

### **Comments of the Commission**

Commissioner Highland confirmed the next meeting is July 18<sup>th</sup>.

Commissioner Bentz appreciated the worksession today, that format for discussion of planning issues is helpful for her. She commented regarding the Borough Planning Commission meeting of June 11<sup>th</sup>. The Plat Committee approved three preliminary plats and one final plat. They approved vacation of a right-of-way and associated utility easements in the City of Kenai. They approved and forwarded to the Borough Assembly a license application for a limited marijuana cultivation facility in Ninilchik and in Kasilof, a license application for a standard marijuana cultivation facility in Sterling, and two conditional land use permits for material extraction for gravel pits in the Kalifornsky/Kasilof area.

Commissioner Bernard also appreciated the worksession and hopes they keep up the trend. It's really valuable to have that time to discuss and ask questions.

Commissioner Bos congratulated City Clerk Jacobsen on 14 years working for the City. He's going to talk to the City Planner in the next few weeks about trying to figure a way to hold people accountable who are applying for different permits.

Commissioner Banks also appreciated the worksession and thanked staff for the preparation that went into it. He appreciated everyone showing up tonight despite the potentially controversial topics on the agenda that they may have had a disagreement with.

Commissioner Venuti had no comment.

Chair Stead said it was a good meeting. He appreciates everyone coming and making sure things got done.

HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
JUNE 20, 2018

**Adjourn**

There being no further business to come before the Commission, the meeting adjourned at 7:19 p.m. The next regular meeting is scheduled for July 18, 2018 at 6:30 p.m. in the City Hall Cowles Council Chambers. A worksession will be held at 5:30 p.m.

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MELISSA JACOBSEN, MMC, CITY CLERK

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





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**HOMER ADVISORY PLANNING COMMISSION**

**Approved CUP 18-06 at the Meeting of June 20, 2018**

**RE:** Conditional Use Permit (CUP) 18-06

**Address:** 1170 Lakeshore Drive

**Legal Description:** T 6S R 13W SEC 21 SEWARD MERIDIAN HM 0000839 BAY VIEW SUB LOTS 101, 102, & 103.

**DECISION**

**Introduction**

Jose DeCreeft and Kerry Tinzman, (the “Applicant”) applied to the Homer Advisory Planning Commission (the “Commission”) for a conditional use permit under Homer City Code (HCC) 21.24.030(j) for more than building containing a permitted principal use on a lot in the Gateway Business District and HCC 21.24.030(c) for a multiple-family dwelling in the General Commercial 1 (GC1) District.

The applicant proposes to remove the four existing structures and replace them with 3 duplexes, a four-plex, and a single family dwelling in the GC1 District.

The application was scheduled for a public hearing as required by Homer City Code 21.94 before the Commission on June 20, 2018. Notice of the public hearing was published in the local newspaper and sent to 27 property owners of 34 parcels.

At the June 20, 2018 meeting of the Commission, the Commission voted to approve the request with seven Commissioners present. The Commission approved CUP 18-06 with unanimous consent.

**Evidence Presented**

City Planner Abboud reviewed the staff report. No public testimony was presented. Kenton Bloom represented the applicant made a brief statement and later answered the Commission’s questions.

### **Findings of Fact**

After careful review of the record, the Commission approves Conditional Use Permit 18-06 for more than building containing a permitted principal use on a lot, per HCC 21.24.030(j) and a multi-family dwelling, per HCC 21.24.030(c).

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

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

**Finding 1:** HCC 21.24.020(k) authorizes hotels and motels, and 21.24.030(c) and 21.24.030(j) authorizes multiple family dwellings and more than one building containing a permitted principle use on a lot if approved by a Conditional Use Permit.

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

**Finding 2:** The proposal supports uses and structures compatible with the GC1 District.

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

**Finding 3:** A hotel or multi-family dwellings are not expected to negatively impact the adjoining properties greater than other permitted or conditional uses.

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

**Finding 4:** A hotel or multi-family dwellings are compatible with the existing uses of the surrounding land.

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

**Finding 5:** Existing public, water, sewer, and fire services are adequate to serve the hotel.

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

**Finding 6:** The Commission finds the proposal will not cause undue harmful effect upon desirable neighborhood character as described in the purpose statement of the district.

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

**Finding 7:** The proposal is not unduly detrimental to the health, safety or welfare of the surrounding area or the city as a whole.

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

**Finding 8:** Successful completion of the permitting process will allow the project to comply with applicable regulations and conditions.

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

**Finding 9:** The proposal is not contrary to the applicable land use goals and objects of the Comprehensive Plan. The proposal aligns with GOAL 1: Guide Homer's growth with a focus on increasing the supply and diversity of housing, protect community character, encouraging infill ... and Objective A: Continue to accommodate and support commercial, residential and other land uses, consistent with the policies of this plan. No evidence has been found that it is not contrary to the applicable land use goals and objects of the Comprehensive Plan.

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

**Finding 10:** The project must comply with the outdoor lighting section of the CDM

**Condition 1:** Outdoor lighting must be down lit per HCC 21.59.030 and the CDM.

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

- 1. Special yards and spaces:** No specific conditions deemed necessary
- 2. Fences and walls:** No specific conditions deemed necessary
- 3. Surfacing of parking areas:** No specific conditions deemed necessary.
- 4. Street and road dedications and improvements:** No specific conditions deemed necessary.

- 5. Control of points of vehicular ingress and egress:** No specific conditions deemed necessary.
- 6. Special provisions on signs:** No specific conditions deemed necessary.
- 7. Landscaping:** No specific conditions deemed necessary.
- 8. Maintenance of the grounds, building, or structures:** No specific conditions deemed necessary.
- 9. Control of noise, vibration, odors or other similar nuisances:** No specific conditions deemed necessary.
- 10. Limitation of time for certain activities:** No specific conditions deemed necessary.
- 11. A time period within which the proposed use shall be developed:** No specific conditions deemed necessary.
- 12. A limit on total duration of use:** No specific conditions deemed necessary.
- 13. More stringent dimensional requirements,** such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.
- 14. Other conditions necessary** to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.

**Conclusion:** Based on the foregoing findings of fact and law, Conditional Use Permit 2018-04 is hereby approved, with Findings 1-10 and Conditions 1.

**Condition 1:** Outdoor lighting must be down lit per HCC 21.59.030 and the CDM.

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Date

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Chair, Don Stead

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Date

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City Planner, Rick Abboud

#### NOTICE OF APPEAL RIGHTS

Pursuant to Homer City Code, Chapter 21.93.060, any person with standing that is affected by this decision may appeal this decision to the Homer Board of Adjustment within thirty (30) days of the date of distribution indicated below. Any decision not appealed within that time shall



be final. A notice of appeal shall be in writing, shall contain all the information required by Homer City Code, Section 21.93.080, and shall be filed with the Homer City Clerk, 491 East Pioneer Avenue, Homer, Alaska 99603-7645.

#### CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to the below listed recipients on \_\_\_\_\_, 2018. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk on the same date.

_____	_____
Date	Travis Brown, Planning Technician
Kenton Bloom, PLS Seabright Survey + Design 1044 East End Rd Homer AK 99603	Holly C. Wells Birch, Horton, Bittner & Cherot 1127 West 7th Ave Anchorage, AK 99501
Jose DeCreeft & Kerry Tintzman PO Box 646 Homer AK 99603	Katie Koester, City Manager 491 E Pioneer Avenue Homer, AK 99603





## City of Homer

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## Planning

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TO: Homer Advisory Planning Commission  
FROM: Rick Abboud, AICP  
DATE: July 18, 2018  
SUBJECT: Staff report PL 18-42, City Planner's Report

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### City Council

#### 6.25.18

Ordinance 18-12(A), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.54.325, Standards for Recreational Vehicles in the Marine Commercial District and Marine Industrial District. Erickson. Introduction March 12, 2018, Refer to Advisory Planning Commission March 27, 2018, Public Hearing and Second Reading June 25, 2018.

Memorandum 18-074 from City Planner as backup

ADOPTED Substitute submitted by Planning Commission with discussion.

#### 7.23.18

I am expecting a resolution to amend the fee schedule to include a \$100.00 RV permit for employee/owner uses.

### Appeal

CUP 18-02 for the reduction in setback on Pioneer Ave. This matter was heard by a hearing officer from the Alaska Office of Administrative Hearings on June 15, 2018, the Judge has 60 days to render a decision.

### Projects

The State of Alaska, Division of Geological & Geophysical Surveys (DGGS) is submitting the proposed Mapping Activity Statement (MAS) as a Cooperating Technical Partner (CTP) for a Landslide Hazard Resiliency Project. What does this mean? It means, if successful, DGGS will receive funding of \$71,944 from FEMA to produce new topographical data that will be used to help identify landslide hazards in Homer, including more specific study of the Baycrest and hospital areas. They are also expected to participate in community outreach to help address/create mitigation strategies. This is expected to be a two-year project.

## **City Council report sign up**

**7.23.18 Tom**

**8.13.18 \_\_\_\_\_**

**8.27.18 Roberta**



# City of Homer

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## Planning

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### Staff Report PL 18-40

TO: Homer Advisory Planning Commission  
THROUGH: Rick Abboud, City Planner  
From: Julie Engebretsen, Deputy City Planner  
DATE: June 20, 2018  
SUBJECT: CUP 2018-07

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**Synopsis** The applicant proposes to build a single-family home, ten feet into the twenty-foot building setback area. A Conditional Use Permit (CUP) is required per HCC 21.18.040(b)(4).

Applicant: Jesse Cave  
34341 North Fork Road  
Anchor Point, AK 99556  
Location: 3781 Heath St,  
Legal: Lot 21A Heath Street Replat HM 0900058  
Parcel ID: 17710410  
Size of Existing Lot: 5,000 square feet  
Zoning Designation: Central Business District (CBD)  
Existing Land Use: Vacant land  
Surrounding Land Use: North: Residential/vacant/hair salon  
South: Parking lot, retail business  
East: Heath Street, HEA yard  
West: Residential

Wetland Status: No designated wetlands on this parcel.  
Flood Plain Status: Area X, not within a 0.2% flood hazard area.  
BCWPD: Not within the Bridge Creek Watershed Protection District  
Utilities: Public utilities service the site.  
Public Notice: Notice was sent to 23 property owners of 33 parcels as shown on the KPB tax assessor rolls.

**ANALYSIS:** The applicant would like to build a single story, single family home on this lot. The proposed home would be placed ten feet into the twenty-foot building setback area along Heath Street. The application states that a single story structure would limit impacts on the

views of properties to the north and west. The home to the west is approximately five feet from the common lot line, and somewhat on a higher grade. The applicant would like to push his home location to the east toward Heath St, away from the common lot line. This proposal would result in more space between the buildings and possibly allow for the retention of trees and shrubs between the homes.

The subject parcel was rendered non-conforming in 1990 by plat HM 0900058 Heath Street Replat which included right of way acquisition for Heath Street (see application document "Heath Street Replat Excerpt"). Heath Street Replat designates the subject parcel as lot "21a," having an area of 5,000 square feet; HCC 21.18.040(a)(1) dimensional requirements states:

*1. The minimum lot area shall be 6,000 square feet. Lawful nonconforming lots of smaller size may be newly developed and used if off-site parking is provided in accordance with the City parking code, Chapter 21.55 HCC;*

#### 21.61.020 Nonconforming lots.

a. A nonconforming lot containing at least 6,000 square feet on May 16, 1978, may be developed in conformity with all other provisions of this title even though such lot fails to meet currently applicable minimum area or width requirements.

**Staff comment:** Recorded in 1974, Plat HM 74-847, Glacier View Subdivision No 2 shows the lot dimensions as 60' x100, resulting in a 6,000 square foot lot.

b. No lot containing less than 6,000 square feet on May 16, 1978, may be used except as follows:

1. In the residential districts, i.e., RR, UR, and RO, on any lot that fails to meet minimum area or width requirements, one single-family dwelling with a proper zoning permit is permitted; and

**Staff comment:** This lot is not in a residential district.

2. In all other districts such lots may be used only in full compliance with all applicable provisions of the current zoning code. [Ord. 08-29, 2008].

**Staff comment:** The setback from a dedicated right-of-way may be reduced if approved by a CUP in the Central Business District, per HCC 21.18.040(b)(4).

**The criteria for granting a Conditional Use Permit is set forth in HCC 21.71.030, Review criteria, and establishes the following conditions:**

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

**Analysis:** A setback reduction can be approved by a Conditional Use Permit.

**Finding 1:** HCC 21.18.020(h) authorizes single-family homes. HCC 21.18.040(b)(4) authorizes a setback reduction from a dedicated right-of-way if approved by a Conditional Use Permit.

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

### **Purpose**

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

**Analysis:** A single family home on this small lot contributes to the mix of residential and nonresidential uses in this neighborhood. The proposed placement of the structure allows the applicant to build a modest size home (900 sq. ft.), within a single story, which helps maintain the views of his neighbors. The purpose statement of the district does not provide guidance on dimensional requirements, other than to state that pedestrian-friendly designs and amenities are encouraged. The proposed structure placement ten feet into the building setback area does not add to or detract from any pedestrian facilities, as the sidewalk along Heath Street is on the east or far side of the road.

**Finding 2:** A single family home on this small lot contributes to the mix of residential and nonresidential uses in this neighborhood. The setback reduction allows for greater compatibility with the neighboring structure to the west and the property to the north by maintaining the view shed.

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

**Analysis:** Many uses in the CBD district have greater negative impacts than would be realized from a single family home 10 feet into the twenty-foot building setback area. A mortuary would have a greater impact on nearby property values. Assisted living, group care, religious, cultural and fraternal assembly would generate a good deal of traffic. No evidence has been presented that a structure within to setback area of Heath Street would have a negative affect on property values. The property to the west benefits by

having more space between structure allowing for greater light and air between the existing home and the proposed new home.

**Finding 3:** The proposal is not expected to negatively impact the adjoining properties greater than other permitted or conditional uses.

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

**Analysis:** The existing surrounding uses of land include:

**East:** Heath Street, and the Homer Electric Association storage yard.

**North:** Small cabin containing a hair salon.

**West:** Single family, two-story residence

**South:** Parking lot for a retail flower business.

The proposed home within the setback will not have a bearing on the land use of any neighboring properties.

**Finding 4:** The structure in the setback is found to be compatible with the existing uses of surrounding land.

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

**Finding 5:** Existing public, water, sewer, and fire services are adequate to serve the proposed him in the prosed location.

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

**Analysis:** Desirable neighborhood character is described by a portion of the purpose statement for the zoning district... *"The district is meant to accommodate a mixture of residential and nonresidential uses."* The proposal will add a small residence, building upon the mixed land uses in the immediate vicinity. The single story structure will be in harmony with is location at a corner lot with a small buildable area. A much larger home could be built, but would potentially 'crowd' the adjunct structure or one of the rights of way. The location of the structure in the setback will allow more room between the homes, without negatively affecting the travel way on Heath Street.

**Finding 6:** The Commission finds the proposal will not cause undue harmful effect upon desirable neighborhood character as described in the purpose statement of the district.



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

**Analysis:** The location of the proposed home does not impede traffic on Heath Street. The clear sight triangle has been drawn on the site plan. It is not anticipated to cause any problems with City infrastructure or service.

**Finding 7:** The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area or the city as a whole

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

**Finding 8:** Following CUP approval and issuance of a zoning permit, this proposal will comply with applicable regulations of HCC Title 21.

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

Goals of the Land Use Chapter of the Homer Comprehensive Plan include Goal 3 Objective B: Encourage high quality site design and buildings.

**Analysis:** The proposal for a single story home on this corner lot will allow the home to blend better with the terrain than a narrow two-story home.

**Finding 9:** The proposal is not contrary to the applicable land use goals and objects of the Comprehensive Plan. The proposal aligns with Goal 3 Objective B and no evidence has been found that it is not contrary to the applicable land use goals and objects of the Comprehensive Plan.

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

**Analysis:** The CDM does not apply to residential uses with less than 12 residential units in the CBD.

**Finding 10:** The CDM does not apply to residential uses with less than 12 residential units in the Central Business District.

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

- 1. Special yards and spaces:** No specific conditions deemed necessary
- 2. Fences and walls:** No specific conditions deemed necessary
- 3. Surfacing of parking areas:** No specific conditions deemed necessary.
- 4. Street and road dedications and improvements:** No specific conditions deemed necessary.
- 5. Control of points of vehicular ingress and egress:** No specific conditions deemed necessary.
- 6. Special provisions on signs:** No specific conditions deemed necessary.
- 7. Landscaping:** No specific conditions deemed necessary.
- 8. Maintenance of the grounds, building, or structures:** No specific conditions deemed necessary.
- 9. Control of noise, vibration, odors or other similar nuisances:** No specific conditions deemed necessary.
- 10. Limitation of time for certain activities:** No specific conditions deemed necessary.
- 11. A time period within which the proposed use shall be developed:** No specific conditions deemed necessary.
- 12. A limit on total duration of use:** No specific conditions deemed necessary.
- 13. More stringent dimensional requirements,** such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.
- 14. Other conditions necessary** to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.

**Condition 1:** Prior to placing a foundation, hire a licensed surveyor to mark the 20 foot building setback on Grubstake, the Commission approved setback on Heath Street, and the five foot setback area between lots 21-A and 22. The surveyor or property owner shall notify Planning and Zoning when the marking has occurred.

**Analysis:** This is a small lot, and any error in foundation placement could result in a setback violation. It is appropriate to require the property owner to have the setback areas marked (not monumented) to prevent this issue.

**PUBLIC WORKS COMMENTS:** No objection.

**FIRE DEPARTMENT COMMENTS:** No comments.

**PUBLIC COMMENTS:** None

**STAFF COMMENTS/RECOMMENDATIONS:**

Planning Commission approve CUP **Staff Report PL 18-40** with findings 1-10 and the following condition.

**Condition 1:** Prior to placing a foundation, hire a licensed surveyor to mark the 20 foot building setback on Bonanza Ave., the Commission approved setback on Heath Street, and the five foot setback area between lots 21-A and 22. The surveyor or property owner shall notify Planning and Zoning when the marking has occurred.

**Attachments**

Application  
Public Notice  
Aerial Photograph  
Site Photos 6/8/2018  
Plat MH 74-847 Glacier View No 2





# City of Homer

www.cityofhomer-ak.gov

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

### Applicant

Name: Jesse Cave Telephone No.: 503-5d-6598

Address: 34341 N. Fork rd. Anchor Point AK 99556 Email: lcave1@yahoo.com

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

Name: Same Jesse + Linda Cave Family Trust Telephone No.: 541-557-1661

Address: 903 Slickrock Rd. DTB DR 97368 Email: lcave1@yahoo.com

### PROPERTY INFORMATION:

Address: 3781 Heath St. Homer Lot Size: 50x100 acres KPB Tax ID # \_\_\_\_\_

Legal Description of Property: lot 21A Heath St. Replat

### For staff use:

Date: \_\_\_\_\_ Fee submittal: Amount \_\_\_\_\_

Received by: \_\_\_\_\_ Date application accepted as complete \_\_\_\_\_

Planning Commission Public Hearing Date: \_\_\_\_\_

## Conditional Use Permit Application Requirements:

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

### Circle Your Zoning District

	RR	UR	RO	<u>CBD</u>	TCD	GBD	GC1	GC2	MC	MI	EEMU	BCWPD
Level 1 Site Plan	x	x	x			x			x			x
Level 1 ROW Access Plan	x	x							x			
Level 1 Site Development Standards	x	x										
Level 1 Lighting			x	x	x	x	x	x	x	x	x	
Level 2 Site Plan			x	x	x		x	x		x	x	
Level 2 ROW Access Plan			x	x	x		x	x		x	x	
Level 2 Site Development Standards			x*	x	x	x	x	x			x	
Level 3 Site Development Standards									x	x		
Level 3 ROW Access Plan						x						
DAP/SWP questionnaire					23	x	x	x			x	

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

- Y/N Are you building or remodeling a commercial structure, or multifamily building with more than 3 apartments? If yes, Fire Marshal Certification is required. Status: NO
- Y/N Will your development trigger a Development Activity Plan?  
Application Status: NO
- Y/N Will your development trigger a Storm water Plan?  
Application Status: NO
- Y/N Does your site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required. Application Status: *There a Riparian zone behind the main building. Underground and culverted Woodward Creek.* NO
- Y/N Is your development in a floodplain? If yes, a Flood Development Permit is required.
- Y/N Does your project trigger a Community Design Manual review?  
If yes, complete the design review application form. The Community Design Manual is online at: <http://www.ci.homer.ak.us/documentsandforms>
- Y/N Do you need a traffic impact analysis? NO
- Y/N Are there any nonconforming uses or structures on the property? NO
- Y/N Have they been formally accepted by the Homer Advisory Planning Commission?
- Y/N Do you have a state or city driveway permit? Status: Yes
- Y/N Do you have active City water and sewer permits? Status: NO

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

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



- a. What code citation authorizes each proposed use and structure by conditional use permit? **21.18.040 (b)(4)**
- b. Describe how the proposed uses(s) and structures(s) are compatible with the purpose of the zoning district. **Almost all lot in that Subdivision are Residential**
- c. How will your proposed project affect adjoining property values?  
**Single story building would limit impact on view to property on North and west sides.**
- d. How is your proposal compatible with existing uses of the surrounding land?  
**I think it would be compatible**
- e. Are/will public services adequate to serve the proposed uses and structures?  
**Water and Sewer are at the lot lines**
- f. How will the development affect the harmony in scale, bulk, coverage and density upon the desirable neighborhood character, and will the generation of traffic and the capacity of surrounding streets and roads be negatively affected?  
**The house should be more attractive than most buildings in that subdivision. Very low Traffic impact**
- g. Will your proposal be detrimental to the health, safety or welfare of the surrounding area or the city as a whole? **NO**
- h. How does your project relate to the goals of the Comprehensive Plan?  
The Comprehensive Plan are online, **The goals of the plan should be met,**
- i. The Planning Commission may require you to make some special improvements. Are you planning on doing any of the following, or do you have suggestions on special improvements you would be willing to make? **(circle each answer)**
1. ☒ Y/N Special yards and spaces.
  2. ☒ Y/N Fences, walls and screening.
  3. ☒ Y/N Surfacing of parking areas.
  4. ☒ Y/N Street and road dedications and improvements (or bonds).
  5. ☒ Y/N Control of points of vehicular ingress & egress.
  6. ☒ Y/N Special provisions on signs.
  7. ☒ Y/N Landscaping.
  8. ☒ Y/N Maintenance of the grounds, buildings, or structures.
  9. ☒ Y/N Control of noise, vibration, odors, lighting, heat, glare, water and solid waste pollution, dangerous materials, material and equipment storage, or other similar nuisances.
  10. Y/N Time for certain activities.

11. ☒ Y/N A time period within which the proposed use shall be developed.  
12. ☒ Y/N A limit on total duration of use.  
13. ☒ Y/N Special dimensional requirements such as lot area, setbacks, building height.  
14. ☒ Y/N Other conditions deemed necessary to protect the interest of the community.

### PARKING

1. How many parking spaces are required for your development? 2

If more than 24 spaces are required see HCC 21.50.030(f)(1)(b). \_\_\_\_\_

2. How many spaces are shown on your parking plan? 2

3. Are you requesting any reductions? NO

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

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

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

Applicant signature: Jesse Cave Date: 5-29-18

Property Owner's signature: Jesse Cave for the Date: 5-29-18  
Jesse and Linda Cave Family trust



To the Planning Commission  
for the city of Homer AK.  
5-29-18

I'm applying for a conditional use permit so I can build a normal shaped house in the middle of my lot instead of an elongated or tall structure that would block the neighbors view of the bay. This plan would create an extra 5 feet from neighbors lot line and create better egress between upper and lower portions of my lot.

My plan is to comply with all rules and Ordinances of the central business district, CBD, listed in chapter 21.18 of the City code.

At the time I bought the lot, the setbacks were 12 ft. from Bonanza St. and 15 ft from Heath St. I'm asking for a reduction of 5 ft. from Heath St. which would make it 10 ft. from the lot line.

I've already hauled many loads of dirt & gravel to direct runoff to the existing drain ditch on east easement, between lot line and Heath St. The lot slopes about 6 feet from north to south.

