#### NOTICE OF MEETING WORKSESSION AGENDA

- 1. CALL TO ORDER, 5:30 P.M.
- 2. REGULAR AGENDA
- 3. Staff Report 18-48, HAPC Work List **p. 3**
- Staff Report 18-55, Amending HCC 21.18.040 to Reduce the Setback Permitted from 20 Feet to 10 Feet in the Central Business District.
  p. 81
- 4. PUBLIC COMMENTS The public may speak to the Planning Commission regarding matters on the work session agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
- 5. COMMISSION COMMENTS
- 6. ADJOURNMENT, 6:30 P.M.



**City of Homer** 

Planning 491 East Pioneer Avenue Homer, Alaska 99603

www.cityofhomer-ak.gov

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#### Staff Report PL 18-48

TO:	Homer Advisory Planning Commission
FROM:	Rick Abboud, City Planner AICP
DATE:	September 5, 2018
SUBJECT:	HAPC Work List

#### Introduction

Now that we are in the final draft stage of the comprehensive plan it is time to determine a list of items for the commission to work on.

#### Analysis

I have a few items that I feel are a priority. I would like each of the commissioners to come with two items of their own to the work session for discussion. We should be able to carry forth with a larger project (think Hospital Zone or Natural Hazards) perhaps along with something less intensive (such as cleaning up a title 21 definition or other housekeeping task).

#### **Staff Recommendation**

A few projects that I support as a priority include: Review "more than one" and "over 8000sq" triggers for CUP's to see if some standards can be developed to permit some of this through the Planning Office, a "reduce the amount of CUP's" exercise. Another larger project would be the creation of a hospital district.

I also think that we could put some work into natural hazards. I believe it might be best to further develop policy related to landslides after we receive some feedback from our grant project to map landslide hazards. Maybe we could work on another aspect in the meantime.

Please review the Chapter 4, Land Use in the Comprehensive Plan for consideration of two projects that you would like to work on. Also, please consider projects that you would be able to contribute research or might have some special knowledge that will help the item to develop.

#### NOTICE OF MEETING 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. Reconsideration
- 5. Adoption of Consent Agenda

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

- A. Approval of minutes of August 1, 2018 p.7
- 6. Presentations
- 7. Reports

#### A. Staff Report 18-49, City Planner's Report p. 15

#### **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 18-50, Conditional Use Permit (CUP) 18-09, for a medical clinic containing more than 8,000 square feet of building area at 267 Cityview Avenue **p.17**
- **B.** Staff Report 18-51, Conditional Use Permit (CUP) 2018-10 for an additional fabrication building on a site with more than 8,000 square feet of building area at 3301 East End Road **p. 41**
- **C.** Staff Report 18-52, An Ordinance of the Homer City Council Adopting the Homer Comprehensive Plan 2018 and Recommending Adoption by the Kenai Peninsula Borough. **p.61**

#### 9. Plat Consideration

- A. Staff Report 18-53, Forest Glen Subdivision 2019 Preliminary Plat p.67
- **10.** Pending Business
- **11.** New Business
  - A. Staff Report 18-54, Election of Officers p. 79
  - **B.** Staff Report 18-55, Amending HCC 21.18.040 to Reduce the Setback Permitted from 20 Feet to 10 Feet in the Central Business District. **p.81**
- **12.** Informational Materials
  - A. City Manager's Reports for the August 13 & 27, 2018 Homer City Council meetings p.91
  - **B.** Reappointment to the Commission **p. 107**
  - **C.** Decision on CUP 2018-02 **p. 111**
- **13.** Comments of the Audience *Members of the audience may address the Commission on any subject. (3 min limit)*
- **14.** Comments of Staff
- **15.** Comments of the Commission
- 16. Adjournment

The next regular meeting is scheduled for Wednesday, September 19, 2018 at 6:30 p.m. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.

Session 18-12, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Vice Chair Syverine Bentz at 6:30 p.m. on August 1, 2018 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BANKS, BENTZ, BERNARD, VENUTI

- ABSENT: COMMISSIONER BOS (EXCUSED)
- STAFF: CITY PLANNER ABBOUD DEPUTY CITY CLERK KRAUSE

APPROVAL OF THE AGENDA

Vice Chair Bentz called for a motion to approve the agenda.

BANKS/VENUTI MOVED TO APPROVE.

There was no discussion.

VOTE. (Main). NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENT

RECONSIDERATION

ADOPTION OF CONSENT AGENDA A. Approval of minutes of July 18, 2018

Vice Chair Bentz requested a motion to approve the consent agenda.

BANKS/VENUTI - SO MOVED

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

#### PRESENTATIONS

A. Jenny Carroll, Special Projects and Communications Coordinator, 2019-2024 Capital Improvement Plan (CIP)

Ms. Carroll provided a summary of the CIP and what it is used for by the City. She noted the following:

- Process for Project Selection
- Used for Strategic Planning and Possible Grants
- Recommendations from the Advisory Bodies for Consideration by City Council
- Types of Projects included in the Plan
- Changes to the Plan from 2017
- This new draft plan will be presented to Council at the August 22, 2018 meeting

Ms. Carroll answered questions from the Commissioners regarding the following:

- Adding new projects to the plan
- Incomplete project information
- When the plan will be viewable by the public
- If the commission proposes a new project what is required
- Financial ceiling
- Removal of Projects from the plan

#### REPORTS

#### A. Staff Report 18-45, City Planner's Report

City Planner Abboud provided a summary of his report to the commission.

There was brief discussion on attendance at each Council meeting by a commissioner versus monthly attendance and a request for Elections on the next meeting agenda.

#### PUBLIC HEARINGS

A. Staff Report 18-46, Conditional Use Permit (CUP) 2018-08 for more than one building containing a permitted principle use on a lot at 1344 & 1358 Lakeshore Drive.

City Planner Abboud reviewed his report for the commission.

Kyle Akee, Anchor Point, general contractor for the project, stated he was present and available to answer any questions. He did state that they recently met with the Corps of Engineers regarding the existing fill brought in by the previous property owner. He received no negative feedback from them regarding plans to incorporate this fill materials into the permit application.

HOMER ADVISORY PLANNING COMMISSION REGULAR MEETING AUGUST 01, 2018

Vice Chair Bentz opened the Public Hearing having no one in the audience come forward to provide testimony or comment on the project Vice Chair Bentz closed the Public Hearing.

Mr. Akee responded to the following questions from the commission:

Q. Potential for project or scope or work changes if the float plane dock is not permitted A. Response would be the same as the Corps of Engineers, hesitant to answer until the permit is received. The avoidance and minimization provided by the applicant complies with all the requirements and a permit should be received within 30 days from July 31, 2018. The applicant will be limited by the permit. The cabins as a nightly rental would not change.

Q. Are the proposed cabins to be seasonal or annual?

A. Currently they are proposed to be seasonal however there is ongoing discussion on opening during winter for the ice races.

Q. What type of foundation for the cabins?

A. A conventional stem wall foundation with ICF foam block has been recommended for the locations of the proposed cabins based on the results of test holes.

Q. The proposed Fuel Tank will be underground, floating or above ground? A. Above ground with containment barrier, fuel to be available for retail sales to float plane owners using the facility.

Q. Heat source for the cabins?

A. The cabins would be hooked up to the natural gas system.

Q. Clarification on the delineation of wetlands on Lot 88A

A. Bishop Engineering provided a report included in the packet. The parcel contains .13 acres wetlands.

VENUTI/BERNARD MOVED TO RECOMMEND ADOPTING STAFF REPORT 18-46 AND APPROVAL OF CUP 2018-08 WITH FINDINGS 1-10 AND CONDITION 1 OUTDOOR LIGHTING MUST BE DOWN LIT PER HOMER CITY CODE (HCC) 21.59.030 AND THE COMMUNITY DESIGN MANUAL (CDM)

There was brief comment regarding correction to calculation and appreciation expressed for including the engineering report with the application.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

#### PLAT CONSIDERATION

A. Staff Report 18-47, Bay View Subdivision 2018 Preliminary Plat

City Planner Abboud review his staff report for the commission.

The applicant did not have any presentation or commentary to add.

Vice Chair Bentz opened the floor for public comment and having no one come forward to comment on the preliminary plat she closed the public comment period.

There was no comments or questions from the commission regarding the preliminary plat.

BERNARD/ BANKS MOVED TO RECOMMEND ADOPTION OF STAFF REPORT 18-47 AND APPROVAL OF THE BAYVIEW SUBDIVISION 2018 PRELIMINARY PLAT WITH THE COMMENT TO ADD A PLAT NOTE ABOUT THE FLOOD PLAIN AS FOLLOWS: BELUGA LAKE IS SUBJECT TO A 1 PERCENT ANNUAL CHANCE FLOODPLAIN AS IDENTIFIED BY THE FEMA FLOOD INSURANCE STUDY 02122CV001B, DATED OCTOBER 20, 2016. PROPERTY OWNER SHOULD CONTACT THE CITY OF HOMER PRIOR TO ANY DEVELOPMENT ACTIVITY.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS

NEW BUSINESS

A. Jenny Carroll, Special Projects and Communications Coordinator, 2019-2024 Capital Improvement Plan (CIP)

City Planner Abboud explained the likelihood of funding any projects, noting that if there is a new project the time frame is so short before going to City Council, but if it is not urgent they could work on it through the winter and present it for next year. He commented that this was a good planning device and helps for the future.

Commissioner Bernard commented that it may not be ideal, and the likelihood of funding is slim but the issues that keep coming before the commission is regarding slopes and if they could add that project into the six year time frame it would be beneficial. She further commented on the quality and level of information on the three proposed new projects to be included in the plan, and questioned if that is the standard level of information. Commissioner Bernard opined that they should be fleshed out more before recommending inclusion in this plan. City Planner Abboud reported that the slope study has been funded and provided some details on that project, stating that FEMA expects an opportunity to layout some regulations to come from this study. This funding is not just to get a new map but to have some definite results come from this study.

Commissioner Bernard further commented that it may be a several phased, including additional information funding and implementation plan and the merit to include something like that in this plan now.

City Planner Abboud responded that it would be difficult to pencil out costs and it would be an opportunity to have something next year after a couple of public meetings and then commented on the multidimensional aspects to landslides and coming up with the arguments for possible solutions for the affected property owners in the area.

A discussion ensued on the steps and involvement for public outreach and results of the proposed study for landslide hazards.

Vice Chair Bentz recommended reviewing other projects and staff can put a general framework and then bring it before the commission for input throughout the winter and then possible approval for submittal next summer that would provide a phased landslide hazard plan. Further noting that this could result in a Hazard Overlay Zone for the city.

There was discussion on recommendation to include the Stormwater Master Plan in the legislative priority.

Commissioner Banks concurred plus suggested the Main Street Sidewalk since they had spoken about connectivity issues.

There was a discussion on postponing discussion until the next meeting when they had a full commission and that postponement would allow more time to review the information contained in the document. It was noted during the discussion that in the past they had postponed action on some items since they were missing commissioners and opinions were expressed that the commission can take action on items with four commissioners and if they were just going to postpone things then they should cancel the meetings.

The commission determined that they should make their top two priority recommendations to include in the legislative priority tonight as requested then focus on any other projects to be included or removed from the plan.

The commissioners each commented on their top two projects. It was noted that there was a consensus on the Stormwater Master Plan and Main Street Sidewalk projects.

HOMER ADVISORY PLANNING COMMISSION REGULAR MEETING AUGUST 01, 2018

Vice Chair Bentz requested a motion to facilitate their recommendation.

BANKS/BERNARD MOVE TO FORWARD A RECOMMENDATION OF THE STORMWATER MASTER PLAN AND MAIN STREET SIDEWALK FACILITY PIONEER AVENUE NORTH IN THE PRIORITIZE PROJECTS FOR INCLUSION IN THE LEGISLATIVE REQUEST.

There was no discussion.

VOTE. NON-OBJECTION. UANIMOUS CONSENT.

Motion carried.

Vice Chair Bentz requested any changes to projects.

Discussion ensued on the proposed new projects and making further recommendations to flesh out projects prior to including them into the plan; if they should forward a recommendation of support on a project; updating the project descriptions; clarification on inclusion and how the Capital Improvement Plan is utilized by the different entities as a planning document. Additional comments were made on processes for removing a project and prior processes, plus the different sections of the plan and what rigor is applied to a project when it is submitted for consideration.

Vice Chair Bentz stated for the record that the Stability Study could potentially be applied citywide in reference to the South Peninsula Hospital Hillside Stability Survey.

City Planner Abboud commented that he may bring that to the new Administrator since he has an interest in planning.

The commission further commented and discussed pertinent aspects of the Main Street Sidewalk Project and Intersection Improvements project; if State projects would qualify for the city's top legislative priorities.

INFORMATIONAL MATERIALS

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

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

COMMENTS OF THE AUDIENCE

COMMENTS OF THE STAFF

City Planner Abboud commented that hopefully he will not have to submit a picture of the grown up children pushing their children down Main Street.

HOMER ADVISORY PLANNING COMMISSION REGULAR MEETING AUGUST 01, 2018

Deputy City Clerk Krause commented on the Capital Improvement Project processes and the descriptive content of the projects included in the plan, how the plan is used for funding and strategic planning and that they are supported in whole by the majority of the community, and descriptions of the projects may change over time and even be broken into phases.

#### COMMENTS OF THE COMMISSION

Commissioner Banks commented that they are done with the Comp Plan and if the commission wants to deal with some of the issues that have come before them over time, such as Bluff Erosion. Other than that good meeting.

Commissioner Venuti commented on the last meeting and the visitor, Mr. Janke who was there regarding culverts and drainage, seemed to have no idea about the new subdivision going in above the High School, and if there is some way to implement better communication between the State and the City. He commented that Mr. Janke will be retiring in a few years and may take that knowledge with him so he is concerned about improving lines of communication.

City Planner Abboud responded that he will endeavor to keep lines of communication open and there have been consistent difficulties in communication between State agencies and municipalities. He provided some additional comments on resistant to making changes within storm water runoff system and the State in reference to Pioneer Avenue as an example.

Commissioner Bentz commented that Mr. Janke was a regional engineer and she agreed with the comments that he should have been more aware of their needs and projects with the city and was surprised as his lack of awareness. She further commented on appreciation of the city's parks and trails and appreciates the intent to have the parks within the Quiet Creek subdivision.

Commissioner Bernard had no comments.

#### ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 8:17 p.m. The next regular meeting is scheduled for Wednesday, SEPTEMBER 5, 2018 at 6:30 p.m. in the City Hall Cowles Council Chambers. There is a worksession scheduled at 5:30 p.m. prior to the meeting.

RENEE KRAUSE, CMC, DEPUTY CITY CLERK

Approved:





Planning 491 East Pioneer Avenue Homer, Alaska 99603

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TO:	Homer Advisory Planning Commission
FROM:	Rick Abboud, AICP
DATE:	September 5, 2018
SUBJECT:	Staff report PL 18-49, City Planner's Report

#### City Council 8.27.18

Ordinance 18-39, An Ordinance of the City Council of Homer, Alaska, Amending HCC 21.18.040 to Reduce the Setback Requiring a Conditional Use Permit from Twenty Feet to Ten Feet in the Central Business District. Aderhold. Recommended Dates Introduction and Refer to Planning Commission August 27, 2018, Public Hearing and Second Reading September 24, 2018.

Memorandum 18-095 from Councilmember as backup

Resolution 18-069, A Resolution of the City Council of Homer, Alaska, Authorizing the Kachemak Heritage Land Trust to Apply for a State of Alaska Recreational Trail Project Grant for the Construction of a Trail Across City Property, Entering into a Memorandum of Understanding Regarding Trail Construction and Maintenance, Providing a Match of up to \$6,000 or 10%, Whichever is Less, and Authorizing the City Manager to Execute the Appropriate Documents. Mayor. Recommend adoption.

Memorandum 18-096 from Deputy City Planner as backup

ADOPTED without discussion.

Karin Marks & Nicole Arevalo, Economic Development Advisory Commission Chair and Commissioner, reported on the Commissions work developing a proposal having to do with wayfinding and streetscape. They are also identifying next areas of the Business Retention and Expansion survey to work on, including zoning, permitting and signage. There are two open seats for city residents on the Commission and they encourage anyone who's interested to apply at the City Clerk's office.

Ordinance 18-37, An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Capital Budget by Appropriating up to \$48,590 from the Homer Accelerated Roads and Trails Program (HART) for Traffic Calming and Safety Improvements on Karen

Hornaday Park Road. Stroozas. Introduction August 13, 2018, Public Hearing and Second Reading August 27, 2018.

Memorandum 18-097 from City Manager as backup

There were three who testified.

POSTPONED and Referred to Parks Art Recreation and Culture Advisory Commission with discussion.

#### **Commissioner Appointments**

Welcome Scott Smith, our newly appointed Commissioner, to the Planning Commission.

#### Appeal

Attached you will find the decision of the Administrative Hearing regarding CUP 2018-12. I am glad to report that we have prevailed on all 19 points of appeal. I find this a particularly interesting read. I would be glad to provide the briefs for anyone who would like to delve deeper into the subject. It is so unfortunate that we have to spend so many resources defending actions which time and time again are upheld in process and action.

#### Staffing

Travis is out for vacation through September 14<sup>th</sup>.

#### City Council report sign up

9.10.18
9.24.18 Mandy
10.8.18
10.22.18

ATT

Administrative Appeal Decision (Cycle Logical)



**City of Homer** 

Planning 491 East Pioneer Avenue Homer, Alaska 99603

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#### Staff Report PL 18-50

TO: FROM: DATE: SUBJECT:	Rick Abboı Septembe	ner Advisory Planning Commission Abboud AICP, City Planner tember 5, 2018 18-09, Medical Clinic of more than 8000 square feet in the Residential ce District				
Synopsis	Permit (C	UP) is require	20,000 square foot medical clinic. A Conditional Use ed per HCC 21.16.030(d), Medical Clinic & HCC ,000 square feet of building area.			
Applicant:		Paul Raymon PO Box 2755 Homer, AK 99				
Representat Location: Parcel ID: Size of Existi Zoning Desig Existing Lan Surrounding	ing Lot: gnation: d Use:	Larry Peek, li 267 Cityview 17505612 1.37 acres Residential C Vacant North: South: East: West:				
Wetland Sta Flood Plain S BCWPD: Utilities: Public Notic	Status:	Not in a map Not within th Public utilitio required acro Notice was s	(POA 2015-443, 7/31/2015) ped floodplain. e Bridge Creek Watershed Protection District es service the site. A water main extension will be oss the full frontage of the property. sent to 26 property owners of 36 parcels as e KPB tax assessor rolls.			

One public comment was received before the packet was published. Please the attachments.

P:\PACKETS\2018 PCPacket\CUP\CUP 18-09 Raymond Medical Clinic\CUP 18-09, SR 18- Raymond Medical Clinic.docx

**ANALYSIS:** The applicant is proposing a 20,595 square feet two-story medical clinic. A CUP is needed for a medical clinic in the Residential Office district per HCC 21.16.030(d) and more than 8,000 square feet of building area per HCC 21.16.040(e).

**Parking and landscaping:** Medical Clinics are required to provide 1 parking space per 300 square feet of gross floor area. This equates to 69 parking spaces, and the applicant has provided 85. The extra spaces are planned to provide additional parking for the recently expanded Homer Medical Clinic.

