

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.** Dec. 2, 2016 HAPC minutes **Page 1**
 - B.** Bayview Subdivision 2013 Replat time extension request **Page 15**
 - C.** Tulin Terrace Subdivision, East Tulin Addition time extension request **Page 19**
 - D.** Lillian Walli Estates Plat Note Removal **Page 23**
 - E.** Decision and Findings for CUP 15-06 at 4242 Calhoun St. **Page 35**
 - F.** Decision and Findings for CUP 15-07 at 1242 Ocean Dr. **Page 41**
- 6. Presentations:** None
- 7. Reports:** Staff Report PL 16-01 City Planner's Report **Page 47**
- 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 16-02 Zoning for Marijuana **Page 49**
- 9. Plat Consideration:** None
- 10. Pending Business:** Staff Report PL 16-03 Towers **Page 83**
- 11. New Business:** None
- 12. Informational Materials**
 - A.** City Manager's Report, December 7, 2015 **Page 145**
 - B.** Letter from Chad Jones Re: Hickerson Memorial Cemetery Expansion Concerns **Page 147**
- 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:** Next regular meeting is scheduled for January 20, 2016. A work session may be held at 5:30 pm. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.

Session 15-18, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Don Stead at 6:33 p.m. on December 2, 2015 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS ERICKSON, HIGHLAND, BRADLEY, STEAD, STROOZAS,
AND VENUTI

ABSENT: COMMISSIONER BOS (EXCUSED)

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK KRAUSE

APPROVAL OF AGENDA

Chair Stead requested a motion to make the changes as requested by the City Planner.

ERICKSON/VENUTI - MOVED TO AMEND THE AGENDA TO REMOVE STAFF REPORT PL 15-80, ZONING FOR MARIJUANA FROM PUBLIC HEARINGS ITEMS 8 C TO PENDING BUSINESS ITEM 10 A AND STAFF REPORT PL 15-83 TOWER CONSIDERATIONS TO PENDING BUSINESS ITEM 10 B.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Stead called for a motion to approve the amended agenda.

STROOZAS/BRADLEY - SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENT

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

Chair Stead opened the floor for public comment on regular agenda items.

Kevin Dee, resident, commented on Pending Business Item 10 B. Towers Considerations; he appreciated the information included in the packet, complimented the City Planner for providing the information from the Municipal Solutions Group that points out the technical aspects of towers that really need to be reviewed by experts. He appreciated the graphical evidence in the report showing manipulated propagation map, collapsed towers and all the rest. With the reduced budgets of the Planning Department have the tower companies who want to put up a tower pay for analysis of their proposals; he appreciates the ordinance requiring a technical review and many of the requirements in the model ordinance submitted by Municipal Solutions.

City Planner Abboud reminded the audience that the commission has removed the Public Hearing Item on Marijuana Zoning since it was not noticed properly and this is the time to comment on that topic.

George Frazier, resident, commented that he is a trained industry professional and looking forward to the progress of the cannabis industry developing on the lower Peninsula.

RECONSIDERATION

ADOPTION OF CONSENT AGENDA

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

A. Approval of the minutes of November 4, 2015 meeting

Chair Stead requested a motion to approve the consent agenda.

HIGHLAND/BRADLEY - SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PRESENTATIONS

REPORTS

A. Staff Report PL 15-77, City Planner's Report

City Planner Abboud provided a summary of his report. He noted the following:

- the Public Hearing for Marijuana Zoning did not get properly advertised, if any changes are made tonight then a second public hearing will be held at the January 6, 2016 regular meeting of the commission.
- City Council passed the ordinance for Bridge Creek
- City Council also discussed how the HART Funds were allocated regarding sidewalk down Soundview and the Planning Commission may be asked to review policy at some point.
- The Chamber of Commerce will be installing an informational kiosk at the Baycrest Overlook. This has been in the works for a few years.
- The All Hazard Mitigation Plan is posted on the Planning webpage for comment and review. Council person Reynolds continues to provide the Council with updates and will be sponsoring a resolution in January to adopt the plan.
- If you will not be here for the January 6th meeting please let staff know.
- Interesting and informational annual conference this year, they also had a presentation by Cynthia Franklin with the Marijuana Control Board.

PUBLIC HEARINGS

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

A. Staff Report PL 15-78, Conditional Use Permit 15-06, 4242 Calhoun Street Construction of Four (4) Duplexes in the Urban Residential District

Chair Stead read the item into the record. Commissioner Venuti declared a possible conflict of interest.

STROOZAS/BRADLEY - MOVED THAT COMMISSIONER VENUTI HAS A CONFLICT.

A brief discussion on the limits of monetary gain for Commissioners and if Mr. Venuti had reached those levels ensued.

VOTE. NO. HIGHLAND, BRADLEY, ERICKSON, STEAD, STROOZAS

Motion failed.

Commissioner Erickson disclosed that she may have a conflict of interest as they are family friends.

Commissioner Stroozas asked if Commissioner Erickson if she was unable to provide an unbiased decision.

HIGHLAND/VENUTI - MOVED THAT COMMISSIONER ERICKSON MAY HAVE A CONFLICT.

There was a brief discussion.

VOTE. NO. STROOZAS, VENUTI, STEAD, BRADLEY, HIGHLAND

Motion failed.

City Planner Abboud reviewed his report for the record noting the following:

- 4 duplexes for a total of 8 dwellings
- Total of 1.89 acres/82,328 sf
- Zoning is Urban Residential
- Existing land is vacant
- Residential Areas and Vacant land surround this parcel
- No designated wetlands
- Flood Hazards are undetermined
- Notice was sent to 50 property owners
- City Utilities are available
- Not within the Bridge Creek Watershed Protection District

The applicant proposes to build four buildings. Each building will have two dwellings for a total of eight. There will be two designs/styles. Two structures will have single story units and two structures will have a one story structure and a two story structure.

Total Floor area is 10,888 sf which is under the 40% requirement. Staff has calculated the open area as more than 61,000 sf. This proposal provides ample open space and exceeds the requirement. The value of the adjoining property will not be negatively affected than any other permitted or conditionally permitted uses in the district. The surrounding properties are mainly single family homes on 9,000 to 20,000 sf lots. The proposed development is approximately one dwelling per 10,000 sf so the density is very similar. This is compatible with existing uses in the area and requiring connection to city services of water and sewer. This development is not expected to cause a greater amount of traffic. There is a down lit lighting requirement. The developer plans to leave as many trees as possible and is working closely with the city Public Works department.

Chair Stead asked if the applicant was present and wished to speak at this time.

Josiah Fisher, applicant, stated he was interested in hearing everyone's opinion, he has no plans to ruin the neighborhood and plans to preserve the vegetation and trail as much as possible.

Commissioner Highland requested information on the effects of the proposed project on the trail if any.

Mr. Fisher responded that he is required to construct a 20 foot wide driveway. The city also has specific areas and placement for the utilities.

Chair Stead opened the public hearing.

Justin Wickstrom, property owner resident on Svedlund Circle, his property borders the proposed development, expressed concerns regarding how it will be developed, rentals versus single family

homes, losing the value to his property, he recommends fencing to border the property, and creating more traffic in the area.

Patrick Church, resident Calhoun Court, commented that the proposed duplex complex and the impact on the immediate neighborhood please consider the following conditions regarding items 5 and 6 of Analysis, page 13 of the application:

1. That the Conditional Use Permit presupposes that the permit is conditional as the name implies.
2. That the proposed 20 foot driveway be constructed at the east side of the 60 foot right-of-way to minimize any conflict with the existing trail.
3. That the provisions are adopted to provide for Calhoun Trail to be suitably re-located west if Calhoun Trail is affected by the driveway placement and snow removal or berms.
4. That being Calhoun Street is not a through street, a 10 mph speed limit be placed on its vehicular traffic.
5. That planning is necessary to determine that the project needs further study regarding due consideration given to the preservation of access and current usage of Calhoun Trail without vehicular interference or contact with pedestrians before the CUP is granted.

As a concerned citizen living within 300 feet of the proposed project I ask that these conditions be considered and approved and believe that there will be less impact on the community. He additionally asked if there would be any additional hearings for this CUP. Mr. Church then continued on specific measurements for the trail.

Beth Cumming, resident on Gavin Court, commented regarding increase in population density not being appropriate within the surrounding area. The proposal reduces the area per family to 1/3 to 1/4 acre; she also had concerns about renters versus homeowners. It has been proven that renters have less concern over the property than owner occupied homes. This land has no covenants; she referenced the covenants of nearby similar neighborhoods and noted that beyond this meeting this matter will not go before the council.

Rick Foster, member of the Borough Planning Commission, former Planning Commissioner, reminded the commission that this commission can make any reasonable requirement such as painting all houses pink. The previous city attorney stated that as long as you have good reasons for those conditions.

Mike Dye, resident, commented that he did not believe that this issue has not been properly reviewed. He cited the population density being over the neighborhood needs and four duplexes is more than what is needed for this area. He referred to comments in the packet regarding that this issue needs additional analysis before moving forward. The comparative use of a railroad was not appropriate. Mr. Dye questioned the property access from Danview over Bayview. The neighborhood concerns should be considered over the property developers. He was not sure why they were going out of their way to avoid well developed processes. He additionally questioned the trail and effect on the project.

Beau Burgess, resident, owner of the adjoining lot, he responded to a question of closing the trail he would not want to see that closed either. He has personally spoken to Public Works and they are specific that the driveway be 20 feet and centered in the PW is very specific for safety reasons; accessing from Bayview instead Danview is the distance is shorter and thus less impact on the trail. He felt that the applicant has been very careful in planning. He requested the property owners consider the larger issues, this is urban residential and as such this should be the highest density area of the city and they lack housing. Mr. Burgess also spoke on the density issues and noted that the project has the same overall density as every surrounding property.

Jenny Medley, resident, understands the value of owner occupied however Homer has a distinct shortage of nice rental properties that are within walking distance of all the great things that make Homer great. There are a number of young people that live outside the city, paying high rents for tiny cabins and no utilities. She believed that this would be a good thing to have.

John Thompson, resident on Svedlund Circle, commented on the fencing in the east side and south side of the property and wanted to know what the height of the fencing would be, he has 250 feet

bordering this property and does not want to put up with people who cut across his property, Mr. Thompson also expressed concerns regarding concerns regarding lighting.

Carol Standart, resident, expressed concerns with lighting since this will be in her backyard, and she heard that the project may eliminate the trail. She cannot tell from the plans how all the trees will be saved.

Carol Coleman, resident on Bayview, opposed against having renters and losing the use of property as a playground for their kids. She was opposed to the unknown behaviors of the renters children and the property having no covenants when they have strict ones.

Michelle Lennan, resident, commented knowing that when she bought her home someone would build a home there but building multi-family homes for people who don't value the property as much as a single family home owner would and she also expressed concern on losing the trail.

Kristy Wickstrom, resident, maps received don't show the correct property lines, one corner of her property butts up to this project, she is not opposed to development but she disagrees that there will be no negative impact on the area which she disagrees. There will be 8 additional families, possibly 16 additional vehicles, she noted that some renters really take care of their homes but most don't and she has a preference single family. Mrs. Wickstrom acknowledged the need for housing but not in her back yard and not four duplexes, two she could support.

Catriona Reynolds, resident, wanted to put a green dot on this meeting and commented that renters are people that need homes too and can be just as good neighbors as anyone else and to categorize renters as what kind of families we don't know what they are, she thinks is very disappointing and not something she is proud of her community.

Lindianne Sarno, resident, commented on trails, safety, the common theme that is coming through is to continue to develop the charm and safety of Homer. The solution is taking an endless progression of single family homesteads throughout the neighborhoods forever which becomes a foundation powered by the young people who want to create homestead businesses, incubating small businesses, empowering them to do for the community on this charming landscape, it is not safe, this is a scary place for a kid, she appreciates the efforts to build the bridges of Homer.

Seeing no more public comment Chair Stead closed the public hearing.

Rebuttal to comments made during Public Hearing:

Josiah Fisher, applicant, stated he has lived in a couple of neighborhoods in Homer, plans to reside in one of the units that will be built. He plans to enact very strict rental agreements which will be rigorously enforced. He understood the concerns expressed on the unknowns with tenant behavior. This is less density than current lots on Bayview.

Commissioner Questions, Comments, Concerns:

Commissioner Erickson questioned the following: drainage issues on the property, type of renter will be targeted; and if the applicant was related to Timothy Fisher?

Mr. Fisher commented that the planned 3 bedroom unit in the far northeast unit is for his family; six of the units are two bedroom, and are more for the older renters and single professionals. He has expended time in planning diligently to address drainage issues and he stated he is not related to Timothy Fisher.

Commissioner Highland requested clarification on the placement of the driveway in relation to the trail. Mr. Fisher using the large map showed that it would proceed north in the middle of the easement/trail, utilities will be placed underground, there should be room but it is up to the public

works department as to determine the location of the driveway within the area indicated. Mr. Church requested by the Commission, using the map assisted by indicating where the trail was according to the information he provided. Mr. Fisher noted that he will build the driveway wherever the Commission dictated.

Commissioner Highland stated for clarification that the parcel is 1.88 acres, there will be 4 duplexes which she is aware that it make it appear to present a higher density, but does not and the district allows this project by the conditional use process, and the City Planner has shown that there is ample room. Chair Stead requested a motion so they can discuss this application.

VENUTI/HIGHLAND - MOVED TO ADOPT STAFF REPORT PL 15-78, CUP 15-06 FOR FOUR DUPLEXES AT 4242 CALHOUN STREET.

Discussion on the placement of the driveway and preserving the existing trail; making conditions for the developer; requiring offsite improvements to have the trail and driveway co-exist; buffer concerns; lighting requirements; a phased project build-out but application is for the entire project to go through the process one time ensued.

HIGHLAND/VENUTI - MOVED AMEND THE MOTION TO ADD THE REQUIREMENT THAT THE OWNER/DEVELOPER WORK WITH PUBLIC WORKS TO DEVELOP A DRIVEWAY TO COEXIST WITH THE TRAIL ON CUP 15-06.

There was a brief discussion and clarification on the intent of the motion.

VOTE. (Amendment) YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Venuti commented on the resistance to tenants and acknowledged the existing large multiple family rental units in the area and is of no concern. He further stated that due to economic circumstances some persons must rent and there is no detriment to the community. This would not be unique to the area.

Commissioner Stroozas echoed the sentiment regarding renters and noted the Coast Guard housing nearby.

Commissioner Bradley reiterated the comments of Commissioner Highland and others that this project fits perfectly and is in favor of rental housing and there is a great need in Homer. This project is in alignment with the goals for the area and on a personal note she would be a perfect candidate since she is a young professional having a graduate degree and would rent one of these units.

Commissioner Stroozas commented on the opposition of this project by residents and that the commission must follow what the City Code says and since this project falls within the code they have no reason to deny the permit.

Chair Stead requested clarification on high the fence and type is planned for the project. Mr. Fisher responded that he will build it as high and as long as allowed. It will be a wood privacy fence at least 5 foot in height. He stated that the fence is to keep his kids from other property owners yards.

Commissioner Erickson asked if the CUP stays with the property if it is sold in the future.

City Planner Abboud responded that it generally stays with the property unless they add a sunset clause but they do not generally use sunset clauses here. He responded to Commissioner Stead regarding fencing and maintaining such fencing.

STROOZAS/HIGHLAND - MOVED TO AMEND THE MOTION THAT CONDITION THREE BE ADDED THAT THE APPLICANT BE REQUIRED TO ERECT A FENCE ALONG THE ENTIRE EAST SIDE OF THE PROPERTY.

Discussion ensued regarding adding a height requirement for the fence. The commission requested input from the applicant that the area motioned to be fenced is filled with very dense trees and would advocate for fencing up to the trees.

HIGHLAND/ VENUTI - MOVED TO AMEND THE AMENDMENT TO INCLUDE, INSTALLATION OF A FIVE FOOT FENCE FROM THE SOUTHEAST CORNER TO THE TREES THAT PROVIDE AN IMPASSABLE BARRIER ON THE EAST SIDE.

There was no additional discussion.

VOTE. (Amendment to the Amendment) YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Stead asked for any additional amendments or discussion on the amended motion.