Sincerely *Jesse Cave*  
For the Jesse and Linda Cave family Trust





Bonanza Street

↑N

1"=10'

Lot 21A  
Heath Street Replat

50x100  
← Lot

neighbors  
House  
Single family  
USE  
Two Story

Landscaping

House 30x30  
900 sq  
ft.  
20% of lot

10ft  
Setback

Landscaping

East Easment  
< 15 feet  
to Street

Heath  
Street

Drainage  
To Existing  
Drainage Ditch

Visable  
Triangle

Parking

Drainage  
To Existing  
Drainag Ditch

Parking

Driveway  
Permit  
No. 1110

1850 sq ft.  
Natural Space  
55% of lot

10 feet Utility Easment

10 feet Utility Easment

Neighbors Parking lot

Ground level View - lot 21A Heath St. Replat  
looking from West to East

20 ft  
City Setback

← North

Bonanza St.

30 ft.

Roof

24 ft.

House

6 ft.  
deck

16 ft.

Ground level

10 ft.

Parking

South →

lot  
line

10 ft.  
Utility easement

RECEIVED

JUN 08 2018

CITY OF HOMER  
PLANNING/ZONING

1" = 10'

100 ft





Lot 21A

CONTINZA AVE

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JUL 16 2012

CITY OF HOMER  
PLANNING/ZONING





City of Homer  
Planning and Zoning Department  
June 6, 2018

Request for CUP 18-07  
3781 Heath St

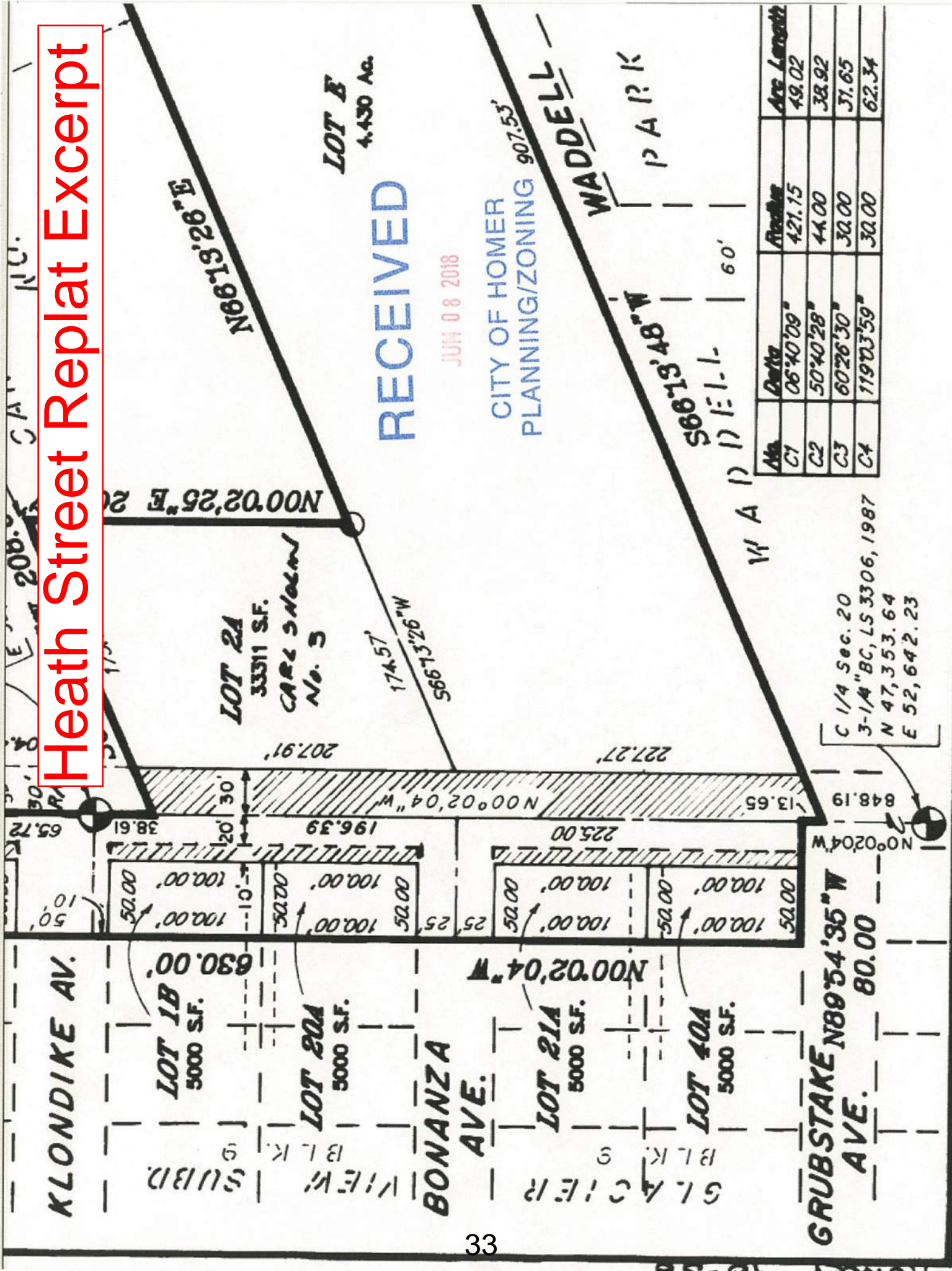
0 50 100 Feet



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



# Heath Street Replat Excerpt







## **PUBLIC HEARING NOTICE**

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, June 20, 2018 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska, on the following matter:

**A request for Conditional Use Permit (CUP)2018-07 to build a single family home within the 20-foot setback from a dedicated right-of-way at 3781 Heath Street, in accordance with Homer City Code 21.18.040(b)(4). The property is Lot 21A Heath Street Replat N ½, Sec. 20, T. 6 S., R. 13 W., S.M.**

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

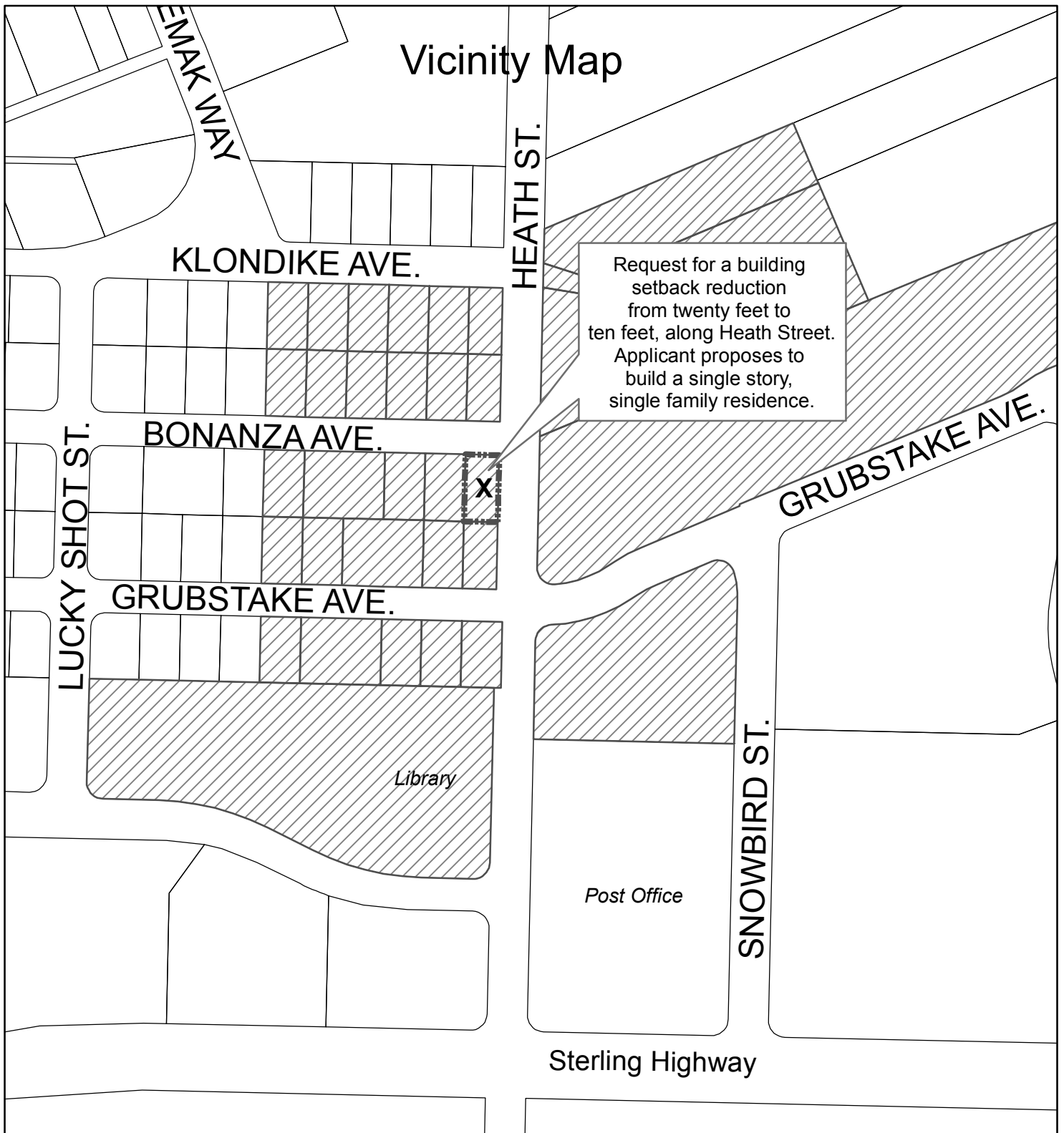
The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Rick Abboudat the Planning and Zoning Office, 235-3106.

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

.....

**VICINITY MAP ON REVERSE**

# Vicinity Map

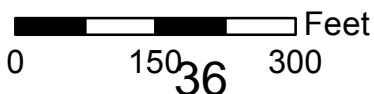


City of Homer  
Planning and Zoning Department

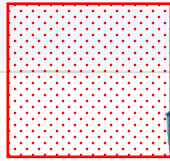
June 6, 2018

## Request for CUP 18-07 3781 Heath St

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

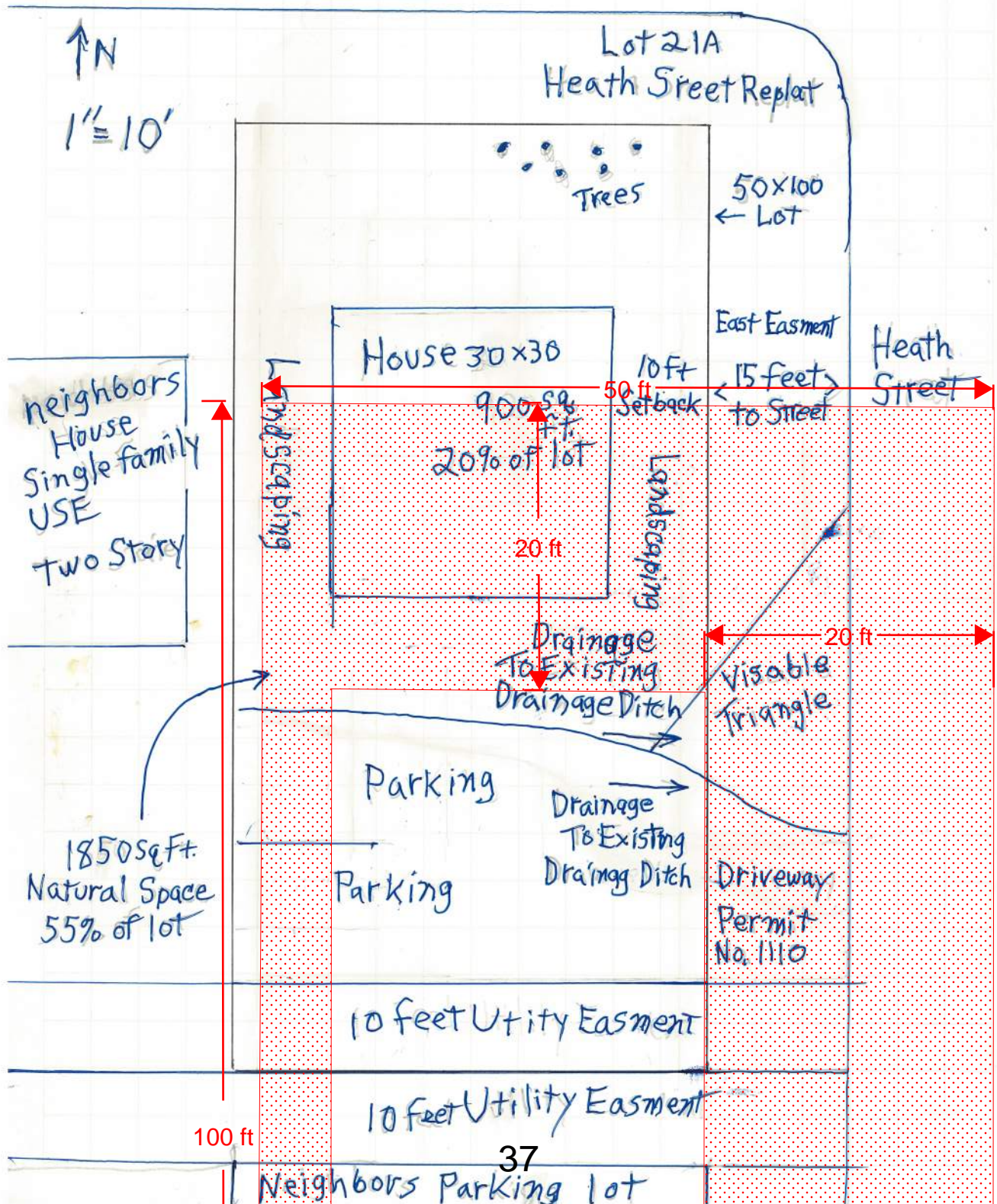


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= Existing Setback Area

Bonganza Street



Ground level View - lot 21A Heath St. Replat  
looking from West to East

20 ft  
City Setback

← North

Bonanza St. 88

30 ft.

Roof

24 ft.

House

6 ft.  
deck

16 ft.

Ground level

10 ft.

Parking

South →

lot  
line

10 ft.  
Utility easement

RECEIVED

JUN 08 2018

CITY OF HOMER  
PLANNING/ZONING

1" = 10'

100 ft





# Aerial Map

Klondike Ave

Heath St

Bonanza Ave

X

Grubstake Ave

Library



City of Homer  
Planning and Zoning Department

June 6, 2018

Request for CUP 18-07  
3781 Heath St

0 50 100 Feet  
39



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Subject Lot from  
Bonanza Ave and  
Heath Street  
intersection



Common lot line  
area





Panoramic view of subject lot, looking west across Heath Street



Looking northwest into the lot, panoramic photo





Looking northwest into the lot

06 08 2018



HEA driveway to the east





Southern property line, looking south down  
Heath St







## City of Homer

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

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3106

(f) 907-235-3118

### Staff Report PL 18-44

TO: Homer Advisory Planning Commission  
FROM: Rick Abboud, AICP, City Planner  
DATE: July 18, 2018  
SUBJECT: CUP 2018-07 Supplemental Report

---

**SYNOPSIS:** A Public Hearing for CUP 2018-07 was held at the June 20, 2018 HAPC meeting. In light of new information regarding an existing Variance on the subject property, the Commission postponed discussion of the CUP. A continued public hearing is scheduled for July 18, 2018.

**ANALYSIS:** After legal review of the 10/3/88 Notice of Homer Advisory Planning Commission Action and all associated documents found in pages 19-36 of the supplemental packet provided at the HAPC meeting of June 20, 2018, I find that the applicant has the right to proceed with his proposal in accordance with the grant of the variance and a CUP is not necessary for a structure to be located 10 feet from the Heath Street ROW.

### STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission request/confirm that the applicant withdraw the CUP application and submit a zoning application to the Planning Department.

### Attachments

June 20, 2018 HAPC Supplemental Packet (meeting laydowns)  
Agreement for Acquisition of Right-of-Way







## City of Homer

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

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3106

(f) 907-235-3118

### Homer Advisory Planning Commission Meeting of June 20, 2018

#### Lay down comments (not included in packet)

#### Public Hearing Item

Staff Report PL 18-40, CUP for a reduction of the right-of-way setback at 3781 Heath Street.

- p. 1** Letter from adjacent property owner, Sue Finney
- p. 3** Letter from nearby property owner, Frank Griswold
- p. 19** City documents related to a 1988 variance involving the subject property, submitted by Planning Staff

#### Public Hearing Item

Staff Report 18-39, CUP 18-06 for more than one building containing a permitted principal use on a lot and for a multiple-family dwelling at 1170 Lakeshore Drive

- p. 37** Bay View Subdivision Northwind 2017 Replat, submitted by Kenton Bloom. This is the approved preliminary plat which designates the proposed lot for this CUP project.



JUN 20 2018

## PUBLIC HEARING NOTICE

RECEIVED

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, June 20, 2018 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska, on the following matter:

**A request for Conditional Use Permit (CUP) 2018-07 to build a single family home within the 20-foot setback from a dedicated right-of-way at 3781 Heath Street, in accordance with Homer City Code 21.18.040(b)(4). The property is Lot 21A Heath Street Replat N ½, Sec. 20, T. 6 S., R. 13 W., S.M.**

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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 Rick Abboudat the Planning and Zoning Office, 235-3106.

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

## VICINITY MAP ON REVERSE

June 19, 2018

Homer Advisory Planning Commission:

request of 10 foot setback

My name is Sue Finney and I own the lot south of 3781 Heath Street.

I believe this setback request should be denied.

I believe the existing setback is correct for safety of neighborhood kids and walking traffic.

I believe the existing setback is correct for driving traffic as well.

Speeding is a problem on Heath Street and clear views are important.

A ~~the~~ traffic accident <sup>that occurred</sup> earlier this month ~~with~~ <sup>had</sup> a car running off the road on Heath Street. It traveled about 17 feet off the road.

I realize the limits of owning a Heath Street lot but believe this

setback is a correct one. Thank you for your service. Sue Finney  
3761 Heath Street





June 20, 2018

RECEIVED

Re: Application for CUP 2018-07

JUN 20 2018

Dear Commissioners,

CITY OF HOMER  
PLANNING/ZONING

HCC 21.18.040(b)(4) applies the conditional use process to "setback reduction" which does not constitute a use; it is therefore impossible for the Commission to consider whether a setback reduction (a non-use) meets the conditions pertaining to uses under HCC 21.71.030 and HCC 21.71.040. HCC 21.18.040(b)(4) was enacted in 2004 as part of Ordinance 04-11(A) and re-codified in 2008 as HCC 21.18.040(b)(4). It pertains to dimensional requirements and applies only to Homer's Central Business District (CBD). HCC 21.18.040(b)(4) states: "If approved by a conditional use permit, the setback from a dedicated right of way, except from the Sterling Highway or Lake Street, may be reduced. Alleys are not subject to a 20 foot setback requirement." There is a fundamental difference between a variance and a conditional use permit. (See attachment). A variance is an authority to vary/violate the dimensional requirements of a land use ordinance (such as setback and height restrictions) while a conditional use permit is an authority to put property to a use expressly but conditionally permitted by a land use ordinance. Conditional uses for the CBD are listed under HCC 21.18.030 and they include uses such as service stations, greenhouses and homeless shelters. "Setback reduction" is not listed as a conditional use under HCC 21.18.030. Applying the *conditional* use analysis to a single family dwelling which constitutes

a *permitted* use per HCC 21.18.020(h), and/or to an 10-foot setback reduction, a non-use, constitutes an exercise in absurdity and a violation of due process. HCC 21.71.030 states, "Prior to granting a conditional use permit, it shall be established that the use satisfies the following conditions:" (citing conditions (a)-(j)). Notwithstanding HCC 21.18.040(b)(4), the Commission cannot apply the criteria for considering an application for a conditional use permit when the "use" being applied for is a setback reduction, which by definition cannot constitute a "use." HCC 21.03.040 defines "use" as follows: "'Use' means the purpose for which land or a structure is occupied, arranged, designed or intended, or for which either land or a structure is or may be occupied or maintained." The land and structure at the subject site were never occupied, arranged, designed, intended, or maintained for the purpose of setback reduction. A single family dwelling does not become a different use when constructed within the front yard setback. HCC 21.18.040(b)(4) conflicts with Alaska Statutes regarding Variances, conflicts with and/or circumvents HCC 21.72.020, and promotes spot zoning. Just because the Homer zoning code provides for setback reduction via conditional use permit does not mean it is legal or proper for the Commission to do so regarding CUP 2018-07 i.e., "as applied."<sup>1</sup>

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<sup>1</sup> *State v. ACLU of Alaska*, 204 P.3d 364 at 372 (Alaska 2009) ("When statutes are found by a court to be unconstitutional, they may be found to be unconstitutional as applied or unconstitutional on their face . . . A holding that a statute is unconstitutional as applied simply means that under the facts of the case application of the statute is unconstitutional. Under other facts, however, the same statute may be applied without violating the constitution.").

Conditional use permits cannot legally be granted for either permitted uses or variances of dimensional requirements and variances cannot be granted for uses, conditional or permitted. Period dot. Dimensional requirements such as setbacks are subject to an area variance application. See *In the Matter of Real Holding Corp. v. Alan Lehigh, et al*, 2N.Y.3d 297 (2004). So requests for exceptions to setback requirements, height restrictions, lot coverage limits, or other dimensional requirements require an area (or bulk) variance, not a conditional use permit. The conditional use permitting process is not applicable to "area" variances because the exception under consideration, in this case a setback reduction, does not constitute a use. There is another type of variance known as a "use" variance that authorizes a land use not normally permitted by the zoning ordinance. While a use variance is very similar to a conditional use permit (also sometimes referred to as a special-use permit), granting a use permit for a single parcel is, in effect, granting a zoning change for that parcel and this constitutes spot zoning. The Alaska Planning Commission Handbook states that area variances provide relief from setback requirements: "Variances can be "use variances" or "area variances." As the name implies, a use variance permits a use otherwise prohibited in a given zoning district. AS 29.40.040(b)(2) prohibits use variances for general law municipalities; however, home rule municipalities are not prohibited from allowing them. Area variances provide relief from setback,

frontage, height, density, and similar requirements and are permitted by AS 29.40." (APCH, Chapter 8, page 2)(emphasis added). The prerequisite conditions for a proper granting of a use variance are very stringent. Both HCC 21.72 and AS 29.40.040 restrict deviations from dimensional land use regulations. HCC 21.72.010 provides that a variance may be granted by the Planning Commission to provide relief when a literal interpretation of the provisions of the Homer Zoning Code would deprive a property owner of the reasonable use of a lot. HCC 21.72.020 sets forth other prerequisite conditions for granting variance:

a. All of the following conditions shall exist before a variance may be granted:

1. A literal interpretation of the provisions of the Homer Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district;

2. Special conditions and circumstances exist that are peculiar to the land or structures involved and are not applicable to other lands and structures in the same district;

3. The special conditions and circumstances that require the variance have not been caused by the applicant.

b. Financial hardship or inconvenience shall not be the sole reason for granting a variance.

c. Other nonconforming land use or structures within the district shall not be considered grounds for granting a variance.

d. If approved, a variance shall be the minimum variance necessary to permit the reasonable use of the land or structure.

e. A variance shall not be granted that will permit a land use in a district in which that use is otherwise prohibited.

AS 29.40.040(b) provides that a variance may not be granted if: (1) special conditions that require the variance are caused by the person seeking the variance; (2) the variance will permit a land use in a district in which that use is prohibited; or (3) the variance is sought solely to relieve pecuniary hardship or inconvenience. HCC 21.18.040(b)(4) circumvents these standards and allows a de-facto area variance to be granted by conditional use permit. Use variances and spot zoning are illegal in Alaska. De facto use variances are also illegal in Alaska. It would be illegal for the Commission to apply HCC 21.18.040(b)(4) to circumvent restrictions which apply to the granting of variances. HCC 1.04.070 states: "No person shall violate any law of the State of Alaska nor any rule or regulation adopted by any duly authorized agency of the State of Alaska. Violations of the foregoing shall be violations of this code except where jurisdiction of the offense is reserved to the State of Alaska." At page 9 of its Decision regarding CUP 05-11 (Foster/Harness) dated November 14, 2005, the Board of Adjustment stated in relevant part as follows: "The Commission did not discuss and made no findings concerning the reduced setback's consistency with the overall purposes of the zoning code. The Commission said "the use is consistent with the purpose of the zoning code as it complies with a conditionally permitted use per HCC 21.48.040(b)(4)."