The parking plan designates landscaped dividers and buffer areas. According to the application, the parking lot is 28,816 square feet. HCC 21.50.030(f)(b)(1) requires ten percent of the parking lot area be landscaped in islands, dividers or a combination of the two. This equates to 2,882 square feet. HCC 21.50.030 (f)(1)(a)(i) requires a three foot landscaping buffer along all lot lines. Additionally, 21.030(f)(b)(ii) states that parking lots with more than 24 spaces shall have a 10 foot landscape buffer adjacent to road rights of way. The applicant has provided 8,928 square feet of landscaping, including the snow storage and storm water areas, and a 10 foot landscaped buffer along all lot boundaries. The enlarged buffers on the east and west property lines will allow for more substantial landscaping and better screening between the proposed development and existing surrounding land uses. See Sheets A1.1 and A1.2. The applicant is willing to enlarge the landscaping areas at the driveways to enhance the entrances into the development.

# The criteria for granting a Conditional Use Permit is set forth in HCC 21.71.020, General conditions, and establishes the following conditions:

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

**Finding 1:** HCC 21.14.030(d) authorizes medical clinics and HCC 21.16.040(e) authorizes more than 8,000 square feet of building area as conditional uses in the Residential Office District.

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

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

**Analysis:** The Residential Office District is the home of the South Peninsula Hospital and supports a growing number of allied services. The clinic is found in close proximity to the hospital and adjacent to other healthcare providers. The entrances to the facility are found on Cityview and W Danview Avenues. The lot is 1.37 acres or 60,000 square feet, which can support eight separate lots according to density requirements of the Residential Office District. The clinic is appropriate that this district and location, and allows the clustering of medical services.

**Finding 2:** The use and structure is compatible with the purpose of the district.

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

**Analysis:** Many uses in the Residential Office district have greater negative impacts than would be realized from a medical clinic. Hospitals and heliports would have a greater impact on nearby property values. Hospitals, Assisted living, group care, religious, cultural and fraternal assembly would generate a good deal of traffic and operate longer than normal business hours.

**Finding 3:** A medical clinic 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:** Surrounding uses include medical facilities and residences. Found nearby is the hospital, which shares in the care of many of the same patients and utilizes some of the same medical personnel. The main hospital parking lot is directly north, and Homer Medical Clinic is directly to the south. It is a benefit for Homer to cluster medical services together not only for the benefit of those receiving services, but for the city in general, as sprawl is inhibited.

**Finding 4:** The proposal is compatible with 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.

**Analysis:** The site is well served with city sewer, natural gas, fire and police services. Currently both Cityview and W Danview are not city maintained roads. Driveways have been built within the public right of way to provide access to the property. It is the applicants' obligation to provide access to the property either by improving the driveway, building a road, or cost sharing with the City to build a road. All three of these or any other options are outside the purview of the CUP process. Access to the facility will be reviewed and approved by the State Fire Marshal, prior to issuance of a zoning permit. To access city water, the property owner will be required by Public Works to extend the water mainline across the full frontage of the property. Water and sewer connection permits from Public Works must be granted prior to the issuance of a zoning permit.

Finding 5: Existing public services are or will be adequate to serve the medical clinic.

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:** The clinic is located on a large lot between an existing medical clinic and the hospital. Traffic is directed to two neighboring local streets, Cityview and Danview. In turn, City view and Danview connect to Bartlett and Hohe Streets. Bartlett is categorized as a "Collector" in the 2005 Transportation Plan, part of the adopted Comprehensive Plan. Hohe St has no designation beyond other area roads but is the emergency access route to South Peninsula Hospital. Considering the nature and intensity of the proposed use, it is appropriate for a medical clinic of this size to be located near Bartlett and Hohe Streets, in close proximity to the existing hospital and other medical clinics.

The bulk and scale of this building is larger than other clinics in the immediate area. Homer Medical Clinic is approximately 10,000 square feet in a one-story building, and the clinic at 4201 Bartlett St is approximately 11,300 square feet in a two-story building. By contrast, South Peninsula Hospital is very roughly 130,000 square feet with two stories. While the proposed clinic is large, the location adjacent to the hospital parking lot and Homer Medical Clinic will have less impact on neighborhood character, than if it were proposed for the block between Hohe and Main Street. The Hohe-Main Street block is mostly single family and multifamily housing, and the proposed building would be clearly out of context within this block.

**Finding 6:** The Commission finds the proposal will not cause undue harmful effect upon desirable neighborhood character.

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

**Analysis:** An increase in the community's capacity to provide medical care certainly contributes to the health safety and welfare of the entire community. The lot is well positioned in an area which has been clustering medical services in proximity to South Peninsula Hospital.

Finding 7: The proposal is not unduly detrimental to health, safety, or welfare.

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

**Analysis:** Gaining a CUP along with the zoning permit process addresses the applicable regulations.

Finding 8: The proposal will comply with applicable regulations.

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

**Analysis:** Goals of the Land Use Chapter of the Homer Comprehensive Plan include encouraging infill (Chapter 4, Goal 1). The site is conveniently located nearby to allied services.

**Finding 9:** No evidence has been found that the proposal is 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 outdoor lighting standards are applicable the Residential Office District.

**Finding 10:** Outdoor lighting must be down lit per HCC 21.59.030 and the CDM.

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

**1. Special yards and spaces**: A storm water plan shall be developed and installed per HCC 21.75 **(Condition 1**).

2. Fences and walls: No specific conditions deemed necessary

3. Surfacing of parking areas:

**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:

**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 Dumpster shall be concealed on three sides (Condition 2).

**PUBLIC WORKS COMMENTS:** Please advise the applicant that a water main extension along the full frontage of the property will be required to access to water. The applicant needs to work with Public Works.

FIRE DEPARTMENT COMMENTS: Reviewed the CUP and have no comments or concerns.

PUBLIC COMMENTS: Lane Chesley email, see attachments

### STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission approve CUP **Staff Report PL 18-50** with findings 1-10 and the following conditions.

- 1. Dumpster shall be concealed on three sides.
- 2. A storm water plan shall be developed and installed per HCC 21.75

Attachments

Application



Staff Report PL 18-50 Homer Advisory Planning Commission Meeting of September 5, 2018 Page 7 of 7

#### **Public Notice**

Aerial Map

Public Comment – Email dated 8/29/2018 from Lane Chesley, requesting continuance

P:\PACKETS\2018 PCPacket\CUP\CUP 18-09 Raymond Medical Clinic\CUP 18-09, SR 18- Raymond Medical Clinic.docx



Planning 491 East Pioneer Avenue Homer, Alaska 99603



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

Applicant Name: <u>Paul D Raymond</u> Telephone No.: <u>9073993202</u> Address: <u>PD Box 2755 H/A 99603</u> Email: <u>raymond propertymanagement</u> . Comail com
Property Owner (if different than the applicant):
Name: <u>RAYMOND PROPERTY MNAME</u> , <u>INC</u> Telephone No.: <u>907.399.0801</u> Address: <u>POBOX 2755 Homep AK 99603</u> Email: <u>RayMond property management</u> . in C. R <b>PROPERTY INFORMATION:</b> Address: <u>267 CETYVIEW AVE</u> Lot Size: <u>60,000 S.F.</u> Address: <u>267 CETYVIEW AVE</u> Lot Size: <u>60,000 S.F.</u> Legal Description of Property: <u>LOT 2A</u> , <u>BLOCK 6 FAIRWEW SUDD</u> , FLYUM ADDITTON
For staff use:

# Conditional Use Permit Application Requirements CEIVED

- 1. A Site Plan 🗸
- 2. Right of Way Access Plan
- 3. Parking Plan V

## **CITY OF HOMER**

7/30/2018

- 4. A map showing neighboring lots and a narrative description of the antiperation of the antiperation of the state of the 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 ì

<b>Circle Your Zoning Distric</b>	t	1	V		1.1							
	RR	UR	RO	CBD	TCD	GBD	GC1	GC2	MC	MI	EEMU	BCWPD
Level 1 Site Plan	X	x	x	4	E	х			X			х
Level 1 ROW Access Plan	x	х		1			1		х			
Level 1 Site Development Standards	x	х	1-1	1.1	1	11-11	100		1		1.0	
Level 1 Lighting			x	x	x	х	x	х	х	x	x	
Level 2 Site Plan	and and	Lane and	x	x	x	6	x	x		x	x	
Level 2 ROW Access Plan			x	х	x		x	х		х	x	
Level 2 Site Development Standards	1-11		<b>x</b> *	x	x	x	x	x	3		x	
Level 3 Site Development Standards									х	х		
Level 3 ROW Access Plan				iv-		x				1	N - 71	
DAP/SWP questionnaire			1	ă.	x	х	x	х			х	

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

YN Are you building or remodeling a commercial structure, or multifamily building with more than 3 apartments? If yes, Fire Marshal Certification is required. Status:

- YN Will your development trigger a Development Activity Plan? Application Status:
- YN Will your development trigger a Storm water Plan? Application Status: \_\_\_\_\_
- YN Does your site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required. Application Status:
- Y Is your development in a floodplain? If yes, a Flood Development Permit is required.
- YN 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
- YN Do you need a traffic impact analysis?
- YN Are there any nonconforming uses or structures on the property?
- 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:\_\_\_\_\_

Y/N Do you have active City water and sewer permits? Status: \_\_\_\_\_

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

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). *MEDICAL OFFICES WITH PARKING LOT* 

CONDITIONAL USE INFORMATION: Please use additional sheets if necessary. HCC21.71.030

- What code citation authorizes each proposed use and structure by conditional use a. permit? 21.16,040 e
- b. Describe how the proposed uses(s) and structures(s) are compatible with the purpose of the zoning district. HOSPITAL & CLINICS SWERDUND PROPOSED USE.
- How will your proposed project affect adjoining property values? INCREASE VALUES c.
- How is your proposal compatible with existing uses of the surrounding land? d. MEDICAL CLINIC IN A MEDICAL AREA
- Are/will public services adequate to serve the proposed uses and structures? YES e.
- 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? PROJECT WILL PROVIDE NEED PARKING & ADD'L MEDICAL SERVICES POIZAREA.
- Will your proposal be detrimental to the health, safety or welfare of the surrounding g. area or the city as a whole?
- h. How does your project relate to the goals of the Comprehensive Plan?

The Comprehensive Plan are online, IT WILL ENHANCE COMP. PLAN CREATING A BEAUTIFUL NEWNELLIES CENTER IN HARMONY WITH SURROUNDING ENVIRONMENT The Planning Commission may require you to make some special improvements. Are

- i. 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)
  - Special yards and spaces. 1.
  - 2. Fences, walls and screening.
  - 3. Y Surfacing of parking areas.
  - Street and road dedications and improvements (or bonds). 4.
  - Control of points of vehicular ingress & egress. 5.
  - Special provisions on signs. 6.
  - Landscaping.
    - Maintenance of the grounds, buildings, or structures.

Page 3 of 4

9. VN

10

11

12.

13.

Control of noise, vibration, odors, lighting, heat, glare, water and solid waste pollution, dangerous materials, material and equipment storage, or other similar nuisances.

- N/ Time for certain activities.
- A time period within which the proposed use shall be developed.
- A limit on total duration of use.
- N Special dimensional requirements such as lot area, setbacks, building height.

Other conditions deemed necessary to protect the interest of the community.

#### PARKING

- 1. How many parking spaces are required for your development? \_\_\_\_\_\_ 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?
- 3. Are you requesting any reductions?

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	Fam Do	Raymond	Date: 7-30-2018
Property Owner's si	gnature: Paul	10	-Date: 7-30-2018
Froperty Owner 3 S			Date.

#### ZONING INFORMATION:

LEGAL: LOT 2A, BLOCK & FAIRVIEW SUBDIVISION FLYUM ADDN. (KPB TAX I.D. No. 17505612)

ZONING: RO RESIDENTIAL OFFICE DISTRICT

PARKING:

20,595 SQUARE FEET GROSS BUILDING AREA / 300 = 69 PARKING STALLS REQUIRED 85 PARKING STALLS PROVIDED INCLUDING 4 ADA. ACCESSIBLE STALLS

SETBACKS REQUIRED:

FRONT YARD: 20 FEET SIDE YARD: 1 FEET (2-STORY STRUCTURE) REAR YARD: 1 FEET (2-STORY STRUCTURE)

MAXIMUM HEIGHT OF STRUCTURES:

35 FEET ALLOWED 34 FEET 6 INCHES PROVIDED

#### SYMBOLS LEGEND

- EXIST'S, SITE LIGHTING (POLE MOUNTED)
- T.S.-1 VAN ACCESSIBLE H.C. SIGNAGE REF. 5/AI2
- T.S.-2 "NO PARKING" SIGN REF. 5/A12 SIM.
- T.S.-3 H.C. SIGNAGE REF. 5/AI2
- T.S.-4 "STOP" SIGNAGE (RI-1, 30")
- F.H. FIRE HYDRANT
- HB. HEADBOLT, REF. ELECTRICAL

#### SITE MATERIALS LEGEND

EXISTING GRAVEL PARKING AREA CONCRETE (SERVICE AREAS AND SIDEWALK SCORED AS SHOWN ON CIVIL) WILDFLOWER MIX -OR- LANDSCAPE STONES (ADEQUATE EROSION PROTECTION)

CAPING FOR PARKING

LANDSCAPING FOR PARKING 28, 816 # x . 1 = 2,882 # REQUIRED. 8,773 # + 153 # = 8,928 # PROVIDED.



TMBOL	QTY.	BOTANICAL NAME	COMMON NAME	SIZE	NOTES
$\overline{)}$		SORBUS AUCUPARIA	MT. ASH	2 V2* CAL	FULL BRANDING TO GROUND PTRAMIDAL FORM
R	144	PICEA GLAUCA	WHITE SPRUCE	5-6 FT.	B 4 B, 5:3 HEIGHT TO SPREAD RATK
$\Re$	1.44	PICEA PUNGENO GALAUCA	COLORADO BLUE SPRUCE	5-6 FT.	B 4 B, 5:3 HEKHT TO SPREAD RATK
$\overline{\mathbf{O}}$	1	BETULA PAPYRIFERA	ALASKA PAPER BIRCH	I" CAL	8' HEKSHT
$\mathcal{O}$		PRINUS PADUS	MAY DAY CHERRY	112" CAL	ALASKAN NURSERY GROWN DISEASE FREE
(+)		PRINUS VIRGINIANA	CANADA RED CHERRY	112' CAL	B 4 B, DISEASE FREE, 8' HEIGHT
•)		PRINUS MAACKII	AMUR CHOKECHERRY	112' CAL	B 4 B, DISEASE FREE
$(\cdot)$	20.5 21	MALUS RADIANT'	CRAB APPLE 'RADIANT'	2 1/2" CAL	B4B
200	-	SPIRAEA BUMALDA	BUMALDA SPIREA	2 GAL	SPACE 2'-6" ON CENTER
ÐÐ	++	SPIRAEA 'GOLDFLAME'	GOLDFLAME SPIREA	2 GAL	SPACE 2'-6" ON CENTER
DOO	·•• /	COTONEASTER ACUTIFOLIA	PEKING COTONEASTER	2-3 FT.	SPACE 3'-@" ON CENTER
$\odot$	•	ACER GINIALA	AMUR MAPLE	4 FT.	SPACE 3'-0" ON CENTER
<del>300</del>		RIBES ALPINIM	ALPINE CURRANT	2 GAL	SPACE 2'-6" ON CENTER
0	NOT USED	Rođa Rugođa	RLIGOBA ROBE	2 GAL	SPACE 2'-6" ON CENTER
$\otimes$		CORNUS ALBA	RED BARKED DOGILOOD	3-4 FT.	SPACE 3'-O' ON CENTER
$\otimes \otimes$	NOT USED	PINUS MUSHO PUMILIO	DUARF MUSHO PINE	2 GAL	SPACE 2'-6" ON CENTER
CIII)	NOT USED	JUNIPERUS HORIZONTALIS	CREEPING JUNIPER 'ANDORA'	2 GAL	SPACE 2'-6" ON CENTER
$\odot$	NOT USED	VIBURNUM EDULE	CRANBERRY	4-6 FT.	SPACE 3'-6" ON CENTER
	NOT USED	FERN6	FERNS	4" POTS	SPACE 2'-O' ON CENTER
		RIS	1835	4" POTS	SPACE IS' ON CENTER
$\bigcirc$	NOT USED	BULBS	RED TULIPS AND DAFFODILS		PLANT 2X SIZE OF BULB
$\bigcirc$	NOT USED	BERGENIA	BERGENIA	4" POTS	SPACE IS' O.C.
Ø	. <del>) .</del>	LARGE BOULDERS	LARGE BOULDERS	2' X 2' X 3'	AVERAGE, 13 BURIED
00	NOT USED	MEDIUM BOULDERS	MEDILM BOLLDERS	2' × 2' × 1 1/2'	AVERAGE, 13 BURIED
	NOT USED	SMALL BOULDERS	SMALL BOULDERS	1×1×11/2	AVERAGE, V3 BURIED

#### LANDSCAPE NOTES

I. ALL PLANT STOCK SHALL CONFORM TO THE AMERICAN STANDARD FOR NURSERY STOCK ANSI 260,1-1990

2. SEED MIX, TURF GRASS MIX: 4 LBS./1,000 SF.

50-60% BLUEGRASS, COMPOSED OF AT LEAST 50% "NUGGET" VARIETY 25-35% PERENNIAL RYEGRASS ("PINNACLE", "MANHATTAN", "DERBY" OR AS APPROVED.

3. TOPSOIL: FERTILE, AGRICULTURAL SOIL, FREE OF CLAY, ROOTS, AND WEEDS, HAVE A pH range of 5.4 to 1.0 (MIN. 6" DEEP)

4. FERTILIZER: PACKAGED IN WATER RESISTANT BAGS, CLEARLY MARKED WITH MIX CONTENT CONFORMING TO THE FOLLOWING: SEEDED AREAS: 10-20-20, PLANT MATERIAL: 8-32-16

5. LIME: NATURAL LIMESTONE, NOT LESS THAN 85% TOTAL CARBONATES, NOT LESS THAN 50% PASSING 1100 SIEVE.

6. PLANTING SEASON: LAWN, GENERAL OTHER MATERIAL: JUNE I THROUGH AUGUST 15.

1. ALL DISTURBED AREAS, AS INDICATED BY GRADING LIMITS, SHALL REQUIRE TOPSOIL AND SEED AS PER PLAN AND SPECIFICATIONS.

8. REFERENCE GRADING PLAN FOR LIMITS OF DISTURBED AREAS.

9. EXISTING VEGETATION BEYOND GRADING LIMITS SHALL REMAIN UNDISTURBED.

10. REFERENCE CIVIL DRAWINGS FOR LAYOUT OF EASEMENTS, DRAINAGE, AND PAVING.

II. SEPARATE ALL PLANT BEDS FROM LAWN OR GROUND COVER AREAS WITH 3/16"  $\times$  4" ALUMINUM EDGING UNLESS NOTED OTHERWISE.

12. SHRUB AND TREE PLANTING BEDS SHALL BE LINED WITH A PERMEABLE WEED BARRIER AND 3" OF 1" MINUS WASHED RIVER UNLESS NOTED OTHERWISE.