VOTE. (Amendment). YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Stead then asked if there was any additional discussion on the issues of lighting. There was a brief discussion on lighting which the City Planner stated is included in the staff recommendation.

Commissioner Erickson asked about inclusion of a sunset clause. City Planner Abboud was not supportive of including a sunset clause.

Chair Stead asked the Clerk to do a roll call vote.

VOTE. (Main as Amended) YES. HIGHLAND, BRADLEY, ERICKSON, STEAD, VENUTI, STROOZAS

Motion carried.

B. Staff Report PL 15-79 Vacation of Easement - Waddell Way/HEA

Chair Stead read the item into the record. City Planner Abboud reviewed his report noting the following:

- Vacation of an Easement at Waddell Way and Lake Street
- Central Business District
- Notice sent to 32 property owners
- The Commission has already approved the preliminary plat for the project
- Dedicate 30 feet of right of way to allow construction of Waddell Way to city standards
- this easement is no longer needed by the city
- Access is dedicated and property owner is working with the city prior to upgrading Waddell Way
- there are no issues for the Fire Department

Chair Stead opened the public hearing. Hearing no public comment the hearing was closed.

ERICKSON/BRADLEY - MOVED TO ADOPT STAFF REPORT PL 15-79 TO APPROVE THE VACATION OF EASEMENT ALONG WADDELL WAY.

There was a brief clarification that the easement was already being used as equipment storage by HEA.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Stead called a brief recess at 8:24 p.m. The meeting was reconvened at 8:28 p.m.

C. Staff Report PL 15-80 Zoning for Marijuana

This item was not properly advertised for Public Hearing and moved to Pending Business, Item 10. A

D. Staff Report PL 15-82 CUP 15-07 at 1242 Ocean Drive in the General Commercial 1 District

Chair Stead read the title into the record. City Planner Abboud reviewed the application for a CUP in the location of the former Quickie Mart for more than one building containing a permitted principle use on a lot and a planned unit development to reduce the setback from Ocean Drive. He noted the following points:

- There were several buildings, and vehicles on the property
- General Commercial 1 District
- Compatible to the surrounding land uses
- No designated wetlands and flood hazards are undetermined
- City utilities are available but not connected
- Notice was sent to 25 property owners
- The canopy was not permitted or the building currently in construction under the canopy.
- Several violation notices have been issued to the owner
- The owner plans to add a second story to the building under construction under the canopy
- Fire Chief has stated that the project has been in violation since it started and applicant has applied for Fire Marshal review which has been stalled and delayed. The Fire Chief is not in favor of permitting after the fact projects.
- The application is not valid without Fire Marshal certificate.

Staff recommendation was to approve CUP 15-07 with Findings 1-19 and Conditions 1-7

Chair Stead invited the applicant to comment to the commission.

Guy Chow, applicant, stated he would like to have the project approved and continue moving forward. He understood the changes that would be required and believed that the project would fill a big hole along Ocean Drive.

Chair Stead opened the Public Hearing. There were no public comments. The public hearing was closed. Chair Stead requested a motion to open discussion. The commission had a few questions for the applicant first. Items or issues questioned were as follows:

- old underground fuel tanks, condition/status and location
- type of foundation of the new structure under the canopy
- why Fire Marshal approval was not obtained prior to construction
- ability to connection to city utilities by the deadline date of December 31, 2015
- Why did he not use the old Quickie Mart building and what his plans were for the structure
- What his plans were for the location
- If he felt it was feasible to obtain Fire Marshal approval within 45 days
- Addressing the concerns expressed by adjoining property owners regarding the conditions on the property and prior complaints regarding sanitation and restroom facilities
- the intent was to open by spring of next year
- Request to extend the date to May to meet the setback requirements

HIGHLAND/ BRADLEY - MOVED TO ADOPT STAFF REPORT PL 15-82, CUP 15-07 at 1242 OCEAN DRIVE IN THE GENERAL COMMERCIAL 1 DISTRICT WITH CONDITIONS 1-7 AND FINDINGS 1-19.

VENUTI/STROOZAS - MOVED TO AMEND THE MOTION TO POSTPONE THE ACTION FOR 45 DAYS TO ALLOW THE APPLICANT TIME TO RECTIFY THE PROJECT FOR FIRE MARSHAL APPROVAL.

Discussion on obtaining the requirements established by the Fire Marshall, and arguing that they could approve the CUP with the Fire Marshal approval contingent, the commission debated the best approach that benefits and follows the life, health and safety issues. Staff explained that they are at the point that it is an enforcement issue and questions what happens if compliance is not followed through on by the applicant. Commissioners advocated for promoting business and adding conditions to allow the applicant to proceed.

Commissioner Erickson called for the question. Commissioner Highland requested the Clerk to read the motion on the floor.

VOTE.(Amendment) NO. STROOZAS, STEAD, ERICKSON, BRADLEY, HIGHLAND
YES. VENUTI

Motion failed.

ERICKSON/HIGHLAND - MOVED TO AMEND THE MOTION TO EXTEND THE DATE ON CONDITION NO. 6 TO MAY 1, 2016; ADD CONDITION NO. 8 THAT THE CONDITIONAL USE PERMIT IS CONTINGENT UPON FIRE MARSHAL APPROVAL OBTAINED IN THE 45 DAYS TIME LIMIT; ADD CONDITION NO. 9 THAT AN OPERATIONAL RESTROOM IS ONSITE BY MAY 1, 2016 AND ADD CONDITION NO. 10 DESIGNATED PARKING BEFORE MAY 1, 2016

Discussion on adding the condition regarding operational restrooms is to address the issues caused by previous occupants/tenants on the property and the designated parking was to address the issues brought forward by the Day Care facility. Discussion also included the feasibility of obtaining Fire Marshal approval within the 45 day period.

HIGHLAND/ERICKSON - MOVED TO AMEND THE FIRE MARSHAL APPROVAL TO 90 DAYS.

Discussion ensued on the approval process and that the applicant is comfortable with the 45 day approval requirement.

VOTE. (Secondary Amendment) NO. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Stead clarified the additional conditions that were stated in the motion.

VOTE. (Primary Amendment) YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Highland requested they extend the time of the meeting at this time.

HIGHLAND/BRADLEY - MOVED TO EXTEND THE MEETING TIME TO 10:00 PM

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Stead then inquired if there was any further discussion on the main motion as amended to approve the Conditional Use Permit. There was no further discussion. Chair then asked for a roll call vote on the motion.

VOTE. (Main as Amended) YES. HIGHLAND, BRADLEY, ERICKSON, STEAD, STROOZAS
VOTE. NO. VENUTI.

Motion carried

PLAT CONSIDERATION

A. Staff Report PL 15-81 Tsunami View No. 2

Chair Stead read the title into the record. City Planner Abboud reviewed his report. He noted the following:

- there may be a levy of assessments for the Natural Gas Special Assessment District to the this decision.
- this is located north and west of Bayview park
- Rural residential District
- No wetlands
- City utilities available
- Notice was sent to 75 property owners
- require a 15 foot utility easement adjacent to Right of Way
- Noted comments from Public Works regarding access and the steep grade
- Fire Department concerned with access

No Applicant was present to comment or to answer questions.

Chair Stead opened the public hearing. Hearing no comments the public hearing was closed and the Chair requested questions for the City Planner.

The commission asked questions of the City Planner on the viability of the hillside and expressed concerns with maintaining the stability of the hillside, noted that construction on the steep slope would be limited, and expressed concerns of the access by the Fire Department, and questioned if they can put conditions on the plat to accommodate the Fire Department and the comments from Public Works.

VENUTI/HIGHLAND - MOVED TO ADOPT STAFF REPORT PL 15-81 TSUNAMI VIEW NO 2 WITH STAFF RECOMMENDATIONS 1-7

The commission held additional discussion on the steep slope issues.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS

A. Staff Report PL 15-80 Zoning for Marijuana

Chair Stead read the title into the record. Staff teleconferenced in City Attorney Wells to the meeting.

City Planner Abboud stated that they combined the two items into one and they are running out of time having extended the time of the meeting to 10:00 p.m. He reported on the changes to the state regulations and that may bring about changing other rules; he still has concerns with bringing this issue of commercial grow operations in a Rural Residential Area, there are places to do business and that business does not belong in residential. He also doesn't believe that it should be allowed by CUP since that may open them to litigation. He stated that with the regulations imposed by the state the industry will take care of itself. If they become too stringent and put too many limitations then they will end up with it on the outskirts of town and not have any of the benefits. The City Attorney recommended trying it a smaller area without having another layer of rules on top of the state's. City Planner Abboud stated that as far as limiting licenses there were concerns in limiting licenses without incurring litigation, the state handles the alcohol licenses and how would they choose or select who will get the license would open the city up to more problems. He did not see this as a business on every corner type of situation.

City Attorney Wells supported what City Planner Abboud stated, narrowly focus on what the City wants to have discretion since the city will be involved in every application but the state will be involved in any possible backlash. The city should narrowly focus its involvement.

Commissioner Erickson requested clarification with commercial ventures, questioning if they should keep it all in General Commercial until they see where it falls. Her other question is if they allow this type of commercial business in Rural Residential would they have to allow other types of commercial enterprises also.

City Attorney Wells stated that the commission should carefully review which districts to allow it and then allow it outright due to the nature of the CUP process. That they should limit the requirements. She further noted that the commission should consider that this is a new industry and look at each district and what they currently allow in each of those districts that is similar to this industry. She further stated that as far allowing it in Rural Residential, the commissioners have to really consider if they want this business in that district, it is new, yes, but in many ways it is the same as any other business. It would be a good use of time to consider the challenges since it is still federally unlawful and there are many questions and concerns surrounding the legislation and regulation of the industry.

Commissioner Venuti questioned the status of the 1000 ft rule. City Planner Abboud explained that the Cannabis Advisory Commission (CAC) has discussed this issue too, especially regarding the federal requirements, and have questioned whether this rule would apply to the college. He will be checking more into that for both commissions.

There was a brief comment on extending the meeting since it was coming up on the deadline.

ERICKSON/HIGHLAND - MOVED TO EXTEND THE MEETING TO 10:15 PM

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ERICKSON/HIGHLAND - MOVED TO PROHIBIT SMALL CULTIVATION IN THE BRIDGECREEK WATERSHED PROTECTION DISTRICT, RURAL RESIDENTIAL AND SMALL AND LARGE CULTIVATION IS ALLOWED AND/OR PERMITTED IN GENERAL COMMERCIAL 1 AND GC 2

Brief discussion by the commission on the fact the Rural Residential comprises 75% of Homer and they encourage certain actions in rural residential.

VOTE. YES. HIGHLAND, BRADLEY, ERICKSON, STEAD, STROOZAS

VOTE. NO. VENUTI

Motion carried.

Highland questioned corrections to line 362-365 in the draft ordinance. Staff noted that all corrections will be done prior to the next regular meeting. He then asked the commission to consider allowance in the East End Mixed Use District.

ERICKSON/ STROOZAS - LARGE CULTIVATION IS ALLOWED IN EAST END MIXED USE TO BE CONSISTANT.

There was no discussion.

VOTE. YES. STROOZAS, STEAD, ERICKSON, BRADLEY, HIGHLAND.

VOTE. NO. VENUTI.

Motion carried.

City Planner Abboud inquired about actions on retail activities in any district. He noted that the General Commercial is good but the CBD is a toss-up.

ERICKSON/ HIGHLAND - MOVED THAT RETAIL ACTIVITIES BE ALLOWED IN GENERAL COMMERCIAL 1 AND GENERAL COMMERCIAL 2 AND THE EAST END MIXED USE DISTRICTS CONSISTANT WITH CULTIVATION IN THOSE DISTRICTS.

Discussion followed on changing from having the conditional use process in these districts and the fact the commission is limited to follow the law, offer areas where people who want to do the business they want to do and keep it out of areas that people don't want to have it. The fact that this has to be allowed somewhere and currently the way it is written there is no retail allowed in the city without a CUP.

VOTE. YES. HIGHLAND, BRADLEY, ERICKSON, STEAD, VENUTI, STROOZAS.

Motion carried.

Chair Stead noted that they are past the 10:15 p.m. deadline for the meeting and questioned if there is a desire to extend the meeting time again. The commission agreed by consensus to adjourn the meeting. Staff recommended that they allow comment since several people stayed throughout the entire length of the meeting.

Chair Stead noted for the record that they will postpone discussion on the item until the next regular meeting and go straight comments of the audience.

B. Staff Report PL15-81 Towers Considerations

NEW BUSINESS

A. Staff Report PL 15-84 Marijuana Business Licenses

INFORMATIONAL MATERIALS

A. City Manager's Report from November 23, 2015 City Council Meeting

COMMENTS OF THE AUDIENCE

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

Catriona Reynolds commented that the limit for Council financial conflict of interest is \$500. She further noted that CUP's put on Right of Way rather than the person's property have been problematic in the past.

COMMENTS OF STAFF

City Planner Abboud commented on the changes made by the Commission and that if they are going to allow this industry then they needed to pick the places to allow it, don't make the hurdles so high. If they don't want it, then ban it. He was afraid of an unending appeal of a CUP that they approve and if they went that way and what those costs to the city would do. It was a productive meeting.

Deputy City Clerk Krause noted the city code did not reflect a specific amount, just "substantial financial" for the Conflict of Interest and that it was probably outlined in their bylaws. It is always better to err to the side of caution. Very good meeting though long.

COMMISSION

Commissioner Highland had no comments.

Commissioner Bradley wished everyone Happy Holidays and reminded the commissioners to state the reasons they vote so it does not appear that they are coming out with random decisions and that they might need someone to speak at the next council meeting.

Commissioner Erickson wished everyone a Merry Christmas and Happy New Year and that it was a bit tense there for a bit. She doesn't like to make people unhappy but believes they made did their best in a tough situation

Commissioner Venuti tough meeting and commended the holdouts in the audience tonight. Commissioner Stroozas announced the tree lighting ceremony at the Chamber on Friday, December 4th with Santa and then Thursday is the Annual Raffle at the Elks Lodge at 6:00pm. He then wished everyone a Very Merry Christmas and Happy New Year.

Chair Stead echoed the sentiments wishing everyone a Merry Christmas and a very Safe New Year and he will see everyone on January 6, 2016.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 10:35 p.m. The next regular meeting is scheduled for WEDNESDAY, JANUARY 6, 2016 at 6:30 p.m. in the City Hall Cowles Council Chambers. There is a worksession at 5:30 p.m. prior to the meeting.

Renee Krause, CMC, Deputy City Clerk

Approved: _____



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Memorandum

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, AICP City Planner
FROM: Julie Engebretsen, Deputy City Planner
DATE: January 6, 2016
SUBJECT: Time Extension Request for Bay View Subdivision 2013 Replat

Surveyor Kenton Bloom has requested a one year time extension for this plat. The plat vacates a common lot line between two properties on Lakeshore Drive, along Beluga Lake. The preliminary plat received approval from the Kenai Peninsula Borough in July 2013, and a one year time extension, through December 2105, was granted in December 2014. Staff has no objection to the extension for an additional year, through 2016. After the HACP makes a recommendation, Mr. Bloom will submit the request to the Kenai Peninsula Borough for their action.

Requested action: Recommend approval of a one year time extension request for Bay View Subdivision 2013 Replat.

AGENDA ITEM C. CONSENT AGENDA

1. Time Extension Request

- d. Bay View Subdivision 2013 Replat Time Extension
 KPB File 2013-103; [Seabright /Hall]
 Location: City of Homer

STAFF REPORT

PC Meeting: 1/04/2016

2013

This plat, which replats two lots into one lot containing approximately 1.5 acres, was conditionally approved by the KPB Plat Committee on July 15, which was valid through July 15, 2014.

2014

The surveyor requested a time extension on November 21 to allow additional time finalize plat and get it recorded. This request was approved during the meeting of December 15, extending preliminary plat approval to December 15, 2015.

2015

The surveyor requested an additional time extension on December 10 in order to finalize and record plat. The project was delayed during construction.

The Homer Advisory Planning Commission has been notified for comments.

There have been no changes in the area that would affect this plat.