[Zoning code provisions have since been renumbered]. This is a circular conclusion that is not adequate. A reduced setback is permitted under this code section only if it is found to be consistent with the purposes of the zoning code, HCC 21.60.020." If approved, CUP 2018-07 would be in direct conflict with HCC 11.08.110 Driveway Construction Permits which provides, in relevant part, as follows: "There shall be a minimum twenty foot building setback required which shall apply to any property line abutting any dedicated road or street right-of-way." It would also be in direct conflict with HCC 11.08.050(a)(3) which provides in relevant part as follows: "All buildings, etc., should be shown in their correct location. It is required that all stands, *buildings*, gasoline pumps, and *structures of any kind* be placed at least *12 feet back* on the property line." When there is a conflict of code, the provisions which frustrate a longstanding underlying policy should be avoided. Maintaining 20-foot front yard setbacks promotes public safety and general welfare, especially where driveways, pedestrians, and heavy traffic are involved. A longstanding, general law which promotes public safety takes precedent over a new, local law that promotes private interests to the detriment of the general public. Local legislation enters an area that is "fully occupied" by general law when the Legislature has expressly or implicitly manifested its intent to "fully occupy" the area. *Sherwin-Williams Co. v. City of Los Angeles*, 4 Cal 4<sup>th</sup> 893, 897-898 (1993). Local legislation is "contradictory" to general law when it is inimical thereto. (See *Ex parte Daniels* (1920) 183 Cal. 636, 641-648 [192 P.

442, 21 A.L.R. 1172] [finding "contradiction" where local legislation purported to fix a lower maximum speed limit for motor vehicles than that which general law fixed]. The fundamental objectives of Chapter 11.08 are identified in HCC 11.08.010 as follows:

- a. To provide maximum protection to the public through the orderly control of traffic moving onto and off of a road or street;
- b. To provide a uniform practice in the design and construction of entrances and exits;
- c. To provide the necessary drainage.

Structures in close proximity to dedicated rights-of-way hamper snow removal operations and affect drainage to and from the streets. Setback reductions certainly do not further the goal of providing "maximum protection to the public through the orderly control of traffic moving onto and off of a road or street." The approval of CUP 2018-07 would create an immediate code violation. HCC 21.90.030 states: "No permit may be issued under the Homer Zoning Code regulations unless all structures on and uses of the property conform to the Homer Zoning Code, regulations, and any previously issued permits that are applicable to the property and remain in effect. Any permit issued in violation of this section is voidable upon written notice from the City Planner or City Manager." HCC 21.70.030(c) states in relevant part as follows: "In granting a zoning permit, no City official or employee has authority to grant a waiver, variance, or deviation from the requirements of the zoning code and other applicable laws and regulations, unless such authority is expressly contained therein." The Commission does not have the

authority to waive the requirements of HCC 11.08 and no permit may be issued unless all structures on and uses of the subject property conform to that code provision. CUP 2018-07 is manifestly inconsistent with HCC Chapter 21.71 (Conditional Use Permits), HCC Chapter 21.72 (Variances), AS 29.40.040(b), and HCC 11.08 and therefore cannot be sustained. The focus of Staff Report PL 18-40 is solely and erroneously on the single family dwelling use, which is a use that is permitted outright within the Central Business District i.e., one that does not require a conditional use permit. Applicant points out that "[a]lmost all lot [sic] in that Subdivision are Residential" but this is totally irrelevant. Most of the residential uses within Glacierview Subdivision are also permitted uses. Furthermore, an encroachment into a setback is not a use of any kind so it cannot be considered under the City's conditional use criteria. The Commission does not have legal authority to apply HCC 21.18.040(b)(4) to this application. Neither Staff nor Applicant presented statistics or analysis regarding the potential effects of setback reductions on property values. Setbacks allow property owners to shape their environment by creating pleasant facades and landscaping which create a feeling of community and openness. Setbacks are designed to protect things (including children) by providing a barrier between traffic and homes. A setback between a building and a road protects the road from snow drifts and protects sight lines at driveways and intersections. Setbacks promote public safety, privacy, sunlight, ventilation, open space and greenery and facilitate the safe placement and maintenance

of pipelines and other public utilities. Setbacks maintain and enhance an area's character by providing a consistent building line; they facilitate a continuous positive edge to the street that responds to the buildings on each side thereby creating an organized and coherent transitional space between the public street and the private building. Not only do setback restrictions promote the community's health, safety, and welfare under the provisions prescribed by HCC 21.01.030, but they generate a "scarcity effect" as well. By increasing the scarcity of land available for particular uses in a particular location, the prices for those lands are bid up in the market. (See William Jaeger, The Effects of Land-use Regulations on Property Values, Environmental Law Vol. 36:105 at 106). Zoning waivers/exemptions/variances have economic value to the recipient so while waiving the setback requirement via the approval of CUP 14-05 would have the initial effect of increasing the value of the subject property, this is contingent on setback requirements remaining in place for most other properties. Setback reduction via conditional use permit creates a slippery slope and as more and more exceptions/variances are inevitably granted within the highly desirable but relatively small Central Business Zoning District, the land available for development increases thereby reducing its scarcity and market value. A study of Milwaukee found that requiring an additional 10-foot setback was associated with a price increase of 6.1% - 7.8%. Richard K. Green, *Land Use Regulation and the Price of Housing in a Suburban Wisconsin County*, 8 J. Housing Econ. 144, 156 (1999).

Forfeiting 10 feet of open space adjacent to congested Heath Street in exchange for 5 additional feet of open space (maybe) on the west property line is no bargain, especially if the 5-foot west side setback is not increased to 10 feet as a condition of the approval of CUP 2018-07. No condition was recommended by Staff to require that the single story structure forever remain a single story structure. Staff Report PL 18-40 cites some of the provisions of HCC 21.71.030 but failed to cite HCC 21.71.010(c) which states: "Nothing in the zoning code shall be construed to require the granting of a conditional use permit" or HCC 21.71.040(a) which states in relevant part as follows: "The application shall not be approved unless it is established that the proposal, with conditions if necessary, satisfies the applicable review criteria." This means all review criteria must be satisfied, not just some of it. Staff also omitted a critical portion of HCC 21.71.030 which states: "The applicant must produce evidence sufficient to enable meaningful review of the application. Unless exceptions or other criteria are stated elsewhere in this code, the application will be reviewed under these criteria:" Maintaining "view shed" is not a stated purpose of the CBD; the single family dwelling immediately to the west of the subject property is a narrow two-story structure and several adjacent structures are two-story as well.<sup>2</sup> A mortuary that is not encroaching into a setback would likely have less negative impact on adjoining

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<sup>2</sup> The Commission was not concerned about "view shed" when it approved a similar setback for the three-story triplex at 459 Klondike Avenue via CUP 05-11.



properties than a single family dwelling encroaching 10-feet into a setback.<sup>3</sup> Staff's allegation that no evidence has been presented that a structure within the Heath Street setback would have a negative affect [sic] on property values is not only untrue, but a biased misapplication of the standard. Per HCC 21.71.030, the burden of proof lies with the property owner to prove i.e., provide evidence, that adjoining properties will not be adversely affected; that burden has clearly not been met. A building that encroaches into a setback is not compatible with the purpose of the zoning district simply because HCC 21.18.040(b)(4) authorizes it. This is circular, unsubstantiated, and erroneous reasoning. The proposed structure is not compatible with the existing uses of surrounding land because none of them encroach into a setback. This proposal (CBD setback reduction #8) furthers the snowballing precedent of reducing valuable setback areas within the CBD. Since setbacks were originally created to promote the health, safety, and welfare of the surrounding area and/or city as a whole, their elimination will clearly be unduly detrimental to the general public. See HCC 21.01.030 (Purpose). No provision of the Comprehensive Plan states that single-story homes are preferred over narrow two-story homes and constructing a single-family dwelling within a setback does not insure "high quality design." If the Commission is now concerned about a structure's narrowness, a (square) 25' x 25' dwelling of one, two, or three stories could be constructed within the existing

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setbacks on the subject property i.e., without requiring any variance from dimensional requirements. Staff deliberately cherry-picked one goal of the Comprehensive Plan thought to support the proposal and deliberately ignored others that do not support it including the following: 4.1 (Goal 2) states: "Maintain the quality of Homer's natural environment and scenic beauty. ... The characteristics of the physical setting need to be respected in guiding the location, amount, and density of development." 4.13 (Goal 3, Objective A): "Create a clear, coordinated regulatory framework that guides development. Clear, predictable, **consistent** rules and regulations are key to achieving standard, quality design." (emphasis added). 4.4 (Goal 4, Objective B: "While concentrating land uses brings many benefits, residents clearly want to maintain a sense of **open space and privacy** that is often associated with lower density development, **particularly in residential areas.**" (emphasis added). Staff erroneously found that the CDM does not apply to residential uses with less than 12 residential units. HCC 21.71.030(j) states: "The proposal will comply with all applicable provisions of the Community Design Manual. So applicable provisions of the CDM that would not otherwise apply to a single family dwelling do apply when applied for via CUP. Furthermore, the CDM's outdoor lighting standards expressly apply to all uses within the CBD, including residential uses with less than 12 units.

By: Frank Griswold  
Frank Griswold

<attachment>

## CONDITIONAL USES

By Lee Sharp

Preston Gates & Ellis LLP

February 1997

Conventional zoning ordinances generally establish several categories of uses. Some of the more common categories are:

1. Permitted uses (permitted outright, as of right, etc.)
2. Accessory uses
3. Conditional uses
4. Nonconforming uses ("grandfathered" uses)

Within the foregoing categories, there is usually little confusion about the purpose or function of each of these distinct use categories. There is, however, often a blurring of the line between a conditional use (CU) on the one hand and a variance or a planned unit development (PUD) on the other. The editor has assured me that, within the Alaska planning community, the topic of conditional uses is a sexy one and one in which there is a burning interest. However, compared with other aspects of zoning law, there is relatively little legal activity that focuses on conditional use permits as compared, say, to variances, regulatory takings, hearing procedures, due process, equal protection, and other topics that fascinate attorneys but fail to generate much interest for those whose feet are on the ground and who are concerned with more mundane matters such as establishing and guiding a rational pattern of community development.

Purpose. Traditionally, a zoning ordinance sets out for each zoning district specific conditional uses. These are uses that may be permitted upon meeting certain additional requirements. Uses that are appropriate for conditional uses are those that are identified as being appropriate for a particular zone but which, because of certain characteristics, may be incompatible with permitted uses. For this reason, such uses are generally required to undergo a review by a planning commission or other body in which a specific project is examined and the body determines what special conditions or restrictions should be placed upon the use in order to ensure that it is compatible with permitted uses. The CU is clearly a flexible zoning tool that enables planners to customize zoning restrictions to meet specific community needs.

There are, however, questions that are often left unanswered by the CU provisions of some zoning codes. For example, it is sometimes unclear whether a CU applicant has an absolute right to a CU permit or whether it may be denied at the discretion of the body or denied if there is justification for the denial. That is, the ordinance language may lead one to the conclusion that it is the duty of the reviewing body to determine what conditions must be placed on a proposed CU and that it may not simply deny the use. Other ordinances make it clear that while a listed CU

may be appropriate in some locations, it might not be appropriate in other locations and the reviewing body has the discretion to deny a CU application solely on the basis that the proposed location is inappropriate, that the neighborhood in which the proposed CU is to be established is already adequately served, that there does not appear to be a reasonable set of conditions that can be imposed that would make the use compatible at the proposed site or for other specific reasons. If a CU application is denied, the body denying the use should include in its denial, findings of fact that support its decision to deny. (In a future article, I plan to cover findings, what they are, how to make them and why they are important.)

It's Not a Variance. Lay members of the public who become involved in planning and zoning administration sometimes do not distinguish between the basic functions and purposes of variances and conditional uses. A variance is generally an absolute right if the landowner can show that denial of the variance request would result in an undue hardship; that is, it would amount, for all practical purposes, to a prohibition of all reasonable use of a property. A variance permits a landowner to use his or her property in a manner that clearly violates a requirement of the zoning code. In Alaska, non-home rule municipalities may grant only density variances and not use variances; that is, a variance may not be granted to permit a use of property that is otherwise prohibited. Not only must there be an undue hardship, but that hardship must generally arise out of some peculiarity of the property. A CU, on the other hand, is usually not an absolute right and the entitlement to a CU permit is not conditioned upon showing some peculiarity of the site or undue hardship if the application is denied. The CU process focuses instead upon the means of making a proposed use compatible with the neighborhood and with uses that are permitted outright in the district. While, under a variance procedure, the body hearing the application can grant deviations from density requirements such as setbacks, yard requirements, height restrictions, FAR's and maximum lot occupation requirements, deviations from density requirements generally are not permitted as a part of a CU application. In fact, in most situations the hearing body will increase these requirements as a means of minimizing the adverse impact of the proposed use. Planning commissions and boards before which CU applications come should ensure that restrictions that are applicable to all uses within a district are not inadvertently relaxed under the terms of a proposal made by a CU applicant. This is not to say, however, that a variance could never be granted in conjunction with a CU; it is just that the variance would have to be justified independently of the CU application.

And It's Not a PUD. A CU is not a PUD or a similar vehicle. The PUD generally permits a developer to propose an integrated development within a zoning district in which the developer is permitted a relaxation of certain use and density standards in exchange for providing amenities that are not otherwise required by the ordinance. For example, under a PUD application, a developer might be permitted to encroach into a setback or yard area in exchange for establishing and maintaining natural screening of some minimum height and depth. They may be permitted to exceed certain density restrictions in exchange for establishing a community park or open space area. PUDs generally require minimum acreages that are to be included in the development and that the development involve integrated or complimentary uses on the various lots proposed for the development. While a concern in both the PUD and the CU situation is with minimizing the adverse impact on properties not involved, this is only one of several factors generally considered in a PUD application. However, it is the primary focus in a CU application. The CU application

involves only a single zoning lot and use while the PUD involves multiple lots and uses. Lastly, the CU is for the purpose of adding restrictions while the PUD involves the balancing of a relaxation of some requirements against the increase of other requirements and exactions.

Standards. Most ordinances have a separate section that sets out the procedures for reviewing and deciding conditional use permit applications. Some of these set out very generalized standards referring to the public good and compatibility with the comprehensive plan and neighborhood development. Others set out specific matters that are to be considered such as traffic generation, noise, off-site glare, parking, neighborhood or community need and other matters. When the ordinance sets out specific standards, each such standard should clearly be addressed by the body. This is generally done through consideration of a staff report to the body that addresses each of the standards.

Although it is difficult to generalize about conditional uses (but you will notice that it has not stopped the author from doing so), planning commissioners and members of boards of adjustment should be careful when reviewing conditional use applications that they do not handle them as though they are variances or PUD applications. While conditional uses provide flexibility in regulating land use, they generally are not meant for the purpose of relaxing standards that would otherwise apply, but are for the purpose of imposing additional restrictions. And, as always, such bodies must usually ensure that they make findings to support their decisions and that there are adequate facts in the record to support their findings.

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# CITY OF HOMER

## CITY HALL

491 EAST PIONEER AVENUE

HOMER, AK 99603-7624

TELEPHONE (907) 235-8121

TELECOPIER (907) 235-3140

Date 10/3/88

### NOTICE OF HOMER ADVISORY PLANNING COMMISSION ACTION

- ☒ A. Request for a Conditional Use Permit
- ☐ B. Request for a Variance
- ☐ C. Request for a Contract Rezone
- ☐ D. Request for Preliminary Plat Approval
- ☐ E. Request for a Vacation
- ☐ F. Other

Request: Zoning Variances for Heath St. Extension Project

Applicant Name/Address: City of Homer

Location: Heath Street

At the regular meeting of 9/28, 1988, the Homer Advisory Planning Commission took the following action on your application.

#### Action:

X

Approved as per attached decision and findings of the Homer Advisory Planning Commission and minutes of the meeting.

\_\_\_\_\_ Conditionally approved subject to the conditions listed in the attached decision and findings of the Homer Advisory Planning Commission and minutes of the meeting.

\_\_\_\_\_ Disapproved for reasons listed in the attached decision and findings of the Homer Advisory Planning Commission and minutes of the meeting.

\_\_\_\_\_ Approved as per attached Homer Advisory Planning Commission minutes of the meeting.

\_\_\_\_\_ Conditionally approved subject to the conditions listed in the attached Homer Advisory Planning Commission minutes of the meeting.

\_\_\_\_\_ Disapproved for reasons listed in the attached Homer Advisory Planning Commission minutes of the meeting.

\_\_\_\_\_ Tabled for the reasons listed in the attached Homer Advisory Planning Commission minutes of the meeting.

SHOULD YOU HAVE ANY QUESTIONS, PLEASE FEEL FREE TO CONTACT THE HOMER PLANNING DEPARTMENT AT 235-8121.



DECISION AND FINDINGS  
OF THE  
HOMER ADVISORY PLANNING COMMISSION  
APPROVING VARIANCES

DECISION

WHEREAS, the City of Homer, representative for the owners of seven properties affected by the acquisition of right of way by the City for the Heath Street extension project, has applied for variances for the subject properties noted on the Kenai Peninsula Borough Tax Assessor's rolls as follows:

KPB Parcel No. 177-204-060; KPB Parcel No. 177-106-070; KPB Parcel No. 177-102-100; KPB Parcel No. 177-102-110; KPB Parcel No. 177-104-100; KPB Parcel No. 177-104-110; and KPB Parcel No. 177-107-160; and,

WHEREAS, the subject properties are located within the city limits of Homer in the Central Business District and are subject to the requirements of Homer Municipal Code, Title 21, Zoning; and,

WHEREAS, the applicant is requesting variances as provided under Homer Municipal Code, Chapter 21.62 to allow for less than the required setbacks for all of the above noted properties and to allow for less than the minimum required lot size of 6,000 square feet for KPB Parcel Nos. 177-106-070; 177-102-100; 177-102-110; 177-104-100; 177-104-110; and 177-107-160; and,

WHEREAS, a literal interpretation of the provisions of the zoning ordinance would deprive the subject property owners of rights commonly enjoyed by other properties in the same district in that the City, not the property owners, has created the need for the variances by virtue of obtaining additional right of way for the Heath Street extension project; and,

WHEREAS, a public hearing was held before the Homer Advisory Planning Commission on September 28, 1988 in accordance with the requirements of the Homer Municipal Code;

Now, after due consideration of the evidence presented,

IT IS HEREBY RESOLVED, that the Homer Advisory Planning Commission adopt the following findings and conclusion upon said application:

FINDINGS

- A literal interpretation of the provisions of Chapters 21.28 through 21.70 would deprive the subject property owners of rights commonly enjoyed by other properties in the same district.

- Special conditions and circumstances exist which are peculiar to the land or structures involved and which are not applicable to other lands and structures in the same district.

- The special conditions and circumstances have not been caused by the actions of the subject property owners.

#### CONCLUSION

The Homer Advisory Planning Commission has granted approval of the requested variances to allow less than the required setbacks for all seven of the above noted properties and less than the minimum required lot size for six of the above noted properties as a result of the acquisition of right of way by the City of Homer for the Heath Street extension project.

*Susan L. Regan*

Administration

Date: 10 - 3 - 88

*P. Regan*

Chairman, HAPC

Date: 10/4/88





APPROVED MINUTES

Session 88-16, the regular meeting of the Homer Advisory Planning Commission, was called to order by Chairman Jay at 7:30 p.m., Homer City Hall, 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT:	COMMISSIONERS:	GANNAWAY, CUSHING, JAY, ELLYSON, MORRIS, WRAY
	STAFF:	PLNG/DEV COORD REGAN PLNG/ZONING TECH BECHTOL CITY ATTORNEY HAHN
	ABSENT:	PATE (excused)

APPROVAL OF THE AGENDA

The agenda was approved as submitted.

APPROVAL OF THE MINUTES

City Attorney changed the following sentence on Page 8 to read as follows:

City Attorney Hahn said that it would be very hard to defend such a large rise and the cost of the fee could be construed as singling out a certain type of business.

The corrected minutes of the September 14, 1988 meeting were then approved as submitted.

PUBLIC COMMENTS REGARDING ITEMS ALREADY ON THE AGENDA

Bob Stewart of Homer, spoke in support of Item 7c, Planning Commission review of an ordinance amendment relative to commercial equipment storage and mobile commercial units. He noted the amendment was needed in Homer, and had personal experience with needing a provision for equipment storage. He appreciated the Planning Commission addressing this issue.

PUBLIC HEARING

Staff Report PL 88-83 Re: Zoning Variances Requested by the City of Homer as a Result of the Acquisition of Right of Way by the City of Homer Across Certain Properties Involved in the Heath Street Extension Project

Ms. Regan reported public notice was published in the Homer News on September 15, 1988 and September 22, 1988 and that notices were sent to adjoining property owners. No comments or letters were received by staff.



Bob Stewart, a property owner next to Heath Street addressed this issue. He noted that although it was a needed project, a private property owner would not have been able to do what the City was doing; creating substandard lots.

CONSIDERATION OF PLATS

Staff Report PL 88-84 Re: Christensen Tracts Revised Final Plat

Ms. Regan reported the Christensen Tracts preliminary plat was granted approval by the Homer Advisory Planning Commission at the February 24, 1988 regular meeting subject to five conditions. The plat was again brought before the Homer Advisory Planning Commission at the June 15, 1988 regular meeting in the form of a proposed final plat. At that time, the proposed final plat incorporated changes from the preliminary design which required the Homer Planning Commission to again review the plat, in accordance with KPBC, Section 20.12.050.

Ms. Regan conveyed the staff recommended approval of the revised final plat subject to the following conditions:

1. The Homer Advisory Planning Commission grant an exemption to the requirements of HMC, Chapter 22.10.
2. Note the status of the adjacent properties in accordance with KPBC, Section 20.16.010.
3. Revise the width of the utility easement on the east side of proposed Tract A from 20 feet to 10 feet and delete the easement line noted within the Springer/Fisher Tract, in accordance with KPBC, Section 20.16.130.

GANNAWAY/ELLYSON - MOVED TO APPROVE THE CHRISTENSEN TRACTS REVISED FINAL PLAT SUBJECT TO STAFF CONDITIONS

VOTE: YES: WRAY, GANNAWAY, MORRIS, ELLYSON,  
CUSHING, JAY

NO: NONE

Motion carried.

Staff Report PL 88-85 Re: Christensen Tracts No. 2 Revised Final Plat

Ms. Regan briefed the Commission that the Christensen Tracts preliminary plat was granted approval by the Homer Advisory Planning Commission at the February 24, 1988 regular meeting subject to five conditions. The plat was again brought before



Commissioner Cushing pointed out that the Kenai Peninsula Borough accepts plats without Department of Environmental Conservation approval and the coastal management program may be in conflict with that policy. Ms. Spearow replied she would research that possible conflict. Commissioner Cushing also asked Ms. Spearow to research regulations on mining in the Homer area, and get back to him on this issue.

Staff Report PL 88-88 Re: Zoning Variances Requested by the City of Homer as a Result of the Acquisition of Right of Way by the City of Homer Across Certain Properties Involved in the Heath Street Extension Project

Ms. Regan reported the City of Homer was requesting a variance, as provided under HMC, Chapter 21.62, on behalf of the owners of seven properties affected by the acquisition of right of way by the City for the Heath Street extension project.

The requested variances were necessary since the right of way acquisition for the Heath Street extension project renders six of the properties substandard lots or below the minimum lot size requirement of 6,000 square feet in the Central Business District. All seven of the properties would not be able to adhere to the 20 foot building setback requirement (from rights of way) or the 5 foot setback requirement from the other lot boundaries due to the acquisition of land for the road project. All seven of the properties are located to the west of Heath Street.

Ms. Regan conveyed that staff recommended approval of the necessary variances to the minimum lot size requirement and the setback requirements for the seven subject properties located within the Central Business District since said property owners had granted the additional right of way to allow the extension of Heath Street from the ByPass Road to Pioneer Avenue, and, as such, said properties meet the criteria for granting of a variance.

Ms. Ellyson asked who would pay for moving the houses on lots that would need that done. City Attorney Hahn replied all of the details had been worked out with the property owners to their satisfaction. Ms. Ellyson expressed concern over the watershed by Lot 1A1, and was assured the public works department and the engineers for the street project would have to protect it.

Commissioner Morris disclosed that although he recognized the need for Heath Street to be constructed, he felt it was unfortunate that the substandard lots would be created. A possible alternative to that happening would have been for the City of Homer to have bought all of the property and created a strip park.



In answer to a question regarding future variances with these lots City Attorney Hahn noted the agreements with the property owners preserves the rights currently available to the properties. These rights are protected for maintaining the present uses on the lots, but do not make available rights above and beyond the rights existing before the time of the acquisition.

MORRIS/GANNAWAY - MOVED TO APPROVED PL 88-88 AS PER STAFF RECOMMENDATION

Commissioner Morris noted that copies of the negotiated agreements between the property owners and the City should have been included in the packets. Ms. Regan noted that the agreements were very bulky, but next time this occurs, they would be included.

VOTE: YES: CUSHING, JAY, WRAY, GANNAWAY, MORRIS  
NO: ELLYSON

Motion carried.