13. ALL SLOPES 3:1 OR STEEPER SHALL RECEIVE EROSION CONTROL FABRIC.

14. LOCATION OF PLANT MATERIAL AND ALUMINUM EDGING TO BE APPROVED BY ARCHITECT PRIOR TO INSTALLATION.













# RECEIVED

# 7/30/2018 **CITY OF HOMER** PLANNING/ZONING

### **PUBLIC HEARING NOTICE**

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, September 05, 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) 18-09 to build a 21,000 square foot medical clinic at 267 Cityview Avenue. A CUP is required for a medical clinic, per HCC 21.16.030 (d) and for more than 8,000 square feet of building area, per HCC 21.16.040(e). The subject lot is Lot 2A, Block 6, Fairview Subdivision Flyum Addition, SE ¼, Sec. 18, T6S, R13W, S.M., HM 2005061.

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.

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# VICINITY MAP ON REVERSE


### ZONING INFORMATION:

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MAXIMUM HEIGHT OF STRUCTURES:

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- EXIST'S, SITE LIGHTING (POLE MOUNTED)
- T.S.-I VAN ACCESSIBLE H.C. SIGNAGE REF. 5/AI2
- T.S.-2 "NO PARKING" SIGN REF. 5/A12 SIM.
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- T.S.-4 "STOP" SIGNAGE (RI-1, 30")
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LANDSCAPING FOR PARKING 28, 816 # x . 1 = 2,882 # REQUIRED. 8,773 # + 153 # = 8,928 # PROVIDED.







## Julie Engebretsen

From: Sent: To: Subject: Lane Chesley <lane.chesley@gmail.com> Wednesday, August 29, 2018 3:31 PM Rick Abboud Lane Chesley: request public hearing time extension for CUP 18-09

Dear Mr. Abboud: Thank you for taking time to meet today. I want to express my concern about the very short time frame available to review the staff report and full packet for CUP 18-09. The packet will be out end of day Friday and Monday is a holiday. That leaves only 2 business days before the evening meeting. I would like to officially ask for a continuance to the October regular meeting or a second public hearing at the October regular meeting. This is the single largest development proposed in a City of Homer Residential Office District and as such could benefit from a delayed or second public hearing to gather community input.

Thank you.

Lane Chesley 263 W. Fairview Street Homer, Alaska 99603

Sent from my iPhone



# **City of Homer**

Planning 491 East Pioneer Avenue Homer, Alaska 99603

www.cityofhomer-ak.gov

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

## Staff Report PL 18-51

TO:	Homer Advisory Planning Commission
FROM:	Rick Abboud, City Planner AICP
DATE:	September 5, 2018
SUBJECT:	CUP 18-10 Additional Structure for the Fabrication and Assembly of Boats at 3301 East End Road

Introduction The applicant proposes the addition of a 2,240 square foot structure for the fabrication and assembly of boats on the Bay Weld Boats site at 3301 East End Road. This CUP amends the previously approved CUP 17-05. A Conditional Use Permit (CUP) is required per HCC 21.27.040(d) "no lot shall contain more than 8,000 square feet of building area (all buildings combined) nor shall any lot contain building area in excess of 30 percent of the lot area without an approved conditional use permit."

Applicants:	Allen Engeb 3301 East Er Homer, AK 9	nd Road			
Location:	Mile 3 East E	nd Road. 3301 East End Road			
Parcel ID:	17419105				
Size of Existing Lot:	4.18 acres	1.18 acres			
Zoning Designation:	East End Mix	ked Use			
Existing Land Use:	Fabrication	and Assembly Facility			
Surrounding Land Use:	North:	Auto repair, industrial storage yard			
	South:	Vacant, but currently under development to become			
		1-acre commercial/industrial lots			
	East:	Construction aggregate, heavy equipment yard			
	West:	Commercial Building – Down East Saloon			
Wetland Status: Flood Plain Status:	No designate Not in a floo	ed wetlands on this parcel. dplain.			
BCWPD:	Not within t	ne Bridge Creek Watershed Protection District			
Utilities:	Lot is not se	rved by City water or sewer.			
Public Notice:		ent to 8 property owners of 8 parcels as shown ax assessor rolls.			

Staff Report PL 18-51 Homer Advisory Planning Commission Meeting of September 5, 2018 Page 2 of 6

### Synopsis

The applicant proposes a 2,240 square foot building for the fabrication and assembly of boats on the Bay Welding Services lot. The new building will increase the total building area on the lot to 22,000 square feet. A CUP is required per HCC 21.27.040(d) for more than 8,000 square feet of building area on the lot.

### **Building coverage**

The 4.18 acre lot currently has a 16,410 square foot fabrication building, a 2,500 square foot fabrication building, and a 3,100 square foot covered storage structure. The proposed building will bring the total building area up to 24,250 square feet.

### Impervious coverage

Development in the East End Mixed Use District must meet the level two site development standards found in HCC 21.50.030. These standards require a Storm Water Plan (SWP) for development with "an impervious surface coverage that is greater than 60 percent of the lot area (existing and proposed development combined)."

The site of the proposed structure is currently impervious surface and the structure will not introduce more impervious cover. A result of the previous CUP (17-05) was that an approved storm water plan was installed and the installation was approved by an engineer. No additional capacity is necessary for storm water retention.

### Parking

The applicant proposes 19 parking spaces. According to code, 2 spaces are needed for office space (1per 300sf), 1 for storage (1 per 3000sf), and 20 for manufacturing (1 per 1000sf). I find that the nineteen spaces provided are adequate for the operation. Additional space is on site to support more parking if necessary.

# 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;

**Finding 1:** HCC 21.27.20(e) authorizes boat manufacturing and storage as a permitted use in the East End Mixed Use District. HCC 21.27.20(mm) authorizes more than one

building containing a permitted principal use on a lot in the East End Mixed Use District.

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

Purpose: The East End Mixed Use (EEMU) District is primarily intended to provide sites for businesses that require direct motor vehicle access and may require larger land area. The district is meant to accommodate a mixture of existing and accessory residential with nonresidential uses. When a conflict exists between residential and nonresidential uses conflicts shall be resolved in favor of nonresidential uses.

**Applicant:** Per Homer City Code 21.27.020(e): Boat and marine equipment manufacturing, storage yard and service – these are all acceptable uses of these properties.

**Finding 2:** The proposed building expands the use of a business that requires motor vehicle access and a larger land area and is, therefore, compatible with the purpose of the East End Mixed Use 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.

**Applicant:** This property is already one of the more appealing and well-designed developments in this district.

**Analysis:** The addition of a commercial building will likely have a positive effect on the value of the neighboring commercial lots compared to other allowed uses such as parking lots or commercial storage or conditionally allowed uses such as junk yards.

**Finding 3:** The addition of a commercial building is not expected to have a negative effect on property values more so than other permitted or conditionally permitted uses in this district.

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

**Applicant:** The existing and proposed buildings and their uses are within the preferred guidelines of the East End Mixed Use district.

**Analysis:** This property does not abut any residential lots. Boat fabrication and assembly is compatible with the other industrial uses nearby such as the large commercial shop to the north and the equipment storage yard to the east.

**Finding 4:** The proposal is compatible with 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.

**Applicant:** The property is not served by City of Homer water or sewer. A domestic water cistern, and a pumped septic holding tank provide the necessary sanitary services. The proposed structure will not have water, nor bathroom services. These are provided

**Analysis:** The proposal is not expected to place an additional burden on the existing on-site water and sewer services.

**Finding 5:** The existing on-site water and sewer as well as the public fire services are adequate to serve the proposal.

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

**Applicant:** The property is in character with the surrounding neighborhood. The existing and proposed structures have a coordinated aesthetic (metal siding and roof), which helps to create a pleasing presentation in such an industrial area. Traffic will not be negatively affected, nor will it be increased by the development of this building.

**Analysis:** The nature of the lot as a boat fabrication facility will not change and the increased intensity of use and bulk of the proposal is in line with the commercial nature of the district. The proposed building will be placed on an existing graveled area and will therefore not change the lot coverage.

**Finding 6:** The proposal is not expected to cause undue harmful effect upon desirable neighborhood character.

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

**Analysis:** The addition of a commercial building on this lot is a positive addition to the city as a whole.

**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.

**Applicant:** Bay Welding has been, and continues to be a substantial economic driver in the Homer community. The company employs around 20 area residents and serves many in the maritime industry here in Homer and across the state.

**Finding 8:** An approved CUP along with the zoning permit process will address applicable regulations including Fire Marshal approval of the proposed structure prior to construction.

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

**Analysis:** The proposal includes commercial activities in an appropriate location. Goal 5, Objective D states "Introduce new commercial districts to better encourage and accommodate commercial land uses in appropriate locations, and allow new types of commercial activities to take place."

**Finding 9:** The proposal 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).

**Finding 10:** The Community Design Manual does not apply in the East End Mixed Use 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.

PUBLIC WORKS COMMENTS: No comments for this CUP.

FIRE DEPARTMENT COMMENTS: With Fire Marshal approval, I have no issues.

PUBLIC COMMENTS: None

# STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission approve CUP **Staff Report PL 18-51** with findings 1-11.

Attachments

Application Public Notice 2016 Aerial Imagery



Planning 491 East Pioneer Avenue Homer, Alaska 99603



www.cityofhomer-ak.gov

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

V

Applicant	907.235.5103
Name: EMC ENGER	BPETGEN Telephone No.: 907. 399. 3525 c
Address: 3301 EAG	TEND ROAD Email: ETC P DAY WELD BOATS. COM
Property Owner (if differer	nt than the applicant):
Name: Same_AUEN G+66	BPETGEN Telephone No.: 907.399.4895
Address:	Email:
PROPERTY INFORMATION	
	4170
Address: 3301 FASTER	ND PO Lot Size: 4.179 acres KPB Tax ID # 174-19-105
Colors and Colors	
Legal Description of Proper	ty: <u>T 065</u> , R 13W, GECTIL OF SQUARD MCM DON, OF THE STPICE, PLAT HWO 850014, COMMCACE PARK, LOT Fee submittal: Amount

# **Conditional Use Permit Application Requirements:**

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

### **Circle Your Zoning District**

	RR	UR	RO	CBD	TCD	GBD	GC1	GC2	MC	MI	EEMU	) BCWPD
Level 1 Site Plan	x	x	x			x			x		-	x
Level 1 ROW Access Plan	x	х						8 1	х			
Level 1 Site Development Standards	x	x			100	0		n = s				
Level 1 Lighting			x	x	х	x	х	х	x	x	x	
Level 2 Site Plan			x	x	х	1.1.4	x	х		x	x	12.1
Level 2 ROW Access Plan			x	x	x		x	x		x	x	
Level 2 Site Development Standards			x*	x	x	x	х	х			x	
Level 3 Site Development Standards									х	х		
Level 3 ROW Access Plan	a ferrar	- Stand	X				N-ALVERY			in the second	1	
DAP/SWP questionnaire	1.15	D. A.	and faired	X	X	x	X	X	all may	and the second	x	AND A DE LA

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

(N) Are you building or remodeling a commercial structure, or multifamily building with more than 3 apartments? If yes, Fire Marshal Certification is required. Status:

- Y(N) Will your development trigger a Development Activity Plan? Application Status: \_\_\_\_\_
- Y/N Will your development trigger a Storm water Plan? Application Status:
- Y(N) Does your site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required. Application Status: *There a Ripariar zone behind the main building*. *Underground and culverted Woodward Creek*.
- VN Is your development in a floodplain? If yes, a Flood Development Permit is required.
- 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
- N Do you need a traffic impact analysis?
- Y/N Are there any nonconforming uses or structures on the property?
- 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:\_\_\_\_
- Y/N Do you have active City water and sewer permits? Status: \_\_\_\_\_
  - 1. Currently, how is the property used? Are there buildings on the property? How many square feet? Uses within the building(s)?

(GEE GUBMITTED PROJECT DE WINGS WITH THIS APPLICATION,)

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).

FADDICATION AND ASSOMBLY 3= ALUMINUM BOARS, THIS NEW GTRUCTURE WILL HOUSE "VORTHWEST SIGNS + VINGL"\_ A SIGNAGE DETIGN + FAGRICATION BUSINESS.

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Page 2 of 4

### CONDITIONAL USE INFORMATION: Please use additional sheets if necessary. HCC21.71.030

### a. What code citation authorizes each proposed use and structure by conditional use permit? / 2240 22,000

per Homer City Code 21.27.040 d; This property has existing buildings and structures which cover approximately **12.500** square feet of area. The proposed building will add an additional **3510** square feet of lot coverage. Although exceeding the 8000 sf threshold for conforming developments, the existing and proposed structures are far below the 30% maximum coverage allowed (with a Cond. Use Permit).

 Describe how the proposed uses(s) and structures(s) are compatible with the purpose of the zoning district.

Per Homer City Code 21.27.020 e: Boat and marine equipment manufacturing, storage yard and service - these are all acceptable uses of these properties.

### c. How will your proposed project affect adjoining property values?

This property is already one of the more appealing, and well designed developments in this district. .

### d. How is your proposal compatible with existing uses of the surrounding land?

The existing and proposed buildings and their uses are within the preferred guidelines of the East End Mixed Use district.

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

The property is not served by City of Homer water or sewer. A domestic water cistern, and a pumped septic holding tank provide the necessary sanitary services.

# 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 property is in character with the surrounding neighborhood. The existing and proposed structures have a coordinated aesthetic (metal siding and roof), which helps to create a pleasing presentation in such an industrial area. Traffic will not be negatively affected, nor will it be increased by the development of this building.

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

No.

i.,

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

The Comprehensive Plan are online,

Bay Welding has been, and continues to be a substantial economic driver in the Homer community. The company employs around 20 area residents, and serves many in the maritime industry here in Homer, and across the state.

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. YN Street and road dedications and improvements (or bonds).
- 5. (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.

Page 3 of 4

9. YN
9. YN
Control of noise, vibra io 1 odors, lighting, heat, glare, water and solid waste pollution, dange ou s materials, material and equipment storage, or other similar nuisances
10. YN
11. Y/N
A time period within which the proposed use shall be developed.
12. YN
A limit on total duration of use.
13. YN

Special dimensional requirements such as lot area, setbacks, building height.

Other conditions deemed necessary to protect the interest of the community.

4. . . . Se

## PARKING

14. Y/N

- I have and have

- 1. How many parking spaces are required for your development? <u>Prequired spaces</u> If more than 24 spaces are required set HCC 21.50.030(f)(1)(b).
- 2. How many spaces are shown on your parking plan?

23

14

48 suggested spaces

3. Are you requesting any reductions?

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

I hereby certify that the above statements and c ther 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 signa			Date: 8-10-208
Property Owne		7	Date: 8-10-2018
	0		

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Pare 1 of 4

PROJECT ADDRESS:	3301 East End Road; Homer, Alaska	a 99603
OWNER:	Bay Welding Services; 3301 East En	d Road: Homer, Alaska 99603
APN:	174-19-105	
LEGAL DESCRIPTION:	T 06 S; R 13 W; Section 11 of the Se plat HM 0850014 Commerce Park S	eward Meridian,of the Homer Recording District; ubdivision Lot 5
PROPOSED USE(S):	B (Business office) and F1 (Moderat	e hazard factory - Industrial)
PROPOSED BLDG CONST.:	V - 1 HR: Wood frame exterior walls	, wood framed roof with concrete foundation
AREA:	LOT: 424.65' x 482.26' (irregular)	= 4.18 acres (182,000 sf)
	EXISTING (A) Building (footprint) (B) Building (footprint)	= 16,410 sf. = 2,500 sf.
	PROPOSED 40' x 56' structure	= 2240 sf.
ZONING	per City of Homer - East End Mixed	Use (EEMU)

ZONING:

0.0

per City of Homer - East End Mixed Use (EEMU)

SETBACKS: 20' to all right of ways and alleys, 5' to 8' (height dependent) on side and rear lot lines.

MAXIMUM STRUCTURE HEIGHT: 35'

MAXIMUM BUILDING AREA: 8000 sf, or 30% of lot area with Conditional Use Permit (CUP)

WETLANDS: None, per Kenai Peninsula Borough

**SCOPE OF WORK PROPOSED:** New 40' x 54', single story, wood framed structure to be erected. The proposed space will be an expansion of the existing fabrication facility for Bay Welding Services, and they will relocate the existing "Northwest Signs and Vinyl" tenant (currently located in BLDG. B) to this structure. The space will be used for the design, fabrication, and installation of vinyl signs and decals.

Space heating to be provided by natural gas fired, forced air furnace with overhead spiral ducting.

New building electrical service will be extended from existing on site HEA transformer, per HEA requierments.

Domestic water cistern, sewage liftstation, natural gas service, and underground electrical services are all existing on site.

SITEWORK AND GRADING: NO additional impervious coverage will be created by this project.

USE, OCCUPANCY, and PARKING:

BELUGA

LAKE

MATERN

CUS MP 1

KYLINEDI

RD

Bldg. A: the existing building contains 650 sf. of office use, and 15,760 sf of fabrication, storage and assembly spaces for the construction of aluminum boats.

MP 2- EASTEND RD

OFFICE Use (B): 650 sf / 100 (Occupant Load Factor) =

SHOP Use (F-1): 15,760 sf / 200 (Occupant Load Factor) =

BUILDING A Total OCCUPANT LOAD=

Bldg B: the existing building contains 2500 sf of fabrication, storage and assembly spaces for the construction of aluminum boats.

SHOP Use (F-1): 2500 sf / 200 (Occupant Load Factor) =

BUILDING B Total OCCUPANT LOAD=

PROPOSED Building: the new 40' x 56' shop / office would house 360 sf. of office use, and 1880 sf. of fabrication,storage and assembly spaces for the manufacturing of vinyl signage.OFFICE Use (B): 360 sf / 100 (Occupant Load Factor) =SHOP Use (F-1): 1880 sf / 200 (Occupant Load Factor) =9.4 Occupants(1 parking spaces)

PROPOSED Building Total OCCUPANT LOAD=

TOTAL City of Homer REQUIRED PARKING SPACES:

# SITE AND PROJECT INFORMATION



## VICINITY MAP

6.5 Occupants	(2 parking spaces)		
79 Occupants	(6 parking spaces)		

re eccapante

86 Occupants

12.5 Occupants

13 Occupants

14 Occupants

19 spaces

(1 parking spaces)

wing nut

POB 1191 Homer, Alaska 99603 907.299.2277 c

> **BAY WELDING** EXPANSION 2018 NOT EASTED FORM

Project Title: BW 18 Set Date: 10 AUG 18

Drawn by: ABR

Revisions:

INFO



EXISTING 30' ACCESS EASEMENT to East End Road (granted per Lol 4)

### wing nut SELIGN BUILD INC

POB 1191 Homer, Alaska 99603

907 299 2277 c

**EXISTING FOOTPRINT 16,410 SF** Single story, fabrication and assembly facility for Bay Welding Services.

Western addition to this structure was permitted under 2018 ANCH1009 by the Alaska Department of Public Safety, and a Conditional Use Permit was approved by

EXISTING FOOTPRINT 2500 SF Single story, fabrication and assembly facility for Bay Welding Services.

EXPANSION 2018 BAY WELDING

FOOTPRINT 2240 SF New, single story, assembly and fabrication area for Northwest Signs and Vinyl.