STAFF RECOMMENDATIONS: Extend preliminary plat approval for one year through January 4, 2017, subject to the following:

- 1. Copy of plat with current utility reviews being submitted with the final plat
- 2. Plat must comply with any subsequent changes to Kenai Peninsula Borough Code up to February 11, 2014

NOTE: An appeal of a decision of the Planning Commission may be filed to the Board of Adjustment in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the borough clerk within 15 days of date of notice of the decision; using the proper forms; and, be accompanied by the \$300 filing and records preparation fee.

END OF STAFF REPORT



Beluga Lake

Aerial View



PRELIMINARY PLAT

ESolomon, KPB
Date: 12/10/2015

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough Office has no responsibility for any errors on this map.





KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

www.borough.kenai.ak.us

MIKE NAVARRE
BOROUGH MAYOR

12/22/2015

City of Homer
491 East Pioneer Avenue
Homer, Alaska 99603-7645

RE: Tulin Terrace Subdivision, East Terrace Addition
Time Extension Request; KPB File 2005-123.

The owner is requesting a 3-year time extension for Tulin Terrace Subdivision, East Terrace Addition, which is in the City of Homer.

The proposed subdivision received preliminary plat approval by the KPB Planning Commission on July 18, 2005. Approved time extension requests have since extended preliminary plat approval to February 24, 2016. Per KPB Planning Commission Resolution 89-27, concurrence by the city advisory planning commission is required for this request.

The time extension request is tentatively scheduled for the February 8th, 2016 Planning Commission meeting as a consent agenda item. Platting staff is recommending that approval be extended through February 8, 2018, subject to concurrence of the Homer Advisory Planning Commission.

Thank You,

Liz Solomon
Platting Technician
esolomon@kpb.us

AGENDA ITEM C. CONSENT AGENDA

1. Time Extension Request
 - a. Tulin Terrace Subdivision East Terrace Addition Time Extension
 KPB File 2005-123; [Anderson/Johnson/Tulin]
 Location: City of Homer

STAFF REPORT

PC Meeting: 02/08/2016

2005

This subdivision was conditionally approved by the KPB Plat Committee on July 18, which was valid through July 18, 2006.

2006

On behalf of the owner, a 2-year time extension was requested by the surveyor on June 12. The request was approved by the KPB Planning Commission on July 17, extending preliminary plat approval to July 17, 2008.

2008-2015

Time extensions have since been requested by the owner to keep the file active through 2016. The most recent request was approved by the Planning Commission on February 24, 2014, extending preliminary plat approval to February 24, 2016.

2015

On December 21, the owner submitted another request to extend preliminary approval, due to financial hardship as a result of the death of her husband. She is requesting a 3-year time extension.

Notice of the time extension request was mailed to the City of Homer with a request for comments.

There have been no changes in the area that would affect this plat.

Approval of the requested time extension will extend preliminary approval to 2018, which is 13 years after the initial preliminary plat approval. **The owner and surveyor are put on notice** that staff may recommend any additional time extension requests revert the subdivision review to the new subdivision code (KPB 20.25, 20.30, and 20.60).

STAFF RECOMMENDATIONS: Extend preliminary plat approval for two years, through February 8, 2018, subject to the following:

1. Copy of plat with current utility reviews being submitted with the final plat
2. Plat must comply with any subsequent changes to Kenai Peninsula Borough Code up to February 11, 2014
3. Concurrence by the Homer Advisory Planning Commission

NOTE: An appeal of a decision of the Planning Commission may be filed to the Board of Adjustment in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the borough clerk within 15 days of date of notice of the decision; using the proper forms; and, be accompanied by the \$300 filing and records preparation fee.

END OF STAFF REPORT

DRAFT



City of Homer

www.cityofhomer-ak.gov

Planning
491 East Pioneer Avenue
Homer, Alaska 99603

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

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Deputy City Planner
DATE: January 6, 2016
SUBJECT: Lillian Walli Estates Plat Note Removal

Requested Action: Recommend approval of the removal of plat notes 6,7 and 8.

Background

The HAPC reviewed and recommended approval of removing plat note 7 at the June 17, 2015 meeting. Upon further review by Public Works, it was found that plat notes 6 and 8 were no longer relevant, and could hinder development efforts in this subdivision. A Special Assessment District has been initiated for part of the subdivision. The removal of the plat notes are one of the issues that needs to be resolved in order to proceed with the project. Please see the attachments from Public Works Director Meyer about the specific notes and why they are no longer relevant.

Staff Recommendation: Recommend approval of plat noted 6, 7 and 8.

Kenai Peninsula Borough Planning Department
144 North Binkley Street
Soldotna, Alaska 99669-7520
Phone: 907-714-2200
Toll Free within the Kenai Peninsula Borough: 1-800-478-4441, extension 2200
Fax: 907-714-2378

Request to Remove a Plat Note Restriction

Name: City of Homer, Mary K. Koester City Manager, Carey Meyer (Agent for City Manager)

Address: 3575 Heath Steet, Homer Ak, 99603

Phone: 907-235-3170 (W), 907-399-7232 (C)

Email: CMeyer@ci.homer.ak.us

Legal Description of Property for which the request to remove a plat note restriction is required*:
Lillian Walli Estate Plat No. 88-16

Located in E1/2 NE1/4 Sec. 24, T6S, R14W S.M. Homer Recording District

Justification for Requesting Removal of the Plat Note Restriction: _____

See Attachment

The recording fee is attached.

I will pay the recording fee after the Planning Commission takes action on my request.

*The recording fee for the Planning Commission Resolution is separate from the plat note removal application fee. Checks for the recording fee must be made payable to the **Department of Natural Resources**. Planning staff is responsible for recording the Planning Commission resolution.*



Property Owner's/Owners' Signature(s)

12/14/15

Date

*NOTE: All owners within the subdivision will be notified of the request to remove the plat note restriction.

RECEIVED

DEC 14 2015

**CITY OF HOMER
PLANNING/ZONING**

**Justification for Removing Plat Notes 6, 7, 8
Lilian Walli Estates Subdivision Plat (88-16)**

The Lilian Walli Estates subdivision plat was recorded in 1988. Since that time, no infrastructure has been built and no homes have been constructed. Although there may be many reasons for this, a significant impediment to development has been the conditions established by the plat notes and the impact they have had on the cost of development. The notes may have been established to create development conditions with the best of intentions, but it can be reasonably argued that they create unwarranted constraints on development and do not protect the community from any adverse impacts.

See attached copy of the plat with enlarged plat notes; and specific justification for removal of notes below:

Note 6) *"All lots abutting Fairview Avenue and West Hill Road are subject to a 30' building setback for right-of-way widening".*

The Lilian Walli Estates property owners who own lots adjacent to Fairview and West Hill and the City of Homer Public Works Department agree that this note is not warranted.

The right-of-way widths establish by this plat for Fairview Avenue and West Hill Road are equal to or greater than the widths established for any other portion of these roads along their entire lengths. In fact, Fairview Avenue has been platted 80' wide, while the rest of Fairview Avenue was platted 60' wide.

Fairview Avenue runs (or is expected to run) east from this subdivision 9100 feet (1.7 miles); none of the properties that front Fairview Avenue along the entire length of this right-of-way (except Lillian Walli Estates) have been burdened with a right-of-way widening building setback. If there is a portion of Fairview Avenue right-of-way that will not require "widening" and where increased building setbacks will not benefit the community, it is the portion running through the Lillian Walli Estates.

West Hill Road right-of-way is 60' wide and runs north from this subdivision 8900 feet (1.7 miles); none of the properties that front West Hill Road along the entire length of this right-of-way (except Lillian Walli Estates) have been burdened with a right-of-way widening building setback. West Hill Road is an ADOT road right-of-way and has not required during new platting of properties adjacent to either East or West Hill Roads right-of-way widths greater than 60'.

Note 7) *"Lots 18 through 35 front on Cheryl Lane. Lots 39 through 42 and Lot 61 front on Shelley Avenue. Lots 47 through 49 and Lot 43 front on Ero Ct. Lots 62 and 77 front on Robert Avenue. Tract C and D front on Robert Avenue. Lot 17 and 36 front on Hillside Place."*

The Lilian Walli Estates property owners who own lots adjacent to Fairview Avenue and the City of Homer Public Works Department agree that this note is not warranted.

This note eliminates the potential for lots fronting Fairview Avenue to gain access to Fairview and forces side streets to be dedicated and platted that would normally note be required. This note increases the cost of road, water main, and sewer main infrastructure in the subdivision and increases the cost of developing lots; without any real benefit to the community.

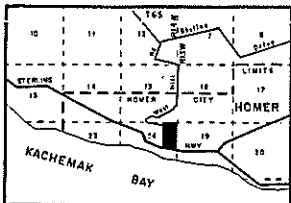
There are situations where restricting lot access from high speed, high traffic volume arterials does make sense, in that it reduces conflicting turning movements that slow traffic and cause accidents. But Fairview Avenue runs (or is expected to run) east from this subdivision 9100 feet (1.7 miles) and none of the properties that front Fairview Avenue along the entire length of this right-of-way (except Lillian Walli Estates) are restricted from accessing Fairview Avenue. The speed limit on all roads in Homer is 25 mph. Even properties fronting the Sterling Highway have no plat notes restricting access.

Note 8) *“No building permits will be granted for any lot within said subdivision until the subdivision is developed in accordance with the requirements of Homer Municipal Code Chapter 22.10.”*

The Lillian Walli Estates property owners who own lots adjacent to Fairview Avenue, the City of Homer Public Works Department, and the Homer City Council (see attached Resolution) agree that this note is not warranted.

Most subdivisions are owned by one individual or entity. Large subdivisions in Homer are approved with some sort of phased construction.

Lillian Walli Estate lots (see attached ownership map) are currently owned by at least 13 individuals and this plat note requires a level of cooperation between owners that is difficult to reach. Removing this note (and the others shown above) will allow for phased construction and potential replatting that can realign roads and reconfigure lots to reduce development costs.



Lillian Walli Estate

LOCATED IN E1/2NE1/4 SEC. 24, T6S, R14W, S.M., HOMER REC. DISTRICT
SCALE 1"=100' AREA=76.277 AC 4-30-1987
BY ERO STEVE WALLI R.O.B. 1266 HOMER, ALASKA 99603

LEGEND

- ✕ - 1917 brass cap monument by G.L.D., found
- - Brass cap mon. by 258-S, found
- - 1976 aluminum mon. by 1301-S, found
- - Aluminum mon. by 268-S, set
- - 1/2" x 4" rebar, set
- - Concrete R.O.W. mon. by D.O.T., found
- - 20' distance easement
- - Utility easement, 20' unless otherwise noted
- - Point of curvature, 1/2" x 4" rebar set

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of Dec. 1, 1987.

KENAI PENINSULA BOROUGH

By: [Signature] E-16-RP
Authorized official Date

- (1) No building permits will be granted for any lot within said subdivision until the subdivision is developed in accordance with the requirements of Homer Municipal Code Chapter 22.10
- (2) The City of Homer has developed controls for lands in excess of 15 percent grade.

SPECIAL NOTE

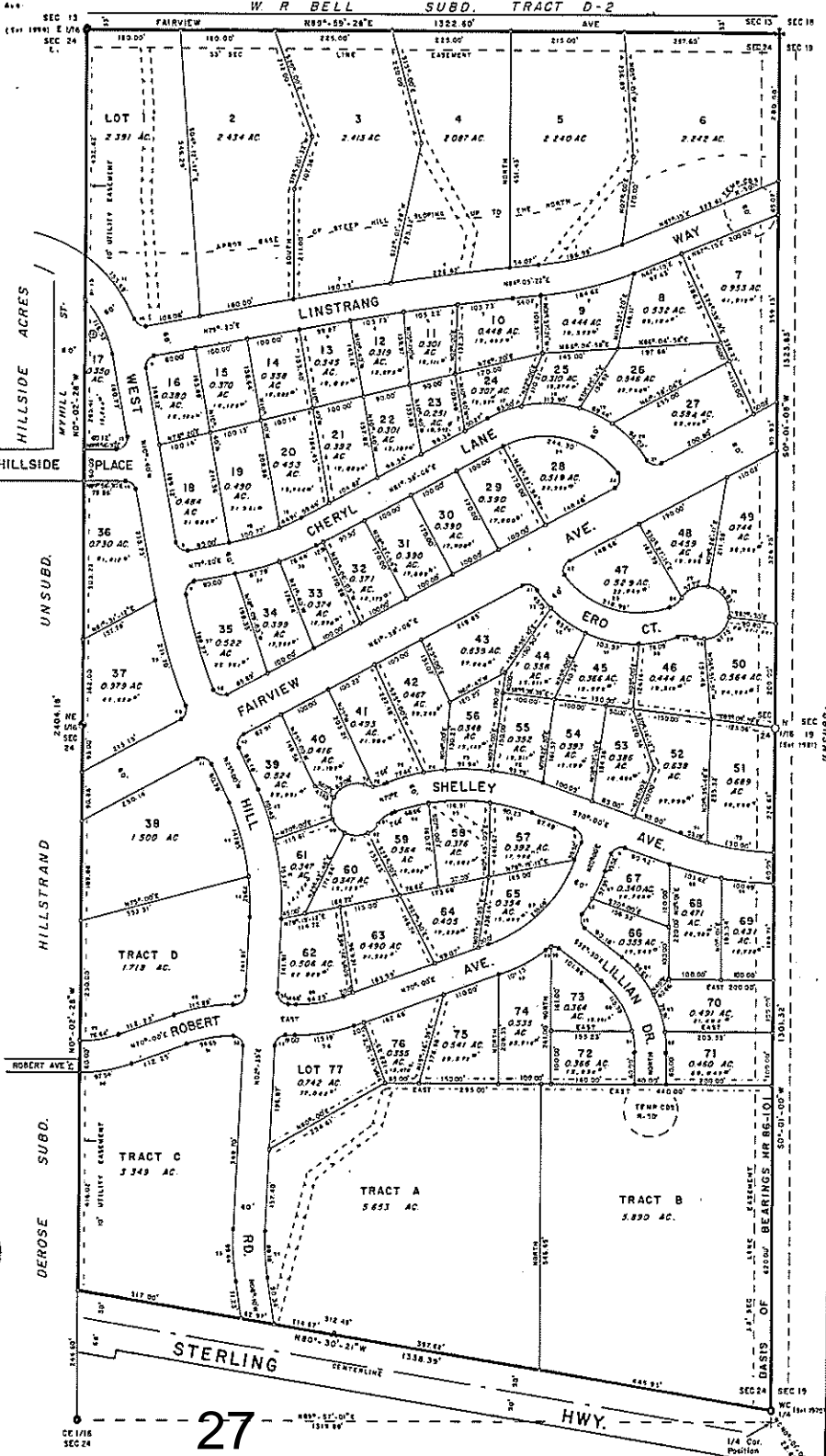
The purpose of this plat is to resolve ownership of Lillian Walli Estate. Any development of this subdivision will require a signed agreement between a respective owner(s) and the City of Homer, Alaska.

NOTES

- 1. Building setback of 20' from all street curbs is required unless a lesser standard is approved by a resolution of the appropriate planning commission.
- 2. Front 10' of building setback is also a utility easement and also the entire setback within 5' of side lot lines for guy wires.
- 3. All lots are to be served by the City of Homer municipal water and sewer systems.
- 4. Where are 20' utility easements on both sides of West Hill Rd. and Fairview Ave.
- 5. No direct access to state maintained roads permitted unless approved by the State of Alaska Dept. of Transportation.
- 6. All lots abutting Fairview Ave. and West Hill Road are subject to a 20' wide setback for R.O.W. widening.
- 7. Lots 18 through 25 front on Cheryl Lane. Lots 26 through 42 front on Linstrang Ave. Lots 43 through 49 and Lot 51 front on Ero Ct. Lots 50 and 77 front on Robert Ave. Tracts C and D front on Robert Ave. Lot 17 and 36 front on Hillside Place.

CURVES

Curve No.	1	2	3	4	5	6	7
A	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
B	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
C	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
D	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
E	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
F	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
G	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
H	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
I	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
J	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
K	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
L	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
M	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
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O	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
P	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
Q	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
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S	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
T	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
U	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
V	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
W	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
X	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
Y	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"
Z	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"	145.50'-21"



OWNER'S CERTIFICATE

We hereby certify that we are the owners of the property shown and described herein, and that we hereby adopt this plan of subdivision, and dedicate all R.O.W.'s to public use, and grant all easements to be shown.