Commissioner Morris accounted the findings as follows:

1. A literal interpretation of the provisions of Chapters 21.28 through 21.70 would deprive the applicant of rights commonly enjoyed by other properties in the same district.
2. Special conditions and circumstances exist which are peculiar to the land or structures involved and which are not applicable to other lands and structures in the same district.
3. The special conditions and circumstances have not been caused by actions of the applicant.

Staff Report PL 88-89 Re: Planning Commission Review of the Need for an Ordinance Amendment Relative to a District Wide Provision for Commercial Equipment Storage During Construction Projects and to Allow Mobile Commercial Units

Ms. Regan conveyed that at the September 14, 1988 meeting, the Planning Commission directed staff to assess the need for an ordinance amendment relative to a district wide provision for the storage of commercial equipment during construction projects and to allow mobile commercial units. She clarified there were two issues under review; temporary storage of commercial equipment and mobile commercial structures.



# CITY OF HOMER

## CITY HALL

491 EAST PIONEER AVENUE

HOMER, AK 99603-7624

TELEPHONE (907) 235-8121

TELECOPIER (907) 235-3140

STAFF REPORT PL 88-88

TO: HOMER ADVISORY PLANNING COMMISSION

FROM: PLANNING AND ZONING DEPARTMENT

DATE: SEPTEMBER 20, 1988

SUBJECT: ZONING VARIANCES REQUESTED BY THE CITY OF HOMER AS A  
RESULT OF THE ACQUISITION OF RIGHT OF WAY BY THE CITY  
OF HOMER ACROSS CERTAIN PROPERTIES INVOLVED IN THE  
HEATH STREET EXTENSION PROJECT

### General Information

Applicant/Status:	City of Homer, Representative for Seven Subject Properties 491 E. Pioneer Avenue Homer, Alaska. 99603
Requested Action:	Variances
Purpose:	To allow substandard lots and less than the required setback
Location:	The N1/2, Section 20, T6S, R13W, S.M.
Size:	Approximately 42,880 square feet
Existing Zoning:	Central Business District
Land Use:	One commercial development; seven residential developments
Surrounding Land Use:	North - Commercial South - Residential East - Commercial West - Residential
Comprehensive Plan:	Designates this area CBD
Zoning History:	Previously zoned Commerical



### Analysis

The City of Homer is requesting a variance, as provided under HMC, Chapter 21.62, on behalf of the owners of seven properties affected by the acquisition of right of way by the City for the Heath Street extension project.

The requested variances are necessary since the right of way acquisition for the Heath Street extension project renders six of the properties substandard lots or below the minimum lot size requirement of 6,000 square feet in the Central Business District. All seven of the properties will not be able to adhere to the 20 foot building setback requirement (from rights of way) or the 5 foot setback requirement from the other lot boundaries due to the acquisition of land for the road project. All seven of the properties are located to the west of Heath Street.

A Heath Street Replat preliminary plat is being prepared for the City which denotes properties affected by the City's acquisition of additional right of way for Heath Street. The Heath Street Replat will not be submitted until after construction of the roadway since the corners cannot be set until the road is constructed, however, a preliminary copy of the preliminary plat will be submitted to the Planning Department to be included with this staff report. The Heath Street replat contains thirteen properties within the plat boundaries, however, all of the properties east of Heath Street are not rendered nonconforming as to lot size or setbacks as a result of the right of way acquisition. As noted above, the seven properties to the west of Heath Street are rendered nonconforming by the right of way acquisition.

The properties requiring a variance are hereby listed noting the Kenai Peninsula Borough parcel number and the proposed lot numbers, in parentheses, which are noted on the Heath Street Replat: KPB Parcel No. 177-204-060 (Lot 1A1); KPB Parcel No. 177-106-070 (Lot 1A); KPB Parcel No. 177-102-100 (Lot 1B); KPB Parcel No. 177-102-110 (Lot 20A); KPB Parcel No. 177-104-100 (Lot 21A); KPB Parcel No. 177-104-110 (Lot 40A); and KPB Parcel No. 177-107-160 (Lot 10A).

The purpose of all variances is to provide relief when a literal enforcement of the zoning ordinance would deprive a property owner of the reasonable use of their real property.

According to HMC, Section 21.62.020 Conditions Precedent to Granting a Variance, all of the following conditions shall exist before a variance may be granted:

1. A literal interpretation of the provisions of Chapters 21.28 through 21.70 would deprive the applicant of rights commonly enjoyed by other properties in the same district.



The subject properties are located within the Central Business District. The minimum lot size requirement in the CBD is 6,000 square feet, as noted in HMC, Section 21.48.040. The required building setback is twenty feet from all rights of way and five feet from all other lot boundary lines unless firewalls are provided and access to the rear of the building is otherwise provided as defined by the State Fire Code and enforced by the State Fire Marshal.

The City of Homer has been working to obtain the needed additional right of way to extend Heath Street since 1984. The extension of Heath Street, which will connect the ByPass Road with Pioneer Avenue, will greatly improve the City's traffic flow. The seven subject properties located to the west of Heath Street needed to dedicate additional right of way to enable a full 60 foot dedication for Heath Street. In granting the additional right of way to the City, the property owners of the seven subject properties need to be granted a variance to the setback requirements. Also, proposed Lots 1A, 1B, 20A, 21A, 40A and 10A will be reduced from 6,000 square feet, the minimum required lot size for properties located within the CBD, to 5,000 square feet, therefore rendering these lots nonconforming. These properties need a variance to the minimum lot size requirement.

A literal interpretation of the provisions of the zoning ordinance would deprive the applicants of rights commonly enjoyed by other properties in the same district in that the City, not the property owners, has created the need for the variances by virtue of obtaining additional right of way for the Heath Street extension project.

2. Special conditions and circumstances exist which are peculiar to the land or structures involved and which are not applicable to other lands and structures in the same district.

A special circumstance does exist which is peculiar to the land and structures involved and which is not applicable to other lands and structures in the same district. This special circumstance is a result of the City of Homer acquisition of right of way for the Heath Street extension project.

3. The special conditions and circumstances have not been caused by actions of the applicant.

The property owners of the subject properties requiring variances have not caused the special circumstance peculiar to their property and the structures involved with same. The City of Homer has created the special circumstance by the acquisition of right of way for the Heath Street extension project.

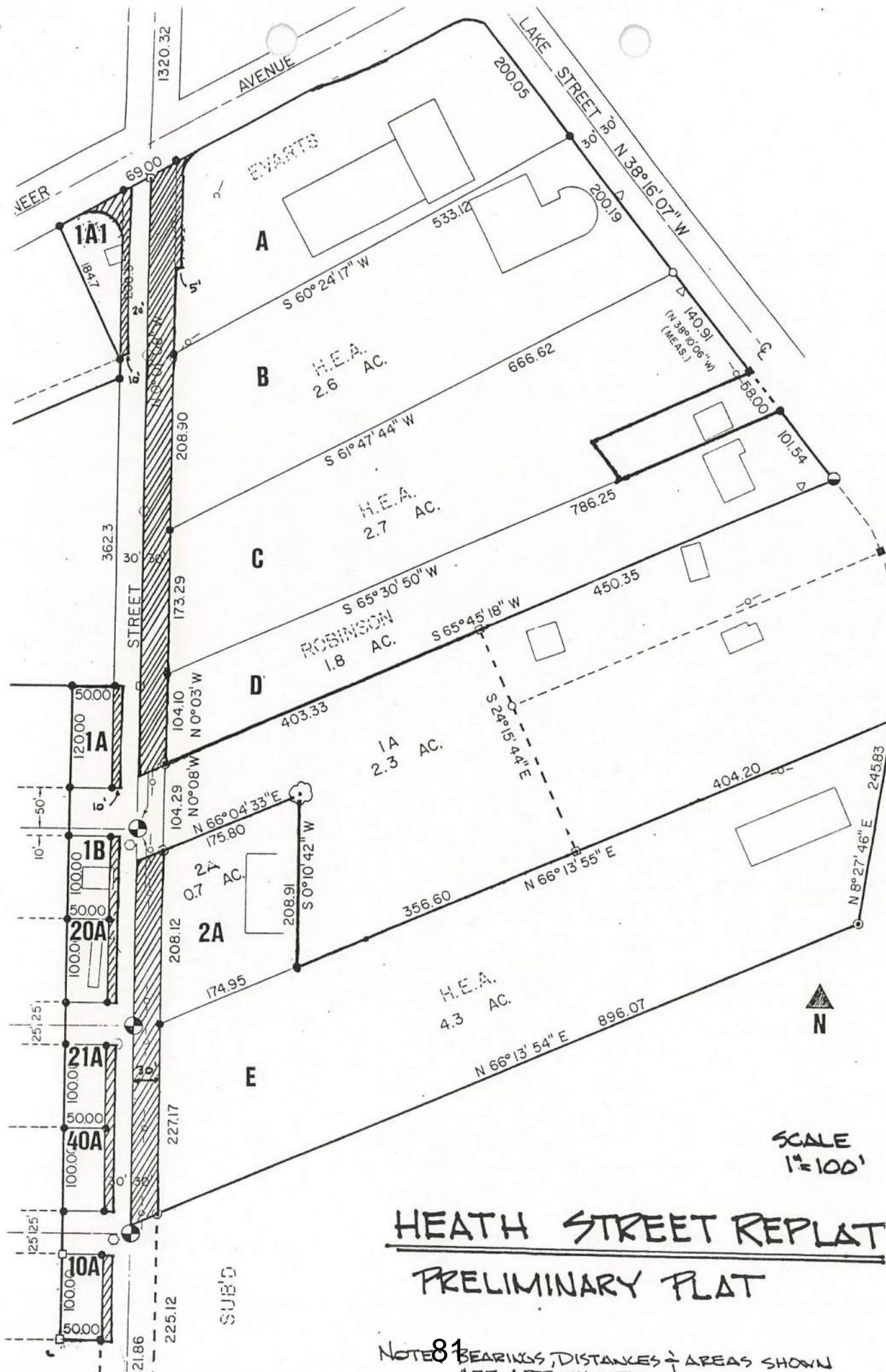
Recommendation

Staff recommends approval of the necessary variances to the minimum lot size requirement and the setback requirements for the seven subject properties located within the Central Business District since said property owners have granted the additional right of way to allow the extension of Heath Street from the Bypass Road to Pioneer Avenue, and, as such, said properties meet the criteria for granting of a variance.

Attachments

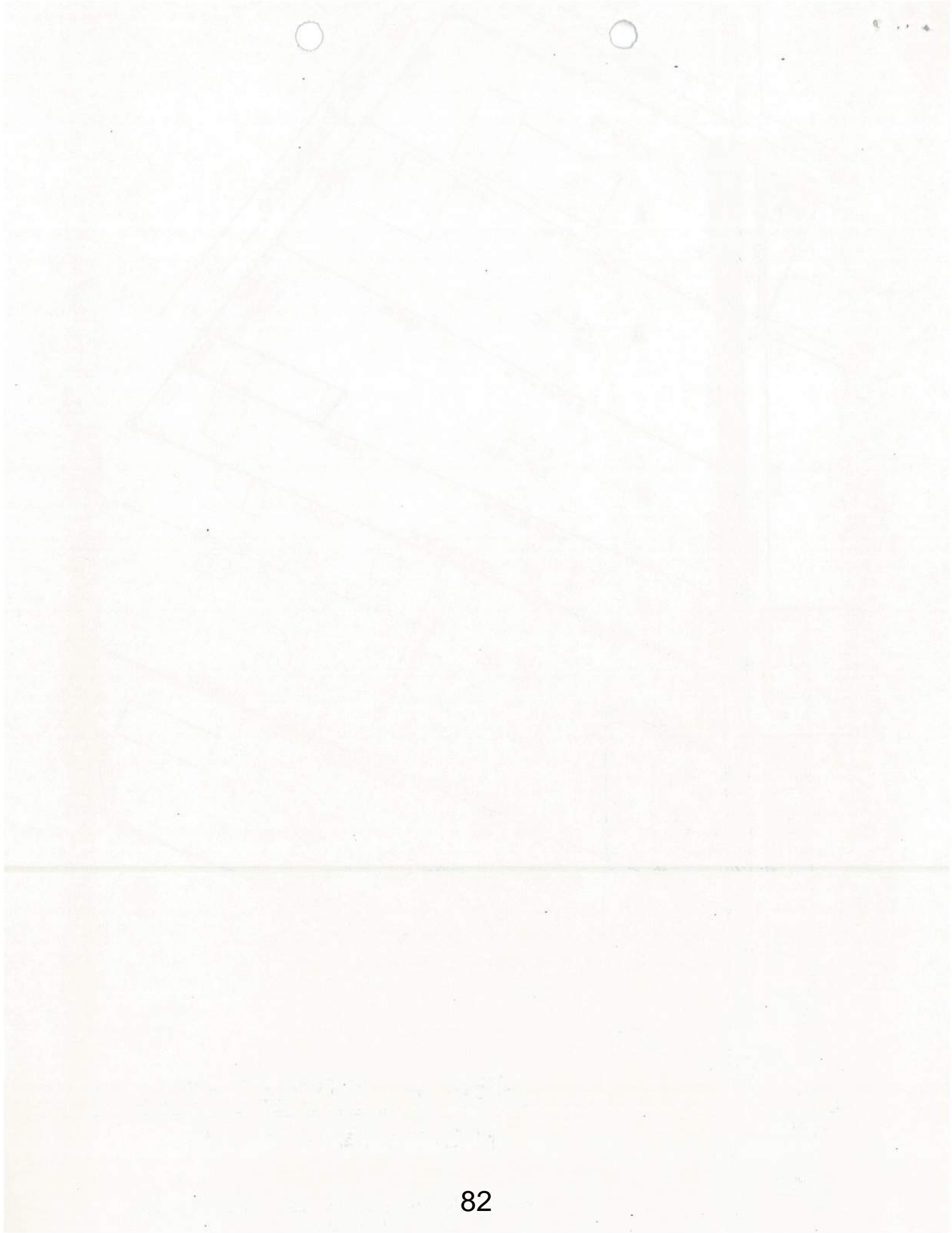
1. Preliminary plat of the Heath Street Replat preliminary plat.





# HEATH STREET REPLAT PRELIMINARY PLAT

NOTE 81 BEARINGS, DISTANCES & AREAS SHOWN  
ARE APPROXIMATE.







# CITY OF HOMER

## CITY HALL

491 EAST PIONEER AVENUE

HOMER, AK 99603-7624

TELEPHONE (907) 235-8121

TELECOPIER (907) 235-3140

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STAFF REPORT PL 88-83

TO: HOMER ADVISORY PLANNING COMMISSION

FROM: PLANNING AND ZONING DEPARTMENT

DATE: SEPTEMBER 19, 1988

SUBJECT: ZONING VARIANCES REQUESTED BY THE CITY OF HOMER AS A  
RESULT OF THE ACQUISITION OF RIGHT OF WAY BY THE CITY  
OF HOMER ACROSS CERTAIN PROPERTIES INVOLVED IN THE  
HEATH STREET EXTENSION PROJECT

Public notice was published in the Homer News on September 15, 1988 and September 22, 1988 and notices (see attached) were sent to 63 property owners representing 95 properties as shown on the Kenai Peninsula Borough Tax Assessor's rolls.

No comments or letters were received by staff.



## PUBLIC HEARING NOTICE

Public notice is hereby given for a public hearing concerning zoning variances by the City of Homer as a result of the acquisition of right of way by the City of Homer across certain properties involved in the Heath Street extension project. The following properties, listed on the Kenai Peninsula Borough tax rolls, are involved:

KPB Parcel No. 177-204-060; KPB Parcel No. 177-106-070; KPB Parcel No. 177-102-100; KPB Parcel No. 177-102-110; KPB Parcel No. 177-104-100; KPB Parcel No. 177-104-110; KPB Parcel No. 177-107-160.

These properties have been granted a variance to the required setback from a dedicated right of way in the Central Business District and from the minimum lot size requirement for lots located within the Central Business District, as provided by the Homer Municipal Code, Chapter 21.62. These variances are necessary to preserve the continuing legal use of the above described properties.

Public hearing on this matter will be held by the Homer Advisory Planning Commission on Wednesday, September 28, 1988 at 7:30 p.m. at Homer City Hall, 491 E. Pioneer Avenue, Homer, Alaska.

Anyone wishing to present testimony concerning this matter can do so at the public hearing or by submitting a written statement to the Homer Advisory Planning Commission, 491 E. Pioneer Avenue, Homer, AK 99603, by 5:00 p.m., September 28, 1988. Letters received by noon on September 23, 1988 will be included in the commissioners' packets.

For additional information concerning this matter, please call the City Planning Department at 235-8121.

Publish: September 15, 1988  
September 22, 1988 (amended)

Philip C. Shealy, City Manager



A vertical strip of four images. From top to bottom: a ruler with the word 'SUBQ.' printed on it; a lightning bolt striking a surface; a road with a dashed center line; and a road sign with the number '12' on it.



AGREEMENT FOR ACQUISITION OF REAL  
PROPERTY FOR ROAD RIGHT-OF-WAY

Agreement made the 11th day of August, 1988, between Eddie L. Metcalf and Nancy Conklin, of Anchorage, hereinafter referred to as landowner and the CITY OF HOMER, ALASKA, hereinafter called "City".

I. GENERAL RECITALS

(a) The City proposes to widen and improve Heath Street from its intersection with Grubstake Avenue, north to Pioneer Avenue.

(b) Because a portion of landowner's property hereinafter described is necessary for the construction of the street improvement, City desires to acquire the needed premises.

II. AGREEMENT TO CONVEY

(a) In consideration of the payments to be made and other covenants to be performed by the City and the mutual benefits to be derived from the Heath Street project, landowner agrees to convey to the City the hereinafter described real property necessary for construction of the Heath Street Improvement. The property, including improvements, if any, needed for the project is more particularly described as:

Metcalf and Conklin  
Legal Description for  
Right-of-Way

Tax Parcel #177-104-1000

That certain real property being the east 10 feet of KPB Tax Parcel Number 177-104-1000. Said real property contains 1000 square feet more or less.

LAW OFFICES OF HAHN, JEWELL & STANFILL  
431 WEST SEVENTH AVENUE, SUITE 212  
ANCHORAGE, ALASKA 99501 • TELEPHONE 279-1544  
HOMER, ALASKA • TELEPHONE 235-8709

1                                    Tax Parcel #177-104-1100

2        That certain real property being the east 10 feet of KPB Tax  
3        Parcel Number 177-104-1100. Said real property contains 1000  
4        square feet more or less.

5                    (b) Landowner agrees to convey the above described property  
6        by good and sufficient deed or other appropriate document of  
7        conveyance upon the following terms and conditions:

8                    1. Payments. City agrees to pay landowner the sum of  
9                    \$6,200.00, as full compensation for conveyance of the  
10                   above described property to City within the time  
11                   hereinafter set forth.

12                   In consideration of payment of \$6,200.00, (100% of  
13                   total purchase price) by City to landowner at the time  
14                   of execution of this agreement, receipt of which is  
15                   hereby acknowledged by landowner, it is mutually  
16                   understood and agreed that the City is paying the total  
17                   compensation due landowner in the sum of \$6,200.00,  
18                   (100% of purchase price) upon landowner's execution and  
19                   delivery of a deed or other appropriate document of  
20                   conveyance in favor of City.

21                   2. Commencement of Construction. Landowner  
22                   specifically authorizes the City to begin construction  
23                   on all or any portion of the above described parcel  
24                   immediately after the date of signing this agreement.

25                   3. Access. The City shall not obstruct continuous  
26                   vehicular and pedestrian access during and after  
                 construction of the project.

LAW OFFICES OF MAHN, JEWELL & STANFILL  
431 WEST SEVENTH AVENUE, SUITE 212  
ANCHORAGE, ALASKA 99501 • TELEPHONE 279-1944  
HOMER, ALASKA • TELEPHONE 235-8709

1 4. Taxes and Assessment. Property taxes and special  
2 assessments, if any, delinquent from former years, and  
3 taxes and special assessments for the current year, if  
4 assessed and/or due and payable, shall be paid by  
5 landowners and may be withheld by City from any balance  
6 due landowner, such withheld amount to be used by City  
7 to pay said taxes and/or special assessments.

8 5. Closing Costs. City shall pay all closing costs  
9 incident to this conveyance.

10 6. Variances. Building setback, lot size, and other  
11 zoning variances, if any, necessary for continued use  
12 of the remainder of the above described property are  
13 hereby authorized and approved by the City.

14 7. Assignment. No assignment of this agreement or the  
15 subject matter hereof or agreement to assign or convey  
16 the subject matter hereof shall be valid, unless the  
17 same be in writing attached hereto and approved by the  
18 City.

19 8. Integration. This agreement embodies the whole  
20 understanding between the parties hereto as it pertains  
21 to the real estate herein described, and there are no  
22 promises, terms, conditions, or obligations referring  
23 to the subject matter hereof, other than as contained  
24 herein.

25 9. Indemnification of City. The landowner hereby  
26 agrees that the consideration herein provided to be  
paid includes full compensation for landowner's

LAW OFFICES OF HAHN, JEWELL & STANFILL  
431 WEST SEVENTH AVENUE, SUITE 212  
ANCHORAGE, ALASKA 99501 • TELEPHONE 279-1544  
HOMER, ALASKA • TELEPHONE 233-8709

1 interests, and the interests of landowner's life  
2 tenants, remaindermen reversioners, lienors, and  
3 lessees, and any and all other legal and equitable  
4 interests which are or may be outstanding, and  
5 landowner agrees to indemnify and hold the City  
6 harmless against any claims by those holding or  
7 allegedly holding any such interest.

8 10. Miscellaneous Lienholders. Landowner further  
9 agrees and warrants that the execution of this  
10 agreement does not violate the terms of any deed of  
11 trust or other instrument of record for which the above  
12 described property has been given as security.  
13 Landowner agrees to satisfy any lienholder and obtain a  
14 release of security interest therefrom in the above  
15 described premises, prior to payment by the City  
16 therefor.

17 11. Binding Effect. This agreement shall be deemed a  
18 contract extending to and binding upon the parties  
19 hereto and upon the respective heirs, devisees,  
20 executors, administrators, legal representatives,  
21 successors, and assigns of the parties.

### 22 III. SPECIAL TERMS AND CONDITIONS

23 The following special terms and conditions shall pertain to  
24 and govern this agreement:

25 ~~None~~ City shall cut only those trees  
26 that are necessary within the right of way  
and shall cut no trees outside the right  
of way.

LAW OFFICES OF HAHN, JEWELL & STANFILL  
431 WEST SEVENTH AVENUE, SUITE 212  
ANCHORAGE, ALASKA 99501 • TELEPHONE 279-1844  
HOMER, ALASKA • TELEPHONE 239-8709



1 IN WITNESS WHEREOF, the parties have executed this agreement  
2 effective as of the day and year first above written.

3  
4 LANDOWNER

Eddie L. Metcalf  
Eddie L. Metcalf

5  
6 Nancy Conklin  
Nancy Conklin

7  
8 AGENT

CITY OF HOMER

9  
10 By Philip C. Shealy  
11 Philip C. Shealy  
12 City Manager  
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LAW OFFICES OF HAHN, JEWELL & STANFILL  
431 WEST SEVENTH AVENUE, SUITE 212  
ANCHORAGE, ALASKA 99501 • TELEPHONE 279-1544  
HOMER, ALASKA • TELEPHONE 235-8708

STATE OF ALASKA )  
 ) ss.  
 THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 11th day of August, 1988, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared EDDIE L. METCALF and NANCY CONKLIN, known to me to be the individual(s) named herein, and who executed the above and foregoing instrument, and they acknowledged to me the execution thereof as their free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.