> Project Title: BW 18 Set Date: 10 AUG 18

Drawn by: ABR

**Revisions:** 

Exitting vehicles shall have no vision obstructions in triangle between 30" - 96" off finish grade, per Homer Civic Code

SITE



SITE PHOTO "B"

B 2.0

wing nut

POB 1191 Homer, Alaska 99603 907 299 2277 c

# BAY WELDING EXPANSION 2018 101 East End Faat Home, Anna 1900

Project Title: BW 18 Set Date: 10 AUG 18

Drawn by: ABR

**Revisions:** 

PHOTOS



#### PROPOSED ELEVATION WESTERN, looking east

1

3.0

1/8"

54

wing nut

POB 1191 Homer, Alaska 99603 907.299.2277 c

**EXPANSION 2018** BAY WELDING

Project Title: BW 18 Set Date: 10 AUG 18

Drawn by: ABR

**Revisions:** 

ELEVATION

# **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, September 05, 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) 18-10 to build a 2,240 square foot assembly and fabrication building at 3301 East End Road, Bay Weld Boats. A CUP is required for more than 8,000 square feet of building area on a lot, per Homer City Code 21.27.040(d). The subject lot is Lot 5 Commerce Park Subdivision, T 6 S, R 13 W, Section 11, 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







2.0

SITE PHOTO "B"

B 2.0

58





**City of Homer** 

Planning 491 East Pioneer Avenue Homer, Alaska 99603

www.cityofhomer-ak.gov

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

## Staff Report PL 18-52

TO:	Homer Advisory Planning Commission
FROM:	Rick Abboud, City Planner AICP
DATE:	September 5, 2018
SUBJECT:	2018 Homer Comprehensive Plan/Draft Ordinance

## Introduction

The 2018 Homer Comprehensive Plan is a ten-year update of the 2008 plan. The 2008 plan was designed as a 20-year guide and this update is an effort to account for what has been accomplished and what is still left to do. Vision and goals have not been significantly altered, although some have been moved or condensed for clarity. After this update, the plan will be due for a much more comprehensive revision in 10 years.

## Analysis

The Comprehensive Plan establishes broad goals and strategies for land use, transportation, public services and facilities, and economic development. Overriding goals of the plan include balancing needs for development and conservation, and coordinating private and public development. Plan policies help organize the complex relationships between people, land, resources, services and facilities, to meet the future needs of citizens and to protect the community's natural environment and quality-of-life.

Once adopted by the City Council and the Kenai Peninsula Borough Assembly, the Comprehensive Plan will become part of the city's regulatory framework, guiding policymakers as they make decisions about the physical, social, and economic development of the community. While plan policy only directly addresses activities within Homer City limits, the document considers and makes general recommendations regarding issues in "greater Homer."

By design, comprehensive plans are general documents, establishing broad goals and policies. Additional steps are required to implement most plan polices. Examples of actions needed to implement this plan include adoption of new or changed zoning and development ordinances, or approval of specific road, trail, or other infrastructure projects. The City is responsible for updating its ordinances to reflect the plan's broad policies.

This draft plan has been two years in the making. The process started out with requesting that City Department Directors review the 2008 document for work accomplished and work left to

do. From there some revisions were made and then the appropriate committees and commissions had their sections presented for review. After these reviews the Planning Commission studied all the changes (line-by-line) and made some of their own updates.

Because of the process, you will find the plan a bit thinner, especially after formatting work to reduce redundancy. What did not get thinner was the implementation tables found at the end of each chapter. We found that the 2008 implementation items were not comprehensive and not organized well, as they were found in a several places and some items were not listed. Many items that have received attention over the last ten years were left in the plan in order to recognize their significance and allow opportunity for further refinement. It will not be possible to devote attention to all the items in the next ten years, but they are still be documented for consideration in future plans.

### **Staff Recommendation**

Hold a public hearing and make a recommendation for further work or recommend adoption to the City Council.

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### Attachments

Draft Ordinance 2018 Homer Comprehensive Plan *Final Draft* 

### **CITY OF HOMER**

### HOMER, ALASKA

City Manager

### **ORDINANCE 18-XX**

### AN ORDINANCE OF THE HOMER CITY COUNCIL ADOPTING THE 2018 HOMER COMPREHENSIVE PLAN AND RECOMMENDING ADOPTION BY THE KENAI PENINSULA BOROUGH.

WHEREAS, The Kenai Peninsula Borough as a Second Class Borough shall provide for planning on an areawide basis in accordance with AS 29.40; and

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

WHEREAS, The City of Homer has prepared a extensive comprehensive plan amendments in the form of the 2018 Homer Comprehensive Plan; and

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

WHEREAS, The 2018 Homer Comprehensive Plan will guide the development of the City of Homer; and

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

WHEREAS, The Homer City Council, based upon the recommendation of the Homer Advisory Planning Commission, recommends that the Kenai Peninsula Borough Planning Commission and Assembly adopt the 2018 Homer Comprehensive Plan.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

<u>Section 1.</u> The 2008 Homer Comprehensive Plan is hereby adopted as the City of Homer Comprehensive Plan, superseding the 2008 Comprehensive Plan.

<u>Section 2.</u> The previously adopted Homer Master Roads and Streets Plan (1986), Homer Non-Motorized Transportation and Trail Plan (2004), Homer Area Transportation Plan (2005) and the Homer Town Center Development Plan (2006), Homer Spit Plan (2010) remain part of the Homer Comprehensive Plan.

<u>Section 3.</u> Subsection (b) of Homer City Code 21.02.010, Comprehensive Plan—Adoption, is amended to read as follows:

b. The following documents, as initially approved and subsequently amended, are adopted by reference as comprising the Homer Comprehensive Plan.

- 1. Homer Comprehensive Plan (2018)
- 2. Homer Master Roads and Streets Plan (1986)
- 3. Homer Non-Motorized Transportation and Trail Plan (2004)
- 4. Homer Area Transportation Plan (2005)
- 5. Homer Town Center Development Plan (2006)
- 6. Homer Spit Plan (2010)

<u>Section 4.</u> The City hereby recommends that the Kenai Peninsula Borough Planning Commission and Assembly adopt the 2018 Homer Comprehensive Plan as extensive comprehensive plan amendments under Kenai Peninsula Borough Code 21.01.025, and as an element of the Official Borough Comprehensive Plan within the City of Homer planning area of the Borough.

<u>Section 5.</u> Sections 1 through 3 of this ordinance shall take effect upon the adoption of the 2018 Homer Comprehensive Plan by the Kenai Peninsula Borough Assembly. The remainder of this ordinance shall take effect upon its adoption by the Homer City Council.

<u>Section 6.</u> Section 3 of this ordinance is of a permanent and general character and shall be included in the city code. The remainder of this ordinance is not of a permanent nature and is a non-code ordinance.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this xx<sup>th</sup> day of XX, 2018.

### CITY OF HOMER

### BRYAN ZAK, MAYOR

ATTEST:

MELISSA JACOBSON, CMC, CITY CLERK

YES: NO: ABSTAIN: ABSENT:

First Reading: Public Hearing: Second Reading: Effective Date:

Reviewed and approved as to form:

Katie Koester, City Manager

Holly Wells, City Attorney

Date:

Date:





Planning 491 East Pioneer Avenue Homer, Alaska 99603

www.cityofhomer-ak.gov

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

# Staff Report 18-53

TO:	Homer Advisory Planning Commission
FROM:	Rick Abboud, City Planner
DATE:	September 5, 2018
SUBJECT:	Forest Glen 2019 Preliminary Plat

**Requested Action:** Recommend approval of the preliminary plat, creating three lots from two existing lots (Baker) and creating four lots from one large lot (Cushman, and <u>displayed as underlined text</u> below).

### General Information:

Applicants:	Christopher & Catherine Cushman	Gary Nelson, PLS
	975 Shelly Ave	Ability Surveys
	Homer AK 99603	152 Dehel Ave
	larad & Dahagaa Dalvar	Homer, AK 99603
	Jared & Rebecca Baker	
	3795 Forest Glenn Dr	
	Homer, AK 99603	
Location:	Forest Glen Drive: north of Glenview	Dr and north of Poppy Circle
Parcel ID:	17527009, 17527030, & <u>17526002</u>	
Size of Existing Lot(s):	1, .35, & <u>1.17</u> acres	
Size of Proposed Lots(s):	.327, .3, .721 & <u>.226, .296, .359, .293</u> a	acres
Zoning Designation:	Urban Residential District	
Existing Land Use:	Residential & vacant	
Surrounding Land Use:	North: Residential	
	South: Residential & vacant	
	East: Residential, vacant, & school	/SPARC
	West: Church	
Comprehensive Plan:	Chapter 4 Goal 1: Guide Hom	er's growth with a focus
	onencouraging infill.	
Wetland Status:	The 2005 wetland mapping shows d	ischarge slope on all lots.
Flood Plain Status:	Zone X, outside the 0.2% annual cha	ance flood
BCWPD:	Not within the Bridge Creek Watersh	ned Protection District.
Utilities:	City water and sewer are available	

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Public Notice:	Notice was sent to 111 property owners of 97 parcels as shown on
	the KPB tax assessor rolls.

**Analysis:** This subdivision is within the Urban Residential District. This Baker's propose to create three lots from two (1.35 total acres) and the Cushman's propose the creation of four lots from one (1.17 total acres).

## Homer City Code 22.10.051 Easements and rights-of-way

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

### Staff Response: The plat meets these requirements.

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

**Staff Response:** The plat meets these requirements.

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

**Staff Response:** The plat meets these requirements.

**Preliminary Approval, per KPB code 20.25.070 Form and contents required**. The commission will consider a plat for preliminary approval if it contains the following information at the time it is presented and is drawn to a scale of sufficient size to be clearly legible.

- A. Within the Title Block:
- 1. Names of the subdivision which shall not be the same as an existing city, town, tract or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
- 2. Legal description, location, date, and total area in acres of the proposed subdivision; and
- 3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor;

**Staff Response:** The plat meets these requirements.

B. North point;

**Staff Response:** The plat meets these requirements.

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Staff Report 18-53 Homer Advisory Planning Commission Meeting of September 5, 2018 Page 3 of 4

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

**Staff Response:** The plat meets these requirements.

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

**Staff Response:** The plat meets these requirements.

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

**Staff Response:** The plat meets these requirements.

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

**Staff Response:** The plat meets these requirements.

- G. Status of adjacent lands, including names of subdivisions, lot lines, lock numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;
- **Staff Response:** The plat meets these requirements.
  - H. Approximate location of areas subject to inundation, flooding or storm water overflow, the line of ordinary high water, wetlands when adjacent to lakes or non-tidal streams, and the appropriate study which identifies a floodplain, if applicable;

**Staff Response:** The plat meets these requirements.

I. Approximate locations of areas subject to tidal inundation and the mean high water line;

**Staff Response:** The plat meets these requirements.

J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;

**Staff Response:** The plat meets these requirements.

K. Within the limits of incorporated cities, the approximate location of known existing municipal wastewater and water mains, and other utilities within the subdivision and immediately abutting thereto or a statement from the city indicating which services are currently in place and available to each lot in the subdivision;

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Staff Report 18-53 Homer Advisory Planning Commission Meeting of September 5, 2018 Page 4 of 4

**Staff Response:** The plat meets these requirements. Utility main location is on file with the City of Homer Department of Public Works.

L. Contours at suitable intervals when any roads are to be dedicated unless the planning director or commission finds evidence that road grades will not exceed 6 percent on arterial streets, and 10 percent on other streets;

**Staff Response:** The plat meets these requirements. No Right of Way is granted in this action.

M. Approximate locations of slopes over 20 percent in grade and if contours are shown, the areas of the contours that exceed 20 percent grade shall be clearly labeled as such;

**Staff Response:** The plat meets these requirements. No known slopes over 20%.

N. Apparent encroachments, with statement indicating how the encroachments will be resolved prior to final plat approval; and

Staff Response: The plat meets these requirements.

O. If the subdivision will be finalized in phases, all dedications for through streets as required by KPB 20.30.030 must be included in the first phase.

**Staff Response:** The plat meets these requirements. No phases are proposed.

**Public Works Comments:** For the Jared Baker Sub: provide water and sewer service to Lot 11A. If the plat is to be recorded before services are provided, the applicant will need to enter into an installation agreement with the City.

For Cushman's Sub: Lot 2A has already been provided with water and sewer services. Provide the following lots with the following services

-Lot 2B Provide water service (has sewer provided)

-Lot 2C Provide water and sewer service

-Lot 2D Provide water service (has sewer provided)

### Fire Department Comments: No comments.

### Staff Recommendation:

Planning Commission recommend approval of the preliminary plat.

### Attachments:

- 1. Preliminary Plat
- 2. Surveyor's Letter
- 3. Public Notice
- 4. Aerial Map

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### NOTES

1. DEVELOPMENT ON THESE LOTS IS SUBJECT TO HOMER CITY CODE.

2. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.

3. PROPERTY OWNER SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLAND DESIGNATION (IF ANY). PROPERTY OWNERS ARE RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE AND FEDERAL PERMITS.

4. NO STRUCTURES ARE PERMITTED WITHIN THE PANHANDLE PORTION OF THE FLAG LOTS.

5. THERE ARE NO SLOPES OVER 20%.

6. GREY HATCHED AREAS ARE DISCHARGE SLOPES AND UPLAND COMPLEX AS DEPICTED ON KENAI PENINSULA BOROUGH GIS.

RECEIVED

AUG 1 7 2018

CITY OF HOMER

PLANNING/ZONING





C1	181.47	300.00 115 33 35.5	N172438 E	81.22
C2	122.52	300.00 4 18 04.0	N27'20'28 E	22.52
Ċ3	23.52	300.0014'29'32.3"	N31'44'16'E	23.52
C4	109.07	300.00 120 49 51.1	S44'23'58 W	108,47
Ċ5	50.14	25.00 114 55 04.7	N54'00'30 W	42.15
C.6.	20.21	211 13 5 20'07 5	52T17 18'F	20.21



DETAIL 2 SUBDIVISION OF FOREST GLEN SUBDIVISION UNIT 1 LOT 2, BLOCK 2 SCALE 1"=50" WASTEWATER NOTE PLANS FOR WASTEWATER DISPOSAL, THAT MEET REGULATORY REQUIREMENTS, ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

PLAT APPROVAL This plot was approved by the Kenal Penihsula Borough Planning Commission at the meeting at \_\_\_\_\_\_ KENN PENINSULA BARRUGH

BY\_\_\_\_\_\_\_Authorized Official

JOB No. 5 503145063 DRAWING: 50657745031 SCALE 1"= 50' DATE 8/17/2018


BILITY SURVEYS

### MEASURING MAPPING & REPORTING ON ALASKA'S INFRASTRUCTURE SINCE 1976

152 DEHEL AVE., HOMER, AK. 99603 PH. 907-235-8440 FAX. 235-8440 email; gary@abilitysurveys.com

August 17, 2012

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

Re: Preliminary Plat Submittal of Forest Glen Subdivision 2018

Enclosed herewith for preliminary plat submittal please find:

- > One full size paper copy of the preliminary plat.
- > One 11x17 reduced copy of the preliminary plat.
- Check number 3450 in the amount of \$300.

Thank you for your assistance in this endeavor.

Dary helson

Gary Nelson, PLS

# RECEIVED

AUG 1 7 2018

CITY OF HOMER PLANNING/ZONING

### **NOTICE OF SUBDIVISION**

Public notice is hereby given that a preliminary plat has been received proposing to subdivide or replat property. You are being sent this notice because you are an affected property owner within 500 feet of a proposed subdivision and are invited to comment.

Proposed subdivision under consideration is described as follows:

### Forest Glen Subdivision 2019 Preliminary Plat

The location of the proposed subdivision affecting you is provided on the attached map. A preliminary plat showing the proposed subdivision may be viewed at the City of Homer Planning and Zoning Office. Subdivision reviews are conducted in accordance with the City of Homer Subdivision Ordinance and the Kenai Peninsula Borough Subdivision Ordinance. A copy of the Ordinance is available from the Planning and Zoning Office. **Comments should be guided by the requirements of those Ordinances.** 

A public meeting will be held by the Homer Advisory Planning Commission on Wednesday, September 05, 2018 at 6:30 p.m. at Homer City Hall, Cowles Council Chambers, 491 East Pioneer Avenue, Homer, Alaska.

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

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

### NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 500 FEET OF PROPERTY.

.....

# VICINITY MAP ON REVERSE





### NOTES

1. DEVELOPMENT ON THESE LOTS IS SUBJECT TO HOMER CITY CODE.

2. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.

3. PROPERTY OWNER SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLAND DESIGNATION (IF ANY). PROPERTY OWNERS ARE RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE AND FEDERAL PERMITS.

NO STRUCTURES ARE PERMITTED WITHIN THE PANHANDLE PORTION OF THE FLAG LOTS.
 THERE ARE NO SLOPES OVER 20%.

6. GREY HATCHED AREAS ARE DISCHARGE SLOPES AND UPLAND COMPLEX AS DEPICTED ON KENAI PENINSULA BOROUGH GIS.

Note: This page depicts only a portion of the proposed preliminary plat. For a complete copy, please contact the City Planning Department.



DETAIL 2 SUBDIVISION OF FOREST GLEN SUBDIVISION UNIT 1 LOT 2, BLOCK 2 SCALE 1"=50'





# **City of Homer**

Planning 491 East Pioneer Avenue Homer, Alaska 99603

www.cityofhomer-ak.gov

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

### **STAFF REPORT PL 18-53**

TO: Homer Advisory Planning Commission

**FROM:** Travis Brown, Planning Technician

MEETING: September 5, 2018

**SUBJECT:** Election of Officers

### Introduction

The Planning Commission bylaws state that elections for Chairman and Vice-Chairman shall be held annually, in August. Typically, the chair opens the floor for nominations for chair, and the Commission makes one or more nominations. The vote can be by roll call, or by secret ballot. The process is repeated for vice chair.

Since the chair seat is currently vacant, the vice chair can conduct the elections.

### **Staff Comments:**

Staff recommends the Planning Commissions conduct elections for Chair and Vice-Chair.



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### Staff Report PL 18-55

TO:	Homer Advisory Planning Commission
FROM:	Rick Abboud, City Planner
DATE:	September 5, 2018
SUBJECT:	Central Business District Setback

### Introduction

Council Person Adderhold is proposing that the Planning Commission make a recommendation on the proposed changing in front setback from the current 20' to 10' in the Central Business District (CBD).

### Analysis

In the past ten years, the Commission has had 10 Conditional Use Permits (CUP's) proposing setback reductions. Nine have been approved and one withdrawn with two having been appealed with the city prevailing so far, but due process opportunity has not been exhausted in either case (note: CUP 05-10 for a 9' setback reduction on Grubstake Avenue was approved and appealed. The City prevailed in Civil Superior Court).

### 2009

CUP 09-04, 353 Grubstake Ave, 10' reduction from Poopdeck Street approved – open porch

### 2011

CUP 11-09, 3406 Main Street (Old Town), 10' reduction from Bunnell and 8' reduction from Main Street – structure, enclosed porch

### 2013

CUP 13-03, 580 E Pioneer Avenue (WKFL Restrooms), 14' reduction from Heath Street - structure

CUP 13-06, 265 E Pioneer Avenue, 8.8' reduction from Pioneer Avenue – structure and covered porch

CUP 13-11, 203 E Pioneer Avenue. 13' reduction from Greatland Street - structure

### 2014

CUP 14-05, 320 W Pioneer Avenue, 10' reduction from Pioneer Avenue – deck. **Appealed**, **Alaska Supreme Court on going** 

81

CUP 14-07, 564 E Pioneer Avenue, 7.5' reduction from Lee Drive – structure

Staff Report PL 18-55 Homer Advisory Planning Commission Meeting of September 5, 2018 Page 2 of 2

### 2017

CUP 17-02, 210 Ohlson Lane, 12' reduction from Greatland Street – structure

### 2018

CUP 18-02, 302 E Pioneer Avenue, 8' reduction from Pioneer Avenue – open porch. **Appealed, Hearing Officer** 

CUP 18-07, 3781 Heath Street. 10' reduction from Pioneer Avenue – structure. Withdrawn

The sponsor of the proposal wishes to decrease the amount of CUP's the Planning Office processes. This would lighten the office workload and make the process for an applicant much easier to navigate and decrease permitting time by at least 3 weeks. An added consideration would be to lower the city's exposure to costly appeals.