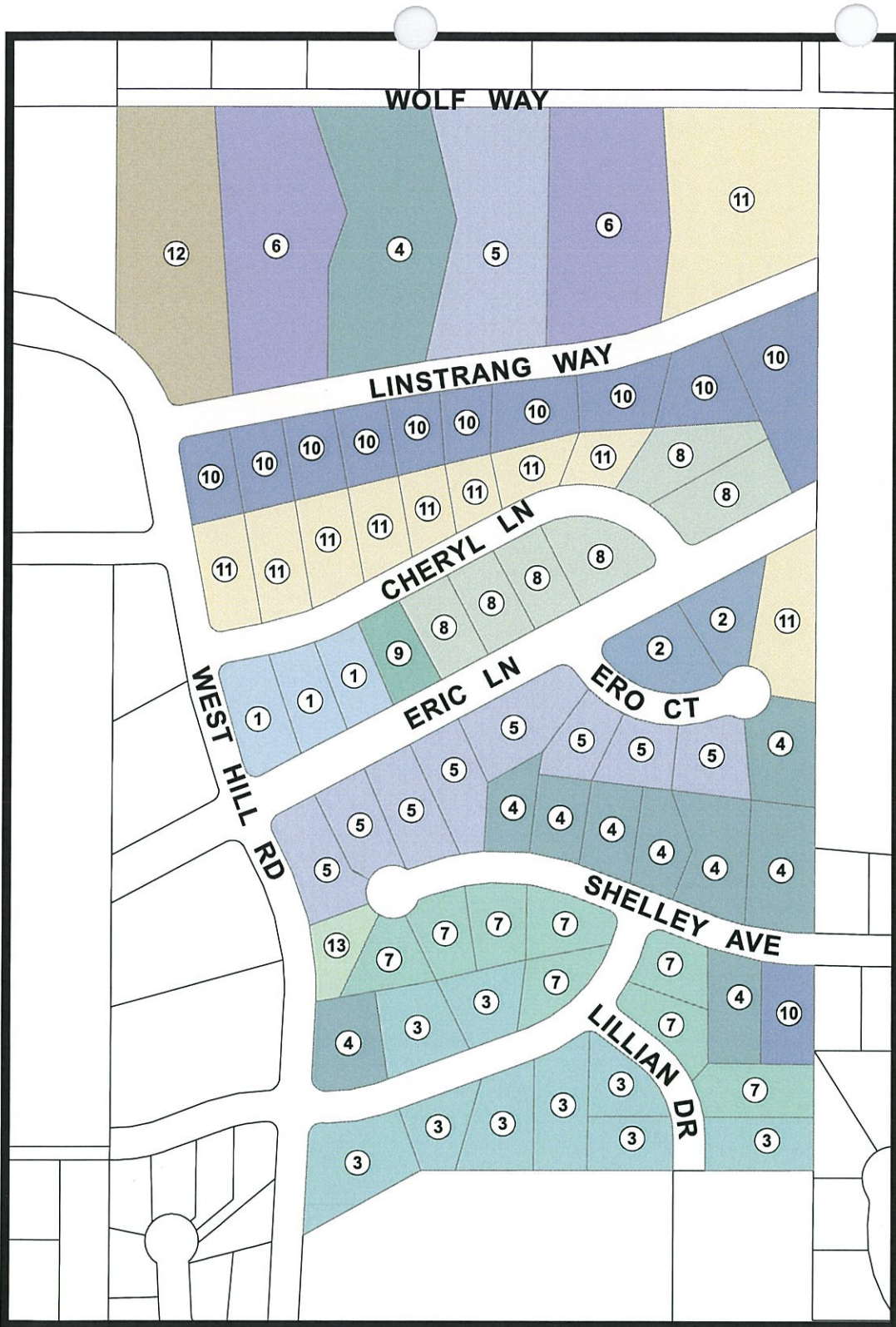
Ero Steve Walli, Executor for Estate of Lillian M. Walli
John Robert Gibson, Co-Executor for Estate of Lillian M. Walli

NOTARY'S CERTIFICATE

Subscribed and sworn to before me this 18 day of May, 1987.

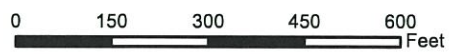
Carol Luce
Notary Public for Alaska
My commission expires 10/28/88

88-16
RECORDED, FILED 20'
HOMER REC. DIST.
DATE: 5-17-88
2:21 P.M.
N. Johnson
Clara Gulch



Ownership	
1	Dobrzynski
2	Durner
3	Fefelov
4	Ford
5	D. Gibson
6	J. Gibson
7	City of Homer
8	Johnson
9	Lewis
10	Miller
11	Walli
12	White
13	Yakunin

Lillian Walli Estates Subdivision
Proposed Special Assessment District



1 inch = 300 feet



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**CITY OF HOMER
HOMER, ALASKA**

Interim City Manager

RESOLUTION 15-032

A RESOLUTION OF THE HOMER CITY COUNCIL PARTIALLY
RELEASING THE DEVELOPMENT COVENANT OF THE LILLIAN
WALLI ESTATES SUBDIVISION REQUIRING EVERY LOT OR TRACT
WITHIN THE PROPERTY BE SERVED BY ROADS, WATER, SEWER,
DRAINAGE, AND OTHER UTILITIES BEFORE A REQUEST FOR A
BUILDING PERMIT OR ADDITIONAL UTILITY CONNECTION MAY BE
MADE.

WHEREAS, The City of Homer ("City"), whose address is 491 East Pioneer Avenue,
Homer, Alaska 99603, and Ero Steve Walli and John Robert Gibson (together, "Owners"),
entered into an Agreement dated May 16, 1988 ("Agreement"), and recorded May 19, 1988, in
Book 0183 at Page 424 in the Homer Recording District, Third Judicial District, State of Alaska;
and

WHEREAS, The Agreement applies to real property now described as Tract B and Lots
1 through 77, Lillian Walli Estates Subdivision, according to Plat No. 88-16, Homer Recording
District, Third Judicial District, State of Alaska (the "Property"); and

WHEREAS, In the Agreement, the Owners and their successors and assigns agree that,
"no request for a building permit or additional utility connections will be made until
improvements (roads, water, sewer, drainage, and other utilities), are completed and
accepted by the City" ("Development Covenant"); and

WHEREAS, As beneficiary of the Development Covenant, the City has determined that
the Development Covenant imposes an unreasonable burden on the development of the
Property, and that it is in the public interest for the City to partially release the Property from
the Development Covenant as provided herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the City of Homer hereby
partially releases the Development Covenant insofar as it requires that every lot or tract
within the Property be served by roads, water, sewer, drainage, and other utilities before a
request for a building permit or additional utility connection may be made for any lot or tract
within the Property, such partial release to have the effect of revising the Development
Covenant to read as follows: "no request for a building permit or additional utility
connections will be made for a lot or tract until improvements (roads, water, sewer, drainage,
and other utilities) serving that lot or tract are completed and accepted by the City."

43 PASSED AND ADOPTED by the Homer City Council this 27th day of April, 2015.

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CITY OF HOMER

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MARY E. WYTHE, MAYOR

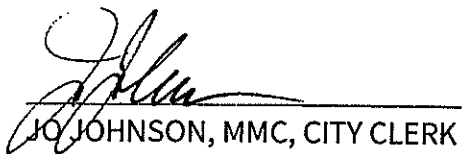
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50 ATTEST:

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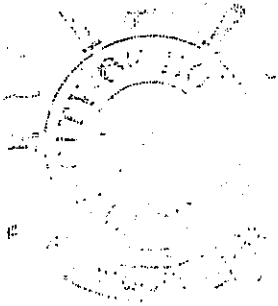
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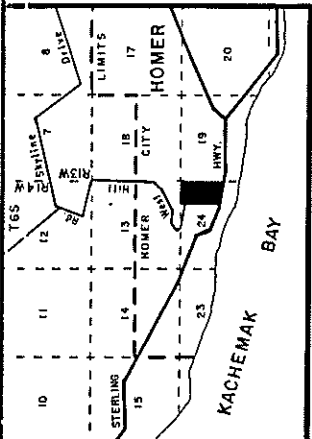
54 
JO JOHNSON, MMC, CITY CLERK

55

56 Fiscal Note: N/A



Hm 88-16



VICINITY MAP 1" = 1 mile

NOTES

- 1. A building setback of 20' from all street rows is required unless a lesser standard is approved by a resolution of the appropriate planning commission.
- 2. Front 10' of building setback is also a utility easement and also the entire setback within 5' of side lot lines for guy wires.
- 3. All lots are to be served by the City of Homer municipal water and sewer systems.
- 4. There are 20' utility easements on both sides of West Hill Rd. and Fairview Ave.
- 5. No direct access to state maintained road's permitted unless approved by the State of Alaska Dept. of Transportation.
- 6. All lots abutting Fairview Ave. and West Hill Road are subject to a 30' wide setback for ROW widening.
- 7. Lots 18 through 35 front on Cheryl Lane. Lots 39 through 42 and Lot 61 front on Shelby Ave.
- 8. Lots 1 through 49 and Lot 43 front on Eric Cr. Lots 62 and 77 front on Robert Ave.
- 9. Lot 50 front on Robert Ave. Lot 17 and 36 front on Hillside Place.

CURVES

Curve No.	Start Station	End Station	Radius (ft)	Delta (degrees)	Chord (ft)	Offset (ft)
1	16+00.00	16+50.00	100.00	180.00	100.00	0.00
2	16+50.00	17+00.00	100.00	180.00	100.00	0.00
3	17+00.00	17+50.00	100.00	180.00	100.00	0.00
4	17+50.00	18+00.00	100.00	180.00	100.00	0.00
5	18+00.00	18+50.00	100.00	180.00	100.00	0.00
6	18+50.00	19+00.00	100.00	180.00	100.00	0.00
7	19+00.00	19+50.00	100.00	180.00	100.00	0.00
8	19+50.00	20+00.00	100.00	180.00	100.00	0.00
9	20+00.00	20+50.00	100.00	180.00	100.00	0.00
10	20+50.00	21+00.00	100.00	180.00	100.00	0.00
11	21+00.00	21+50.00	100.00	180.00	100.00	0.00
12	21+50.00	22+00.00	100.00	180.00	100.00	0.00
13	22+00.00	22+50.00	100.00	180.00	100.00	0.00
14	22+50.00	23+00.00	100.00	180.00	100.00	0.00
15	23+00.00	23+50.00	100.00	180.00	100.00	0.00
16	23+50.00	24+00.00	100.00	180.00	100.00	0.00
17	24+00.00	24+50.00	100.00	180.00	100.00	0.00
18	24+50.00	25+00.00	100.00	180.00	100.00	0.00
19	25+00.00	25+50.00	100.00	180.00	100.00	0.00
20	25+50.00	26+00.00	100.00	180.00	100.00	0.00
21	26+00.00	26+50.00	100.00	180.00	100.00	0.00
22	26+50.00	27+00.00	100.00	180.00	100.00	0.00
23	27+00.00	27+50.00	100.00	180.00	100.00	0.00
24	27+50.00	28+00.00	100.00	180.00	100.00	0.00
25	28+00.00	28+50.00	100.00	180.00	100.00	0.00
26	28+50.00	29+00.00	100.00	180.00	100.00	0.00
27	29+00.00	29+50.00	100.00	180.00	100.00	0.00
28	29+50.00	30+00.00	100.00	180.00	100.00	0.00
29	30+00.00	30+50.00	100.00	180.00	100.00	0.00
30	30+50.00	31+00.00	100.00	180.00	100.00	0.00
31	31+00.00	31+50.00	100.00	180.00	100.00	0.00
32	31+50.00	32+00.00	100.00	180.00	100.00	0.00
33	32+00.00	32+50.00	100.00	180.00	100.00	0.00
34	32+50.00	33+00.00	100.00	180.00	100.00	0.00
35	33+00.00	33+50.00	100.00	180.00	100.00	0.00
36	33+50.00	34+00.00	100.00	180.00	100.00	0.00
37	34+00.00	34+50.00	100.00	180.00	100.00	0.00
38	34+50.00	35+00.00	100.00	180.00	100.00	0.00
39	35+00.00	35+50.00	100.00	180.00	100.00	0.00
40	35+50.00	36+00.00	100.00	180.00	100.00	0.00
41	36+00.00	36+50.00	100.00	180.00	100.00	0.00
42	36+50.00	37+00.00	100.00	180.00	100.00	0.00
43	37+00.00	37+50.00	100.00	180.00	100.00	0.00
44	37+50.00	38+00.00	100.00	180.00	100.00	0.00
45	38+00.00	38+50.00	100.00	180.00	100.00	0.00
46	38+50.00	39+00.00	100.00	180.00	100.00	0.00
47	39+00.00	39+50.00	100.00	180.00	100.00	0.00
48	39+50.00	40+00.00	100.00	180.00	100.00	0.00
49	40+00.00	40+50.00	100.00	180.00	100.00	0.00
50	40+50.00	41+00.00	100.00	180.00	100.00	0.00

Lillian Walli Estate

LOCATED IN E1/2NE1/4 SEC. 24, T6S, R14W, S.M., HOMER REC. DISTRICT
 SCALE 1" = 100'
 BY ERO STEVE WALLI P.O.B. 1266 HOMER, ALASKA 99603

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of DEC. 1, 1987.

KENAI PENINSULA BOROUGH
 By [Signature]
 authorized official

5-16-88
 Date

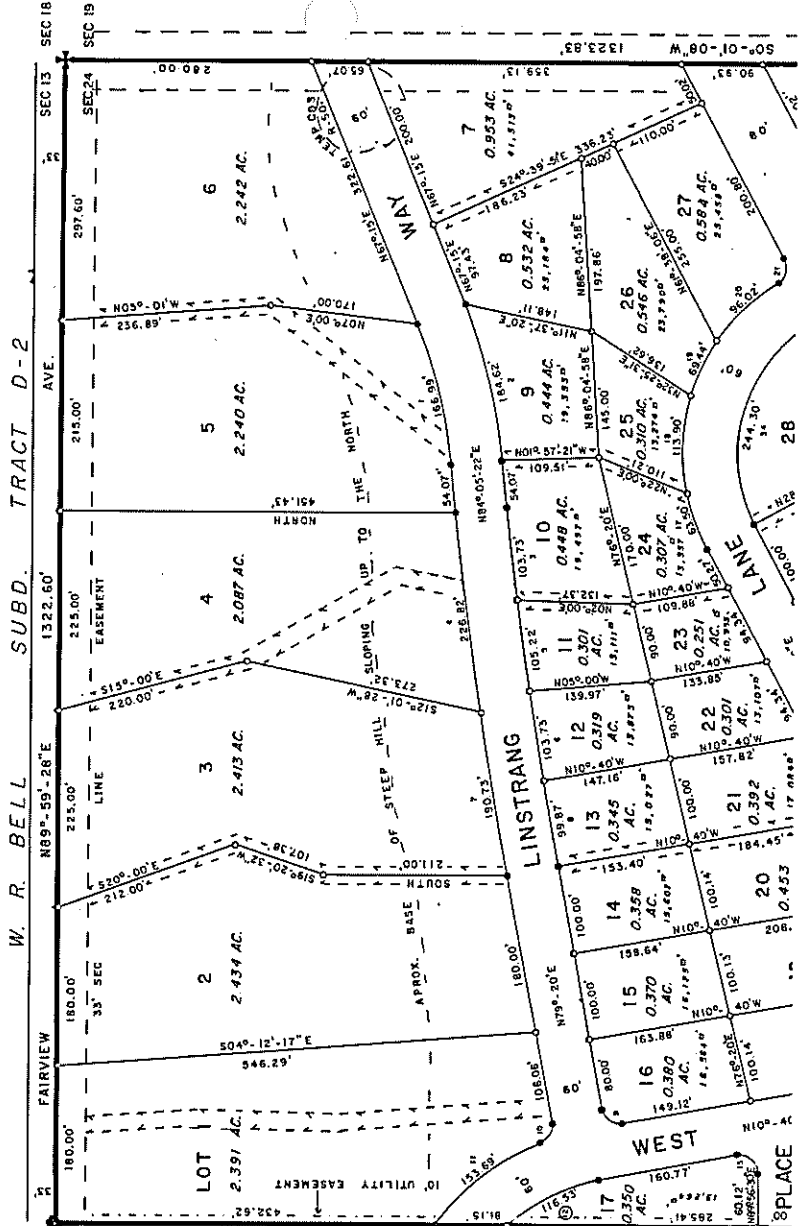
- (8) No building permits will be granted for any lot within said subdivision until the subdivision is developed in accordance with the requirements of Homer Municipal Code Chapter 22.10.
- (9) The City of Homer has developed controls for lands in excess of 15 percent grade.