*Philip C. Shealy*  
 Notary Public in and for Alaska  
 My Commission Expires: 10-04-88

STATE OF ALASKA )  
 ) ss.  
 THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 11th day of August, 1988, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared PHILIP C. SHEALY, known to me to be the City Manager of the CITY OF HOMER, ALASKA, and he acknowledged to me the execution of the foregoing Agreement for and on behalf of the City of Homer, Alaska, pursuant to authorization duly adopted by the Common Council of Homer, Alaska.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

88-3488

25-

RECORDED-FILED  
 HOMER RECORDING  
 DISTRICT

*Evelyn Betty Johnson*  
 Notary Public in and for Alaska  
 My Commission Expires: 3-11-89

3-11-89

OCT 20 10 47 AM '88

REQUESTED BY *City of Homer*  
 ADDRESS *Homer*

LAW OFFICES OF HAHN, JEWELL & STANFILL  
 431 WEST SEVENTH AVENUE, SUITE 312  
 ANCHORAGE, ALASKA 99501 - TELEPHONE 279-1844  
 HOMER, ALASKA - TELEPHONE 235-8708

*Re: 10-1*



# City of Homer

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

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3106

(f) 907-235-3118

### Staff Report PL 18-43

TO: Homer Advisory Planning Commission  
THROUGH: Rick Abboud, City Planner  
FROM: Julie Engebretsen, Deputy City Planner  
DATE: July 18, 2018  
SUBJECT: Comprehensive Plan Appendix

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### Introduction

At the work session of June 20, 2018, the Commission discussed the Land Use Recommendations Map, and the Appendix. Based on feedback at the work session, staff has changed the appendices as follows:

1. Appendix A is now titled, "Land Use Recommendations." Staff added the last paragraph on page A-2. This appendix includes the text of the proposed new land use categories, the existing categories, and the Land Use Recommendations Map. The land use categories were re-ordered so that all the new categories are together (A-3, A-4), and all the existing categories are together (A-4 through A-9).
2. Appendix B is unchanged: Annexation Process
3. Appendix C is new, entitled: "Background Land Use Information." This section includes all the other information and maps that were formerly lumped into Appendix A. This includes the current zoning map, water and sewer map, etc. See the Appendix C cover page for the documents included and their page numbers. No changes were made to any of the information contained in this section. It was simply moved from "Appendix A" into a new "Appendix C."

### Analysis

No action is required. If the Commission wishes to make any final changes, now is the time. If there are no changes, staff will proceed to publishing a new public hearing document.

### Staff Recommendation

No action needed. Discuss only if there are changes to be made.

### Attachments

Appendix A, B & C





# **Appendix A – Land Use Recommendations**

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## **Index**

Comprehensive Plan Land Use Designation Categories	<b>A-2</b>
Comprehensive Plan Land Use Recommendations Map	<b>A-10</b>



## **Appendix A**

### **Land Use Designation Categories**

#### **INTRODUCTION**

Homer's existing set of land uses and built environment offers much to be commended and retained. Two qualities in particular stand out as strengths:

##### **Mix of uses**

Homer has a freewheeling, organic character. In many parts of town, land uses – residential, office, retail, storage, industrial, and open space – are freely mixed. This style breaks common rules of traditional planning, but in most instances the result is attractive and functional. This eclectic mix of uses fits together with little or no conflicts, and helps create Homer's unique, well-liked character.

##### **1. Building appearance**

Homer has an organic building aesthetic where the majority of buildings “fit.” Many are actually quite attractive, while relatively few stand out as offensive or out-of-place.

##### **2. Development aesthetic**

Homer has a widespread site development aesthetic that is also quite attractive. Many commercial lots in Homer feature hand-crafted informal signage, natural landscaping, and a comfortable, natural fit with the land. This contrasts with the buildings and parking areas in many Alaskan communities (e.g., Wasilla) where development is rarely pleasing to the eye.

In many instances these qualities exist in spite of, or possibly out of, compliance with the City's zoning rules. In light of these realities, the function of an updated zoning code for the City of Homer should be to strengthen and institutionalize the styles and patterns most builders and developers are already following. Care needs to be taken that simplistic zoning rules don't damage the more, unique home-grown qualities that give Homer its special character. At the same time, odds are good that future developers may not know the “unwritten rules” that have made past development generally attractive.

For these reasons and to implement comprehensive plan policies, Homer needs to upgrade and revise its existing zoning code. As part of this comprehensive plan, a “land use designation map” has been prepared identifying intended land uses, working from the existing zoning map. This product is not as detailed or specific as a zoning map, but does express the general land use strategies of the comprehensive plan. This map is a starting point in the process of amending the zoning code to refine and implement these general policies. A particular focus of this land use designation map is to use mixed use zoning practices that focus more on offsite impacts and building forms and less on controls on the specific type of use. This approach provides necessary guidance while still preserving the unique and functional character of the community.

Between the adoption of the 2008 Comprehensive Plan and the 2018 plan, several parts of the community were rezoned, zoning district text was amended, and the East End Mixed Use district created. The following descriptions of land uses are split into two parts: proposed new zoning districts, and existing zoning districts. The Land Use Recommendations Map depicts the areas of the community where the proposed new districts could be implemented. A map of the existing zoning districts, as of the draft of this plan, can be found in Appendix C, Background Land Use Information.

## NEW LAND USE CATEGORIES

### RT (RESIDENTIAL TRANSITIONAL)

- **Intent** The R-2 district is intended to provide a transitional residential zone between higher and lower density residential or residential office developments with a focus on residential land uses. Densities in this area will be in between the lower density rural residential zone (R-3) and the more urban, higher density uses in the R-1 district.
- **Primary Use** Medium-density residential including single-family and duplex; provide for a scale, density, and character of residential development appropriate for locations between urban and rural residential areas.
- **Other Uses, Allowances, and Specifications**
  - Areas generally served by water and sewer or likely to be served in the future; full city services.
  - Moderate lot size minimums (for example, 10,000 square foot lots for single family homes).
  - Allows second units and duplexes by right (both subject to standards).
  - Allows bed-and-breakfasts by right; other small scale accommodations<sup>1</sup> allowed with administrative review. (For purposes of this plan a B&B defined as lodging where owner proprietor resides on site – see footnote for details.)
  - Allows home-based businesses by right (subject to standards); allows some larger non-retail business activities subject to administrative review.
- **Development standards**
  - Encourage retention of quasi-rural character.
  - Encourage attractive diverse housing types (vs. “cookie-cutter” subdivisions).
  - Encourage open space subdivisions as alternative to more typical lot layouts.

### DT (DOWNTOWN MIXED USE)

- **Intent** The intent of the DT district is to provide a mixed use business district in the core area of Homer, with safe, pleasant, and attractive circulation for pedestrians and vehicles.
- **Primary Use** Provide a concentrated, centrally located district in the center of Homer for a mixture of urban uses, including general retail shopping, personal and professional services, educational institutions, entertainment establishments, restaurants and related businesses, civic uses, recreation and residential uses. Create high quality public spaces (sidewalks, trails, gathering areas) and encourage pedestrian movement throughout the area; allow for a mixture of residential and commercial uses with conflicts resolved in favor of commercial uses.
- **Other Uses, Allowances and Specifications**
  - Areas served by public water and sewer, full range of other urban services
  - Allow and encourage densities typical of small town, “main street” settings (sufficient concentration of uses to encourage circulation by foot).
  - Residential densities – multi-family dwellings; for example, up to 6 units per acre allowed by right; up to 14 units per acre with administrative review.
  - Minimal building setbacks to create a friendly, pedestrian-oriented streetscape.



- Encourage parking off-site (e.g., allowing payment of a fee in lieu of meeting on-site parking standards, through shared parking arrangements, through reducing on-site requirements by providing public parking and protected pedestrian ways).
- **Development standards include:**
  - Create an attractive, pedestrian-oriented environment (e.g., windows and doors that are close to the street, landscaped parking, standards to humanize buildings such as clearly articulated entries).
  - Advisory guidelines re design character, so buildings and other structures within the district are compatible with one another and with the surrounding area.
  - Consider establishing an overlay zone for Old Town so buildings in that portion of the district feature an “Old Homer” historical character.
  - Consider establishing a University district.

## HOSPITAL DISTRICT

- **Intent** Acknowledge demand for medical services will increase with a larger, aging population. Enact zoning regulations that allow medical services to expand with the growing need for life long medical care, in a localized area near the hospital.
- Work with area residents and business owners to identify desirable neighborhood character and appropriate performance standards such as building bulk and scale, density, signage, lighting and parking lot development.
- Other issues may be identified and addressed through the zoning process.

## EXISTING LAND USE CATEGORIES

### RESIDENTIAL

#### UR (URBAN RESIDENTIAL)

- **Intent** The R-1 district is intended to provide more intense residential development in the city core, in a manner that matches Homer’s small town character and encourages increased densities near pedestrian-oriented commercial areas.
- **Primary Use** Medium and medium-high density residential including single-family, duplex, and multiple-family; allow for a variety in housing types and housing price levels.
- **Other Uses, Allowances, and Specifications**
  - Areas generally served by water and sewer; central locations with excellent access to a range of urban services and facilities.
  - Residential is primary use; but allows for other uses where these uses maintain residential character.
  - Moderate lot size minimums (for example, 6000 square foot lots for single family homes).
  - Allows bed and breakfasts by right, allows second units and duplexes by right (both subject to standards). (For purposes of this plan, a B&B is defined as lodging where owner proprietor resides on site.)
  - Allows home-based businesses by right (subject to standards).
- **Development standards**
  - Encourage attractive, diverse housing types (vs. “cookie-cutter” subdivisions).

- Ensure newer housing is compatible with character of older neighborhoods (for example, by requiring transitional densities, buffer uses).

#### RR (RURAL RESIDENTIAL)

- **Intent** The R-3 district is intended to provide areas for low density residential development and limited agricultural pursuits.
- **Primary Use** Low-density residential development in outlying locations, generally with less services and/or lower level of service than in urban areas.
- **Other Uses, Allowances, and Specifications**
  - Areas generally not served by water and sewer, nor likely to be served in the near future.
  - Larger lot sizes or cluster subdivisions to preserve sense of open space.
  - Allows accessory housing units by right (subject to standards).
  - Allows bed and breakfasts by right, subject to standards (for purposes of this plan B&B defined as lodging where owner proprietor resides on site)
  - Allows home-based businesses by right, subject to standards; allows some larger non-retail business activities subject to administrative review.
- **Development standards**
  - Option for higher densities and cluster development. Encourage open space subdivisions as alternative to more typical lot layouts.
  - Ensure newer housing is compatible with character of older neighborhoods.

### COMMERCIAL AND MIXED USE

#### CBD (CENTRAL BUSINESS DISTRICT)

- **Intent** The intent of the CBD commercial district is to provide a mixed use business district in the core area of Homer, with greater allowance for vehicular use than in the Downtown district, but still with a character that encourages pedestrian use.
- **Primary Use** Provide a centrally located area within the City for a mixture of urban uses and activities, including general retail shopping, personal and professional services, educational institutions, entertainment establishments, restaurants and related businesses, civic uses, recreation, and residential uses. Allow a mixture of residential and commercial uses but conflicts resolved in favor of business.
- **Other Uses, Allowances, and Specifications**
  - Areas served by public water and sewer, full range of other urban services
  - Allow and encourage relatively high densities (sufficient concentration of uses to encourage circulation by foot).
  - On-site parking required (option for shared parking with an approved parking plan).
  - Residential densities – for example, multi-family up to 6 units per acre - allowed by right
- **Development standards include:**
  - Create an attractive, pedestrian-oriented environment (e.g., landscaped parking, standards to humanize buildings such as clearly articulated entries).

- Advisory guidelines regarding design character, so buildings and other structures within the district are compatible with one another and with the surrounding area.
- Control signage to maintain visual quality (for example, avoid large, highly illuminated signs).

#### RO (RESIDENTIAL OFFICE)

- **Intent** The intent of the RO district is to allow for a range of residential and residential compatible uses. While allowing office, certain commercial and other business uses, buildings and sites must have a scale and character similar to single family detached or small multi-family homes. This district serves as a transition zone between commercial and residential neighborhoods.
- **Primary Use** Provide a mix of low-density to medium-density residential uses with certain specified businesses and offices which may include professional services, administrative services and/or personal services, but does not include direct retail or wholesale transactions except for sales which are incidental to the provision of services.
- **Other Uses, Allowances, and Specifications**
  - Areas served by public water and sewer, full range of other urban services, close to other urban services.
  - Moderate lot size minimums (for example, 7500 square feet); allows for attached housing.
  - Guide use to create/maintain an attractive highway environment
- **Design and development standard**
  - Required (not advisory) standards to maintain residential character/residential scale of buildings (e.g., height, setbacks, parking location, signage).
  - Advisory design guidelines regarding building style (e.g., use of materials, architectural style).
  - Allow for limited commercial signage, consistent with overall goal of retaining a largely residential character.

#### G-MU (Gateway Mixed Use)

- **Intent** The intent of the G-MU district is to provide land uses that primarily cater to the tourism and visitor industry of Homer and to promote year round activity. The gateway district serves as the primary roadway entry into Homer. It will provide an attractive built environment and promote those uses that will not compete with the DT, CBD and GC districts.
- **Primary Use** Promote mixed-use development, with emphasis on the visitor industry. Serve needs and interests of the visitor industry, as well as year-round residents and Homer's role as the Gateway to Kachemak Bay (not to conflict w/CBD). Minimize future traffic congestion along the Sterling Highway corridor and preserve the experience residents and visitors have when entering Homer by way of the Sterling Highway.
- Commercial uses are primary objective; focus on "Gateway" appropriate businesses such as visitor amenities, hotels – no gas stations, fast-food, strip development.
- **Other Uses, Allowances, and Specifications**
  - Areas served by public water and sewer, full range of other urban services.

- Allow and encourage relatively high densities (sufficient concentration of uses to encourage circulation by foot).
- Residential densities – for example, multi-family up to 6 units per acre - allowed by right; higher densities with administrative review or use dimensional standards like CBD above.
- **Development standards**
  - Advisory guidelines re “Gateway” design character.
  - Encourage parking behind buildings (through appropriate set-back rules).
  - Design standards that create an entry point the community can be proud of - attractive, pedestrian-oriented to a degree (e.g., landscaped parking).
  - Control signage to maintain visual quality (for example, avoid large, highly illuminated signs).

#### E-MU (EAST END MIXED USE)

- **Intent** The intent of the E-MU district is to allow a wide variety of commercial, industrial, and heavy industrial uses in a district with access to the boatyard, marine services, and the airport; and to ensure such uses, which are important to Homer’s economy, continue to have a viable location.
- **Primary Use** Mixed-use development with fewer constraints on uses than existing GC-1 and GC-2. Designed to accommodate the wide range of uses found in the area today, as well as other future uses; examples include industrial, marine-oriented, construction services (including batch plants), storage, and artist workshops. Residential and retail are allowable, but residential/retail and commercial conflicts will be resolved in favor of commercial/industrial uses.
- **Other Uses, Allowances and Specifications**
  - Allows for mixed use, live/work, provides larger lots than would be available in CBD.
  - On-site parking required.
  - Guide use to create/maintain an attractive highway environment.
- **Development standards**
  - Minimal – basic guidelines for parking, setbacks.
  - Encourage basic landscaping.
  - Properties adjacent to the Conservation zone should use best management practices when developing near the southern edge of the property. Strategies may include, but are not limited to, 100 foot buffer zones along the southern property lines adjacent to the conservation areas, tree retention (bird habitat, moose cover), habitat and vegetation retention, and storm water and pollution management techniques. Developers are encouraged to use a combination of techniques to minimize impacts within 100 feet of the south property line and to provide for storm water filtration. Development is encouraged to concentrate on the northern portions of these lots.

#### GC-1 (GENERAL COMMERCIAL 1)

- **Intent** The intent of the GC-1 district is to provide for auto-oriented business.
- **Primary Use** Provide for a diverse array of commercial, retail, and civic uses; commercial uses are primary objective. Applied in locations where the auto is primary means of access.
- **Other Uses, Allowances, and Specifications**



- Areas served by public water and sewer, full range of other urban services.
- Residential densities – for example, residential uses up to 6 units per acre allowed by right; higher densities with administrative review or use dimensional standards like CBD above.
- On-site parking required (option for shared parking with an approved parking plan).
- Guide use to create/maintain an attractive highway environment.
- **Development standards include:**
  - Control signage to maintain visual quality (for example, avoid large, highly illuminated signs).
  - Provide for safe pedestrian circulation.

#### GC-2 (GENERAL COMMERCIAL-2)

- **Intent** The intent of the GC-2 district is to locate commercial and industrial uses where access to transportation infrastructure is a primary consideration. This district will also serve as a reserve to allow for future commercial and industrial expansion.
- **Primary Use** Promote a sound heavy commercial area within the community with good access to main roads, and reserve land for future industrial expansion. Designed to permit manufacturing, processing, assembly, packaging, or treatment of products within enclosed utilities and facilities required to serve these uses. Residential uses permitted, recognizing the primacy of light industrial and commercial activities. Residential uses limited; certain retail enterprises limited. Performance standards for heavy commercial uses, especially where the district abuts other zoning districts. Allows for heavier commercial uses – manufacturing, processing, packaging, and support of airport activities / needs.
- **Other Uses, Allowances, and Specifications**
  - Accessible by vehicle/direct access.
  - Allows for mixed use, live/work, provides larger lots than would be available in CBD
  - On-site parking required.
- **Development standards include:**
  - Minimal – basic guidelines for parking, minimal setbacks
  - Encourage basic landscaping, screening

#### MC (MARINE COMMERCIAL) (See also 2011 Homer Spit Comprehensive Plan)

Provide adequate space for the commercial needs which service and support water-dependent industries and facilities; encourage adequate separation between allied but potentially incompatible commercial and industrial uses while providing proximate locations for the mutual benefit of such water-oriented commercial and water dependent industrial uses. Commercial enterprise permitted to the extent that it services and supports the water-dependent industries which are important to Homer's economic base (e.g., fishing, marine transportation, off-shore energy development, recreation, and tourism) and to the extent that location elsewhere creates unnecessary hardship for the users of such commercial services. Performance standards are required to minimize the impact of commercial development on the natural features on which it depends.

#### MI (MARINE INDUSTRIAL) (See also 2011 Homer Spit Comprehensive Plan)

Provide adequate space for those industrial uses that require direct marine access for their operation and to encourage the most efficient utilization of land. Promote marine-dependent industries important to Homer's economic base (e.g., fishing, fish processing, marine transportation, off-shore

oil development, and tourism); give priority to those uses, and minimize conflicts among industrial, commercial and recreational uses.

#### OSR (OPEN SPACE—RECREATIONAL)

Promote public recreational opportunities while protecting natural and scenic resources. Give priority to pedestrian uses over motor vehicles uses and preserve public access to the tidelands. All development proposals in the district will be evaluated in terms of their compatibility with natural hazard and erosion potential and their effect on scenic vistas and public access.

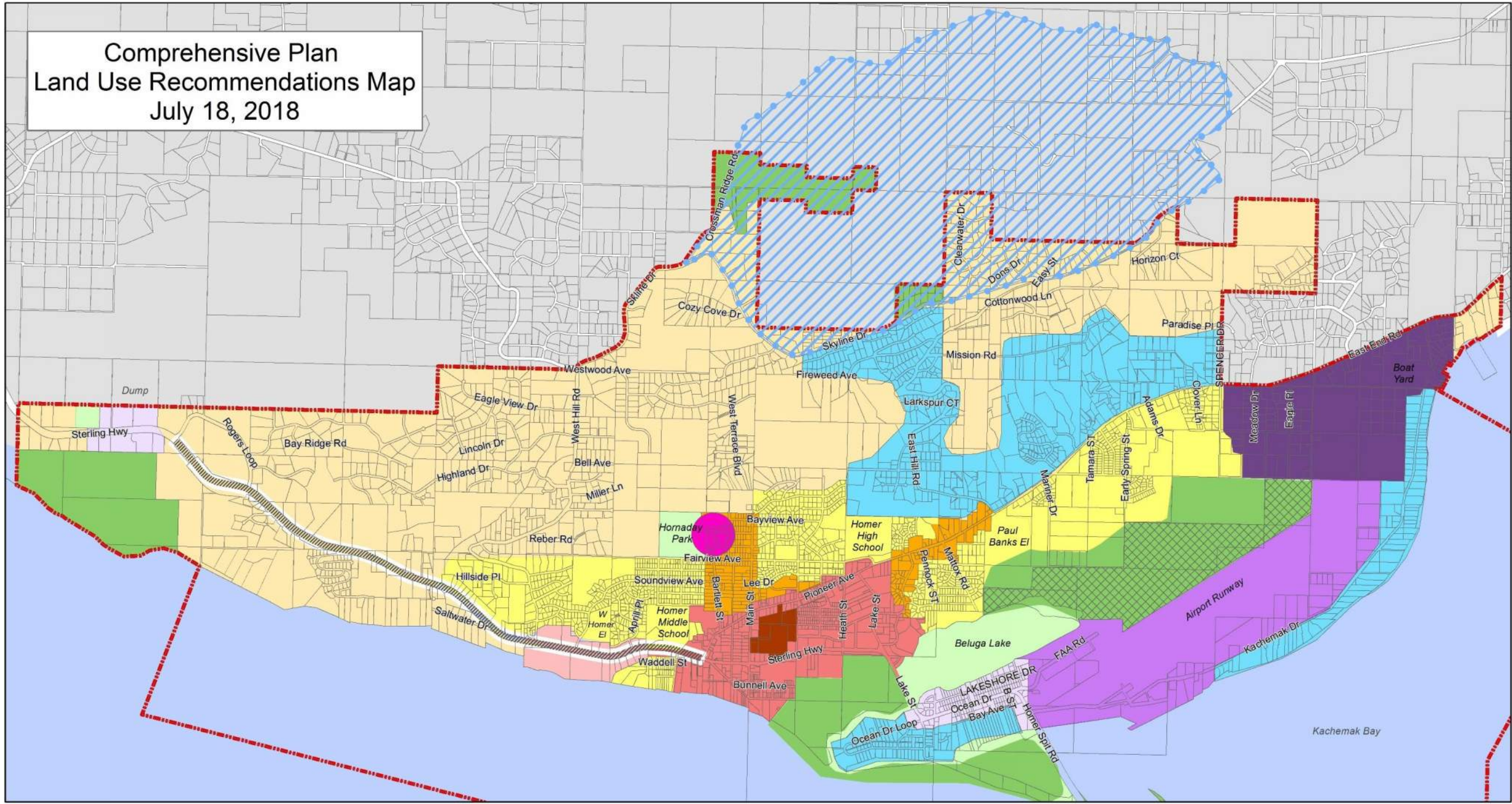
#### CO (CONSERVATION)

- **Intent** The conservation district is applied to sensitive public and in some instances private lands that are critical to the maintenance of fish and wildlife resources, serves important watershed protection areas, or serves other key environmental functions. These lands are to be maintained in an undisturbed and natural state, except for enhancement projects. Private landowners may agree to have this designation on their property. The Green Infrastructure map discussed is an important reference in identifying conservation areas.
- **Primary Use** Acceptable uses in this district include undeveloped open space, parks with passive recreation activities and facilities (e.g., wildlife viewing, nature walks, educational and interpretive uses) and other uses that do not change the character of the land or disrupt fish and wildlife. Passive recreation activities are secondary to habitat protection and enhancement. Private landowners may agree to have this designation on their property.
- **Development standards include:**
  - Where applied to private lands, specific development strategies and standards are needed to balance the interests of private land owners with the need for protection of functionally valuable, sensitive natural areas.
  - Consider requiring a 100 foot habitat buffer on all lands bordering the airport area conservation zone, as discussed under the East End Mixed Use zone.

#### BCWP (BRIDGE CREEK WATERSHED PROTECTION DISTRICT)

Prevent degradation of water quality and protect the Bridge Creek Watershed to ensure its continuing suitability as a water supply source for the City's public water utility. Restrict land use activities that would impair the water quality or increase the cost for treatment.





**Legend**

<b>Land Use Recommendations</b>	Town Center	Hospital District	Rural Residential
Bridge Creek Watershed	General Commercial 1	Residential Office	Open Space Rec
Gateway Business District	General Commercial 2	Urban Residential	Conservation
Downtown Mixed Use	East End Mixed Use	Residential Transition	Scenic Gateway Corridor Overlay

City Limits  
 Airport Critical Habitat Area

City of Homer

0 0.5 1 Miles





## Appendix B – Annexation Process

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### Summary

**Develop a clear and open public process for future changes to City of Homer boundaries. Explore a planned, phased possible expansion; and initiate and establish regional planning processes with the Kenai Peninsula Borough.**

Existing land use and future growth around the periphery of Homer has significant impacts on the quality of life, the environment, and the economy of those who live and work within city limits. As a consequence, the City needs to be open to the possibility of annexing lands beyond city boundaries. Some of the specific benefits for those in the annexed areas include:

- Access to water for domestic use
- Improved fire protection services
- Improved street maintenance and snow removal services
- Improved law enforcement services provided by the City police department (as continued growth in outlying areas requires more services than the Alaska State Troopers can provide)
- Local control over planning and zoning (when done in a manner that reflects local values, city planning and zoning authority can help avoid the intrusion of incompatible uses into neighborhoods and help maintain and increase property values)
- Right to vote for elected representatives in Homer, and serve on City Boards and Commissions (currently sales tax provides the majority of the city's revenue. People outside city boundaries pay sales tax but don't vote for the people who make the decisions about how sales tax money is spent)

**Step 1:** Develop a clear and orderly process to assess the need and apply for the expansion of the boundaries of the City of Homer, which is likely to be necessary over the coming decades as surrounding areas grow and develop.