To evaluate the concept of eliminating a CUP for a lowered setback distance, we can look at the distances that have been requested. Seven of ten requests were for 10' or less, leaving three proposals for 12', 13', & 14' respectively. The sponsor suggests that the new setback be 10' from rights-of-way (ROW). As written, this would eliminate the opportunity for the three CUP's that requested a distance greater than 10'.

You may now be thinking, what about utility setbacks that are greater than 10'? A great deal of the lots in the CBD have not had the now required 15' setback requirement from ROW allied to their property that has not been subdivided. In the case that a setback or any other easement might interfere with a building at ten feet, the applicant would have to get a release from the provision or they would not be able build over the encumbered land. Other provision, such as sight triangles on roads or drives, will have to be met regardless of the setback.

Other considerations include the expansion of substandard ROW. Several streets in the CBD were developed as a 50' ROW. The current road standard is 60' and the Borough will need confirmation that the city does not wish to gain ROW to meet the current road standards when reviewing subdivision proposals long substandard roads. The Public Works Director should be consulted on this subject.

### **Streets of the CBD**

The functional classification of the streets differ between the two city plans. The Master Roads and Streets plan of 1986 is quite out of date and not based on any current standards I can verify. The 2005 Homer Area Transportation Plan has a classification based on AASHTO that has been modified for rural communities, but not many of the streets are classified. Many of the local roads are 50' wide, while the standard width is 60 feet.

Pioneer Avenue	Rural Major Collector	60' to 70'
Lake Street	Rural Major Collector	60' to 80'

Staff Report PL 18-55 Homer Advisory Planning Commission Meeting of September 5, 2018 Page 2 of 2

Bartlett Street	Rural Minor Collector	60'
Main Street	Rural Major Collector	60'
Sterling Highway	Rural Principle Arterial	~100'
Heath Street		60' mostly
East Fairview		80'
Greatland Street		60'
Poopdeck Street		60' on developed section
Shelford Street		45' to 30'
Lucky Shot Street		60'
Svedlund Street		60'
Snowbird Street		60'
Kachemak Way		60'
Klondike Avenue		60' west of Kachemak Way, 40' to the east
Bonanza Avenue		50'
Grubstake Avenue		50'
Hazel Avenue		50' to 60'+
Ben Walters Lane		60'
Smokey Bay Way		60'
Ohlson Lane	Rural Minor Collector	40' to 60'
Jenny Way		20' to 40'
Bunnell Avenue	Rural Minor Collector	40'w 60'e
Allen Way		20' alley
Hansen Avenue		60'
Charles Way		55'
Beluga Place		50'
North Avenue		40'

I am planning to have the Public Works Director speak with the Commission at the work session to give a perspective on the rights-of-way in the CBD and how a reduced setback might affect them.

### **Staff Recommendation**

Have a discussion about the proposal. Request any additional information you may need. Consider for further work or public hearing.

### Attachments

Ordinance 18-39 Memorandum 18-095 Memorandum from City Clerk, synopsis of 8/27/18 Council Committee of the Whole Meeting Map with street names

1 2 3 4	CITY OF HOMER HOMER, ALASKA ORDINANCE 18-39	Aderhold
5		
6	AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,	
7	AMENDING HCC 21.18.040 TO REDUCE THE SETBACK PERMITTED	
8	FROM 20 FEET TO 10 FEET IN THE CENTRAL BUSINESS DISTRICT.	
9		
10	WHEREAS, It is in the City's best interest to permit uses outright that pr	omote the
11	goals of the Homer Comprehensive Plan, including permitting setback reducti	
12	Central Business District that would promote walkable business district locations	
13	local, non-arterial roads.	
14		
15	THE CITY OF HOMER HEREBY ORDAINS:	
16		
17	Section 1. Chapter 21.18.040 is amended to read as follows:	
18		
19	21.18.040 Dimensional requirements.	
20		
21	The following dimensional requirements shall apply to all structures and	uses in the
22	Central Business District:	
23 24	a. Lot Size.	
24 25	a. Lot Size.	
23 26	1. The minimum lot area shall be 6,000 square feet. Lawful non	conforming
27	lots of smaller size may be newly developed and used if off-site	0
28	provided in accordance with the City parking code, Chapter 21.55 HC	
29	h	;
30	2. Multiple-family dwelling containing three or more units shall	meet the
31	standards in HCC 21.14.040(a)(2);	
32		
33	3. Townhouses shall meet the standards in HCC 21.53.010.	
34		
35	b. Building Setbacks.	
36		
37	1. Buildings shall be set back <b><u>10</u></b> <del>20</del> feet from all dedicated rig	hts-of-way,
38	except as <b>required or</b> allowed by subsection (b)(4) of this section.	
39		с и
40	2. Nonresidential buildings shall be set back five feet	from all
41 42	other lot boundary lines except the minimum setback shall be two fe	
42	other boundary lines when firewalls are provided and access to	

45

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- the building is otherwise provided (e.g., alleyways) as defined by the State Fire
  Code and enforced by the State Fire Marshal.
- 463. Residential buildings shall be set back five feet from all other lot boundary47lines.
- 494. Setbacks from a dedicated right-of-way from If approved by a50conditional use permit, the setback from a dedicated right-of-way, except from51the Sterling Highway or Lake Street arterial roads, shall be at least 20 feet. may52be reduced. For purposes of this subsection, "arterial" roads means a53street, road, boulevard or highway that emphasizes mobility and is54designed to carry higher volumes at higher speeds, attributes that usually55conflict with safe access. Sterling Highway is an example arterial street.56
- 57 5. Alleys are not subject to a **10** 20-foot setback requirement. The setback 58 requirements from any lot line abutting an alley will be determined by the 59 dimensional requirements of subsections (e)(1) and (2) of this section. 60
  - 6. Any attached or detached accessory building shall maintain the same yards and setbacks as the main building.
- 64 c. Building Height. The maximum building height shall be 35 feet.

66d. No lot shallcontainmorethan8,000squarefeetof building67area (all buildings combined), nor shall any lot contain building area in excess of 3068percent of the lot area, without an approved conditional use permit.

- 70 e. Building Area and Dimensions Retail and Wholesale.
- 721. The total floor area of retail and wholesale business uses within a73single building shall not exceed 75,000 square feet.74

752. No conditional use permit, planned unit development, or variance may be76granted that would allow a building to exceed the limits of subsection (e)(1) of77this section and no nonconforming use or structure may be expanded in any78manner that would increase its nonconformance with the limits of subsection79(e)(1) of this section.

- 81 <u>Section 2</u>. This ordinance shall take effect upon its adoption by the Homer City 82 Council.
- 83

84	<u>Section 3</u> . This ordinance is of a pe	ermanent and general character an	d shall be
85	included in the City code.		
86			
87	ENACTED BY THE CITY COUNCIL OF HO	MER, ALASKA, this day of	, 2018.
88			
89		CITY OF HOMER	
90			
91			
92			
93		BRYAN ZAK, MAYOR	
94			
95	ATTEST:		
96			
97			
98			
9	MELISSA JACOBSEN, MMC, CITY CLERK		
0 1			
	YES:		
2 3	NO: ABSTAIN:		
5 4	ABSENT:		
+ 5	ADSENT.		
5	First Reading:		
, 7	Public Hearing:		
3	Second Reading:		
9	Effective Date:		
0	Encetive bate.		
1	Reviewed and approved as to form:		
2			
3			
4			
5	Katie Koester, City Manager	Holly Wells, City Attorney	
6	, , ,	, , , ,	
7	Date:	Date:	



**City of Homer** 

Homer City Council 491 East Pioneer Avenue Homer, Alaska 99603

(p) 907-235-3130 (f) 907-235-3143

www.cityofhomer-ak.gov

# Memorandum 18-095

TO:MAYOR ZAK AND HOMER CITY COUNCILFROM:DONNA ADERHOLD, COUNCILMEMBERDATE:AUGUST 22, 2018SUBJECT:REDUCTION OF SETBACK IN THE CENTRAL BUSINESS DISTRICT (CBD)

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

Over the past 10 years, 10 Conditional Use Permits in the CBD for reduction of a setback have all been approved. Allowing a reduced setback to be permitted in the Planning office supports the reduction of staff time preparing for these public hearings and reducing process and delays for applicants.

**Recommendation:** Please express your support for the ordinance and concepts.





www.cityofhomer-ak.gov

Office of the City Clerk 491 East Pioneer Avenue Homer, Alaska 99603

clerk@cityofhomer-ak.gov (p) 907-235-3130 (f) 907-235-3143

# Memorandum

TO:	Acting Chair Bentz and the Advisory Planning Commission
FROM:	Melissa Jacobsen, MMC, City Clerk
DATE:	August 30, 2018
SUBJECT:	City Council Comments Regarding Ordinance 18-39

City Council discussed Ordinance 18-39 during their Committee of the Whole session on August 27<sup>th</sup>. It was requested by Mayor Pro Tem Aderhold that their talking points be provided to the Planning Commission for consideration. A summary of Council comments is as follows:

Councilmember Venuti asked why the change? They've been dealing with it through CUP and every situation is different, and we don't want to take away anything they've done well.

Mayor Pro Tem Aderhold explained the Planning Commission has never denied a CUP for a setback up to 10 feet and it's also the area of greatest litigation, which is part of the reason for evaluating this. If the Planning Commission is always issuing a permit for the reduction, then maybe with certain stipulations, the Planning Department can issue the permit rather than going through the Commission, in an effort to streamline that process.

Councilmember Smith commented his biggest concern is that there might be lots that you don't want to give up the ten feet, then it becomes a problem, and their wide open to do it. It might be more problematic. The CUP has worked, but he understands it's taken a lot of time in the courtroom as a result of where it's at now. He sees benefits on both sides and would like to see what the Planning Commission comes up with in their review.

Councilmember Erickson commented as the Planning Commission is are relooking at the transportation plan she thinks it's important we are not looking at one little picture on this, but at the broader view, particularly if we start opening up where town center would be. What do we want that to look like with road placement? There is a lot involved as we open up new territory, versus where we have things on Pioneer Ave. that are old and kind of all over the place. There are a couple issues and it will be good that they are looking at both issues and how we should integrate that with the transportation plan and road planning.

Councilmember Stroozas commented we have the CUP process as a system of checks and balances, and agrees there may be properties we don't want the ten feet on. The system has worked, people who have applied have general received it without any conflict, yes, it has been a big point of litigation for the city over the year.



Office of the City Manager 491 East Pioneer Avenue

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**City of Homer** 

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:	August 8, 2018
SUBJECT:	August 13 <sup>th</sup> City Manager Report

### Jack Gist Disk Golf Park

The City Council has been contacted by neighbors of the Jack Gist Disk Golf Park who have concerns about noise from people playing disk golf at all hours of the day and night. I have worked with a couple of you, Parks Coordinator Steffy, and the Disk Golf Association on developing a passive closure of a few of the holes nearest the neighborhood during City of Homer quiet hours, 11pm to 7am. Signs have been ordered and will be installed within the next few days. The Disk Golf Association has been very understanding and values being a good neighbor. I appreciate the noise could be coming from any number of user groups in the park, nevertheless, hopefully some clear signage will remind locals and visitors alike to respect City of Homer quiet hours.

### **Refinancing Gasline Loan**

In 2012 the City of Homer borrowed \$12 million dollars from the Kenai Peninsula Borough to finance the extension of the Natural Gas mainline. This was a unique project that did not qualify for traditional municipal financing which led the City Council to working collaboratively with the Borough on a 10 year loan at 4%. The City still owes around \$4 million. The Finance Department has spent an extensive amount of time evaluating the current Natural Gas Line loan with the Kenai Peninsula Borough. We internally discussed and explored refinancing options. Our initial thoughts were to find an option that presented the City of Homer with less hurdles and reporting requirements. However, the Borough has been very accommodating and easy to work with. Given where current rates are in the market, added costs associated with refinancing, and the current loan payoff amount, it would be more beneficial for the City to dedicate resources towards making larger loan payments, with the end goal of paying off the loan early.

### Alaska Municipal League Summer Meeting

As a reminder, I will be out of the office the week of August 20 for the Alaska Municipal League Summer meeting in Denali. The Alaska Municipal Management Association will be meeting the first part of the week and then the full group (elected officials and managers) will meet to discuss legislative priorities. Councilmembers Stroozas and Mayor Zak will also be attending. I will provide a full report, including how many different types of Alaskan wildlife we see, for the September meeting. I am looking forward to connecting with Alaskan managers and elected officials from around the state. It is always and energizing experience where ideas are shared unique to our Alaskan challenges. I encourage you so take advantage of attending when you can – next year it is in Soldotna, and in 2022 it is scheduled for Homer.

### Price Reduction for Lot 2 (Old Library Lot)

This 1.3 acre lot fronts Main Street and was formerly part of the old library site. The library building was subdivided onto its own lot, and sold. The City has had the remaining lot, Lot 2, on-and-off the market since 2007 with multiple appraisals ranging from \$225,000 to \$228,000. The 2018 Land Allocation Plan indicates to sell the property and for the last year, it has been on the market at \$295,000 (with no offers) with the City's real estate agent, Angie Newby, of Homer Real Estate (Resl. 16-053). The listing is up for renewal, and the agent recommends reducing the price to \$275,000 and renewing the listing through 7/31/2019. I will authorize this price reduction and renewing the listing unless I hear differently from Council.

### Janitorial Services at the Library

At the last Council meeting, I was asked for clarification on the janitorial services provided at the Homer Public Library. Cleaning is scheduled at the Library each of the 6 days a week it is open and varies from 1.5 to 3.5 hours depending on the scheduled tasks for a total of 14 hours weekly. This is a minimal amount of cleaning for a 17,200 square foot building that gets extensive public use. In 2015 the City issued a Request for Proposal for janitorial services in the hopes that privatizing the cleaning of at least some of the buildings would generate a cost savings, but did not receive any responses that were less expensive than in house janitorial. The 2019/2010 budget will have to include increased hours/positions for building maintenance and janitorial services with the new Police Station coming on line, a logistical and budgetary challenge I am currently working on in preparation for presenting the 2019 draft budget and welcome input and guidance from Council.

### Tsunami Maps Final - Meeting Report and Next Steps

On June 27, 2018, the Fire Department hosted a tsunami preparedness meeting that included Alaska Emergency Management specialists from the State, Tsumai warning center and NOAA. City Manager Katie Koester and department heads, Mark Robl, Terry Kadel, Carey Meyer, Rick Abboud, Bryan Hawkins, as well as former fire chief and FEMA manager, Robert Purcell, Officer Browning and fire fighter Schmutzler all attended the meeting.

We discussed and reviewed the new tsunami inundation zone draft maps which are scheduled to be released by the end of August as well as the needs of the city with regards to public education and means to effectively evacuate citizens to areas of safety.

Ideas to improve tsunami preparedness include additional signage to allow the city to better mark routes to safe zones, resources for our incident management teams to include up to date meteorology information and access to the Kenai Peninsula Borough's digital information system for sending out messages on both social media and "Nixle" style formats.

### What to do with the Old Police Station?

The 2019 proposed budget will need to include additional operational budget as we both bring the new police station on line and phase out the old police station. In an effort to minimize the time spent paying both bills, I would like to initiate the conversation on *what to do with the old police station*. The purpose of this report is to get the wheels turning and generate questions Council may have in anticipation of a worksession on the topic. After much conversation internally with staff, options for the property include:

### Sell the property

Pro	Con
Consistent with Resolution 13-091(A), Dedicating any Potential Future Sale of the Fire Hall and Police Station Property to a Special Fund Earmarked for Financing and Construction of the Proposed New Public Safety Building	Property is valuable for a public building given its central location
If sold to an organization that is not tax exempt, would put the property back on the property tax roles	Currently HVFD and HPD are on the same lot and share utilities. Any sale would require subdividing the lot and installing new utilities
City would not have to maintain and decide what to do with a derelict building	It could take years to sell the building, which would require budgeting to maintain it in warm status in the interim
\$\$\$\$\$\$\$	

### Convert the building into a home for PW Building Maintenance

Pro	Con
Solves a future problem of what to do with Building	There is more building there than Building
Maintenance, depending on what happens with the	Maintenance needs and retrofitting it to a
HERC property	maintenance shop would require significant
	expense
	A prefabricated metal shop structure would be a
	better fit for the needs of Building Maintenance and
	likely cost less than a retro fit
	It does not remove the expense of maintaining an
	old and inefficient building from the City operating
	budget

### Put the Building in 'Cold Status' and allow HVFD to use it

Pro	Con
Minimal expense is incurred if heat is turned off (or	Putting it is cold status means demolition is likely
greatly reduced) and grounds maintenance is done	the only option in the future
by HVFD volunteers (which is the case at the	
current station)	
HVFD could use the building for training. The lot	There will be an eventual capital expense in the
could be used for much needed parking at the Fire	future to make the property useful to the City
Hall	
Preserving the property in City ownership allows	Committing to keeping the space limits the future
for the future expansion of HVFD facilities (an	growth options of the Fire Hall to that particular lot,
equipment bay for a ladder truck, for example)	which may not be ideal
without the need for a new Fire Hall	
	Unless clearly designated for a specific future use
	with a plan to get there, will be open to lots of

speculation about potential uses, which could
complicate things

### Preserve for a community use

Pro	Con
Ideas abound on how the building could meet a	A Pandora's box of questions regarding operational
number of community needs including a homeless	costs, reasonability and programing would need to
shelter, teen center, etc.	be ironed out

In conclusion, I welcome questions councilmembers have on any of these options, additional potential uses and pros and cons for a future worksession. It would be helpful for me to have an idea of where we are going in advance of presenting the 2019 draft budget so I know how far into the future I need to plan for operational expenses at the current police station and to what extent. The next available worksession date is September 10<sup>th</sup>.

### **USCGC Hickory Changing of the Guard**

July 18 United States Coast Guard held a change of command ceremony for USCGC Hickory. Port and Harbor Director Hawkins, Service members, their families and the public thanked CDR C. Andrew Passic for his service and welcomed incoming command Adam G. Leggett to the Hickory and Homer. The ceremony was held at the new boat house pavilion at the top of Ramp 2. The sunshine and great company ensured a memorable event and although the crowd did not have to seek shelter from the elements, it was wonderful to have a public space large enough to do so comfortably should the need arise.

### **Seafarers Memorial Parking Lot Expansion Update**

This project was first approved as a Capital Improvement Project on October 13 2014. Funding was approved for the engineering and design of the project. Engineering and design was completed to 95% on Jan 22<sup>nd</sup> 2016.

The need for parking in this area of the port is increasing every year. It has become extremely difficult for harbor patrons accessing their vessels to find parking during the peak use season. Also, many of the South side Bay residents using ramps 1 through 3 purchase long term parking passes but are unable to find parking in that area due to the lack of available space. Moreover, the additional parking will create more business opportunity for shop owners in the surrounding area, which will have the benefit of an increase in sales tax revenue for both the City and Borough.