SPECIAL NOTE

The purpose of this plat is to resolve ownership of Lillian Walli Estate. Any development of this subdivision will require a signed agreement between respective owner(s) and the City of Homer, Alaska.

LEGEND

- + 1917 brass cap monument by GLO, found
- o Brass cap mon. by 268-S, found
- o 1976 aluminum mon. by 1301-S, found
- o Aluminum mon. by 268-S, set
- o 1/2" x 4" rebar, set
- o Conc. ROW mon. by D.O.T., found
- o 20' drainage easement
- o Utility easement, 20' unless otherwise noted
- o Point of curvature, 1/2" x 4" rebar set



TRAJECT D-2
 W. R. BELL SUBD.



City of Homer

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Planning

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Staff Report PL 15-45

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
DATE: June 17, 2015
SUBJECT: Removal of Lillian Walli Plat Note

Introduction

The City has received request from property owners along the future Fairview Avenue right-of-way for allowance of a driveway access along Fairview Avenue.

Review

Fairview Avenue does service as a collector, although a minor one. The idea is that in the future a build out will offer another east-west route between the high school and West Hill Road. All the development on the currently developed sections of Fairview does not include driveway restrictions.

A few other driveway restrictions are noted along West Hill Road. One of these has been removed (the former Tract C). The State is the driveway permitting authority along West Hill Road. Land Owners may find resistance to driveway access on West Hill Road from the state.

Conclusion

The City believes that the imposition of driveway restrictions along Fairview Avenue is inconsistent with similar properties located along Fairview. The State will be the permitting authority along West Hill Road. We have no opposition to the removal of plat note 7.

Attachments

1. Lillian Walli Estate Plat
2. Lillian Walli Estate Plat notes portion enlarged

Session 15-10, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Stead at 6:30 p.m. on June 17, 2015 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, BRADLEY, ERICKSON, HIGHLAND, STEAD, STROOZAS, VENUTI

STAFF: CITYPLANNER ABOUD
DEPUTY CITY CLERK JACOBS

Approval of Agenda

The agenda was approved by consensus of the Commission.

Public Comment

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

There were no public comments.

Reconsideration

Adoption of Consent Agenda

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

- A. Approval of Minutes of June 3, 2015 meeting
- B. Staff Report 15-45 Removal of plan note for Lillian Walli Estate Subdivision

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

HIGHLAND/BRADLEY SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Presentations

- A. Representative from GCI, Towers Ordinance

No one from GCI was in attendance to present to the Commission.

Reports



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HOMER ADVISORY PLANNING COMMISSION

Approved CUP 15-06 at the Meeting of December 2, 2015

RE: Conditional Use Permit (CUP) 15-06
Address: 4242 Calhoun Street

Legal Description: T 6S R 13W SEC 17 Seward Meridian HM COMMENCING AT THE SECTION CORNER COMMON TO SEC 17 18 19 & 20 TH S 89 DEG 57 MIN 01 SEC E 660.19 FT TH N 0 DEG 12 MIN 35 SE C W 739.88 FT TO THE TRUE POINT OF BEGINNING TH N 0 DEG 12 MIN 35 SEC W 250 FT T H S 89 DEG 56 MIN 38 SEC E 330.04 FT TH S 0 DEG 12 MIN 35 SEC E 250 FT TH N 89 D EG 56 MIN 38 SEC W 330.4 FEET TO THE TRUE POINT OF BEGINNING EXCLUDING 30 FT ROW ALONG THE WEST LOT LINE OF THE ABOVE PARCEL.

DECISION

Introduction

Josiah Fisher, the developer, and James Hornaday, the land owner (the “Applicants”) applied to the Homer Advisory Planning Commission (the “Commission”) for a Conditional Use Permit (CUP) under Homer City Code HCC 21.14.030(k) which allows more than one building containing a permitted principle use on a lot in the Urban Residential district.

The applicant proposed building four duplexes, for a total of eight dwelling units on the property. The lot is 1.89 acres and public water and sewer will serve the site.

The application was scheduled for a public hearing before the Commission on December 2, 2015, as required by Homer City Code 21.94. Notice of the public hearing was published in the local newspaper and sent to 50 property owners of 42 parcels.

At the December 2, 2015 meeting of the Commission, the Commission voted to approve the request with six Commissioners present. The Commission approved CUP 15-06 with unanimous consent.

Evidence Presented

City Planner Abboud reviewed the staff report and the applicant was available for questions. Prior to the public hearing six concerned residents submitted comments which were provided at the meeting. At the public hearing, 14 residents testified. They stated concerns

about lighting, fencing, increased traffic, increased density, renter occupancy, and the need for the driveway to coexist with the existing Calhoun Trail.

Findings of Fact

After careful review of the record, the Commission approved Condition Use Permit 15-06 to build four duplexes, for a total of eight dwelling units on the property.

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

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

Finding 1: HCC 21.14.020 (b) authorizes duplex dwellings, and HCC 21.14.030(k) authorizes more than one building containing a permitted principle use on a lot as a conditional use in the Urban Residential District.

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

Finding 2: The construction of four duplexes, creating eight dwelling units on a 82,328 Sq. ft. lot, provides low rise, medium density residential dwellings. The proposed development is compatible with the purpose of the zoning district.

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

Finding 3: The proposed housing development is not expected to negatively impact the adjoining properties greater than other permitted or conditional uses such as a hospital, or railroad.

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

Finding 4: The proposal would construct duplex dwellings at a similar density to the single family homes found in the surrounding area. The proposal is compatible with the existing uses of surrounding land.

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

Finding 5: Existing fire services are adequate to serve the proposed development. The land owner is extending city, water and sewer services and building an access

road to the property. Public services will be adequate to serve the proposed development prior to occupancy.

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

Finding 6: The proposal is in harmony with the existing desirable character of the neighborhood and will not have an undue harmful effect.

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

Finding 7: City services will be adequate prior to occupancy of the housing units (see Condition 1), and the proposal is not unduly detrimental to the health, safety and welfare of the surrounding area or the city as a whole.

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

Finding 8: The proposal will comply with the applicable regulations and conditions specified in this title for such use.

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

Finding 9: Evidence has not been found that is contrary to the applicable land use goals and objects of the Comprehensive Plan. The proposal complies with Goals 1 and 5 of the Homer Comprehensive Plan by providing infill development, increasing the supply and diversity of housing, while promoting housing choice by contributing to the variety of dwelling options in the community.

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

Finding 10: The only applicable requirements of the CDM are the outdoor lighting provisions. The proposal must comply with these provisions upon completion of construction.

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:** See Condition 4.
- 3. Surfacing of parking areas:** No specific conditions deemed necessary.
- 4. Street and road dedications and improvements:** See Condition 3 to develop the driveway to coexist with the Calhoun trail.
- 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.

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

Finding 11: The only applicable requirements of the CDM are the outdoor lighting provisions. The proposal must comply with these provisions upon completion of construction.

Conclusion: Based on the foregoing findings of fact and law, Conditional Use Permit 2015-06 is hereby approved, with Findings 1-11 and the following Conditions.

Condition 1: Complete the extension of City water and sewer service prior to occupancy of the first completed dwelling unit.

Condition 2: Dumpster shall be concealed on three sides by fencing.

Condition 3: The owner/developer shall work with Public Works to develop a driveway to coexist with the Calhoun Trail.

Condition 4: Construct a five foot fence from the southeast corner to the trees that provide an impassable barrier on the east side.

Date Don Stead, Planning Commission Chair

Date City Planner, Rick Abboud

NOTICE OF APPEAL RIGHTS

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

CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to the below listed recipients on _____, ____ 2016. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk.

Date Dotti Harness-Foster, Planning Technician

Josiah Fisher
PO Box 1476
Homer, AK 99603

James Hornaday
PO Box 2489
Homer, AK 99603

Katie Koester, City Manager
491 E Pioneer Avenue
Homer, AK 99603



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HOMER ADVISORY PLANNING COMMISSION

Approved CUP 15-07 at the Meeting of December 2, 2015

RE: Conditional Use Permit (CUP) 15-07

Address: 1242 Ocean Drive

Legal Description: T 6S R 13W SEC 21 Seward Meridian HM 0000839 BAY VIEW SUB LOT 33 AND THE W1/2 OF LOT 32

DECISION

Introduction

Guy Chow, (the “Applicant”) applied to the Homer Advisory Planning Commission (the “Commission”) for a Conditional Use Permit (CUP) under Homer City Code HCC 21.24.030(f) a Planned Unit Development(PUD); and HCC 21.24.030(j) for more than one building containing a permitted principle use on a lot in the General Commercial One district.

The applicant built a structure within the 20 foot building setback, and later applied for a PUD to reduce the setback. The structure in the setback is in addition to the main building on the property, so the CUP also included the request for “more than one building containing a permitted principle use on a lot” in the General Commercial One district.

The application was scheduled for a public hearing as required by Homer City Code 21.94 before the Commission on December 2, 2015. Notice of the public hearing was published in the local newspaper and sent to 25 property owners of 38 parcels.

At the December 2, 2015 meeting of the Commission, the Commission voted to approve the request. Six Commissioners were present; five voted to approve the CUP, and one opposed. After much discussion the Commission established an additional condition to require Fire Marshal approval for the structure under the canopy within 45 days, which is Sunday, January 17, 2016 with the next business day being Monday, January 18, 2016.

Evidence Presented

City Planner Abboud reviewed the staff report and the applicant was available for questions. Prior to the public hear, three concerned residents submitted comments regarding the need for landscaping, debris removal, sanitation facilities, and designated parking spaces.

Findings of Fact

After careful review of the record, the Commission approved Condition Use Permit 15-07 subject to the Conditions.

The criteria for granting a Conditional Use Permit is set forth in HCC 21.71.030 and 21.71.040. a. The applicable code authorizes each proposed use and structure by conditional use permit in that zoning district.

Finding 1: Homer City Code authorizes “Planned unit developments,” HCC 21.24.030(f) and “more than one building containing a permitted principal use on a lot;” HCC 21.24.030(j).

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

Finding 2: The structure under the canopy provides an additional business location with frontage on Ocean Drive

Finding 3: Multiple buildings on the site are compatible with the purpose of the GC1 district.

Finding 4: Locating a building toward the front lot line leaves more room for parking in the rear of the lot.

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.

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

Finding 6: The proposed uses as convenience store, commercial kitchen and storage are compatible with the existing uses along Ocean Drive.

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

Finding 7: Public services and facilities are adequate to serve the proposed use. A paved road along with city water and sewer service the site, but neither water nor sewer is activated.

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

Finding 8: The scale, bulk and density of this project is in harmony with the GC1 district.

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

Finding 9: When water and sewer are activated, the proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area and the city as a whole.

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

Finding 10: The project requires approve by the State Fire Marshal Office, activation of the water and sewer connection, and compliance with the terms and conditions of this CUP.

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

Finding 11: Compliance with federal, state, and local standards, plus the conditions of this CUP furthers the goals and objectives of the Comprehensive Plan.

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

Finding 12: Compliance with the Level One Lighting Standards is required per HCC 21.59.030.

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.** NA
- 2. Fences, walls and screening.** Screen dumpster on three sides. See Conditions.
- 3. Surfacing of vehicular ways and parking areas.** The parking area along Ocean Drive is paved.
- 4. Street and road dedications and improvements (or bonds).** NA
- 5. Control of points of vehicular ingress and egress.** NA - existing.
- 6. Special restrictions on signs.** Signage onsite requires review and a permit for compliance.
- 7. Landscaping.**
- 8. Maintenance of the grounds, buildings, or structures.**
- 9. Control of noise, vibration, odors, lighting or other similar nuisances.** NA
- 10. Limitation of time for certain activities.** NA
- 11. A time period within which the proposed use shall be developed.** See conditions.

12. A limit on total duration of use or on the term of the permit, or both. NA

13. More stringent dimensional requirements, such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.

14. Other conditions necessary to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.

b. A planned unit development that includes commercial, noncommercial or industrial uses shall comply with the following requirements and conditions:

1. The PUD site shall have direct access to an arterial or collector street.

Finding 13: The site has direct access to Ocean Drive an arterial.

2. Utilities, roads and other essential services must be constructed, installed and available for the immediate use of occupants of the PUD.

Finding 14: Activate the water and sewer connection to the main building by Dec. 31, 2015 per HCC 14.040.020 Connection Required.

3. The PUD shall be developed with a unified architectural treatment in exterior building materials, colors and design features.

Finding 15: The exterior of both buildings are to have a unified architectural appearance that demonstrates continuity amongst the buildings.

c. If topographical or other barriers do not provide adequate privacy for uses adjacent to the PUD, the Commission may impose conditions to provide adequate privacy, including without limitation one or both of following requirements:

1. Structures located on the perimeter of the planned development must be set back a distance sufficient to protect the privacy of adjacent uses;

Finding 16: Fire Marshal approval of the main building is required before the Planning Commission may grant an exception to the side setback for the deck.

2. Structures on the perimeter must be permanently screened by a fence, wall or planting or other measures sufficient to protect the privacy of adjacent uses.

Finding 17: Maintain neighborhood character and privacy of adjacent users by planting a 70 foot long buffer of evergreen trees from NE corner of the West ½ of Lot 32 traveling southward and include plantings within the lawn area. See site plan.

d. Dimensional Requirements. Setbacks and distances between buildings within the development shall be at least equivalent to that required by the zoning district in which the PUD is located unless the applicant demonstrates that:

1. A better or more appropriate design can be achieved by not applying the provisions of the zoning district; and

Finding 18: Allowing the existing structure under the canopy to have a reduced building setback enhances the pedestrian environment along Ocean Drive. Gaining Fire Marshal approval for deck in the setback meets provision of zoning district with an approved PUD.

2. Adherence to the dimensional requirements of the zoning district is not required in order to protect health, safety and welfare of the occupants of the development and the surrounding area.

Finding 19: The health, safety, and welfare of the occupants of the development and the surrounding area are not negatively affected by a reduced setback from Ocean Drive.

The Commission approved CUP 15-07 with Findings 1-19 and Conditions 1-8.

Condition 1: Dwelling units located in the primary building must meet code requirements for the GC1 district with active sanitation connection and Fire Marshal approval.

Condition 2: Activate the water and sewer connection to the main building by Dec. 31, 2015 per HCC 14.040.020 Connection Required.

Condition 3. The dumpster or trash containers shall be enclosed with a three-sided, 6 ft high wood, stone or brick enclosure.

Condition 4: The exterior siding and roofing to be completed by Dec. 31, 2016. The exterior of both buildings shall have a unified architectural appearance that demonstrates continuity amongst the buildings.

Condition 5: Fire Marshal approval of the main building is required for granting a reduced side setback of the deck.

Condition 6: All buildings on skids to meet the setback requirements by May 31, 2016.

Condition 7: A 70 ft evergreen buffer shall be installed from NE corner of the West ½ of Lot 32 traveling southward and include planting within the lawn area. The evergreens trees shall be installed by August 31, 2016. Initial plantings to have a trunk size of at least one inch, within 6 inches of ground level and to be spaced not more than 8 feet apart.

Condition 8: Fire Marshal approval for the structure under the canopy is required within 45-days which is Sunday, January 16, 2016 with the next business day is Monday, January 18, 2016.

Date

Planning Commission Chair, Don Stead

Date

City Planner, Rick Abboud

NOTICE OF APPEAL RIGHTS

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Date

Dotti Harness-Foster, Planning Technician

Guy Chow
1242 Ocean Dr
Homer, AK 99603

Katie Koester, City Manager
491 E Pioneer Avenue
Homer, AK 99603



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TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: January 6, 2016
SUBJECT: City Planner's Report

This is likely the least amount of information that I have for a Planner's report. The last City Council meeting was basically year-end clean-up items. There were none that involved planning issues.