**Step 2:** Develop a fair, planned process for involving affected members of the public when considering annexation.

**Step 3:** Develop land use and infrastructure policies to address issues such as access and water use for areas that may be annexed in the future.

**Step 1:** Develop a clear and orderly process to assess the need and apply for the expansion of the boundaries of the City of Homer, which is likely to be necessary over the coming decades as surrounding areas grow and develop.

For the long-term benefit of both the city and surrounding areas, Homer will adopt a proactive planning strategy in the greater Homer area. Overall intentions regarding possible boundary changes are outlined below:

#### **Implementation Strategies**

1. Regularly assess the need for phased annexations to guide growth and provide for effective delivery of municipal services which benefit landowners, residents, and businesses.
2. Identify specific criteria for prioritizing prospective annexation areas. Focus near term attention where the uses have the greatest impact on City of Homer interests, including the area of the Bridge Creek water reservoir and associated watershed, areas where City water is delivered to residents outside city limits, areas directly adjacent to Homer city boundaries, and areas where recreational and open space resources (trails, greenbelts, water and drainage ways) are already in existence or may be easily developed.
3. Establish a clear and open public process for proposing annexations, including obtaining input from interested persons regarding land use and City services.
4. Work actively with the KPB to develop shared plans for current uses and future growth in the areas outside current city boundaries; including services, land use, and development standards.
5. In addition to considering the impacts of proposed annexation on residents and land owners, evaluate the costs and benefits of specific possible annexations to the City of Homer; looking, for example, at the relative balance of expected revenues versus costs to provide needed services.

**Step 2:** Develop a fair, planned process for involving affected members of the public when considering annexation.

Past annexation procedures in Homer have been painful, slow, and costly. Some of this cannot be avoided: annexation is a complex issue and not everyone will be satisfied with the outcomes. Nonetheless, there is room for improvement in the procedures associated with annexation. Specific policies include:

#### **Implementation Strategies**

1. In the near term, carry out an initial “annexation issues scoping process” for areas outside the city. Get early input from landowners, residents, and businesses in possible annexation areas regarding annexation issues. This will help Homer in planning for future growth, and enable landowners and businesses outside Homer to be part of the process and to understand how annexation may affect them.
2. Prior to proceeding with any annexation petition, the City, working with the Borough, will undertake a planning study of the specific area proposed for annexation. This will include providing public notice and public meetings to help define recommended future land uses and to indicate how and when municipal services (including public safety, utilities, streets and trails) will be extended to the area, together with estimated associated costs. The recommendations

of the study will be incorporated into any annexation proposal submitted to the Alaska Local Boundary Commission.

3. Extra effort will be made to give the public a meaningful role in the consideration of annexation costs and benefits.
4. Explore options for different levels of services where clear distinctions can be made in the level of service required. For example, the level of fire protection service may vary greatly as a function of road infrastructure, vegetation, and response time. In outlying areas for example, the focus may be prevention of loss of human life and containment versus protection of life and property in locations closer to town.
5. It is not possible or appropriate for the City of Homer to prepare land use policy for potential annexation areas. At the same time, the City needs to convey general intentions for the future use of annexed lands. These intentions are established through the general policies of this Comprehensive Plan and other policies for land inside City limits, but also give a helpful sense of what policies might apply in future annexation areas. Examples of general policies that apply citywide and would likely be extended to annexed areas include creating and maintaining quality residential neighborhoods, using setbacks and buffers to ensure compatibility between different types of uses, providing open space and trails, and ensuring roads are built to City standards. The annexation planning studies called for above will build from the general framework in the Comprehensive Plan and take into account the opportunities and constraints of specific locations, as well as the perspectives of affected property owners and residents.

**Step 3: Develop land use and infrastructure policies to address issues such as access and water use for areas that may be annexed in the future.**

Regardless of any future annexations, which may be decades away, the City needs to address several specific land use and infrastructure issues that cross city boundaries into greater Homer. Specific issues and recommended policies are presented below:

**Implementation Strategies**

1. Working through a cooperative planning process with the Borough, establish mechanisms to deal with issues outside City of Homer boundaries with greatest impact on the City. Examples include agreement to use common road standards and for cooperative work on trail and open space issues.
2. Re-examine the City's current policy for the provision of water from the public water system to users outside city limits and determine the impact of this practice. Currently approximately 26% of occupied homes within Homer city limits do not enjoy the benefit of piped water delivery. The ability to receive water from city sources outside city boundaries has a major impact on the prospects for development in outlying areas where options for wells are limited. Water delivery in outlying areas contributes to the outward spread of residential uses, which in turn increases driving, energy use and contributes to greenhouse gas emissions. Determine if areas receiving water should be high priority areas for annexation. Investigate options for "reciprocity" by either developing plans for annexation or by establishing KPB-enforced land use practices that align with similar practices in the City of Homer (*See Chapter 6, Public Services and Facilities, Goal 1, Objective C, for more on water use*).





## **Appendix C – Background Land Use Information**

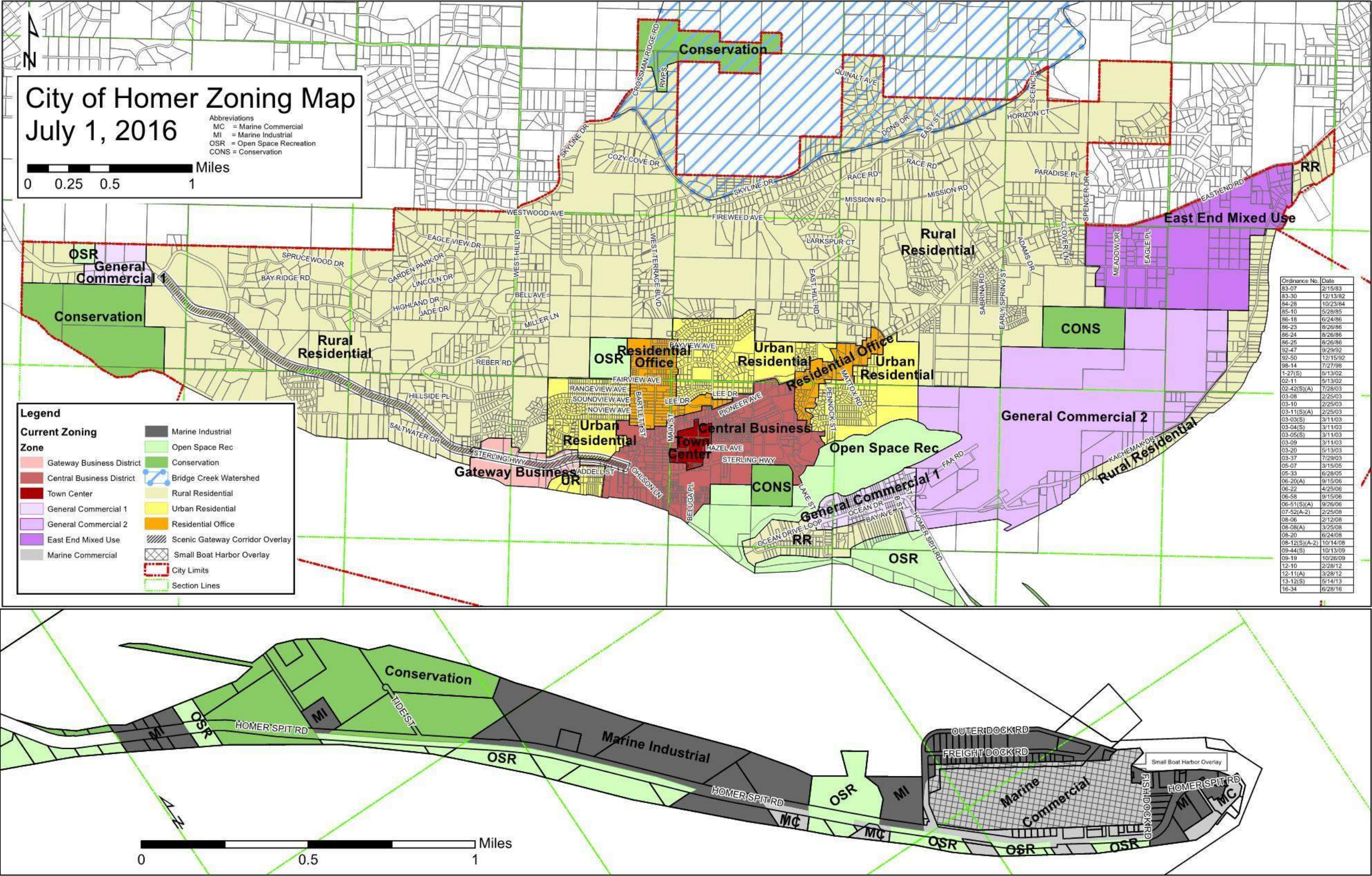
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### **Index**

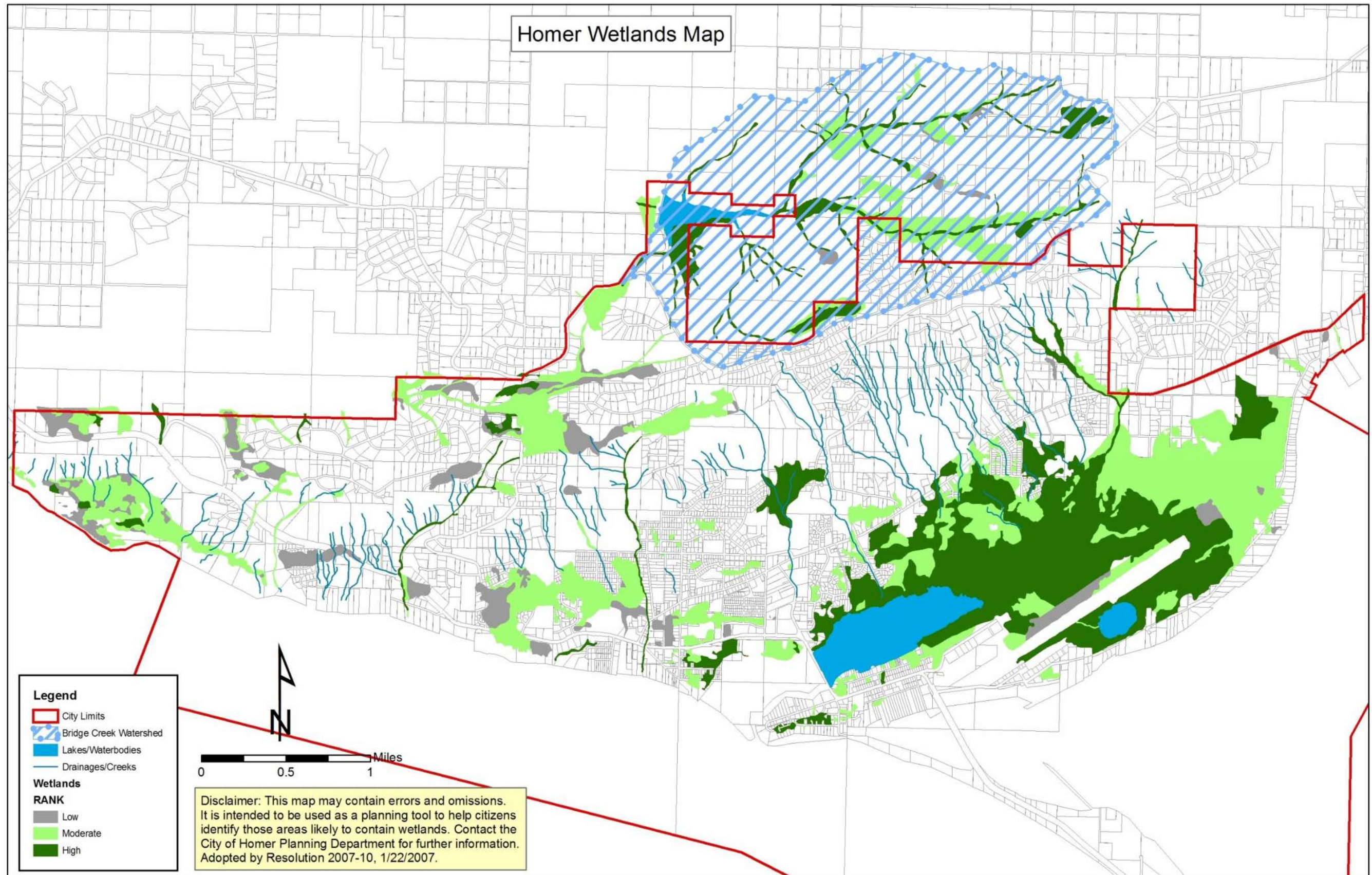
2016 Zoning Map	<b>C-2</b>
2005 Wetlands Map	<b>C-3</b>
Existing Water and Sewer Infrastructure Map	<b>C-4</b>
Flood Plain Map	<b>C-5</b>
Coastal Erosion Map	<b>C-6</b>
Green Infrastructure Mapping	<b>C-7 – C-10</b>
Land Suitability Mapping	<b>C-11</b>
Woodard Creek Plan Excerpt	<b>C-13</b>



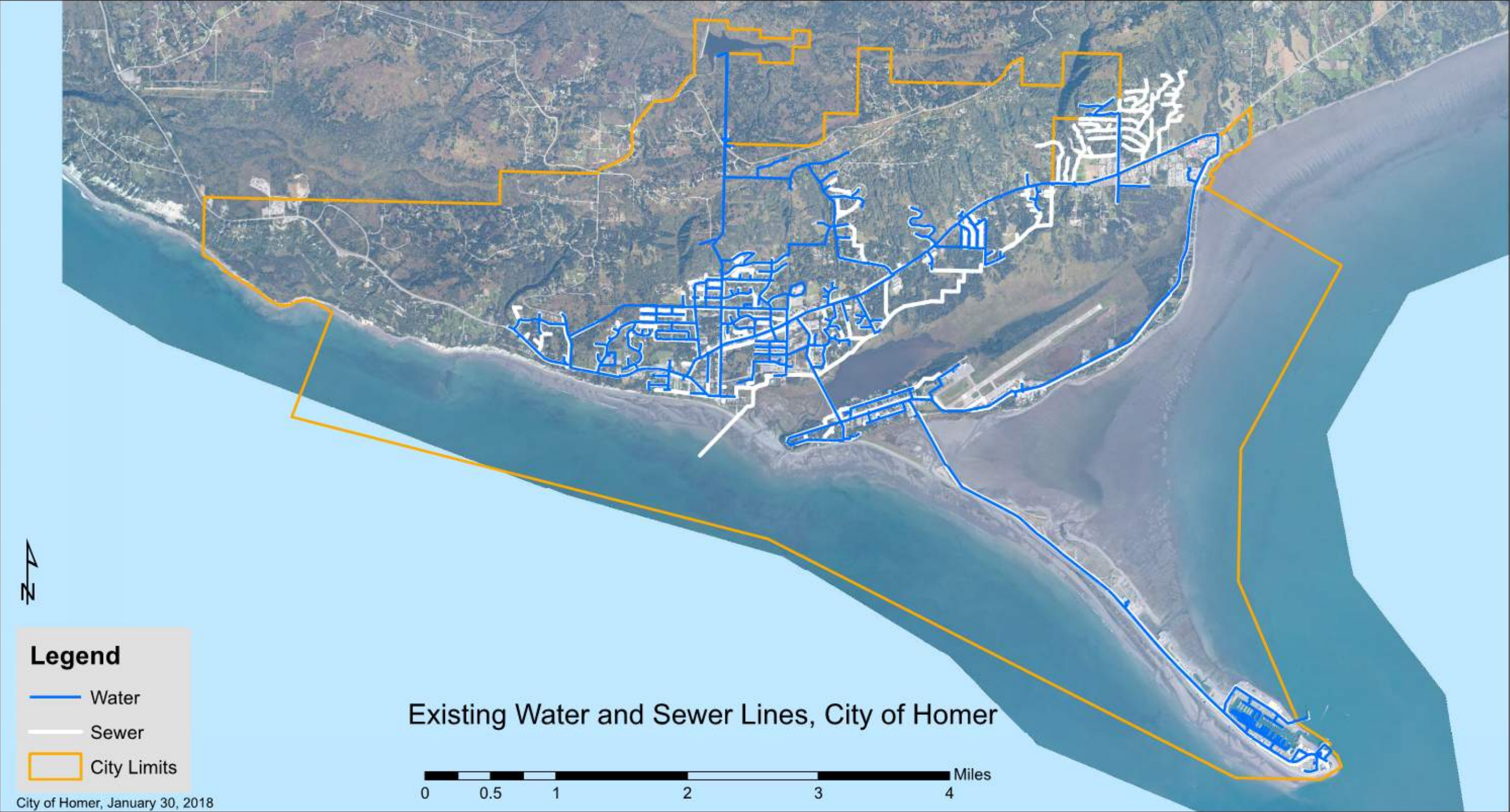






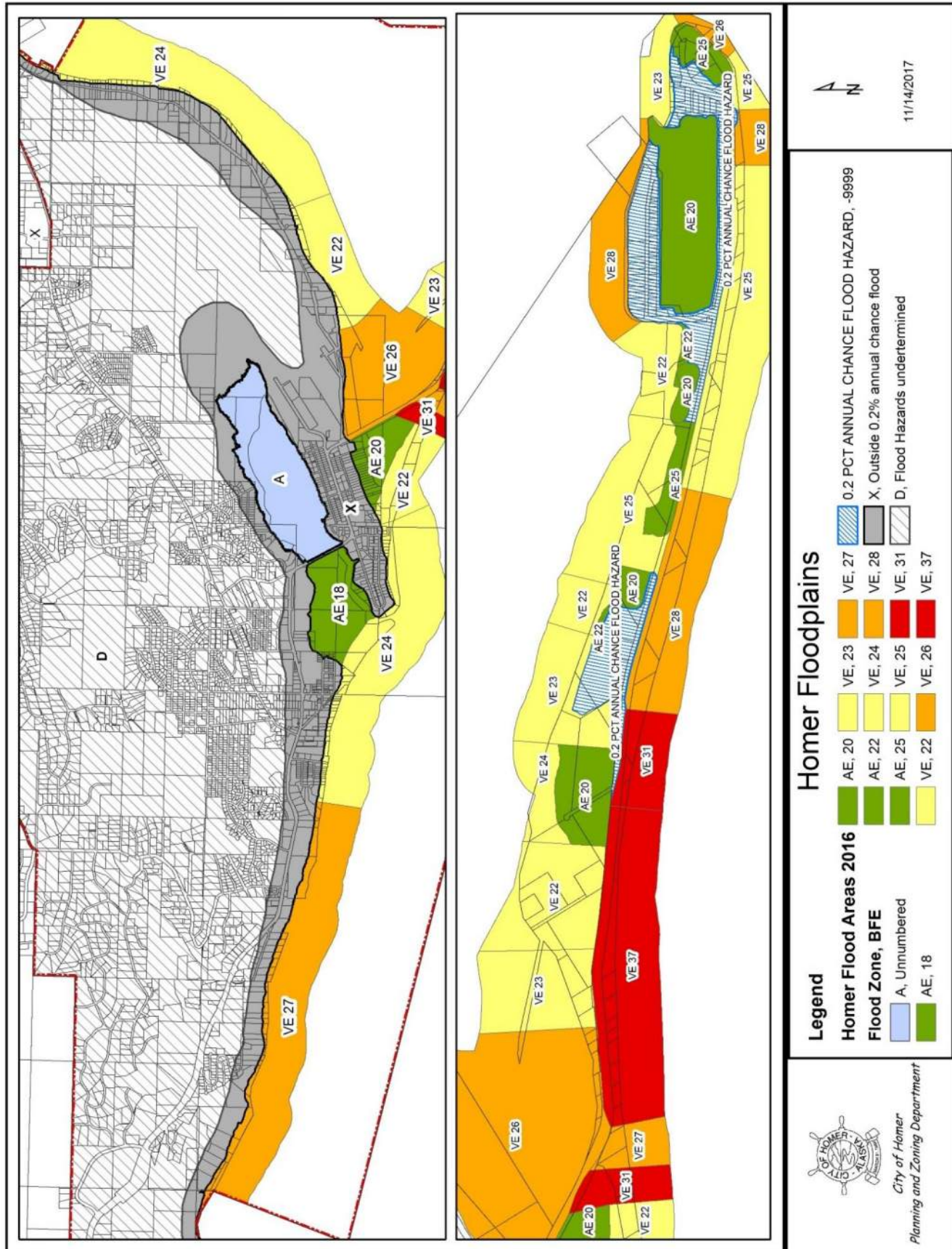












# Coastal Erosion: Homer's Changing Coastline 1951-2013





## **Green Infrastructure Mapping**

Following is a draft Green Infrastructure Map developed by DnA Design of Homer as part of an independent project with the local Soil & Water Conservation District. The map was developed as a way to define lands viable for future development while considering the need to protect drainage, open space, and other environmental features that would complement development. The project defines incentives for developers to consider landscape systems in their projects while maintaining or enhancing their bottom line. The green infrastructure elements are determined by overlaying scientific, ecological, and economic values to provide not only an ecological benefit, but also quantifiable economic and quality of life benefits. Since Green Infrastructure (GI) looks at larger scale landscape systems, the map extends beyond the boundaries of the city to include entire watersheds and other key features that cross the political boundary of the city limit. The map legend categories are defined more precisely as follows:

### ***Highly Developable/Developed (white)***

Areas that are well suited for development or are already developed.

### ***Some Green Infrastructure Elements (yellow)***

Areas that are well suited for development with consideration of larger landscape systems, such as storm water management, upland-wetland complexes, poor soils, unstable slopes, trails, habitat, etc. These areas will likely have associated incentives to maintain environmental systems while enhancing land values.

### ***Important Green Infrastructure Elements (light green)***

Development in these areas should consider the specific Green Infrastructure characteristics present. These are not critical natural areas. However, if development in these areas is not careful, it will negatively impact larger landscape systems. Construction costs in these areas will probably be higher if the natural characteristics are not considered. These are areas where the public and property owners should be made aware that there is some important characteristic that they should consider protecting (such as steep slope, valuable wildlife habitat, adjacent creeks, trails or wetlands). Carefully planned development that preserves or enhances Green Infrastructure elements can add value to real estate, for example, by retaining natural features and wildlife. These are areas that would benefit from clear development guidelines to preserve landscape systems, and would be eligible for special development or restoration incentives.

### ***Critical Green Infrastructure (dark green)***

These areas have sensitive or critical landscape systems, processes, or connections and are most appropriate for conservation. They are predominantly areas with steep slopes, critical wetlands, poor soils, or other sensitive landscape features. These areas would likely be very difficult and expensive to develop, and are limited by existing federal regulation. Development in these areas will cause significant impacts on natural systems, neighboring properties and possibly view sheds, and will increase the risk and associated costs due to natural hazards. These areas should be considered amenities for the city and its residents because of their value for storm water management, habitat protection, view shed protection, open space, and trails. Options for preserving these lands should be explored, for example, through conservation easements, land or development trades, or other creative incentives, particularly for areas held in private ownership.