Next steps include the City applying for a CUP this summer in hopes of being able to start moving dredged material to the area by fall. This allows the project to take advantage of mobilizing fill at no cost (currently the dredged materials from the Harbor are moved to the storage lot behind Bob Trophy Charters). The project will have to be done in phases. Port and Harbor Director Hawkins estimates that it will take approximately 3 years to build the lot up to the finished elevation. Additional funding will be needed to pave and stripe the parking lot, however it is possible that some additional gravel parking spaces will become available for parking by next summer.

Enc:

August Employee Anniversaries Thank you letter from KHLT Seafarers Memorial Parking Lot Expansion CIP Project

Office of the City Manager 491 East Pioneer Avenue Homer, Alaska 99603



www.cityofhomer-ak.gov

**City of Homer** 

citymanager@cityofhomer-ak.gov (p) 907-235-8121 x2222 (f) 907-235-3148

# Memorandum

TO: MAYOR ZAK AND CITY COUNCIL

FROM: Katie Koester

DATE: August 13, 2018

SUBJECT: August Employee Anniversaries

I would like to take the time to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer over the years.

Dan Gardner,	Public Works	27	Years
Carey Meyer,	Public Works	19	Years
Dotti Harness,	Admin	13	Years
Joe Inglis,	Public Works	7	Years
Eve Dickmann,	Police	6	Years
Staci LaPlante,	Public Works	4	Years

Thurks Muyor Led Thanks In them and Cife Co. So exciting That you very much lor your recent approval of ordinaice 18-29 -Then KS Mallory This a secret Kuchemak Hentinge Lond Trust appropriation up to \$5200 for the design of the Poopdeck Trail. Succedy Dear City Conel, Children and Child very excited We we all ~ Courtney Project Thailk you Marie KHLT 315 Klondike Andlaskan FROMTIER Home, AK 99603 995-997 12 JUL 2015 PH 2 L USA Home City Cancil 491 E Pioneer Homer, Ak 99603 



# **Seafarers Memorial Parking Expansion**

**Project Description & Benefit:** This project would use materials from dredging the harbor to build up a parking lot between Seafarers Memorial and the east end of the nearby boardwalk complex. The additional parking will be a welcome improvement as it is often hard to find parking during peak summer months on this section of the Spit. The project has the added benefit of replenishing the beaches on the east side of the Spit and protecting infrastructure from erosion. The material will be placed on the beaches as part of the Army Corps of Engineers' dredging/disposal operations. Funding is needed to supplement hauling costs, compact material, cap with gravel and pave the lot. A Corps permit will be needed to accomplish this work.

**Plans & Progress**: The City has appropriated \$15,000 for the Homer Area Roads and Trails (HART) fund for preliminary engineering design and permitting. 95% of engineering design work was completed in 2015. A phased approach to construction will be used.

Total Project Cost: \$635,000

### Schedule:

2017: Design and Permitting at 95% complete: \$8,000
2019: Dredged Material Placement by Corps: In kind
2020: Install drainage, riprap protection, paving/striping and all parking lot delineation: \$627,000
Priority Level: 1

This project would fill in, level and pave the grassy area pictured above between the Seafarer's Memorial and the nearby boardwalk.

Office of the City Manager 491 East Pioneer Avenue

491 East Pioneer Avenue Homer, Alaska 99603



City of Homer www.cityofhomer-ak.gov

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: August 17, 2018
SUBJECT: August 27 City Manager Report

### **Green Infrastructure Training**

Kachemak Bay National Estuarine Research Reserve is hosting a free all day training on September 11<sup>th</sup> on the benefits green infrastructure and how to balance environmental and economic goals in community planning efforts. The training is open to the public, however registration is required. See the attached flyer for more details.

### **Senior Population Trends**

At the Budget Priorities Conversation during the August 13<sup>th</sup> Committee of the Whole Councilmember Erickson requested information on the impact of the trend of increasing senior population on property tax revenue for the City of Homer. The attached chart uses current data and projected population trends from the Department of Labor to predict a 36% increase in exempted property tax dollars due to the senior property tax exemption over 10 years. Another way to put it is if all other variables are equal, the City of Homer will have \$154,418 less in property tax revenue in 2025 when compared with 2015 due to senior property tax exemptions.

### Letter to Senator Murkowski

As you know, the City has been working with the Army Corps of Engineers on a Planning Assistance to States grant to look at the Large Vessel Port Expansion project. The Federal Delegation has been very supportive in our efforts and whenever we get the chance to update Senators, Congressman Young, or their staff, on the project we do. Alaska's senior Senator, Murkowski has been particularly helpful. The attached letter from Mayor Zak both updates her on the project and requests an official letter of support and staff assistance as we begin to navigate the complicated federal landscape.

Enc: Letter to Senator Murkowski Green Infrastructure Training Flyer Senior Population Trends





491 East Pioneer Avenue Homer, Alaska 99603

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(p) 907-235-8121 (f) 907-235-3140

Senator Lisa Murkowski 510 L St # 600 Anchorage, AK 99501

August 27, 2018

Dear Senator Murkowski,

I am writing to update you on the City of Homer's large vessel port expansion project and solicit your continued support as we move forward with the US Army Corps of Engineers to complete a Planning Assistance for States (PAS) study. Specifically, I believe that a letter of support from you to the Alaska district leadership and having one of your staff participate in the kick off meeting for the PAS study with the Army Corps of Engineers would go a long way towards putting a focus on the economic benefits for Alaska and the possibility for future Arctic support our port expansion provides.

As you recall, in 2004 the City of Homer, State of Alaska and the Corps began a Navigational Improvement Feasibility Study on expanding Homer's Port and Harbor by constructing a new large vessel port to the north of our existing small boat harbor. In 2009 the parties decided to postpone any more work on the study due to poor cost to benefit findings at that time.

But times have changed to make the cost benefit ratio much more favorable.

✓ <u>The demand for large vessel moorings in Homer has increased over time</u>. Homer's Port & Harbor has evolved into a regional asset serving a fleet of large fishing vessels participating in nearly every fishery in the State of Alaska, multiple Coast Guard assets, and tugs/barges/landing craft whose delivery of supplies to a variety of industries and non-road connected communities in Southcentral, Southwest, Western (and even up into Arctic). Homer's Port and Harbor is foundational to Alaskan Maritime commerce at all levels.

One supply boat company located in Cook Inlet stated that, because they could not find moorage for their vessels in Alaska, they had to send two of their large vessels to Seattle last winter. This firm estimates that they spent about a half million dollars in fuel, crews wages, and moorage out of state. There are many examples of vessels traveling to Seattle to overwinter due to limited moorage in Alaska.

Demand is expected to keep increasing. Many of Alaska's harbors were created or improved upon right around the time of Statehood to build infrastructure that communities could grow an economy around. With the State's economy in desperate need of diversification, and with expanding Arctic traffic and new resource exploration presenting emerging opportunities for the marine industrial support sector, now is the time to capture economic opportunities currently being lost while simultaneously advancing Alaska's

competitive position relative to other regions. Alaska needs ports that support the larger working vessels to keep their business in Alaska.

The Homer port expansion project is a clean slate option that provides the opportunity to build exactly what the state need for the future. Homer would be an excellent choice as a home port for vessels that are working seasonally in the Arctic. Built with the proper planning and foresight, Homer could host facilities suitable for one of the new Coast Guard icebreakers cutters.

✓ Homer is the ideal location for a large vessel port. Homer offers a deep water, ice-free location in close proximity to fisheries and resource development, is accessible by land, sea and air and are centrally located in the Gulf of Alaska. The topography of the Homer Spit makes it one of the few harbors where building a port expansion of this scale is possible. The City's professional Port and Harbor staff have honed their operations into one of the most efficient customer service based municipal owned and managed ports on the West Coast. The community has a comprehensive, nationally recognized marine trades support industry providing high quality services.

The changes listed above prompted the City and the Corps to initiate the six-month PAS study to reinitatie the general investigation study shelved in 2009. The City has committed the required \$50,000 in local 50-50 matching funds to complete the study. The PAS will quantify these economic benefits as well as account for new cost advantages of local sources of armor rock and an in-water option for disposal of dredge materials during construction.

Homer's port expansion project is an opportunity to build Alaska's economy with infrastructure that will support our maritime industry's current and future needs. The City greatly values your continued support and requests a letter of support to the Alaska Army Corps District Leadership and that a representative from your office join us in person for the first planning meeting of the PAS study sometime in September. By working collaboratively with the delegation from the onset, the large vessel port expansion project in Homer will ensure that Alaska's future economic needs and Arctic exploration are supported, as well as provide valuable insight on how to best navigate federal funding opportunities.

I recognize this project will be a lot of work for everyone involved. Nevertheless, a thriving large vessel port in Homer will positively benefit the lives and livelihoods of countless Alaskans into the future. Thank you again for your support and taking the City of Homer's request into consideration.

Sincerely,

Bryan Zak, Mayor

City of Homer

Enc: Signed Section 22 Agreement for Providing Technical Assistance

# **INTRODUCING GREEN INFRASTRUCTURE FOR COASTAL RESILIENCE**

# SAVE THE DATE!

### **FREE TRAINING**

SEPTEMBER 11, 2018 9:00 AM- 4:30 PM ALASKA ISLANDS AND OCEAN VISITOR CENTER 95 STERLING HWY, HOMER, AK

### **Target Audiences:**

- Local officials
- Land use planners
- Public works staff
- Floodplain managers
- Hazard mitigation planners
- Tribal governments and staff
- Civic associations
- Conservation
   Organizations
- Environmental organizations

Register by August 20<sup>th</sup> alaskaseagrant.org/events

For more information, please contact: (907)235-4791 Kachemak Bay National Estuarine Research Reserve <u>isbentz@alaska.edu</u>

> NOAA Office for Coastal Management <u>lauren.long@noaa.gov</u>

There is no cost to attend this training

Lunch will be provided



### Would you like to:

- Understand the economic, ecological and societal benefits of green infrastructure?
- Explore ways to protect your community with green infrastructure concepts that contribute to resilience?
- Learn about the wide variety of contexts and scales of green infrastructure approaches?
- Identify existing planning processes suitable for integrating green infrastructure and experts with additional information?

### If you answered "yes" to any of these questions, then keep reading!

"Green Infrastructure" incorporates the natural environment and constructed systems that mimic natural processes in an integrated network that benefits nature and people. A green infrastructure approach to community planning helps diverse community members come together to balance environmental and economic goals.

This interactive one-day training course will introduce participants to the fundamental green infrastructure concepts and practices that can play a critical role in making coastal communities more resilient to natural hazards. Through presentations featuring green infrastructure projects from Alaska, group discussions, and activities, participants will learn what they can do to support green infrastructure implementation in their coastal communities.

Course modules are taught by NOAA's Office for Coastal Management training staff and local partners. Six hours of certification maintenance credits for this course have been approved by the American Institute of Certified Planners. Five core continuing education credits have been approved for certified floodplain managers.

See attached agenda for session modules and topics, and register at the Alaska Sea Grant Events Page: alaskaseagrant.org/events/

## Space is limited and registration is required

### COURSE AGENDA

### Morning

8:30 a.m.	Participant Check-In
9:00 9:20 9:55	Welcome and Workshop Goals and Objectives Section 1: Green Infrastructure Concepts and Principles Section 2: The Practice of Green Infrastructure
10:25	Break
10:35 11:05 11:35	Local Landscape Conservation Local Community/Site Scale Green Infrastructure Section 2: The Practice of Green Infrastructure – continued (activity)
12:00	Networking Lunch *Provided onsite
<u>Afternoon</u>	
12:45 1:00 1:30	Section 2: The Practice of Green Infrastructure – continued (activity debrief) Local Shoreline Protection Section 3: Implementing Green Infrastructure
2:05	Break
2:15	Local Plans, Regulations, or Policies Supporting Green Infrastructure

- 2:45 Group Discussion on Challenges and Solutions
- 4:00 Wrap-up

Sign up for the FREE half day green infrastructure site visit field trip to the Kenai Peninsula Borough River Center in Soldotna Wednesday, September12th!

TRAINING PARTNERS



# Senior property tax exempt projections

	2015 certified rolls	2017 certified rolls	fied rolls	2020 estimate*	2025 estimate^
No. of exempt parcels	432	2	501	909	667
taxable value of exempt parcels	\$61,208,700	\$71,750,500	00	\$86,817,759	\$95,523,738
property tax value	\$275,439	\$322,877	77	\$390,680	\$429,857

\*estimate based on DOL projections that senior population in KPB will increase by 21% between 2015 and 2020 and taxable value per property 2017 average, \$143,214 ^2020-2025 estimate of 10% increase

Assumptions (assumptions result in an underreporting of dollar value):

KPB projected senior population increase is the same as Homer

Senior population is counted as over 60, however property tax exemption begins at 65. Data does not reflect projected

decrease in 60-65 and commensurate increase in 65 plus population

Data assumes average property tax exemption in 2017 of \$143,214 per parcel, in reality this number will increase over time





www.cityofhomer-ak.gov

Office of the Mayor

491 East Pioneer Avenue Homer, Alaska 99603

mayor@ci.homer.ak.us (p) 907-235-3130 (f) 907-235-3143

August 15, 2018

Roberta Highland P.O. Box 2460 Homer, AK 99603

Dear Roberta,

Congratulations! Council confirmed/approved your reappointment to the Advisory Planning Commission during their Regular Meeting of August 13, 2018 via Memorandum 18-087 for a three-year term that will expire July 1, 2021.

Currently on file is your 2017 Public Official Conflict of Interest Disclosure Statement. In October you will be notified to complete the 2018 disclosure statement. Public officials are required to comply with this reporting requirement pursuant to HCC 1.18.043.

Thank you for your willingness to serve the City of Homer on the Advisory Planning Commission. Let's see what else the future holds in store for us!

Cordially

Donna Aderhold, Mayor Pro Tem

- Enc: Memorandum 18-087 Certificate of Reappointment
- Cc: Homer Advisory Planning Commission



Office of the Mayor

491 East Pioneer Avenue Homer, Alaska 99603

mayor@ci.homer.ak.us (p) 907-235-3130 (f) 907-235-3143

# Memorandum 18-087

TO: HOMER CITY COUNCIL

FROM: BRYAN ZAK, MAYOR

DATE: AUGUST 7, 2018

SUBJECT: REAPPOINTMENT OF ROBERTA HIGHLAND TO THE ADVISORY PLANNING COMMISSION

Roberta Highland is reappointed to the Advisory Planning Commission for a three-year term to expire July 1, 2021

**RECOMMENDATION:** 

Confirm the reappointment of Roberta Highland to the Advisory Planning Commission

Fiscal Note: N/A
# **City of Homer**

Homer, Alaska

Mayor's Certificate of Appointment

Greetings

Be It Known That

Roberta Highland

Has been re-appointed to

serve as

# "Commissioner"

on the

# "Homer Advisory Planning Commission"

This appointment is made because of your dedication to the cause of good government, your contributions to your community and your willingness to serve your fellow man.

> In Witness whereof I hereunto set my hand this 15th day of August, 2018

Donna Aderhold, Mayor Pro Tem Attest:

Melissa Jacobsen, MMC, City Clerk

To Melissa Jacobsen City Clerk City of Homer, AK.

Filed Electronically mjacobsen@ci.homer.ak.us July 27, 18



Dear Melissa,

Please accept this letter as a official request to be reappointed to the Homer Advisory Planning Commission.

Regards,

Roberta Highland

PO Box 246 Homer, AK. 99603

#### BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL BY THE HOMER ADVISORY PLANNING COMMISSION

))

)

In the Matter of

MATTER OF CUP 2018-02

OAH No. 18-0321-MUN Agency No. 2018-02

# **DECISION ON APPEAL**

#### I. Introduction

Derek and Catriona Reynolds own property located on Pioneer Avenue in Homer, Alaska. The Reynolds wanted to renovate the façade of their building, adding a covered porch and extending the entryway. These changes would encroach within the 20-foot setback required between the right-of-way and any structure. They filed an application for a conditional use permit (CUP) which would allow them to construct that addition. The Reynolds' application, CUP 2018-02, went to a public hearing before the Homer Advisory Planning Commission (Planning Commission) on March 7, 2018. Frank Griswold objected to the granting of the CUP. The Planning Commission approved the application. Mr. Griswold has appealed on legal, procedural, and factual grounds.

The Planning Commission had jurisdiction to consider and grant the Reynolds' application. The Homer City Code (HCC) specifically allows setback reductions to be dealt with through the CUP process. The Planning Commission's action in granting the Reynolds' application is supported by substantial evidence. As a result, the granting of the Reynolds' CUP is AFFIRMED.

#### II. Facts and Proceedings

# A. The Permit Application

The Reynolds own a building located at 302 E. Pioneer Avenue in Homer, in a zoning area designated as the Central Business District (CBD). The CBD has a setback requirement: "[b]uildings shall be set back 20 feet from all dedicated rights-of-way, except as allowed by subsection(b)(4) of this section."<sup>1</sup> The Reynolds' building faces Pioneer Avenue: it is a rectangular building whose preexisting entrance is contained in a small addition to the front of the building, which encroaches on the setback. The door does not open directly southward onto Pioneer Avenue, but rather faces west. The pictures of the building depict an older building in poor exterior shape with little landscaping or vegetation other than grass.<sup>2</sup>

HCC 21.18.040(b)(1).

1

<sup>&</sup>lt;sup>2</sup> Administrative Record (AR) 26, 27, 32.

The Reynolds' building had been vacant for at least five years and they intended to operate a bicycle tour, sales, and rental business from the building. In connection with their intended use, the Reynolds applied for a CUP which would allow them to both build a covered porch along the front of the building for rental bike storage and extend the front entrance, including changing the doorway orientation so that it faced directly onto Pioneer Avenue. The existing entry already encroached onto the 20-foot setback. The covered porch would extend the preexisting encroachment, due to the existing entry, along the front of the building. The extension of the front entrance would encroach further into the 20-foot setback, leaving a 12-foot space between the sidewalk and the beginning of the entryway to the building.<sup>3</sup>

The Reynolds' application contained a description of the intended use of the property, photographs of the building in its current condition, as-built-surveys showing the location of the current building on its lot, which also showed the distance between the building and the sidewalk fronting on Pioneer Avenue, drawings showing the proposed additions to the building from front and side views, and how far it would encroach on the 20-foot setback. In addition, the record includes an aerial photograph of the site and adjoining properties.<sup>4</sup>

#### B. The Public Hearing

The Reynolds' application went to a public hearing in front of the Planning Commission on March 7, 2018. The Homer City Planner's office issued a written report which recommended approval of the application with ten factual findings:

- 1. The relevant ordinance allows a setback reduction if approved through the CUP process.
- 2. "The proposal is compatible with the purpose of the zoning district."
- 3. "The proposal will not negatively affect adjoining property values more than other permitted or conditionally permitted uses in the district."
- 4. "The proposal is compatible with existing uses of surrounding land."
- 5. "Existing public, water, sewer, and fire services are adequate to serve the structure."
- 6. "The proposal will not cause undue harmful effect upon desirable neighborhood character."

2

<sup>&</sup>lt;sup>3</sup> AR 16 – 33.

<sup>&</sup>lt;sup>4</sup> AR 16 – 33.