While the holidays have been slow, we have been short(er) staffed around the holidays.

Some item that I am hoping to have the Planning Commission work on in the new year include updating and reviewing the Comprehensive Plan, H.A.R.T. and possibly some other roads and streets policies.



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STAFF REPORT PL 16-02

TO: Homer Advisory Planning Commission
FROM: Rick Abboud AICP, City Planner
MEETING: January 6, 2016
SUBJECT: Zoning for Marijuana, second public hearing

Requested Action: Hear testimony on the draft ordinance regulating commercial marijuana activities by zoning district and make amendments if desired.

GENERAL INFORMATION

This is the second of two scheduled public hearings. The draft ordinance creates zoning regulations for the four types of commercially regulated marijuana activities licensed by the state.

1. Cultivation. There are two sizes of cultivation operations:
Small scale is limited to 500 square feet of cultivation, and
Large scale is anything larger than that.
2. Testing
3. Manufacturing
4. Retail

The city may propose regulations in addition to the state regulations but may not allow anything that is less restrictive than the state. Below is a table of the activities proposed by zoning district. In addition to state regulations, the city has proposed additional buffers:

- 1000 ft from schools (this mirrors the federal drug free zones)
- 200 ft from the library
- 200 ft from Jack Gist, Karen Hornaday, Bayview, and Ben Walters Parks

After reviewing the U.S. Code, 21 USC 860 (found below), I recommend that the Planning Commission make a motion to **propose a 1000 foot buffer from the Kenai Peninsula College , the Alaska Bible institute, and from Karen Hornaday and Bayview Parks.** This will make Homer consistent with the federal double penalty zone.

(a) Penalty

Any person who violates [section 841\(a\)\(1\) of this title](#) or [section 856 of this title](#) by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a **public or private college, junior college, or university**, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b) of this section) subject

to (1) twice the maximum punishment authorized by [section 841\(b\) of this title](#); and (2) at least twice any term of supervised release authorized by [section 841\(b\) of this title](#) for a first offense. A fine up to twice that authorized by [section 841\(b\) of this title](#) may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by [section 841\(b\) of this title](#), a person shall be sentenced under this subsection to a term of imprisonment of not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

You may also notice the provision for “playground” in the code. Below is the federal definition. It is defined as “containing three or more apparatus.

(e) Definitions For the purposes of this section—

(1)

The term “playground” means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

(2)

The term “youth center” means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

(3)

The term “video arcade facility” means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

(4)

The term “swimming pool” includes any parking lot appurtenant thereto.

Update

A few changes were made after the Planning Commission meeting.

After consulting with the City Attorney, it was felt that the industry and the city would be better served by allowance of permitted activities in appropriate locations rather than requiring Conditional Use Permits (CUP’s) over wide areas of the city. A CUP has some qualitative standards for the community to support. This may be particularly challenging to defend in some circumstances.

The federal government, through the Cole Memo, places a high priority on keeping the industry from the under aged. Most of the recommendations of the City Planner focus on being the best steward for this concept. This is why I recommend keeping distances from schools in line with the increased penalty zones for drug activities, which has been an accepted concept of both the Cannabis Advisory Committee (CAC) and the Planning Commission. This also plays a role in why I do not support these activities in residential districts that are meant to support families, many of which include children. Opening up marijuana activities in these areas is at the peril of not only the operator, but the city.

Cultivation is not supported in the rural residential district. Previously, the Commission was considering the option of allowing limited commercial grows (up to 500sf) with an approved CUP on lots greater than 20,000 square feet in the rural residential district. No examples or recommendations were found from Washington or Colorado of commercial grows in residential neighborhoods.

The intent of the rural residential? district is to provide for low density residential development and limited agricultural pursuits. The highly regulated nature of marijuana cultivation, as proposed by the state, does not resemble limited agriculture, it is a commercial activity. This commercial activity has many mandated security requirements and will require commercial building review, continuous video monitoring, and lighting of at least twenty feet in front of any outside access. This type of commercial activity is not found to support the intent of the district in code or the comprehensive plan. As such, the commission feels commercial marijuana businesses are better suited for commercial districts that were devised to support such activities.

The Planning Commission did decide to allow most marijuana related activities to be permitted in commercial districts (General Commercial 1 & 2 and East End Mixed Use), as these districts restrict dwelling options. The exception, for now, is manufacturing which is still proposed to require a CUP. I do **request that the Planning Commission make a motion to allow manufacturing as permitted in these districts** to be consistent with the other prosed recommendations.

The state is now proposing to allow a consumption component to a retail facility. This is a bit tough to judge at the moment. While there is a great deal of rules and regulation regarding how the retail component will operate, there is no additional information (so far) regarding any other regulation regarding the operation of the facility with an attached place of consumption. This certainly adds to the complexity of the subject of retail facilities. The model that I have observed in Washington and Colorado (without consumption) was one that I saw as having little negative consequences compared to other retail operations such as liquor or convenience stores. Thoughts and discussion are welcome.

A = Allowed. C = Conditional Use Permit needed.

Table 1. Cannabis Activity by Zoning District

Activity	District					
	CBD	GC1	GC2	EEMU	MC	
Retail	C	A	A	A	C	
MFG		C	C	C		
Testing	A	A	A	A		
Cultivation						
small	C	A	A	A		
large	C	A	A	A		

STAFF COMMENTS:

While we are looking at regulating relatively small aspects of the industry, the meat of requirements are found in the proposed regulations of the state. These regulations are quite extensive. There are requirements that apply (Article 7) to all of the activities along with more specific requirements that address each of the 4 individual licensing areas. One really needs to understand the state regulations to get an accurate picture of what these activities may look like when approved. There are 133 pages that compose articles 1-9, which the state uses for regulation. I will attempt to highlight some of these and draw attention to those that need particular consideration for zoning.

All activities are to be secured. This means that cameras and lighting needs to be adequate to identify those inside the facility and anyone within 20 feet of the outside entrances. Commercial grade locks will need to be installed. All personal that work or have ownership interest will need a handlers permit and this permit must be on the person at all times when in the facility.

Many other aspects of the activities are regulated by the state including:

- All waste disposal
- Transportation of the product
- Signage and advertising
- Inventory tracking
- No odor may be detectable off site
- None of the product may be consumed in any licensed facility
- No facilities may reduce or expand without board approval
- No delivery off-site
- No operation between the hours of 5am and 8am

State application procedures require announcement in the newspaper for 3 consecutive weeks and announcements on the radio twice a week for 3 consecutive weeks, as well as on-site and nearby postings.

The state has proposed buffers:

- 500 feet from a school, a recreation or youth center, a building which religious services are regularly conducted, or a correctional facility.

The City's regulations do not address personal use or consumption of marijuana. State regulations still allow for the growing, possession, and gifting as many as six marijuana plants. Only three of the plants can be mature and flowering at any one time. According to the State of Alaska (<https://www.commerce.alaska.gov/web/abc/MarijuanaInitiativeFAQs.aspx>) an unlicensed person may possess up to 4 ounces of marijuana. It is illegal to smoke marijuana in public as defined by the state, no additional restrictions have been suggested.

RECOMMENDATIONS:

Make Motions to consider a 1000 foot buffer from the colleges and playgrounds and to allow manufacturing as a permitted activity in the GC1 & 2, and EEMU districts. Hear testimony and consider amending the ordinance if appropriate. Recommend for adoption to the City Council.

ATTACHMENTS

1. Draft ordinance 12/9/2015
2. January 6 2016 Commercial Cannabis Maps (2)
3. Memorandum PL 16-01
4. Letters received on the draft ordinance (Received after December 2nd Meeting, in reference to the ordinance as it stood at that meeting)

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

4
5 Planning Commission
6

7 **ORDINANCE 16-__**
8

9 **AN ORDINANCE OF THE CITY COUNCIL OF HOMER,**
10 **ALASKA, AMENDING HOMER CITY CODE 21.18, CENTRAL**
11 **BUSINESS DISTRICT; HOMER CITY CODE 21.24, GENERAL**
12 **COMMERCIAL 1; HOMER CITY CODE 21.26, GENERAL**
13 **COMMERCIAL 2; HOMER CITY CODE 21.27, EAST END**
14 **MIXED USE; HOMER CITY CODE 21.28, MARINE**
15 **COMMERCIAL; HOMER CITY CODE 21.40 TO IDENTIFY THE**
16 **ZONING DISTRICTS PERMITTING MARIJUANA FACILITIES**
17 **AND ADOPTING CHAPTER 21.62 ENTITLED “MARIJUANA**
18 **FACILITIES” REGARDING GENERAL LAND USE**
19 **REQUIREMENTS FOR MARIJUANA CULTIVATION,**
20 **MANUFACTURING, RETAIL, AND TESTING FACILITIES**
21

22 WHEREAS, it is in the City’s best interest to draft comprehensive regulations
23 regarding the use of property within the City to cultivate, manufacturer marijuana or to
24 operate a retail store selling marijuana; and
25

26 WHEREAS, the City is dedicated to drafting regulations that prevent the
27 distribution of marijuana to minors; prevents revenue from the sale of marijuana from
28 going to criminal enterprises, gangs, and cartels; prevents the diversion of marijuana
29 from states where it is legal under state law in some form to other states; prevents state-
30 authorized marijuana activity from being used as a cover or pretext for the trafficking of
31 other illegal drugs or other illegal activity; prevents violence and the use of firearms in
32 the cultivation and distribution of marijuana; prevents drugged driving and the
33 exacerbation of other adverse public health consequences associated with marijuana use;
34 prevents the growing of marijuana on public lands and the attendant public safety and
35 environmental dangers posted by marijuana production on public land; and prevents
36 marijuana possession or use on federal property.
37

38 THE CITY OF HOMER ORDAINS:
39

40 Section 1. Homer City Code Chapter 21.18 is amended as follows:

41 Section 21.18.020 Permitted uses and structures.
.....

42 The following uses are permitted outright in the Central Business District, except
43 when such use requires a conditional use permit by reason of size, traffic volumes, or
44 other reasons set forth in this chapter:
.....

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

- 45 a. Retail business where the principal activity is the sale of merchandise
46 and incidental services in an enclosed building;
- 47 b. Personal service establishments;
- 48 c. Professional offices and general business offices;
- 49 d. Restaurants, clubs and drinking establishments that provide food or
50 drink for consumption on the premises;
- 51 e. Parking lots and parking garages, in accordance with
52 Chapter 21.55 HCC;
- 53 f. Hotels and motels;
- 54 g. Mortuaries;
- 55 h. Single-family, duplex, and multiple-family dwellings,
56 including townhouses, but not including mobile homes;
- 57 i. Floatplane tie-up facilities and air charter services;
- 58 j. Parks;
- 59 k. Retail and wholesale sales of building supplies and materials, only if
60 such use, including storage of materials, is wholly contained within one or
61 more enclosed buildings;
- 62 l. Customary accessory uses to any of the permitted uses listed in the CBD
63 district; provided, that a separate permit shall not be issued for the
64 construction of any detached accessory building prior to that of the main
65 building;
- 66 m. Mobile homes, provided they conform to the requirements set forth in
67 HCC 21.54.100;
- 68 n. Home occupations, provided they conform to the requirements of
69 HCC 21.51.010;

- 70 o. Ministorage;
- 71 p. Apartment units located in buildings primarily devoted to business or
72 commercial uses;
- 73 q. Religious, cultural, and fraternal assembly;
- 74 r. Entertainment establishments;
- 75 s. Public, private and commercial schools;
- 76 t. Museums and libraries;
- 77 u. Studios;
- 78 v. Plumbing, heating and appliance service shops, only if such use,
79 including the storage of materials, is wholly within an enclosed building;
- 80 w. Publishing, printing and bookbinding;
- 81 x. Recreational vehicle parks only if located south of the
82 Sterling Highway (Homer Bypass) from Lake Street west to the boundary
83 of the Central Business District abutting Webber Subdivision, and from
84 Heath Street to the west side of Lakeside Village Subdivision, provided
85 they shall conform to the standards in HCC 21.54.200 and following
86 sections;
- 87 y. Taxi operation limited to a dispatch office and fleet parking of no more
88 than five vehicles; maintenance of taxis must be conducted within an
89 enclosed structure, and requires prior approval by the City Planner of
90 a site, access and parking plan;
- 91 z. Mobile food services;
- 92 aa. Itinerant merchants, provided all activities shall be limited
93 to uses permitted outright under this zoning district;
- 94 bb. Day care homes and facilities; provided, however, that outdoor play
95 areas must be fenced;

- 96 cc. Rooming house, bed and breakfast and hostel;
- 97 dd. Auto repair and auto and trailer sales or rental areas, but only on
- 98 Main Street from Pioneer Avenue to the Sterling Highway,
- 99 excluding lots with frontage on Pioneer Avenue or the Sterling Highway,
- 100 subject to the following additional requirements: Vehicles awaiting repair
- 101 or service, inoperable vehicles, vehicles for parts, and vehicles awaiting
- 102 customer pickup shall be parked indoors or inside a fenced enclosure so as
- 103 to be concealed from view, on all sides. The fence shall be a minimum
- 104 height of eight feet and constructed to prohibit visibility of anything inside
- 105 of the enclosure. The portion of any vehicle exceeding eight feet in height
- 106 may be visible outside of the fence. Vehicle parts (usable or unusable),
- 107 vehicle service supplies, and any other debris created in the repair or
- 108 servicing of vehicles shall also be stored indoors or inside the fenced
- 109 enclosure out of view of the public;
- 110 ee. Farmers’ market;
- 111 ff. Dormitory;
- 112 gg. Financial institutions;
- 113 hh. As an accessory use, one small wind energy system per lot having a
- 114 rated capacity not exceeding 10 kilowatts;
- 115 ii. One detached dwelling unit, excluding mobile homes, as an accessory
- 116 building to a principal single-family dwelling on a lot.

117 **ji. Marijuana testing facility as defined by state law.**

118
119
119 Section 21.18.030 Conditional uses and structures.
120

120 The following uses may be permitted in the Central Business District
121 when authorized by conditional use permit issued in accordance with
122 Chapter 21.71 HCC:
123

- 123 a. Planned unit developments, excluding all industrial uses;
- 124 b. Indoor recreational facilities and outdoor recreational facilities;
- 125 c. Mobile home parks;
- 126 d. Auto fueling stations;
- 127 e. Public utility facilities and structures;
- 128 f. Pipeline and railroads;
- 129 g. Greenhouses and garden supplies;
- 130 h. Light or custom manufacturing, repair, fabricating, and assembly,
131 provided such use, including storage of materials, is wholly within an
132 enclosed building;
- 133 i. Shelter for the homeless, provided any lot used for such shelter does
134 not abut a residential zoning district;
- 135 j. More than one building containing a permitted principal use on a lot;
- 136 k. Group care homes and assisted living homes;
- 137 l. Drive-in car washes, but only on the Sterling Highway from Tract A-1
138 Webber Subdivision to Heath Street;
- 139 m. One small wind energy system having a rated capacity exceeding 10
140 kilowatts; provided, that it is the only wind energy system of any capacity
141 on the lot;
- 142 n. Other uses approved pursuant to HCC 21.04.020
- 143 **o. Marijuana retail facilities and cultivation facilities as defined by**
144 **state law.**

145 Section 3. Homer City Code Chapter 21.24 is amended as follows:

146 Section 21.24.020 Permitted uses and structures.

147 The following uses are permitted outright in the General Commercial 1
148 District, except when such use requires a conditional use permit by reason of size,
149 traffic volumes, or other reasons set forth in this chapter.
.....