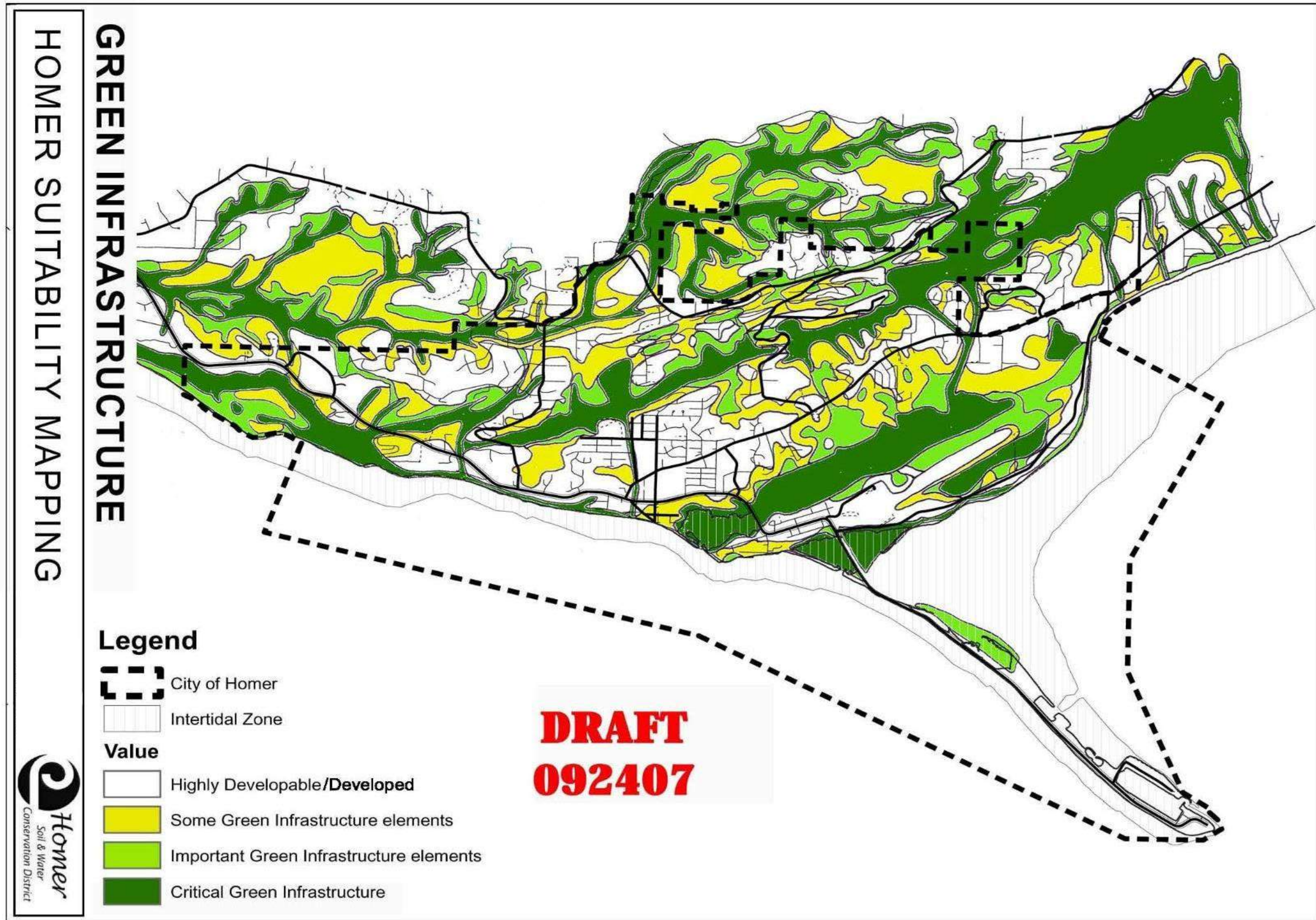
## Mapping Background

*This Green Infrastructure Map is generated from spatially explicit GIS base maps which include the following characteristics:*

- |   |  |
|---|--|
| • Soils   | • Storm water management   |
| • Creeks and drainages  | • Wetlands   |
| • Slopes  | • Vegetation habitat   |
| • Bluff erosion   | • Wildlife habitat   |
| • Construction costs (essentially development costs due to slope, road access, soils, wetlands, open water and drainages) | • Accessible lands—lands already served by road and water and sewer (basically a weighted buffer by infrastructure construction costs) |
| • Trails and public amenities   | • Views and view sheds   |

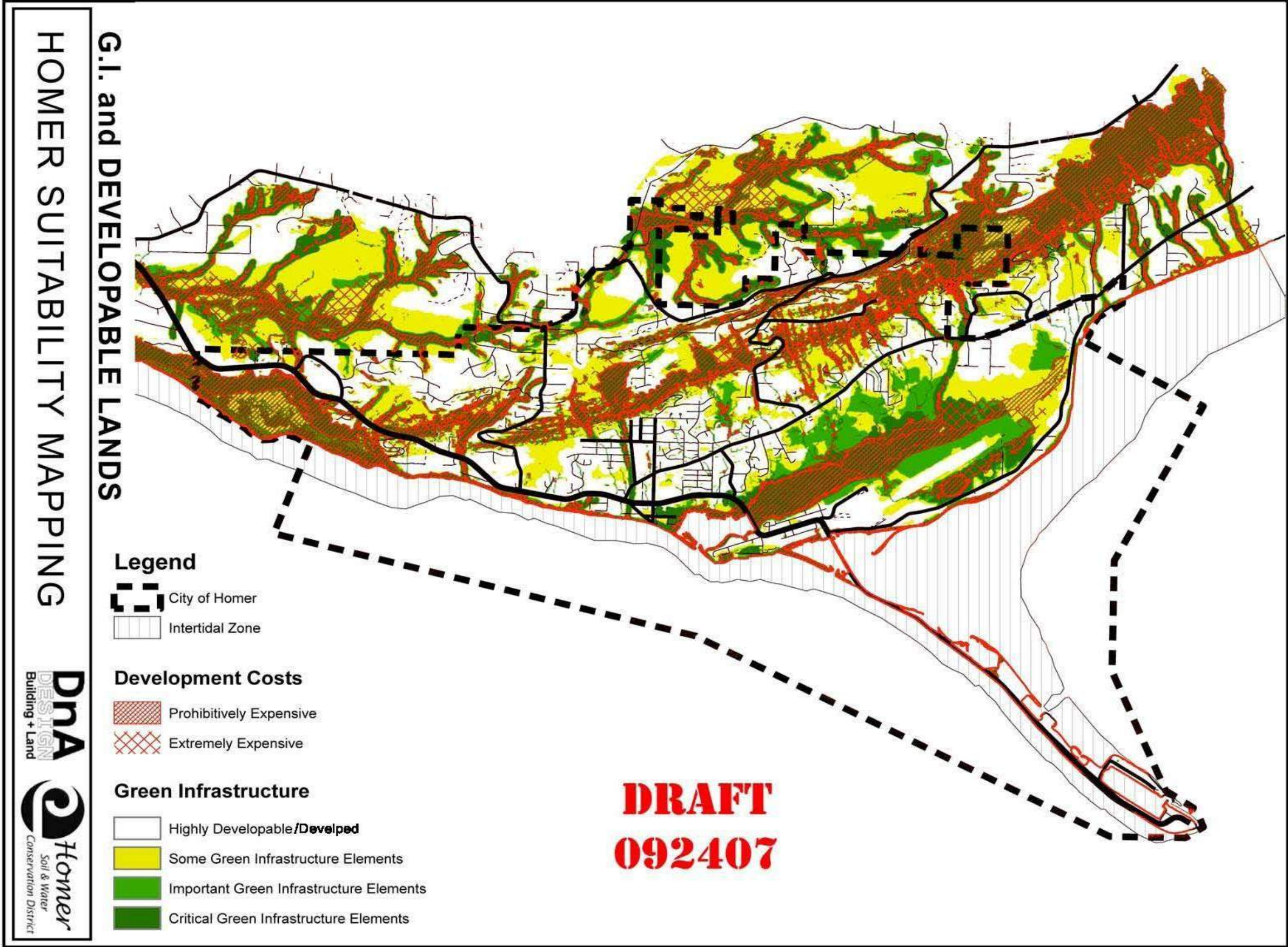
*Specific steps to establish a system of green infrastructure include those outlined below; the Green Infrastructure Map provides a simplified illustration of this approach:*

1. Identify and map individual environmental features and processes – erosion areas, wetlands, steep slopes, aquifer recharge areas, shoreline access points, critical view sheds, etc.
2. Identify open space and recreation areas – trails, parks and recreation use areas, view sheds and other features that are best protected by allowing the land to remain largely undeveloped.
3. Overlay mapped environmental features with open space and recreation areas to create an integrated “green infrastructure” network map. This should identify features such as stream corridors and trails that cross multiple properties. Also identify areas that may be able to support development, but will require special standards to maintain environmental quality (e.g., steep slope areas).
4. Limit areas included in the green infrastructure map to those of highest value or greatest constraint. For example, the map should identify the most important trails, the most important wetlands and streams, and the steepest slopes.
5. Formally adopt the map, recognizing that site-specific developments may lead to changes in the features that need protection for particular development projects.
6. Establish a formal process that balances the long-term communitywide benefits of the green infrastructure concept with short-term impacts on individual private landowners.



Note: The map shown on this page is provided only as an illustration. It was developed by the Homer Soil and Water Conservation District and is included in this document for descriptive purposes only. While illustrating the general objectives for green infrastructure that are endorsed by this plan, this draft map will not be adopted as part of this comprehensive plan.



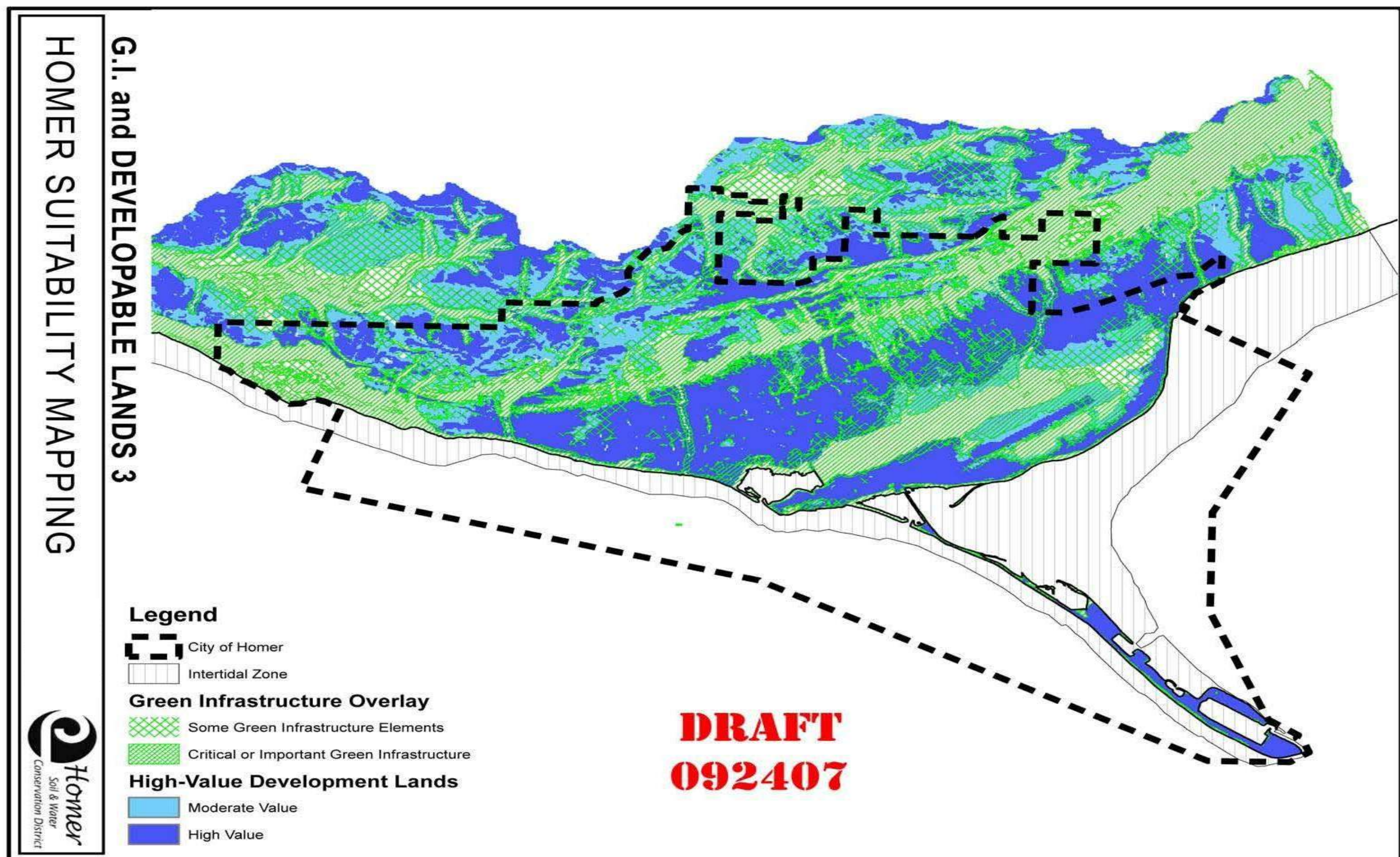




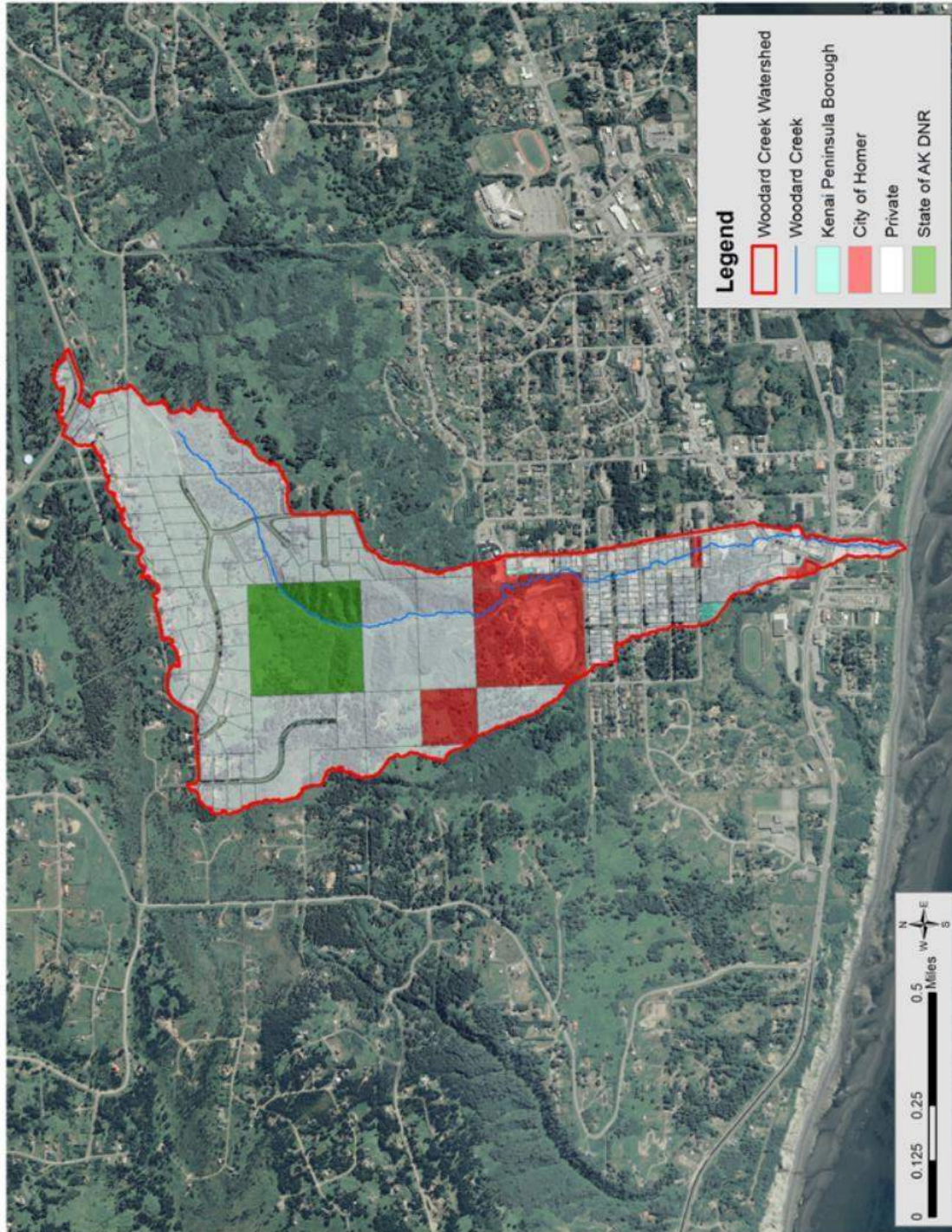
## **G.I. and DEVELOPABLE LANDS 2**











Land ownership within the Woodard Creek Watershed (Watershed boundary: Kachemak Bay National Estuarine Research Reserve, 2017; Basemap: Kenai Peninsula Borough imagery, 2012; Ownership parcels: Kenai Peninsula Borough GIS Division, 2017).



Projects for Future Consideration		
Task	Description	Objectives Met
<b>1. Identify areas prone to overflow (culverts, low banks) and work with Homer Public Works Department to mitigate flooding.</b>		
1	Map areas with low banks	• Identify, study, and address high risk areas in the Woodard Creek Watershed
2	Inventory debris in culverts	• Identify, study, and address high risk areas in the Woodard Creek Watershed
3	Remove debris from culverts as necessary	• Identify, study, and address high risk areas in the Woodard Creek Watershed
		• Protect natural systems
<b>2. Daylight Woodard Creek throughout the watershed.</b>		
1	Work with the City of Homer to daylight Woodard Creek at Fairview Avenue	• Address stream channelization and culverting in the lower watershed
		• Increase outreach, education, and stewardship opportunities
2	Work with the City of Homer to daylight Woodard Creek at Homer Bypass	• Address stream channelization and culverting in the lower watershed
		• Increase outreach, education, and stewardship opportunities
3	Work with the City of Homer to daylight Woodard Creek at Pioneer Avenue	• Address stream channelization and culverting in the lower watershed
		• Increase outreach, education, and stewardship opportunities
4	Work with the City of Homer to daylight Woodard Creek at the area below Homer Bypass	• Address stream channelization and culverting in the lower watershed
		• Increase outreach, education, and stewardship opportunities
5	Work with the Pratt Museum to daylight Woodard Creek on Pratt Museum land	• Address stream channelization and culverting in the lower watershed
		• Increase outreach, education, and stewardship opportunities
<b>3. Add buffer strips along Woodard Creek</b>		
1	Identify priority areas for buffer strips	• Protect natural systems
2	Install buffer strips in key areas	• Protect natural systems
<b>4. Install features to reduce flow in key areas</b>		
1	Identify priority areas for waterfalls	• Protect natural systems
2	Install waterfalls in the stream in key areas	• Protect natural systems
<b>5. Paint the roads to show where Woodard Creek flows</b>		
1	Coordinate annual road painting at Pioneer Avenue	• Increase outreach, education, and stewardship opportunities
<b>6. Develop program to engage the community in keeping Woodard Creek clean</b>		
1	Host annual Woodard Creek clean-up	• Increase outreach, education, and stewardship opportunities
		• Protect natural systems
2	Encourage participation in adopt-a-stream program	• Increase outreach, education, and stewardship opportunities
		• Protect natural systems
<b>7. Develop program to educate the community about Woodard Creek</b>		
1	Create an outdoor classroom for the community to learn about Woodard Creek	• Increase outreach, education, and stewardship opportunities
		• Protect natural systems
2	Deliver presentations at schools, council meetings, and local interest groups	• Increase outreach, education, and stewardship opportunities



Projects for Future Consideration		
Task	Description	Objectives Met
8. Develop observation points for community members to view Woodward Creek		
1	Identify priority areas for observation points	<ul style="list-style-type: none"> <li>Create and enhance public access points</li> </ul>
9. Continue to work with partners to acquire properties for public access along Woodward Creek		
1	Identify priority properties for public access	<ul style="list-style-type: none"> <li>Create and enhance public access points</li> </ul>
10. Increase pedestrian access to Woodward Creek at the beach near Crittenden Drive		
1		<ul style="list-style-type: none"> <li>Create and enhance public access points</li> </ul>
11. Discourage culverts in new road development		
1		<ul style="list-style-type: none"> <li>Integrate Woodward Creek into local planning efforts</li> </ul>
12. Connect Woodward Creek trails to existing trail systems.		
1		<ul style="list-style-type: none"> <li>Integrate Woodward Creek into local planning efforts</li> <li>Create and enhance public access points</li> </ul>
13. Include Woodward Creek plans in the Homer Comprehensive Plan		
1		<ul style="list-style-type: none"> <li>Integrate Woodward Creek into local planning efforts</li> </ul>
14. Restrict vehicular access on Gordon Road		
1		<ul style="list-style-type: none"> <li>Integrate Woodward Creek into local planning efforts</li> <li>Protect natural systems</li> </ul>
15. Develop partnerships with other groups with mutual interests		
1	Maintain open and ongoing communication with potential partners, continue to invite partners to clean-up days	<ul style="list-style-type: none"> <li>Integrate Woodward Creek into local planning efforts</li> <li>Increase outreach, education, and stewardship opportunities</li> <li>Protect natural systems</li> </ul>
16. Develop watershed best management practices for property owners and land managers		
1	Develop document that describes best management practices in Woodward Creek Watershed	<ul style="list-style-type: none"> <li>Increase outreach, education, and stewardship opportunities</li> <li>Protect natural systems</li> </ul>
2	Disseminate document to property owners and land managers in the Woodward Creek Watershed	<ul style="list-style-type: none"> <li>Increase outreach, education, and stewardship opportunities</li> <li>Protect natural systems</li> </ul>
17. Create incentive system to encourage property owners and land managers to implement best management practices		
1		<ul style="list-style-type: none"> <li>Increase outreach, education, and stewardship opportunities</li> <li>Protect natural systems</li> </ul>
18. Map impervious cover in the Woodward Creek Watershed		
1		<ul style="list-style-type: none"> <li>Identify, study, and address high risk areas in the Woodward Creek Watershed</li> </ul>





## City of Homer

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

## Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

(p) 907-235-8121 x2222

(f) 907-235-3148

## Memorandum

TO: Mayor Zak and Homer City Council  
FROM: Katie Koester, City Manager  
DATE: June 20, 2018  
SUBJECT: June 25 City Manager Report

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### **Junk Vehicle Removal on Main Street**

The City has received multiple complaints about a house in the heart of Old Town and near visitor attractions that has a perpetual sale advertised, multiple junk cars, and a yard full of odds and ends overflowing into the right of way. Planning has notified the owner of the zoning violations and seen limited response beyond covering the junk vehicles up with tarps. The neighbors approached Homer Police Department with an outside the box approach to work with the Department to offer to purchase (for a nominal price) and dispose of the vehicles. We estimate the cost to properly drain and bring to the dump a junk vehicle to be around \$300 which would be charged to the vehicle impound budget at HPD. I hesitate to set the precedent that the Homer Police Department is in some way in charge of cleaning up junk around Homer, as that is not a responsibility the Department has the capacity to take on. However, this is a case where there the need is extreme, the location very visible, and the neighbors are willing to help organize and fund the small project. Unless Council expresses concern, I will proceed with hopefully working with the neighbors and property owners help abate the issue.

### **Landslide Mapping and Hazzard Analysis**

Given the heightened awareness and safety concerns for slope stability and erosion in Homer, City staff and Councilmembers have been relentlessly looking for opportunities to address this issue. To that end, in January of this year the Planning Department expressed interest with the State of Alaska Division of Geological and Geophysical Surveys on applying for a FEMA grant to assess the landslide hazard potential in certain areas of Homer. The State has received word that FEMA is interested in funding the study, which would commence this fall and be completed the summer of 2020. This is great news as it will provide reliable data to assess risk and inform the Planning Commission's work on a potential Natural Hazzard Overlay district. The assessment will be performed by the Alaska Division of Geological and Geophysical Surveys on behalf of the City of Homer using lidar mapping.

### **PenAir**

I was hoping to be requesting approval of a lease application for PenAir, however we received the attached correspondence that indicated they are still struggling with Chapter 11. I am encouraged that their market study indicated Homer is a good location and will keep Council informed of any progress on the lease. Under the new lease code you are adopting tonight, the final lease will require City Council.

## **Friends of the Homer Library Recognized**

The Friends of the Homer Library are included in the 2018 Contributions to Literacy in Alaska (CILIA) awards for their Books on Board program. Books on Board is a totally volunteer effort where the Friends stock the bookmobile with donated books that are given to children and adults, who are encouraged to exchange other books for them. Volunteer drivers take BOB to various locations in the Homer area on a regular schedule. BOB was awarded the CLIA Sue Sherif Award for Literacy, named for a longtime Alaska librarian pivotal in supporting literacy efforts through the state library system.

Enc:

Executive Summary for Landslide Mapping Project

Letter from PenAir

ACOE Notice of Receipt of Scoping Comments



## **EXECUTIVE SUMMARY:**

### **Proposed Homer Landslide Hazard Assessment**

State of Alaska, Division of Geological & Geophysical Surveys  
Contact: De Anne Stevens, Chief – Engineering Geology Section  
E-mail: [deanne.stevens@alaska.gov](mailto:deanne.stevens@alaska.gov) | Phone: 907.451.5014

#### **INTRODUCTION**

The Alaska Division of Geological & Geophysical Surveys (DGGS) proposes to conduct a landslide hazard assessment for the city of Homer, Alaska. Landslides are dangerous natural hazards that occur in mountainous areas and regions of unstable slopes throughout Alaska. Particularly because these hazards can be exacerbated by significant earthquake shaking DGGS proposes to conduct a landslide hazard assessment for the city of Homer, Alaska. This project will acquire and utilize lidar data in combination with geospatial analysis, unpublished field data, and modeling to produce the most extensive and up-to-date assessment of landslide susceptibility and runout in and around Homer. Resultant GIS layers of landslide deposits, landslide susceptibility and potential runout simulations will be suitable data inputs for FEMA's multi-hazard RiskMAP analysis for Homer.