- 7. "The covered outdoor space and entry way will not be unduly detrimental to the health, safety or welfare of the surrounding area or the City as a whole."
- 8. "Following CUP approval and issuance of a zoning permit, this proposal will comply with applicable regulations of HCC Title 21."
- 9. "No evidence has been found that the proposal is contrary to the applicable land use goals and objectives of the Comprehensive Plan."
- "The proposal will comply with the applicable provisions of the Community Design Manual."<sup>5</sup>

On March 5, 2018, prior to the public hearing, Ms. Post from the Homer Bookstore, which is directly adjacent to the Reynolds' building,<sup>6</sup> emailed the Planning Department expressing support for the Reynolds' application:

We at the Homer bookstore would like to express our support of the proposed building frontage for Cycle Logical. We are thrilled to be seeing this eyesore of a building cleaned up. We feel this will be a great addition to this neighborhood and we look forward to the improvements that we expect to see. We do not have a problem with the proposed frontage.<sup>7</sup>

The Reynolds and the City Planner spoke in support of the application at the public hearing.<sup>8</sup> In addition to answering questions posed by the Planning Commission members, the City Planner recommended that the Planning Commission add an additional finding: "[t]hat the proposed activity will enhance the aesthetic environment of the community, providing gracious human scale entry ways and public ways, orienting the entry way toward the street."<sup>9</sup>

Three other citizens also spoke at the public hearing in favor of granting the application. Their remarks generally noted the improvements that the applicants had made to what one described as a "derelict building."<sup>10</sup> Mr. Griswold did not speak at the public hearing.<sup>11</sup> However, he emailed the Planning Department on March 6, 2018 objecting to the application.<sup>12</sup> He additionally filed a written statement on March 7, 2018 further objecting to the application.<sup>13</sup> Other than Mr. Griswold, there were no objections to the Reynolds' application.

- <sup>8</sup> AR 49 52.
- <sup>9</sup> AR 49.
- $\begin{array}{ll} 10 & ARE 50 51. \\ 11 & AR 50 51. \end{array}$
- $^{12}$  AR 30 AR 38.
- AR 38. AR 42 48.

<sup>&</sup>lt;sup>5</sup> AR 10 – 15.

<sup>&</sup>lt;sup>6</sup> See Aerial Map, AR 36.

<sup>&</sup>lt;sup>7</sup> AR 37.

The Planning Commission unanimously voted to "approve the staff report PL 18-14 and CUP 2018-02" with the additional finding requested by the City Planner.<sup>14</sup> The entire Planning Commission meeting, which included several agenda items in addition to the Reynolds' CUP application, lasted one hour and six minutes, having been called to order at 6:30 p.m. and adjourning at 7:36 p.m.<sup>15</sup>

The Planning Commission issued its formal written decision on March 22, 2018. That decision is signed by the Vice-Chair of the Planning Commission. Below the Vice-Chair's signature, it contains the signature of the City Planner.<sup>16</sup>

#### C. The Appeal

Mr. Griswold timely appealed the granting of the Reynolds' CUP application on April 3, 2018.<sup>17</sup> Mr. Griswold requested that the appeal be heard by a hearing officer instead of the Homer Board of Adjustment.<sup>18</sup> As allowed by HCC 21.93.030, the Homer City Manager appointed an administrative law judge employed by the Alaska Office of Administrative Hearings to serve as the hearing officer.

Mr. Griswold and the City Planner filed hearing briefs.<sup>19</sup> The Reynolds did not file a brief. Oral argument was held on June 15, 2018. Mr. Griswold, the City Planner, and the Reynolds all participated.

#### III. Discussion

#### A. Procedure

Applications for CUPs are submitted to the City Planner.<sup>20</sup> The application is reviewed, and once deemed complete, the City Planner is required to schedule and notice a public hearing in front of the Planning Commission.<sup>21</sup> Following the public hearing, the Planning Commission is then required to act on the application and issue a decision that contains its written findings and reasoning in support of the decision.<sup>22</sup>

<sup>&</sup>lt;sup>14</sup> AR 52.

<sup>&</sup>lt;sup>15</sup> AR 9, 58 - 59.

 $<sup>^{16}</sup>$  AR 53 – 57.

<sup>&</sup>lt;sup>17</sup> AR 3- 8.

<sup>&</sup>lt;sup>18</sup> AR 4.

<sup>&</sup>lt;sup>19</sup> Mr. Griswold objected to the City Planner's participation in the appeal.

<sup>&</sup>lt;sup>20</sup> HCC 21.71.020.

<sup>&</sup>lt;sup>21</sup> HCC 21.71.030, HCC 21.27.050 (a).

<sup>&</sup>lt;sup>22</sup> HCC 21.71.050(b).

A person who "actively and substantively participated" in the matter in front of the Planning Commission, has the right to appeal the Planning Commission's decision granting or denying a CUP.<sup>23</sup> The appeal may be either to the Board of Adjustment or a hearing officer appointed by the City Manager.<sup>24</sup>

Appeals are heard solely on the established record, unless there are allegations involving new evidence or changed circumstances, in which event the hearing officer (or Board of Adjustment) may remand the matter to the lower administrative body (here the Planning Commission).<sup>25</sup> After briefing, an appeal hearing is to be held, and a decision issued.<sup>26</sup>

#### B. Standards of Review

The applicable standards of review on appeal are set by the Homer City Code. The standard of review on purely legal issues is one of independent judgment.<sup>27</sup> The standard of review for factual findings is one of substantial evidence:

The Board of Adjustment or hearing officer shall defer to the findings of the lower administrative body regarding disputed issues of fact. Findings of fact adopted expressly or by necessary implication by the lower body shall be considered as true if they are supported by substantial evidence. . . . "Substantial evidence," as used in this section, means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.<sup>28</sup>

The substantial evidence standard requires the reviewer to uphold the original factual findings if they are supported by substantial evidence, even if the reviewer may have a different view of the evidence. "It is not the function of the [hearing officer] to reweigh the evidence or choose between competing inferences, but only to determine whether such evidence exists."<sup>29</sup>

#### C. Points on Appeal

Mr. Griswold filed his points on appeal on April 3, 2018.<sup>30</sup> They can be summarized as follows:

1. The Planning Commission is an advisory body which does not have the legal authority to approve CUPs.

<sup>&</sup>lt;sup>23</sup> HCC 21.93.030(a), HCC 21.93.500(a).

<sup>&</sup>lt;sup>24</sup> HCC 21.93.030, HCC 21.93.500(a).

<sup>&</sup>lt;sup>25</sup> HCC 21.93.510(a).

<sup>&</sup>lt;sup>26</sup> HCC 21.93.530 – 550.

<sup>&</sup>lt;sup>27</sup> HCC 21.93.540(d).

<sup>&</sup>lt;sup>28</sup> HCC 21.93.540(e).

<sup>&</sup>lt;sup>29</sup> Interior Paint Co. v. Rodgers, 522 P.2d 164, 170 (Alaska 1974).

 $<sup>^{30}</sup>$  AR 5 – 8.

- 2. The application did not provide the Planning Commission with enough evidence to meaningfully comply with the review requirements contained in HCC 21.71.030.
- 3. The City Planner's signature on the Planning Commission's decision was improper.
- 4. The Planning Commission erred when it did not limit the applicants to the three-minute time limit required of others.
- 5. The Planning Commission's required impartiality was compromised by the Planning Staff's report which resulted in a biased decision on the part of the Planning Commission.
- 6. The CUP process could not be used for a setback reduction.
- The Planning Commission erred when it considered the factors listed in the ordinance pertaining to CUPs, HCC 21.71.030, instead of considering the effects of the setback reduction.
- 8. The granting of the CUP was a "use variance" which violated AS 29.40 and HCC 21.72.
- 9. Substantial evidence does not support the Planning Commission's findings.
- 10. The finding that the proposed use is compatible with the purpose of the zoning district was erroneous.
- 11. The finding that the proposed use will not negatively affect adjoining properties greater than that anticipated from other permitted/conditionally permit uses in the district was erroneous.
- 12. The finding that the proposed use is compatible with existing uses of surrounding property was erroneous.
- 13. The finding that the proposed use would not be unduly detrimental to the desirable neighborhood character was erroneous.
- 14. The finding that the proposed use complied with applicable ordinances was erroneous.
- 15. Approval of the CUP violated HCC 11.80.110 and HCC 21.71.040(b)(13).
- 16. The finding that the proposed use was not contrary to the City of Homer's Comprehensive Plan was erroneous.
- The finding that the proposed use complied with the City of Homer's Community Design Manual was erroneous.
- 18. The addition of finding 11, being that the proposed use "will enhance the aesthetic environment" was erroneous.

19. The Planning Commission's decision failed to include a requirement that rental bikes displayed outdoors, outside of business hours, be screened from public view.

D. Analysis

Mr. Griswold's appeal points can be grouped into three categories: legal, procedural, and factual.

- 1. Legal challenges.
  - a. <u>Does the Homer Advisory Planning Commission have the legal</u> <u>authority to consider CUP applications (Appeal point 1)?</u>

Mr. Griswold argues that the inclusion of the word "advisory" in the Planning Commission's title renders it a purely advisory body without the requisite legal authority to hear and decide CUP applications.

The Alaska Supreme Court has expressly stated that "[t]he Kenai Peninsula Borough delegated to the City of Homer the zoning authority for areas within the City."<sup>31</sup> The City of Homer's ordinances state that "there shall be a Planning Commission established and functioning pursuant to Chapter 2.72 HCC."<sup>32</sup> In Chapter 2.72 of the city code, the City created the "Homer Advisory Planning Commission."<sup>33</sup> HCC 2.72.050, "Zoning powers and duties," states that:

a. The Homer Advisory Planning Commission shall exercise zoning authority delegated by the Borough Assembly:

\* \* \*

2. Act upon requests for PUDs, variances and conditional use permits. Consequently, because the Homer City Code expressly confers the Advisory Planning Commission with the authority to act upon requests for CUPs, Mr. Griswold's argument is not persuasive. The mere fact that the City of Homer chose to include the word "advisory" in its planning commission's title does not render it an advisory body. It has the legal ability to consider and act upon CUP applications.

> b. <u>Can a property owner receive a setback reduction through a CUP</u> (Appeal points 6 and 8)?

Mr. Griswold makes several arguments on this point. Two of the arguments have the same underlying premise: an application to allow a structure to encroach into a designated

<sup>&</sup>lt;sup>31</sup> Griswold v. City of Homer, 925 P.2d 1015, 1017 (Alaska 1996).

<sup>&</sup>lt;sup>32</sup> HCC 21.91.010.

<sup>&</sup>lt;sup>33</sup> HCC 2.72.010.

setback is a variance. He then argues that it would be a use variance and illegal, and also argues that it would need to be handled through the variance process rather than through the CUP process. He additionally argues that the HCC provision providing for the CUP process for a setback reduction is either invalid or is unconstitutional as applied.

#### Use Variance

i.

Mr. Griswold's argument is that the Reynolds' request for a setback reduction is an illegal use variance, which is disallowed under AS 29.40.040(b) to any other than a home rule city.<sup>34</sup> He cites to the *Alaska Planning Commission Handbook* in support of his argument. It should first be noted that the *Handbook* is not a statute or ordinance, instead it is a publication issued by the Alaska Department of Commerce and Economic Development as a nonbinding guide for local planning commission members.<sup>35</sup> Although quoting accurately from the *Handbook*, Mr. Griswold misapplies the explanation contained within the *Handbook* regarding use and area variances. "Area variances" provide "relief from setback ... and similar requirements and are permitted by AS 29.40.040(b)."<sup>36</sup> Because the Reynolds' application is one for a relief from a setback, it would therefore be an area variance under the definition provided in the *Handbook*, and allowable under AS 29.40.040(b).

#### *ii.* CUP versus Variance

Mr. Griswold follows up his argument on the variance issue to posit that because relief from a setback requirement is a variance, it is therefore reversible error for setback relief to be handled as a CUP instead

The City of Homer has chosen to enact specific ordinances relating to the CBD. Those set out a variety of outright permitted uses "except when such use requires a conditional use permit by reason of size, traffic volumes, or other reasons set forth in this chapter."<sup>37</sup> Retail businesses are included in the list of "uses [that] are permitted outright."<sup>38</sup> The HCC then provides a list of uses that specifically require a CUP, which includes recreational facilities, mobile home parks,

<sup>&</sup>lt;sup>34</sup> Homer is classified as a first-class city, not a home rule municipality. *See* <u>https://www.commerce.alaska.gov/dcra/DCRAExternal/community/Details/9c16b6f1-1486-4cf4-a1ff-21a74ecd4967</u> (date accessed August 10, 2018).

<sup>&</sup>lt;sup>35</sup> The Planning Commission Handbook is available online at: <u>https://www.commerce.alaska.gov/web/Portals/4/pub/Planning%20Commission%20Handbook%20Jan%202</u> 012.pdf (date accessed August 10, 2018).

<sup>&</sup>lt;sup>36</sup> Planning Commission Handbook, p. 68.

<sup>&</sup>lt;sup>37</sup> HCC 21.18.020.

<sup>&</sup>lt;sup>38</sup> HCC 21.18.020(a).

greenhouses, and other uses.<sup>39</sup> The next ordinance in the HCC provides that "all structures and uses" in the CBD are subject to a 20 foot setback requirement "except as allowed by subsection (b)(4) of this section."<sup>40</sup> That subsection specifically states that "[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."<sup>41</sup>

A review of the relevant ordinances shows that the City made a conscious choice to handle setback reduction in the CBD through the CUP process, rather than the variance process. This is well within the Planning Commission's authority. Accordingly, Mr. Griswold's argument is not sustainable.

#### *iii.* Is HCC 21.18.040(b)(4) invalid?

HCC 21.18.030 contains a list of "uses" which require a CUP to be permitted in the CBD. Mr. Griswold argues that this is an exclusive list for which CUPs are allowed in the CBD, and that as a result, HCC 21.18.040(b)(4), which allows a CUP to permit a setback reduction was invalid. These two ordinances do not conflict – and even if they did, the rules of statutory interpretation provide that "seemingly conflicting provisions must be harmonized unless such an interpretation would be at odds with statutory purpose."<sup>42</sup> Reading these two ordinances together, they show that a CUP can be used to not only allow the uses provided in HCC 21.18.030, but also to reduce setback requirements. It follows that HCC 21.18.040(b)(4) provides a valid mechanism whereby a CUP can be used to reduce setback requirements.

#### *iv.* Is HCC 21.18.040 unconstitutional as applied?

Mr. Griswold argues that HCC 21.18.040 was unconstitutional as applied in his briefing. However, he was unable to explain the underlying basis for his argument either in his brief or during oral argument. Instead, he cited to case law for the general proposition that otherwise constitutional laws could be unconstitutional as applied.<sup>43</sup> Because Mr. Griswold failed to articulate any facts or reasoning in support of this argument, it is waived.

<sup>&</sup>lt;sup>39</sup> HCC 21.18.030.

<sup>&</sup>lt;sup>40</sup> HCC 21.18.040(b)(1).

<sup>&</sup>lt;sup>41</sup> HCC 21.18.040(b)(4).

<sup>&</sup>lt;sup>42</sup> Davis Wright Tremaine LLP v. State, Dept. of Administration 324 P.3d, 293, 299 (Alaska 2014) (citation omitted).

<sup>&</sup>lt;sup>43</sup> See e.g., Mr. Griswold's post-appeal hearing request to supplement his briefing with a citation to *State v. ACLU of Alaska*, 204 P.3d 364, 372 (Alaska 2009).

# c. Did approval of the CUP violate HCC 11.08.110 and HCC 21.71.040(b)(13) (Appeal Point 15)?

HCC 11.08.110 is an ordinance that sets a general rule requiring a "minimum 20-foot building setback which shall apply to any property line abutting any dedicated road or street right-of-way." HCC 21.71.040(b)(13) is contained in the HCC Code Chapter which sets the general rules regarding the CUP application process.<sup>44</sup> It reads as follows:

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 relaxed by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alteration by conditional use permit.<sup>45</sup>

HCC 21.18.040(b)(4) expressly allows setbacks in the CBD to be reduced by CUPs. Reading these three ordinances together as a whole, both the general rules and specific rules for the CBD require a 20-foot setback, but because there is no "express" prohibition against it, the 20-foot setback requirement "may be made more lenient by" a conditional use permit. As a result, Mr. Griswold's argument on this issue is not supported by the HCC.

2. Procedural Challenges

Mr. Griswold makes four specific procedural challenges in his points on appeal. First, he challenges the Planning Commission's decision because it bears the City Planner's signature. Second, he challenges the public hearing process, alleging that it was impermissibly tainted because the applicants were allowed to speak more than the three minutes allotted other speakers by the Chair. Third, he argues that the CUP was defective because it did not include the condition that rental bicycles be screened from public view "when remaining outdoors outside of open business hours." Fourth, he argues that the Commission erred because it did not require fire marshal approval prior to issuing its permit.

# a. <u>The Planning Commission Decision (Appeal Point 3)</u>

The Planning Commission's decision which was issued on March 31, 2018, bears two signatures. The first signature is that of the Vice Chair Syverine Bentz. Below it is the signature of Mr. Abboud, the City Planner.<sup>46</sup> Mr. Griswold makes a general objection to the decision because it bears the City Planner's signature. The HCC requires that the Planning Commission

<sup>&</sup>lt;sup>44</sup> HCC 21.71.010 *et. seq.* 

<sup>&</sup>lt;sup>45</sup> HCC 21.71.040(b)(13).

<sup>&</sup>lt;sup>46</sup> AR 56.

"shall promptly issue written findings and reasons supporting its decision."<sup>47</sup> Because the Vice Chair signed the decision, the Planning Commission has complied with its duty to issue the written decision. The City Planner's signature does not demonstrate that the Planning Commission has not fulfilled its legal duty to issue a decision, or otherwise invalidate the decision.

#### b. Length of Comment Period (Appeal Point 4)

The Planning Commission meeting where the Reynolds' CUP application was considered occurred on March 7, 2018. The Planning Commission's agenda for that meeting, under Section 8 "Public Hearings," provides for a limit of three minutes per speaker, but specifically provides that "[t]he applicant is not held to the 3 minute time limit."<sup>48</sup> Mr. Griswold argues that this is discriminatory, prejudicial, and violates the equal protection afforded citizens under the United States Constitution, Amendment XIV.

This argument is not persuasive for at least two very simple reasons. First, Mr. Griswold did not attend the hearing. His objection to the CUP application were presented in writing. He cannot claim that his voice was limited or stymied by this time limitation. He was not personally prejudiced. Second, the only persons who spoke at the public meeting spoke in favor of granting the CUP application. There were no persons objecting to the application. Hence, Mr. Griswold cannot make a claim that the rights of citizens who were opposed to the application were limited or proscribed.

#### c. Outside Bicycle Storage (Appeal Point 19)

In the Planning Staff's report, it discusses under possible conditions for approval, the HCC requirement that "[p]roducts for sale may be displayed outdoors in unscreened areas only during the open hours of the business."<sup>49</sup> This would, as a logical consequence, require that products for sale that are stored outdoors outside of business hours be screened from view. The Planning Commission's decision did not explicitly require this as a condition of approval.<sup>50</sup> Mr. Griswold argues that this was error on the part of the Planning Commission.

However, failure to expressly list the screening requirement is not fatal to the permit. The screening requirement is listed in the HCC ordinances for the CBD under "Nuisance standards."<sup>51</sup>

<sup>&</sup>lt;sup>47</sup> HCC 21.71.050(b).