- 150 a. Air charter operations and floatplane tie-up facilities;
- 151 b. General business offices and professional offices;
- 152 c. Dwelling units located in buildings primarily devoted to business uses;
- 153 d. Auto repair;
- 154 e. Auto and trailer sales or rental areas;
- 155 f. Auto fueling stations and drive-in car washes;
- 156 g. Building supply and equipment sales and rentals;
- 157 h. Restaurants, including drive-in restaurants, clubs and drinking
158 establishments;
- 159 i. Garden supplies and greenhouses;
- 160 j. Heavy equipment and truck sales, rentals, service and repair;
- 161 k. Hotels and motels;
- 162 l. Lumberyards;
- 163 m. Boat and marine equipment sales, rentals, service and repair;
- 164 n. Mortuaries;
- 165 o. Open air businesses;
- 166 p. Parking lots and parking garages, in accordance with
167 Chapter 21.55 HCC;

- 168 q. Manufacturing of electronic equipment, electrical devices, pottery,
169 ceramics, musical instruments, toys, novelties, small molded products and
170 furniture;
- 171 r. Publishing, printing and bookbinding;
- 172 s. Recreation vehicle sales, rental, service and repair;
- 173 t. Retail businesses;
- 174 u. Trade, skilled or industrial schools;
- 175 v. Wholesale businesses, including storage and distribution services
176 incidental to the products to be sold;
- 177 w. Welding and mechanical repair;
- 178 x. Parks and open space;
- 179 y. Appliance sales and service;
- 180 z. Warehousing, commercial storage and mini-storage;
- 181 aa. Banks, savings and loans, credit unions and other financial institutions;
- 182 bb. Customary accessory uses to any of the permitted uses listed in the
183 GC1 district; provided, that no separate permit shall be issued for the
184 construction of any type of accessory building prior to that of the main
185 building;
- 186 cc. Dry cleaning, laundry, and self-service laundries;
- 187 dd. Taxi operation;
- 188 ee. Mobile food services;
- 189 ff. Itinerant merchants, provided all activities shall be limited
190 to uses permitted outright under this zoning district;

- 191 gg. Recreational vehicle parks, provided they shall conform to the
192 standards in Article II of Chapter 21.54 HCC;
- 193 hh. Day care homes; provided, that a conditional use permit was obtained
194 for the dwelling, if required by HCC 21.24.030; all outdoor play areas
195 must be fenced;
- 196 ii. Rooming house and bed and breakfast;
- 197 jj. Dormitory;
- 198 kk. As an accessory use, one small wind energy system per lot.

199 **ll. Marijuana testing retail facilities, cultivation facilities as defined by**
200 **state law.**

201 Section 21.24.030 Conditional uses and structures.

202 The following uses may be permitted in the General Commercial 1 District when
203 authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

- 204 a. Campgrounds;
- 205 b. Crematoriums;
- 206 c. Multiple-family dwelling;
- 207 d. Public utility facility or structure;
- 208 e. Mobile home parks;
- 209 f. Planned unit developments;
- 210 g. Townhouses;
- 211 h. Pipelines and railroads;
- 212 i. Shelter for the homeless, provided any lot used for such shelter does
213 not abut an RO, RR, or UR zoning district;

- 214 j. More than one building containing a permitted principal use on a lot;
- 215 k. Day care facilities; provided, however, that outdoor play areas must be
- 216 fenced;
- 217 l. Other uses approved pursuant to HCC 21.04.020;
- 218 m. Indoor recreational facilities;
- 219 n. Outdoor recreational facilities

220 **o. Marijuana manufacturing facilities as defined by state law.**

221 Section 4. Homer City Code Chapter 21.26 is amended as follows:

222 Section 21.26.020 Permitted uses and structures.

223 The following uses are permitted outright in the General Commercial 2

224 District, except when such use requires a conditional use permit by reason of size,

225 traffic volumes, or other reasons set forth in this chapter:

226

- 227 a. Production, processing, assembly and packaging of fish, shellfish and
- 228 seafood products;
- 229 b. Construction, assembly and storage of boats and boat equipment;
- 230 c. Manufacture and assembly of pottery and ceramics, musical
- 231 instruments, toys, novelties, small molded products, electronic instruments
- 232 and equipment and electrical devices;
- 233 d. Research and development laboratories;
- 234 e. Trade, skills or industrial schools;
- 235 f. Publishing, printing and bookbinding facilities;
- 236 g. Auto, trailer, truck, recreational vehicle and heavy equipment sales,
- 237 rentals, service and repair, excluding storage of vehicles or equipment that
- 238 is inoperable or in need of repair;

- 239 h. Storage and distribution services and facilities, including truck
240 terminals, warehouses and storage buildings and yards, contractors'
241 establishments, lumberyards and sales, or similar uses;
- 242 i. Airports and air charter operations;
- 243 j. Underground bulk petroleum storage;
- 244 k. Cold storage facilities;
- 245 l. Parking lots and parking garages, in accordance with
246 Chapter 21.55 HCC;
- 247 m. Mobile commercial structures;
- 248 n. Accessory uses to the uses permitted in the GC2 district that are clearly
249 subordinate to the main use of the lot or building, such as wharves, docks,
250 restaurant or cafeteria facilities for employees; or caretaker
251 or dormitory residence if situated on a portion of the principal lot;
252 provided, that separate permits shall not be issued for the construction of
253 any type of accessory building prior to that of the main building;
- 254 o. Taxi operation;
- 255 p. Mobile food services;
- 256 q. Itinerant merchants, provided all activities shall be limited
257 to uses permitted outright under this zoning district;
- 258 r. Recreational vehicle parks, provided they shall conform to the standards
259 in Chapter 21.54 HCC;
- 260 s. Hotels and motels;
- 261 t. Dormitory;
- 262 u. As an accessory use, one small wind energy system per lot;
- 263 v. Open air business.

264 **w. Marijuana testing, retail facilities, cultivation facilities as defined**
265 **by law.**

266 Section 21.26.030 Conditional uses and structures.

267 The following uses may be permitted in the General Commercial 2
268 District when authorized by conditional use permit issued in accordance with
269 Chapter 21.71 HCC:

- 270 a. Mobile home parks;
- 271 b. Construction camps;
- 272 c. Extractive enterprises, including the mining, quarrying and crushing of
273 gravel, sand and other earth products and batch plants for asphalt or
274 concrete;
- 275 d. Bulk petroleum product storage above ground;
- 276 e. Planned unit developments, excluding residential uses;
- 277 f. Campgrounds;
- 278 g. Junk yard;
- 279 h. Kennels;
- 280 i. Public utility facilities and structures;
- 281 j. Pipelines and railroads;
- 282 k. Impound yards;
- 283 l. Shelter for the homeless, provided any lot used for such shelter does
284 not abut an urban, rural or office residential zoning district;
- 285 m. More than one building containing a permitted principal use on a lot;
- 286 n. Day care facilities; provided, however, that outdoor play areas must be
287 fenced;

- 288 o. Group care homes and assisted living homes;
- 289 p. Other uses approved pursuant to HCC 21.04.020;
- 290 q. Indoor recreational facilities;
- 291 r. Outdoor recreational facilities.

292 **s. Marijuana manufacturing facilities as defined by state law.**

293 Section 5. Homer City Code Chapter 21.27 is amended to read as follows:

294
295 Section 21.27.020 Permitted uses and structures.

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297 The following uses are permitted outright in the East End Mixed Use
298 District, except when such use requires a conditional use permit by reason of size,
299 traffic volumes, or other reasons set forth in this chapter:

- 300 a. Auto, trailer, truck, recreational vehicle and heavy equipment sales,
301 rentals, service and repair;
- 302 b. Drive-in car washes;
- 303 c. Building supply and equipment sales and rentals;
- 304 d. Garden supplies and greenhouses;
- 305 e. Boat and marine equipment sales, rentals, manufacturing, storage yard,
306 service and repair;
- 307 f. Welding and mechanical repair;
- 308 g. Restaurants, including drive-in restaurants, clubs and drinking
309 establishments;
- 310 h. Religious, cultural, and fraternal assembly;
- 311 i. Studios;
- 312 j. Personal services;
- 313 k. Agricultural activities, including general farming, truck farming,
314 nurseries, tree farms and greenhouses;
- 315 l. Private stables;
- 316 m. Storage of heavy equipment, vehicles or boats;
- 317 n. Plumbing, heating and appliance service shops;
- 318 o. Home occupations on a lot whose principal permitted use is residential,
319 provided they conform to the requirements of HCC 21.51.010;
- 320 p. Mortuaries and crematoriums;
- 321 q. Open air businesses;
- 322 r. Parking lots and parking garages, in accordance with Chapter 21.55
323 HCC;
- 324 s. Manufacturing, fabrication and assembly;
- 325 t. Retail businesses;
- 326 u. Trade, skilled or industrial schools;
- 327 v. Wholesale businesses, including storage and distribution services
328 incidental to the products to be sold;

- 329 w. Parks and open space;
- 330 x. Warehousing, commercial storage and mini-storage;
- 331 y. Recreational vehicles, subject to the standards in HCC 21.54.320(a), (b)
- 332 and (c);
- 333 z. Dry cleaning, laundry, and self-service laundries;
- 334 aa. Mobile food services;
- 335 bb. As an accessory use, one small wind energy system per lot;
- 336 cc. Production, processing, assembly and packaging of fish, shellfish and
- 337 seafood products;
- 338 dd. Research and development laboratories;
- 339 ee. Storage and distribution services and facilities, including truck
- 340 terminals, warehouses and storage buildings and yards, contractors'
- 341 establishments, lumberyards and sales, or similar uses;
- 342 ff. Cold storage facilities;
- 343 gg. Mobile commercial structures;
- 344 hh. Single-family and duplex dwellings, only as an accessory use
- 345 incidental to a permitted principal use; provided, that no permit shall be
- 346 issued for the construction of an accessory dwelling prior to the
- 347 establishment of the principal use;
- 348 ii. The repair, replacement, reconstruction or expansion of a single-family
- 349 or duplex dwelling, including a mobile home, that existed lawfully before
- 350 its inclusion in the GC1, GC2 or EEMU zoning districts, notwithstanding
- 351 any provision of Chapter 21.61 HCC to the contrary; provided, that a
- 352 mobile home may not be used to replace or expand such a dwelling;
- 353 jj. Customary accessory uses to any of the uses permitted in the EEMU
- 354 district that are clearly subordinate to the main use of the lot or building,
- 355 including without limitation wharves, docks, storage facilities, restaurant
- 356 or cafeteria facilities for employees; or caretaker or employee dormitory
- 357 residence if situated on a portion of the same lot as the principal use;
- 358 provided, that no permit shall be issued for the construction of any type of
- 359 accessory building prior to the establishment of the principal use;
- 360 kk. Taxi operation;
- 361 ll. Itinerant merchants, provided all activities shall be limited to uses
- 362 permitted outright under this zoning district;
- 363 mm. More than one building containing a permitted principal use on a lot;
- 364 nn. The outdoor harboring or keeping of dogs, small animals and fowl as
- 365 an accessory use to a residential use in a manner consistent with the
- 366 requirements of all other provisions of the Homer City Code and as long
- 367 as such animals are pets of the residents of the dwelling and their numbers
- 368 are such as not to unreasonably annoy or disturb occupants of neighboring
- 369 property.
- 370 **oo. Marijuana testing, retail, and cultivation facilities as defined by**
- 371 **state law.**
- 372

373 Section 21.27.030 Conditional uses and structures.

374 The following conditional uses may be permitted in the East End
375 Mixed Use District when authorized by conditional use permit issued in
376 accordance with Chapter 21.71 HCC:

- 377 a. Construction camps;
- 378 b. Extractive enterprises, including crushing of gravel, sand and other
379 earth products and batch plants for asphalt or concrete;
- 380 c. Auto fueling stations;
- 381 d. Bulk petroleum product storage;
- 382 e. Planned unit developments;
- 383 f. Junk yard;
- 384 g. Kennels;
- 385 h. Public utility facilities and structures;
- 386 i. Impound yards;
- 387 j. Indoor recreational facilities;
- 388 k. Outdoor recreational facilities;
- 389 l. Other uses approved pursuant to HCC 21.04.020.

390 **m. Marijuana manufacturing facilities as defined by state law**

391 Section 6. Homer City Code Chapter 21.28 is amended to read as follows:

392
393 Section 21.28.030 Conditional uses and structures

- 394 a. Drinking establishments;
- 395 b. Public utility facilities and structures;
- 396 c. Hotels and motels;
- 397 d. Lodging;
- 398

- 399 e. More than one building containing a permitted principal use on a lot;
- 400 f. Planned unit developments, limited to water-dependent and water-
401 related uses, with no dwelling units except as permitted by HCC
402 21.28.020(o);
- 403 g. Indoor recreational facilities;
- 404 h. Outdoor recreational facilities;
- 405 i. The location of a building within a setback area required by HCC
406 21.28.040(b). In addition to meeting the criteria for a conditional use
407 permit under HCC 21.71.030, the building must meet the following
408 standards:
- 409 1. Not have a greater negative effect on the value of the adjoining
410 property than a building located outside the setback area; and
- 411 2. Have a design that is compatible with that of the structures on
412 the adjoining property.

413
414 **j. Retail marijuana facilities as defined by state law.**

415
416
417 Section 9. Chapter 21.62 is hereby enacted as follows:

418
419
420 **Chapter 21.62**

421
422 **Marijuana Cultivation, Manufacturing, and Retail Facilities**

423
424
425 **Sections:**

426 **21.62.010 Scope.**

427 **21.62.020 Intent**

428 **21.62.030 Definitions**

429 **21.62.040 Pre-application conference.**

430 **21.62.050 Costs**

431 **21.62.060 Safety and Security Plan**

432 **21.62.070 Buffers.**

433 **21.62.080 General restrictions on all marijuana facilities.**

434
435
436 **21.62.010 Scope**

437
438 **a. This chapter applies to the operation of all marijuana cultivation, manufacturing,**
439 **testing, and retail facilities within the city boundaries.**

440

441 **b. This chapter in no way protects marijuana facilities from enforcement of federal**
442 **law nor is it intended to sanction conduct or operations prohibited by law. All**
443 **persons engaged in the marijuana industry within the city operate at their own risk**
444 **and have no legal recourse against the City in the event that city laws are**
445 **preempted, negated or otherwise found unenforceable based upon federal law**
446 **prohibiting the sale, distribution, consumption or possession of marijuana.**

447
448 **21.62.020 Intent**

449
450 **a. This chapter is intended to impose regulations that prevent:**

- 451
- 452 1. **The distribution of marijuana to minors;**
 - 453 2. **Revenue from the sale of marijuana from going to criminal enterprises,**
454 **gangs, and cartels;**
 - 455 3. **The diversion of marijuana from states where it is legal under state law in**
456 **some form to other states where it is unlawful;**
 - 457 4. **State-authorized marijuana activity from being used as a cover or pretext**
458 **for the trafficking of other illegal drugs or other illegal activity;**
 - 459 5. **Violence and the use of firearms in the cultivation and distribution of**
460 **marijuana;**
 - 461 6. **Drugged driving and the exacerbation of other adverse public health**
462 **consequences associated with marijuana use;**
 - 463 7. **The growing of marijuana on public lands and the attendant public safety**
464 **and environmental dangers posted my marijuana production on public land;**
465 **and**
 - 466 8. **Marijuana possession or use on federal property.**
- 467

468 **21.62.030 Definitions [Reserved.]**

469
470 **21.62.040 Pre-application Conference.**

471
472 **21.57.050 Costs.**

473
474 **The cost of all permits, studies and investigation required under this chapter**
475 **shall be borne by the applicant.**

476
477 **When Title 21 requires a conditional use permit for a marijuana facility, the**
478 **applicant must meet with the City Planner to discuss the conditional use**
479 **permit process and any issues that may affect the proposed conditional use.**
480 **This meeting is to provide for an exchange of general and preliminary**
481 **information only and no statement made in such meeting by either the**
482 **applicant or the City Planner shall be regarded as binding or authoritative**
483 **for the purposes of this title.**

484
485 **21.62.060 Safety and Security Plan**

486
487 **A conditional use permit for a marijuana facility required by this title shall**

488 include an analysis of the ways in which the intent and purpose of this
489 chapter have been met and the safety concerns identified in Sections
490 21.62.010 and 21.62.020 will be addressed.

491
492 **21.62.070 Buffers**

493
494 a) The Commission may require buffers, including berms, fences, trees, and
495 shrubs, to minimize impacts to adjacent property. A landscaped buffer or
496 combination of landscaping and berms of no less than ten feet in width will
497 be required where the property with a marijuana facility adjoins districts in
498 which marijuana facilities are prohibited or permitted only as a conditional
499 use.