DGGS has the computational power and personnel needed for the proposed tasks and the city of Homer has expressed interest in a landslide analysis, adopting a resolution in September 2017 to consider a natural hazards overlay district or other appropriate zoning regulation in and around the Baycrest subdivision. Additionally DGGS and city officials recent met via teleconference to discuss potential geologic hazards in the area.

#### **LANDSLIDE MAPPING AND HAZARD ANALYSIS**

This study will utilize bare-earth DEMs generated from lidar data along with best available imagery and existing information to complete landslide inventory mapping. Baseline landslide mapping and landslide susceptibility mapping will be carried out using the lidar-analysis protocols developed by the Oregon Department of Geology and Mineral Industries (DOGAMI) (Burns and Madin, 2009; Burns et al. 2012) Hazard from debris flow runout will also be evaluated using the USGS landslide model Laharz\_py (Schilling, 2014). This model uses physically motivated and statistically calibrated power law equations combined with detailed topography to define the source area of debris as well as the likely debris inundation and potential runout extent. The model uses runout information from previous landslides to calibrate internal variables.

#### **SITE VISIT**

A site visit will be performed during completion of the project to discuss mapped products with local city officials, so that all deliverables of the project are not only able to be incorporated into RiskMap, but also community planning methods.

#### **PERIOD OF PERFORMANCE**

The proposed project will begin October 1, 2018, and be completed June 30, 2020

#### **DELIVERABLES**

- 1) Landslide Risk Map – The Landslide Risk Map activity includes developing a map(s) that depict the Landslide Risk in Homer. This activity will include an inventory map of existing landslide deposits, a map of landslide susceptibility, and landslide hazard maps with potential runout limits.
- 2) Landslide Risk Database – The Landslide Risk Database will enable the creation of other products including the Landslide Risk Map.





June13, 2018

Ms. Katie Koester  
City Manager  
City of Homer  
491 East Pioneer Ave.  
Homer, AK 99603

Re; Peninsula Airways Inc.

Ms. Koester,

PenAir has completed its due diligent and we believe Homer is a good destination for PenAir's future. However, we are unable to fully commit at this time as we continue to work through our existing business challenges. We are intending to come out of Charter 11 in the third quarter of this year as a stronger, more vibrant company. Until then, we are unable to commit to a solid date until this milestone has come to fruition.

Once we have a firm commitment level we will update you. We continue to look forward to the opportunity to be a part of your community.

Sincerely,

Murphy Forner  
Sr. V.P. Ground Operation and Business Development



peninsula airways inc. | 6100 boeing avenue | anchorage alaska 99502

907.771.2500 | fax 907.771.2664 | info@penair.com | penair.com







DEPARTMENT OF THE ARMY  
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
REGULATORY DIVISION  
P.O. BOX 6898  
JBER, AK 99506-0898

JUN 07 2018




Regulatory Division  
POA-2017-271

City of Homer  
Mayor Bryan Zak  
491 East Pioneer Avenue  
Homer, Alaska 99603

Dear Mr. Zak:

Thank you for your interest in the U.S. Army Corps of Engineers (USACE) Regulatory Program and the review process for the Department of the Army (DA) permit application POA-2017-271 submitted by Pebble Limited Partnership. Your comments concerning the process and application have been reviewed and added to our administrative record. We are maintaining up-to-date information regarding our process and review on the project website, [www.pebbleprojecteis.com](http://www.pebbleprojecteis.com). We will post any changes to the current scoping schedule on this website as they occur. For more information about the Regulatory Program, please visit our website at [www.poa.usace.army.mil/Missions/Regulatory](http://www.poa.usace.army.mil/Missions/Regulatory). Again, we would like to thank you for your time in providing comments and your interest in the DA review process.

Sincerely,



Sheila Newman  
Regional Regulatory Deputy Chief





## Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce  
Borough Mayor

June 13, 2018

**NOTICE OF DECISION  
KENAI PENINSULA BOROUGH PLAT COMMITTEE  
MEETING OF JUNE 11, 2018**

Re: Barnett's South Slope Subdivision Quiet Creek Park Final Plat

The Plat Committee reviewed and granted conditional approval of the subject final plat during their regularly scheduled meeting of June 11, 2018 based on the findings that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.12; 20.14 and 20.20.

This notice and unapproved minutes of the subject portion of the meeting were sent June 13, 2018 to:

**City of:** City of Homer  
491 E Pioneer Ave  
Homer, AK 99603

**Advisory Planning Commission/Community Council:** Homer Advisory Planning Commission  
491 E Pioneer Ave  
Homer, AK 99603

**Survey Firm:** Seabright Surveying + Design  
1044 East Road, Suite A  
Homer, AK 99603

<b>Subdivider/Petitioner:</b>	Tony Neal, Manager Quiet Creek Park, LLC PO Box 3368 Homer, AK 99603-3368	Gwen Neal PO Box 3368 Homer, AK 99603-3368
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<b>Interested Parties:</b>	Margaret Anderson PO Box 115 Homer, AK 99603	Paul Allen / Louise Ashmun 457 Mountain View Dr. Homer, AK 99603
	Maren Bennett PO Box 115 Homer, AK 99603	Clyde Boyer, Jr. & Vivian Finley 455 Elderberry Dr. Homer, AK 99603
	Karen Berg-Forrester PO Box 371 Homer, AK 99603	Ray & Ranee' Beery PO Box 706 Homer, AK 99603

Virginia Espenshade  
Paul Gavenus  
PO Box 1752  
Homer, AK 99603

Katherine George  
542 Mountain View Drive  
Homer, AK 99603

Mike Gracz  
PO Box 15301  
Fritz Creek, AK 99603

Tom Kizzia  
PO Box 467  
Homer, AK 99603

Nancy & Dane Larsen  
4570 Kachemak Way  
Homer, AK 99603

Kate McNulty  
421 Mountain View Dr.  
Homer, AK 99603

Laura Murphy  
561 Mountain View Dr.  
Homer, AK 99603-3368

Leo Nikora  
2855 Carlsbad Blvd., #N-214  
Carlsbad, CA 92008

Leo Nikora  
926 Quiet Creek Dr.  
Homer, AK 99603

Diane Novak  
1421 S. Ulster St.  
Denver, CO 80231

Peggi & Robert Patton  
4510 Heidi Ct  
Homer, AK 99603

Rebecca Paul  
502 Mountain View Drive  
Homer, AK 99603

Francie Roberts  
495 Mountain View Drive  
Homer, AK 99603

John & Jocelyn Rohde  
552 Elderberry Drive  
Homer, AK 99603

Michael Ronda  
7710 15<sup>th</sup> Avenue SW  
Seattle, WA 99106

William & Marianne Schlegelmilch  
PO Box 2086  
Homer, AK 99603

Kathy Smith  
4139 Kachemak Way  
Homer, AK 99603

Marianne Snowden  
1112 Aurora Ct.  
Homer, AK 99603-7700

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**KPB File Number:** 2014-016



AGENDA ITEM F. FINAL SUBDIVISION PLAT PUBLIC HEARING

1. Barnett's South Slope Quiet Creek Park  
KPB File 2014-016 [Seabright / Quiet Creek Park, LLC]

Staff Report given by Scott Huff

Plat Committee Meeting: 5/29/18 & 6/11/18

Location:	Off Shellfish Avenue, City of Homer
Proposed Use:	Residential
Water/Sewer:	City
Zoning:	Rural Residential
Assessing Use:	Vacant
Parent Parcel Number(s):	177-020-89

Supporting Information:

The Plat Committee postponed action at their regularly scheduled meeting of May 29, 2018 to the next meeting of June 11, 2018. Postponement was requested upon the direction of the Borough attorney so that notice may be sent to the surrounding property owners within 600 feet of the boundaries of the proposed subdivision.

A motion was made to approve the final plat. **MOTION:** *Commissioner Whitney moved, seconded by Commissioner Ruffner to approve the final plat for Barnett's South Slope Quiet Creek Park.*

The Plat Committee granted conditional approval to the revised preliminary plat on March 10, 2014. During the approval of the preliminary plat, the Plat Committee passed a motion to bring the final plat back to the Plat Committee for review and to allow the surveyor to update the Committee on the status of the development.

Approved time extension requests extended preliminary approval to March 27, 2018.

The Homer Advisory Planning Commission approved a time extension request on March 21, 2018. When the final plat was submitted to KPB Planning, review of the file showed the plat needed to be brought back to the Committee instead of being approved administratively per KPB 20.16.180. Staff scheduled the final for review for the next available meeting. The surveyor timely submitted the appropriate paperwork for the plat.

Based on the date of submittal, this plat is being reviewed under the previous subdivision code (KPB 20.12, 20.20, and 20.16).

The final plat reduces the total number of lots in the subdivision from 71 to 64. Per the submittal, the owner plans to finalize the plat using a phased development. The surveyor noted the City of Homer concurred with the revised subdivision design.

Sheet 2 of the final plat submittal shows wetland areas, proposed building sites for each lot and proposed driveways to access each building site. The surveyor has discussed with staff that the driveways will be stubbed out and a shared access driveway easement will be granted where necessary.

KPB 20.12 and 20.16 do not specifically address procedures for finalizing subdivisions in phases. Typically, once the Committee approves the overall subdivision plan, the owner needs to record the first phase within one year of the Committee's approval. In order to maintain plat approval, the second phase must be recorded within one year from the recording date of the first phase.

Lesla Lane has been changed from a cul-de-sac to an open-ended right-of-way. The subdivider and the owner to the east reached an agreement regarding the design of Lesla Lane. The subdivider agreed to change the right-of-way from a cul-de-sac to a through street, and the owner to the east will provide a cul-de-sac bulb for Lesla Lane. Since dedication of the cul-de-sac bulb is dependent on the subject plat extending Lesla Lane as a

through street to abut the property to the east, this subject subdivision must be recorded before the plat to the east.

**Staff recommends** the widths of the rights-of-way being dedicated by this platting action be labeled.

The following street names/suffixes **have been denied**:

1. Owen is a duplicate street name.
2. Siri Court is a duplicate street name. The suffix is Circle.
3. Lesa Lane sounds too similar to existing street names. Since the subdivision to the east is dedicating a cul-de-sac bulb for Lesa, the suffix is court.

**Staff recommends** the owner/surveyor work with the GIS Department to select new street names and confirm the suffixes per KPB Code.

The new 60-foot dedication for Nelson Avenue is a natural extension of the right of way located to the east, which is named Nelson Avenue. However, this will create a duplicate street name since the short 30-foot right-of-way adjoining Lots 33-36 is also named Nelson Avenue, but does not connect to the Nelson Avenue located east of the subdivision. None of the lots adjoining Nelson Avenue south of the proposed plat have been assigned Nelson Avenue addresses.

No addresses have been assigned to the parent parcel. The Homer Planning and Zoning Department will assign addresses to the new lots being created.

**Staff recommends** the following status labels be corrected. Since space is limited on the face of the plat, the status labels may consist of the lot number, block number (if applicable), and the plat's recording number:

1. Tract 4C-2, HM 2018-03.
2. The parcel west of Lot 1, HM 91-02, can be labeled unsubdivided or deed parcel.
3. Revise the names of the cul-de-sac north of the plat: west of South Slope Drive, it is West Tasmania Court; east of South Slope Drive, it is East Tasmania Court.
4. Correct the subdivision name for the school: New Homer High School Subdivision No. 3.
5. Lot 24-A, HM 99-64 (A A Mattox Peggis Addition) and Tract B-2, HM 2004-24, (A A Mattox 1958 Addition No. 5) do not have subdivision in the plat's name.
6. Revise the recording number for subdivisions recorded in the year 2000 or later so the year the plat was recorded is clear, such as, HM 2011-55, HM 2001-44
7. Add Tract 4B-1 Dierich Addn. located to the southeast of the subdivision.
8. Label and dimension Nelson Drive right of way to the south east of the subdivision.

**Staff recommends** the following note be placed on the plat for the flag lots: No structures are permitted within the panhandle portion of the flag lot(s).

Based on KPB 20.08.063 ("Flag lot" means a lot with two discernible portions, one a building site portion not fronting on or abutting a street and the second portion abutting on the street and providing private access to the building site portion) and 20.20.180.B (The access portion of a flag lot shall not be less than 20 feet wide), **staff recommends** the surveyor confirm all flags can be reasonably constructed to provide practical access to each building site portion, including side slope easements if required.

Platting staff did not know the minimum lot size for the Rural Residential Zoning District. If any of the flag lots are large enough to be further subdivided and the flag widths are less than 60 feet. **Staff recommends** a note be placed on the final plat indicating possible limitations on further subdivision based on access issues, development trends in the area, or topography

**Staff recommends** plat notes be provided for the exceptions granted to KPB 20.20.030 and 20.20.120 along with the meeting date.



Since the proposed plat is a phased development, or a continuation of the subdivision of Barnett's South Slope Subdivision Quiet Creek Park Unit 1, **staff recommends** the plat's name be revised slightly to reflect this platting action: Barnett's South Slope Subdivision Quiet Creek Park Unit 2.

**Staff recommends** the description of the plat in the title block be revised to show it is a further subdivision of Barnett's South Slope Subdivision Quiet Creek Park Unit 1 (HM 2006-37).

**Staff recommends** the vicinity map be corrected as follows:

1. Label the Township and Range.
2. Correct the label for Kachemak Drive.
3. Correct the depiction for Homer City limits in Section 10.
4. Correct the depiction for Kachemak City limits in Section 1.

Per PC Resolution 2000-25, if the Certificate to Plat indicates any beneficial interests affect this property, they will be notified and given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

KPB Planning does not accept electronic submittals. Please provide one full-size paper plat. Final plats are reviewed in order of receipt and as staff's workload allows.

#### **STAFF RECOMMENDS COMPLIANCE WITH THE CONDITIONS AND RECOMMENDATIONS LISTED ABOVE AND COMPLIANCE WITH REQUIREMENTS FOR APPROVAL OF THE FINAL PLAT PER KPB 20.16.**

##### **KPB 20.16.030 - Tax Certificate.**

The Finance Department cannot issue a Certificate of Paid Taxes until the estimated or regular billed taxes for 2018 are paid in full. If the owners wish to record the plat before the regular bills are sent in July, they must prepay this estimated bill. Planning staff will order the estimate tax bill upon request. Payment of personal check or e-check will delay issuance of the Tax Certificate for 7 days. To expedite issuance of the Tax Certificate, payment may be made by cash, cashier's check, money order, or credit card. All tax payments must be submitted directly to the Finance Department.

##### **20.16.040. Dedication of public use lands.**

Any land shown on a plat as an open to public use park or other public area must be dedicated on the final plat to a tax exempt governmental entity. Any dedication on the plat of an open to public use park, recreational, or other area will be deemed an irrevocable offer of the subject land for the dedicated purpose. The planning commission may disapprove or reject any such dedication but acceptance of the plat shall not constitute final acceptance of any irrevocable offer to dedicate the land. The borough shall not be deemed to be the owner of any such dedicated lands until the borough specifically accepts ownership of the dedicated lands.

(Ord. No. 78-37, § 2(part), 1979)

*Platting Staff Comments:* **Staff recommends** an acceptance statement be provided for the City of Homer's signature for the park parcels being granted to the city.

##### **20.16.060. - Improvements—Installation agreement required.**

*Platting Staff Comments:* Per information provided for HM 2018-03 to the east, sewer and water lines have been placed in Nelson Avenue. **Staff recommends** compliance with KPB 20.16.060.

##### **20.16.090. - Accuracy of measurements.**

*Platting Staff Comments:* The plat does not close within acceptable limits. Platting staff forwarded comments from GIS to the surveyor. **Staff recommends** compliance with 20.16.090.

##### **20.16.080. - Dimensional data required.**

*Platting Staff Comments:*



- Additional dimensions for Nelson Avenue in the southeast corner would be useful, specifically distances from the survey boundary to the centerline.
- Tract C is missing sub distances between found survey markers on the northwest boundary.
- Tract A is missing sub distances between found survey markers on the east boundary.
- Lot 6 is missing sub distances between found survey markers on the west boundary.
- Show witness distances to found survey markers near the south east corner of Lot 64
- Show the measured distance for the Basis of Bering as well as the corresponding survey marker including identifying information.
- The lot/tract areas could be shown as square feet for lots less than one acre and in acreage for lots greater than one acre.
- **Staff recommends** compliance with KPB 20.16.080.

#### 20.16.100. – Boundary of Subdivision.

The boundary of the subdivision shall be designated by a wider border and shall not interfere with the legibility of figures or other data.

*Platting Staff Comments:* Change the line thickness and style for the existing Nelson Drive right of way located to the southeast of the subdivision. **Staff recommends** compliance with 20.16.100.

#### 20.16.120. - Utility easements.

*Platting Staff Comments:* Homer Electric Association submitted a statement of no objection to the final plat. Staff emailed the final plat to ACS, ENSTAR and GCI to confirm the utility easements on the final plat are acceptable.

**Staff recommends** compliance with the recommendations submitted by the utility providers.

#### 20.16.130. - Easements.

The plat shall clearly show the location, width and use of all easements. The easements must be clearly labeled and identified and if already of record, the recorded reference given. If easements are being granted by the plat they shall be properly set out in the owner's certification of dedication.

- A. Special purpose easements being granted by the plat shall be clearly defined for allowed use, and who, or what parties have the easement rights.

(Ord. No. 90-43, § 3, 1990; Ord. No. 78-37, § 2(part), 1979)

*Platting Staff Comments:* Homer High School adjoins the proposed plat on the southwestern boundary. A 10-foot wide trail easement is being granted from Owen Court to the school property per KPB

**Staff recommends** the graphic detail on Lot 30 and Lot 52/Tract B be clarified or removed from the plat. If the cross hatched area is representing an easement please note it on the plat or within the legend.

#### **Staff recommends**

- Adding dimensions, or a detail drawing, for the 30 foot wide sewer easement being granted to the City of Homer.
- Labeling on the face of the plat, or noting the line style within the legend, of the 15-foot utility easement that adjoins the right of ways.

*In accordance with the exception granted to extending right-of-way to Lot 8, A A Mattox Subdivision 1958 Addition, a 30-foot easement is being granted off Owen Court to Lot 8.*

**Staff recommends** additional information be provided so the use and who or what parties have rights for easements being granted by this platting action are clear.

**Staff recommends** the 5-foot section line easement be shown and labeled with the Section Line Easement Vacation Plat cited (HM 2009-51).

#### 20.16.140 - 20.16.140. Other data required by law.

- A. The plat shall show all other data that are or may be required on the plat by statute or ordinance.



- B. The plat shall show the tax ownership of all parcels of land which are for common private usage.
- C. Private covenants and restrictions of record in effect at the time the final plat is approved shall be referenced on the plat.

(Ord. No. 78-37, § 2(part), 1979)

*Platting Staff Comments: If the final Certificate to Plat shows the property is affected by private covenants, the recording information of the private covenants and restrictions of record in effect at the time the final plat is approved is to be noted on the plat.*

20.16.155. - Certificates, statements and signatures required.

*Platting Staff Comments: KPB 20.16.155 does not require an acceptance statement to be signed by the city for special purpose easements, such as, trail easements, drainage easements, access easements, etc. However, if the city's subdivision code requires an acceptance statement for easements being granted by this platting action, **staff recommends** compliance with the city's requirements per KPB 20.20.250.*

**Staff recommends** compliance with 20.16.155.

20.16.160. - Survey and monumentation.

*Platting Staff Comments:*

- Show the survey marker symbol for the CS1/16 corner (the south end of the Basis of Bearing).
- Show a dimensional tie from the basis of bearing to the subdivision boundary.

**Staff recommends** compliance with 20.16.160.

**NOTE: REVIEW OF A DECISION OF THE PLAT COMMITTEE MAY BE HEARD BY THE PLANNING COMMISSION ACTING AS PLATTING BOARD BY FILING WRITTEN NOTICE THEREOF WITH THE BOROUGH PLANNING DIRECTOR ON A FORM PROVIDED BY THE BOROUGH PLANNING DEPARTMENT. THE REQUEST FOR REVIEW SHALL BE FILED WITHIN 10 DAYS AFTER NOTIFICATION OF THE DECISION OF THE PLAT COMMITTEE BY PERSONAL SERVICE OR SERVICE BY MAIL.**

**A REQUEST FOR REVIEW MAY BE FILED BY ANY PERSON OR AGENCY THAT PARTICIPATED AT THE PLAT COMMITTEE HEARING EITHER BY WRITTEN OR ORAL PRESENTATION. THE REQUEST MUST HAVE AN ORIGINAL SIGNATURE; FILING ELECTRONICALLY OR BY FACSIMILE IS PROHIBITED. THE REQUEST FOR REVIEW MUST BRIEFLY STATE THE REASON FOR THE REVIEW REQUEST AND APPLICABLE PROVISIONS OF BOROUGH CODE OR OTHER LAW UPON WHICH THE REQUEST FOR REVIEW IS BASED.**

**NOTICE OF THE REVIEW HEARING WILL BE ISSUED BY STAFF TO THE ORIGINAL RECIPIENTS OF THE PLAT COMMITTEE PUBLIC HEARING NOTICE. CASES REVIEWED SHALL BE HEARD DE NOVO BY THE PLANNING COMMISSION ACTING AS THE PLATTING BOARD (KPB 2.40.080).**

END OF STAFF REPORT

Chairman Pro Tem Whitney opened the meeting for public comment.

1. Kenton Bloom, Seabright Survey + Design

Mr. Bloom is the surveyor on the project and was available to answer questions.

Mr. Bloom addressed the submitted comments that pertained to the drainage issues because that was one of the primary concerns that were expressed. He did a site visit with John Bishop who was the project engineer where they investigated what the landowner had done on the property. They came to the determination that the house that was built was built in a drainage easement. By doing that they have in a sense cut off the drainage and made a new ditch that deviated it into a different drainage which was how they ameliorated their problem.

Mr. Bloom stated that they were definitely doing their due diligence and did not want to put anyone in harm's way through the entire project. However, they couldn't facilitate downstream actions that don't protect the watershed or the drainage patterns that were already there. He also stated that based on the calculations, the engineer felt that what the landowner did was sufficient to actually deal with the minimal amount of run off that actually uses that drainage. The amelioration of what they did would actually work as far as the amount of flow was concerned.

Mr. Bloom expressed concern with public testimony whether written or spoken that created allegations that were personal or negative in their judgement of people. He knew that someone would be restrained if someone spoke in that manner in person at a planning commission meeting. He hated to see letters like that go in the public record without someone publically protesting the content of those types of letters.

Chairman Pro Tem Whitney asked if there were questions for Mr. Bloom.

Commissioner Foster recalled that there was previous discussion about having some sort of collection on the northern end before it hits East End Road. He asked if the drainage was well controlled with how the subdivision was being designed now. Mr. Bloom replied there are retention areas throughout the project before any runoff from the ditches goes into the culverts. It was being built to meet the City's Stormwater Plan which doesn't really apply to subdivisions but they applied it to this subdivision so that they met the spirit of the City's management plan. All of this was in the plans and was on file with the City Public Works Department. There is also a plan on file that shows all the access ways and driveways.

Seeing and hearing no one else wishing to comment, Chairman Pro Tem closed the public hearing and opened discussion among the Committee.

**MOTION ON THE FLOOR:** Commissioner Whitney moved, seconded by Commissioner Ruffner to approve the final plat for Barnett's South Slope Quiet Creek Park.

Commissioner Foster stated that he has been involved with this from the very beginning at the City level. He was glad to see the improvements with the number of lots, the identification of the wetlands, the drainage, and the location of where the building sites will be. The only concern he expressed was how the city was dealing with this being in conflict with one or two of their plans regarding maintaining the integrity of the neighborhood with having to have connectivity with all the streets for emergency control. A lot of the neighbors on the west side are not real interested in having through traffic. Also the people on the east side were not happy with having through traffic but that was something that will have to be worked out.

**VOTE:** The motion passed by unanimous consent.

CARLUCCIO ABSENT	FOSTER YES	ISHAM ABSENT	RUFFNER YES	VENUTI YES	WHITNEY YES	4 YES 2 ABSENT
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AGENDA ITEM G. OTHER/NEW BUSINESS - None

AGENDA ITEM H. MISCELLANEOUS INFORMATION -- NO ACTION REQUIRED

AGENDA ITEM I. ADJOURNMENT

Commissioner Venuti moved to adjourn the meeting at 6:27 p.m.

\_\_\_\_\_  
Patti Hartley