<sup>&</sup>lt;sup>48</sup> AR 9.

<sup>&</sup>lt;sup>49</sup> AR 14, citing to HCC 21.18.080(b).

<sup>&</sup>lt;sup>50</sup> AR 55 – 56.

<sup>&</sup>lt;sup>51</sup> HCC 21.18.080(b).

It follows that failure to adhere to this requirement would constitute a nuisance and subject to an enforcement action under HCC 21.90 "Administration and Enforcement." It was not necessary to specifically include this condition, because it is already part of the general conditions that business owners in the CBD are required to comply with.

# d. <u>Fire Marshal Approval</u><sup>52</sup>

The Planning Commission's decision did not add a requirement that the Reynolds' renovation receive Fire Marshal approval. Mr. Griswold argues that this was an error. It should be noted that Mr. Reynolds stated, at the public hearing, that an application had been filed with Homer Fire Chief.<sup>53</sup> The Homer Volunteer Fire Department Interim Chief had "no comments with regard to public safety or fire department access."<sup>54</sup> As with the screening requirement, this was not a condition that the Planning Commission needed to explicitly include as a condition of approval. Fire Marshal approvals are a matter of state law, which the Planning Commission cannot waive.<sup>55</sup>

#### 3. Factual Arguments

Mr. Griswold's factual arguments can be divided into three categories. First, he generally argues the Reynolds did not present enough evidence from which the Planning Commission could make its decision (Appeal Points 2 and 9), and then addresses individual factual findings (Appeal Points 10 - 14, 16 - 19). He additionally argues that the Planning Commission erred in that it did not consider the effect of the CUP on the setback itself (Appeal Point 7). Third, he argues that the Planning Commission was itself biased, or that its decision was biased (Appeal Point 5).

a. <u>Overall Adequacy of the Evidence (Appeal Points 2 and 9)</u>

In order to receive a CUP, "[t]he applicant must produce evidence sufficient to enable meaningful review of the application." The Reynolds' application showed the current building, its orientation to the street, its existing distance in relation to the required setback, the design of the proposed renovations to the building, how those renovations would appear from the street and from the side, and how they would encroach into the required setback. This provides sufficient evidence to evaluate a simple request, the renovation of the frontage of an existing building,

<sup>&</sup>lt;sup>52</sup> This issue was not raised as part of Mr. Griswold's points on appeal. Nor was it arguably included in them. However, because it was addressed in Mr. Griswold's Opening Brief, p. 21, it is addressed.

<sup>&</sup>lt;sup>53</sup> AR 51.

<sup>&</sup>lt;sup>54</sup> Planning Staff Report, AR 15.

<sup>&</sup>lt;sup>55</sup> 13 AAC 50.027.

specifically adding a covered porch along the front of the building for rental bike storage and extending the front entrance, including changing the doorway orientation so that it faced directly onto Pioneer Avenue.

The additional information presented to the Planning Commission at hearing consisted of the Reynolds' statement, the statements by three community members, an email from one of the neighboring businesses, the Planning Staff report, and Mr. Griswold's written objections. This provided additional information upon which the Planning Commission could evaluate the application.

Mr. Griswold, however, challenges specific findings, and his arguments regarding the adequacy of the evidence (Appeal Point 2) and the lack of substantial evidence supporting the Planning Commission's findings (Appeal Point 9), are best addressed by dealing with his specific objections, rather than addressing them in general terms.

## *i.* Factual Finding No. 2 (Appeal Point 10)

One of the criteria for review of a CUP is whether the "proposed use(s) and structure(s) are compatible with the purpose of the zoning district."<sup>56</sup> The Planning Commission's Finding 2 provides that "[t]he proposal is compatible with the purpose of the zoning district."<sup>57</sup> Mr. Griswold argues that finding is erroneous because the Planning Commission "failed to identify what the purposes of the CBD zoning district are or provide any basis for this finding."<sup>58</sup>

Mr. Griswold's argument ignores the Planning Commission's Finding 1, which specifically references the ordinance which discusses what uses are permitted in the CBD.<sup>59</sup> It also ignores the fact that the Planning Commission approved the staff report, which contained a short discussion of both the purpose of the CBD and how the Reynolds' business, being a retail, rental, and tour business fit within the purposes of the CBD.<sup>60</sup> As a result, there is substantial evidence demonstrating that the Planning Commission identified the purposes of the CBD zoning district and provided the basis for the finding that the Reynolds' use and structure was compatible with the purpose of the CBD.

<sup>&</sup>lt;sup>56</sup> HCC 21.71.030(b).

<sup>&</sup>lt;sup>57</sup> AR 54.

<sup>&</sup>lt;sup>58</sup> Mr. Griswold's Opening Brief, p. 14.

<sup>&</sup>lt;sup>59</sup> AR 54.

<sup>&</sup>lt;sup>60</sup> AR 11 (Planning Staff Report), AR 52 (Public Hearing Minutes).

#### *ii.* Factual Finding No. 3 (Appeal Point 11).

One of the criteria for review of a CUP is whether the proposed use will not negatively affect the value of the adjoining property more than it would be by other "permitted or conditionally permitted uses in [the] district."<sup>61</sup> Mr. Griswold argues that the Planning Commission's Finding 3 to this effect was erroneous, and that it failed to identify what other uses it considered.

Mr. Griswold's argument ignores the evidence showing that the Reynolds were renovating a dilapidated previously vacant building, that a directly adjacent business (The Homer Bookstore) described as an "eyesore" and that the public testimony described as a "derelict building." This mere fact leads to a reasonable conclusion that the encroachment into the setback to accomplish the renovation would only increase the subject property's value and would not negatively affect the value of adjoining properties. The Reynolds' application itself, the public testimony, and the Planning Staff report, which was approved by the Planning Commission, all provide substantial evidence supporting this finding. In addition, the Planning Staff report notes that other conditionally permitted uses in the CBD such as mobile home parks and auto fueling stations would negatively affect adjoining properties more than the Reynolds' use.<sup>62</sup> Consequently, there is substantial evidence supporting this finding.

#### *iii.* Factual Finding No. 4 (Appeal Point 12)

One of the criteria for review of a CUP is whether the "proposal is compatible with existing uses of surrounding land."<sup>63</sup> Mr. Griswold argues that the Planning Commission's Finding 4 to this effect was erroneous, and that it failed to identify what effects were considered or if they were desirable or not.

The Planning Staff report, which was approved by the Planning Commission, specifically noted that "[t]he proposal is compatible with other nearby buildings that have covered outdoor spaces and entrances that face the street including the Salvation Army, the Homer Bookstore, and Bay Realty."<sup>64</sup> The Planning Staff report further noted that a nearby building had a covered entrance approved within the setback.<sup>65</sup> Consequently, there is substantial evidence supporting the finding that the Reynolds' proposal was "compatible with existing uses of surrounding land."

<sup>&</sup>lt;sup>61</sup> HCC 21.71.030(c).

<sup>&</sup>lt;sup>62</sup> AR 11.

<sup>&</sup>lt;sup>63</sup> HCC 21.71.030(d).

<sup>&</sup>lt;sup>64</sup> AR 12.

<sup>&</sup>lt;sup>65</sup> AR 12.

#### iv. Factual Finding No. 6. (Appeal Point 13)

One of the criteria for review of a CUP is whether the "proposal will not cause undue harmful effect upon desirable neighborhood character."<sup>66</sup> Mr. Griswold argues that the Planning Commission's Finding 6 to this effect was erroneous.

The ordinance lists elements including "scale, bulk, coverage, ..., density, ... traffic, the nature and intensity of the proposed use, and other relevant effects."<sup>67</sup> The Planning Staff report, under the "Applicant" section specifically mentions that "[t]he additional traffic generated should not negatively affect the neighborhood and will be comparable to when the property was last in use as a pawn shop, and to other neighboring businesses."<sup>68</sup> The Planning Staff analysis provides:

[t]he nature and intensity of the proposal will not significantly affect the scale, bulk, coverage and density of the site. The proposed covered outdoor space and entry way will be in harmony with other facades along Pioneer Avenue, including the adjacent covered porches of the Salvation Army and the Homer Bookstore.<sup>69</sup>

The record therefore shows that the applicants and the Planning Staff presented evidence to the Planning Commission which demonstrated that the ordinance's review criteria was satisfied. As a result, there is substantial evidence which supports this factual finding.

## v. Factual Finding No. 7<sup>70</sup>

One of the criteria for review of a CUP is whether the proposed use "will not be unduly detrimental to the health, safety, or welfare of the surrounding area of the City as a whole."<sup>71</sup> Mr. Griswold argues that the Planning Commission's Finding 7 to this effect was erroneous. In part, his argument is based on his interpretation of the relevant ordinances governing setbacks. Those are addressed in 1(b) above.

Mr. Griswold then argues that "allowing an 8-foot encroachment into the [20-foot setback] would harm public health, safety, and general welfare."<sup>72</sup> The evidence in front of the Planning Commission shows that the business is a bicycle retail, rental, and tour business, that wanted to renovate its exterior. The evidence, as discussed above, shows that the renovations would greatly

<sup>&</sup>lt;sup>66</sup> HCC 21.71.030(f).

<sup>&</sup>lt;sup>67</sup> HCC 21.70.030(f).

<sup>&</sup>lt;sup>68</sup> AR 12.

<sup>&</sup>lt;sup>69</sup> AR 12.

<sup>&</sup>lt;sup>70</sup> Mr. Griswold did not directly raise the validity of this factual finding in his points on appeal (AR 4 - 8). However, he raised it in his Opening Brief, p. 15, and indirectly raised it in his Appeal Point 7, where he argued that violated "HCC 21.71.030(c) (d)(f)(g)." (AR 6). Accordingly, it is addressed.

<sup>&</sup>lt;sup>71</sup> HCC 21.71.030(g).

<sup>&</sup>lt;sup>72</sup> Mr. Griswold's Opening Brief, p. 15.

approve its street appearance, and it would not affect traffic or safety issues. In contrast, there was no evidence that the proposed use would harm "health, safety, or welfare" of either the CBD or the City. In short, there was substantial evidence that supported this finding.

## vi. Factual Finding No. 8 (Appeal Point 14)

One of the criteria for review of a CUP is whether the proposed use will comply with the city code.<sup>73</sup> Mr. Griswold argues that the Planning Commission's Finding 8 "[f]ollowing CUP approval and issuance of a zoning permit, this proposal will comply with applicable regulation of HCC Title 21"<sup>74</sup> to this effect was erroneous. This is more of a legal argument than a factual argument. It is dealt with in section 1(b) above, which concludes that the pertinent portions of the HCC allow use of a CUP to reduce the 20-foot setback requirement.

## vii. Factual Finding No. 9. (Appeal Point 16)

One of the criteria for review of a CUP is whether the proposed use will "not be contrary to the applicable land use goals and objectives of the Comprehensive Plan."<sup>75</sup> Mr. Griswold argues that the Planning Commission's Finding 9 to this effect was erroneous in that the Planning Commission did not identify the requisite goals and did not try to determine if the proposed use was contrary to them.

The Planning Staff report, which was approved by the Planning Commission, specifically refers to components of the Comprehensive Plan, and states that there is no evidence that the proposal is contrary to them.<sup>76</sup> The Planning Commission is also presumably aware of the Homer Comprehensive Plan<sup>77</sup> Given the evidence in this case, including the Planning Staff report, and the information presented regarding the Reynolds' site plans, there was substantial evidence supporting this finding.

#### viii. Factual Finding No. 10 (Appeal Point 17)

One of the criteria for review of a CUP is whether the proposed use will "comply with all applicable provisions of the Community Design Manual."<sup>78</sup> Mr. Griswold argues that the

The Homer Comprehensive Plan is available online at <u>https://www.cityofhomer-ak.gov/planning/comprehensive-plan-2008-adopted-2010</u> (date accessed August 10, 2018). The Planning Commission was actively involved in its development. See Homer Comprehensive Plan, Foreword, pp. i – v. HCC 21.71.030(i). The Community Design Manual for the City of Homer is available online at <u>https://www.cityofhomer-ak.gov/planning/community-design-manual</u> (dated accessed August 10, 2018).

<sup>&</sup>lt;sup>73</sup> HCC 21.71.030(h).

<sup>&</sup>lt;sup>74</sup> See AR 55.

<sup>&</sup>lt;sup>75</sup> HCC 21.71.030(i).

<sup>&</sup>lt;sup>76</sup> AR 13.

Planning Commission's Finding 10 to this effect was erroneous. As part of his argument, Mr. Griswold again posits that reducing a setback is not allowed, a point which has already been addressed.

The Planning Staff report, which was approved by the Planning Commission, specifically refers to the applicable provisions of the Community Design Manual, and states that the Reynolds' proposal comports with them. It includes a condition that outdoor lighting must be compliant with the Community Design Manual.<sup>79</sup> In addition, the Planning Commission had the Reynolds' application in front of them, which included design plans for the proposed renovations that encroached on the setback. The Planning Commission had adequate evidence to make this finding, *i.e.*, the finding is supported by substantial evidence.

#### ix. Factual Finding 11 (Appeal Point 18)

Mr. Griswold objects to the Planning Commission's finding 11, which provides:

[t]he proposed activity will enhance the aesthetic environment of the community, providing gracious human scale entryways and public ways orienting the entryway toward the street.<sup>80</sup>

Mr. Griswold argues that adding this finding violates HCC 21.71.030 and 21.71.050(b). HCC 21.71.030 contains the mandatory review criteria to be used for CUPs. HCC 21.71.050(b) simply requires that the Planning Commission issue "written findings and reasons supporting its decision." Neither of these two ordinances proscribe the addition of additional findings that supplement those required under HCC 21.71.030.

#### b. <u>Did the Planning Commission Fail to Consider the Effect of</u> the Setback Reduction (Appeal Point 7)?

Mr. Griswold argues that the Planning Commission approached its analysis of the review criteria contained in HCC 21.71.030(c),(d),(f), (g), (i),<sup>81</sup> and "related criteria" from the wrong vantage point, by focusing on the request's effect on the neighborhood, etc., rather than its effect on the setback. A review of Mr. Griswold's written presentation to the Planning Commission reveals two primary arguments on this point. The first is that a setback reduction is not a "use" which can be dealt with under the CUP process. This argument, as discussed in section 1(b) above, is not supported by a review of the Homer City Code.

<sup>&</sup>lt;sup>79</sup> AR 13 – 14.

<sup>&</sup>lt;sup>80</sup> AR 56.

<sup>&</sup>lt;sup>81</sup> The points on appeal do not mention HCC 21.71.030(i). This appears for the first time in Mr. Griswold's Opening Brief, p. 12.

Mr. Griswold's second argument on this point is that the underlying purposes of setbacks are to provide protection to the public through control of traffic, designs of entrances and exits to the property, and provide drainage. He states "[s]tructures in close proximity to dedicated rights-of-way hamper snow removal operations and affect drainage to and from the streets."<sup>82</sup>

It should first be noted that this CUP application does not involve any change to ingress and egress to the property. The City Planner specifically responded to Mr. Griswold's written comments during the Planning Commission meeting. He stated that Mr. Griswold failed to show how the proposal would affect snow removal and drainage, and that he evaluated the property to see if there would be a problem with the "line of sight for pedestrians and cars pulling onto the highway" but found "no apparent safety issues."<sup>83</sup> Both Mr. and Ms. Reynolds also spoke regarding the line of sight issue and opined that they did not think there would be a problem. Mr. Reynolds thought that the proposed porch addition, with its roof and gutter, would improve drainage. Ms. Reynolds thought that they had already improved the line of sight by removing trash and rosebushes in the front of the building and that snow removal was not an issue.<sup>84</sup>

To the extent that Mr. Griswold's argument is a factual one, there is substantial evidence showing that Mr. Griswold's concerns regarding the effect of the encroachment into the setback was presented to and responded to before the Planning Commission. The Planning Commission's written decision specifically mentions, under the "Evidence Presented" heading, a summary of the evidence recited immediately above. The evidence therefore shows that the effect of the proposed encroachment on that setback was presented to the Planning Commission. It should be noted that the ordinance which sets out the required review criteria, HCC 21.71.030, does not require a specific factual finding on this factual issue.

#### c. <u>Bias (Appeal Point 5).</u>

Mr. Griswold's briefing contains numerous references to "bias." However, he has not made any factual averments that the Planning Commission members were themselves biased. Instead, he argues that the drafting of the Planning Staff report and its approval by the Planning Commission is proof of bias. However, the review of CUP applications for completeness is part of the City Planner's mandatory duties, as is administering and enforcing the zoning code,

<sup>&</sup>lt;sup>82</sup> Mr. Griswold's Opening Brief, p. 6.

<sup>&</sup>lt;sup>83</sup> Planning Commission Minutes, AR 50.

<sup>&</sup>lt;sup>84</sup> Planning Commission Minutes, AR 50.

including processing all zoning applications.<sup>85</sup> The Staff Report simply contains a report of staff's view of an application. Nothing constrains or requires that the Planning Commission adopt its findings and conclusions.

Mr. Griswold then points to several other items that he considered indicia of bias or a failure of the Planning Commission to fully exercise its duties. First, he notes the fact that the City Planner's signature is on the Planning Commission's decision. As discussed above, this does not vitiate the decision, which is signed by the Vice Chair of the Planning Commission. Second, he points to the fact that this was a brief hearing overall, having lasted only one hour and five minutes.<sup>86</sup> Third, he argued that the Commission did not enter executive session and could have drafted its own decision.

However, this was a simple case involving the renovation of the frontage of a preexisting building. The Planning Commission was apparently satisfied with the information it received from the application, the Planning Staff, and the public. The fact that Mr. Griswold disagreed with the result of the public process is not sufficient to demonstrate bias.

#### IV. Summary

This case presented numerous allegations of error. A review of those allegations demonstrates that all of them lacked either a legal or a factual basis. The Homer City Code created a Homer Advisory Planning Commission with the legal authority to consider, grant, or deny applications for Conditional Use Permits. The Homer City Code specifically provides that an applicant in its Central Business District can request and receive leave to reduce the otherwise required 20-foot setback requirement. This is handled through the Conditional Use Permit process. The Homer City Code provides an explicit list of conditions which must be considered by the Planning Commission in deciding whether to grant or deny the application. There is substantial evidence in the record demonstrating that the Planning Commission did consider the relevant factors and substantial evidence that supports its findings on those conditions. Finally, there is nothing in the record that shows the process was flawed, or that the Planning Commission's decision in favor of the Reynolds was biased.

<sup>&</sup>lt;sup>85</sup> HCC 21.71.020, HCC 21.71.050(a), HCC 21.90.020(b) and (c).

<sup>&</sup>lt;sup>86</sup> See AR 58 – 59.

#### V. Conclusion

The decision of the Homer Advisory Planning Commission dated March 22, 2018, which granted Conditional Use Permit 2018-02, is upheld.

DATED: August 14, 2018

Lawrence A. Pederson Administrative Law Judge

# NOTICE OF APPEAL RIGHTS

This is a final decision. If you wish to appeal this decision, you must file an administrative appeal to the Alaska Superior Court, within 30 days from the date this decision is distributed to you. *See* HCC 21.91.130 and Alaska Rule of Appellate Procedure 602.

The undersigned certifies that this is a true and correct supy of the original and that on this date an exact copy of the foregoing was provided to the following individuals Dereck Reynolds (by email) Frank Griswold Loyema MellssaJacobson (by emain Rick Abboud C buer Signature O Date

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