500
501 b) The following buffer zones shall be applied to all marijuana facilities in all
502 districts:

- | | | |
|-----|-----------------------------|------------------|
| 503 | | |
| 504 | 1. <u>Schools</u> | <u>1000 feet</u> |
| 505 | 2. <u>Churches</u> | <u>500 feet</u> |
| 506 | 3. <u>Jail</u> | <u>500 feet</u> |
| 507 | 4. <u>Youth/rec. center</u> | <u>500 feet</u> |
| 508 | 5. <u>Library</u> | <u>200 feet</u> |
| 509 | | |

510 c) Marijuana facilities abutting the Jack Gist Municipal Park, Karen Hornaday
511 Municipal Park, Bayview Municipal Park, or Ben Walters Municipal Park
512 must have 200 feet or more buffers measured from the boundary of the park.

513
514 **21.62.80 General restrictions applied to all marijuana facilities.**

515
516 a) All marijuana facilities in all districts shall comply with Section 21.59.030 of this
517 title.

518
519 b) An application for a conditional use permit under this chapter shall not be approved
520 if the location of the facility violates the regulatory intent in Section 21.62.020.

521
522
523 Section 8. This ordinance shall take effect upon its adoption by the Homer City Council.

524
525 Section 9. This ordinance is of a permanent and general character and shall be included
526 in the City code.

527
528 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this
529 _____ day of _____ 2015.

530
531 CITY OF HOMER

532
533 _____
534 BETH WYTHE, MAYOR

535 ATTEST:
536
537 _____
538 JO JOHNSON, CMC, CITY CLERK
539

540 AYES:
541 NOES:
542 ABSTAIN:
543 ABSENT:
544

545 First Reading:
546 Public Reading:
547 Second Reading:
548 Effective Date:
549

550 Reviewed and approved as to form:
551

552 _____
553 Kate Koester, City Manager

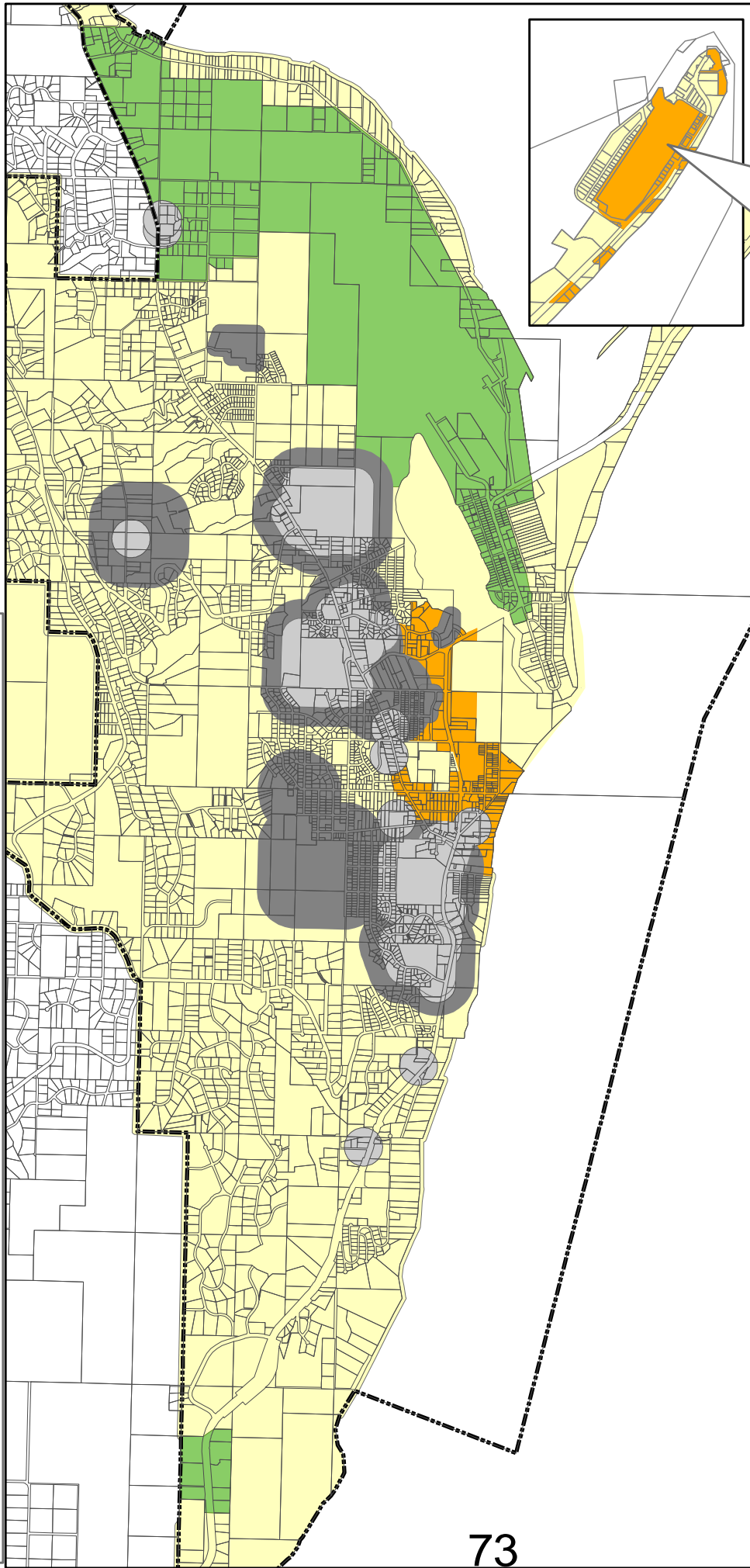
City Attorney

554
555 Date: _____

Date: _____

**January 6, 2016 Public Hearing Version Homer Advisory Planning Commission
2016 Commercial Cannabis Retail and Manufacturing Map.
Testing is allowed outright in the green areas, and in downtown Homer.**

Questions? Contact City Planner Rick Abboud

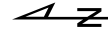


73

Legend

- City Limits
- State Buffers
- Additional City Buffers
- Commercial Cannabis Activities**
- Retail by Conditional Use Permit
- Retail allowed outright, Manufacturing by CUP
- No Commercial Cannabis Businesses

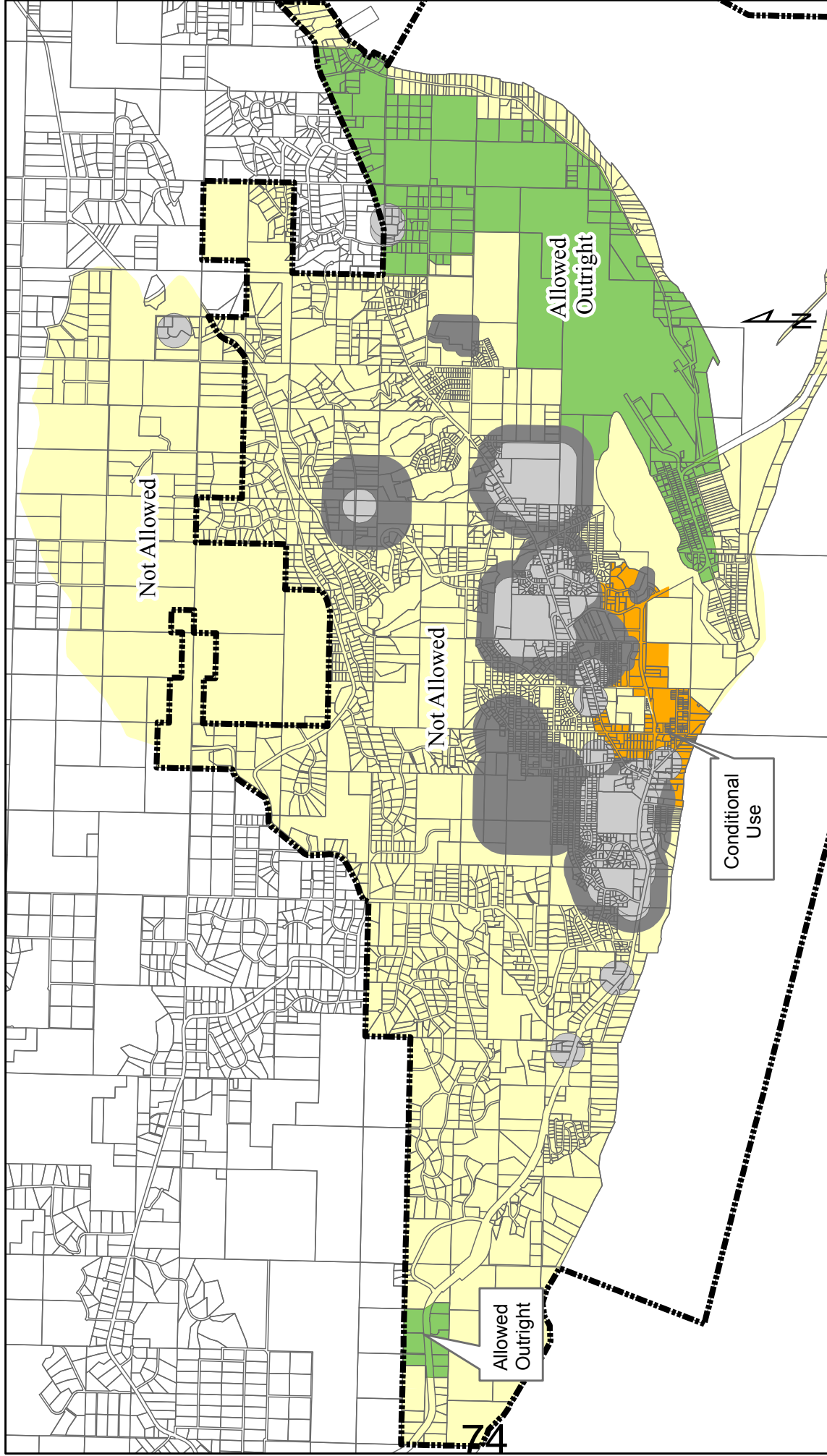
Retail Only the Spit -
no testing or manufacturing









Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

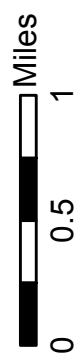
Commercial Cannabis Cultivation Map 1/6/2016

Questions? Contact City Planner Rick Abboud, 235-3106



Legend

-  City Limits
-  State Buffers
-  Additional City Buffers
-  Cultivation Permitted
-  CUP
-  No Commercial Cannabis Businesses



Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/recreation centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Memorandum PL16-01

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: January 6, 2016
SUBJECT: Planning Staff review of Marijuana Industries Ordinance

Planning Staff review per 21.95.040

21.95.040 Planning Department review of code amendment. The Planning Department shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

A. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.

1. *Staff response:* This proposal to varying degrees supports the goals and objectives listed below. The industry is proposed to be allowed with the least amount of additional regulation in the commercial districts GC1 & 2 and EEMU. A higher level of review (CUP) is required in the CBD, which is a mixed use residential and commercial district, where more dwellings are found. As currently proposed, the businesses would not be allowed to introduce commercial activity in residential districts such as rural, urban and residential office.
 - a. 2008 Comprehensive Plan Chapter 8, Economic Vitality Goal 1, GOAL 1: Define and encourage economic development that meets the desires and interests of Homer residents and positively supports the unique character of the community.
 - b. 2008 Comprehensive Plan Chapter 8, Economic Vitality Goal 1, Define and encourage economic development that meets the desires and interests of Homer residents and positively supports the unique character of the community, economic development strategies;
 1. #2, Encouraging the production or sales of goods and services to better serve the local economy.
 2. #3, Amend land use and taxation regulations to encourage production of custom or unique products to sell locally and outside the community; such as art, technology, or value added seafood products.
 3. #4, Encourage "import substitution;" i.e., leakage control by producing locally what is otherwise imported. An example is the local farmer's market, which provides produce

which would otherwise be trucked into the community with profits leaving the community

- c. 2008 Comprehensive Plan Chapter 8, Economic Vitality Goal 2, Encourage the creation of more year-round, higher wage jobs, implementation strategies;
 - i. #3, Ensure that zoning and land use regulations do not unduly restrict entrepreneurial development and new business formation. Also ensure that the value of adjacent property is not degraded through noise, odor or similarly negative impacts.
 - ii. #6, Promote and enable small-scale employers who may have different land use and infrastructure needs than one or two-person sole proprietorships.
 - iii. #10 Establish and maintain consistent municipal standards and policies relating to the establishment and/or expansion of business activities on private and municipal lands.
 - iv. #13 Examine and replicate appropriate regional successes.

- d. 2008 Comprehensive Plan Chapter 4, Land Use, Objective D, 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.

B. Will be reasonable to implement and enforce.

Staff response: This amendment introduces a new industry to Homer, Alaska, and the United States and as such will be a learning experience to all. Leaving the majority of regulation to the state lessens the burden and liability of the City of Homer. Implementation and enforcement of the suggested CUP's may be the largest challenge to reasonable implement and enforce.

C. Will promote the present and future public health, safety and welfare.

Staff response: This amendment promotes health, safety and welfare by only locating the industry in commercial areas that are regulated in order to limit incompatible uses.

d. Is consistent with the intent and wording of the other provisions of this title.

Staff response: This amendment has been reviewed by the City Attorney and is consistent with the intent, wording and purpose of HCC Title 21.

STAFF COMMENTS/RECOMMENDATIONS:

Planning staff has reviewed the ordinance per 21.95.040 and recommends the Planning Commission conduct a public hearing, and recommend approval to the City Council with consideration for the amendments suggested in staff report 16-02.

Dotti Harness

Subject: FW: Zoning and Planning: Cannabis

I need to correct one thing.

I mentioned NO on a CUP permit, anywhere in Homer, for Limited Cultivation Facilities: one exception, the pink zone, where our city water is. That is the only reasonable area, where a CUP should be required as there are waste issues to be concerned with, especially if they do not have proper plumbing. Yes to CUP on limited up by the city water. Anywhere else, no.

Jeremiah

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

From: Jeremiah Emmerson [mailto:publisher@alaskacannabiscollective.com]

Sent: Thursday, December 03, 2015 10:36 AM

To: Department Planning

Subject: Zoning and Planning: Cannabis

RECEIVED

DEC 3 - 2015

CITY OF HOMER
PLANNING/ZONING

I wanted to follow up to my oral testimony given in the Planning Workshop held on December 2nd.

A few things that I addressed, were the school buffer zone increases, limit on licenses issued, forcing a half acre in general residential areas as well as limiting retail operations on the spit.

I would like to expand on what I mentioned at the workshop.

One of the biggest issues that I see is that there is a lack of information on the planning committee's behalf. It did not appear to me that the board members have even read the regulations. I understand that cannabis is not the only issue that the planning committee addresses and surely no one person could attempt to know everything there is to know. However, this issue needs addressed and the planning committee should read the regulations prior to making zoning or else we run into ignorant decision making.

The regulations are currently heading to the Department of Law for review, then they will be heading to the Lieutenant Governor for final approval. There will be amendments and adjustments made in the future, these regulations are never going to be set in stone, another common misconception people have. The board can go back and make changes. Bruce Schulte has assured me that this is the intention of the board, to revisit and make changes as necessary for the better good of all involved.

What I would like to reiterate is the state regulations are incredibly strict. Keeping cannabis out of the hands of minors is one of the highest priorities for ALL cannabis establishments. Most of the industry members I have spoken to, recognize the importance of keeping cannabis out of the hands of minors. They are intending on being business owners and they all know the consequences for selling to minors. In reality, usage rates in other states that have legalized, among minors, has either a: stayed the same with no increase in rates, even amongst teens, or b: has decreased as everyone is now required to present a photo id.

In those states the legalized market is winning over the black market and that's a good sign and something that should be supported instead of blocked.

In a lot of ways right now, trust is being built between industry members and government. We both essentially need to trust each other and find ways to limit the sale to minors as well as help the industry grow.

For many years now, black market operations have had full control of cannabis sales, nobody knows for sure where it comes from, nobody knows if it contains contaminants or other harmful substances, nobody can validate that the product is safe. Nor can anyone check and see if there are sales to minors. Nobody knows where the money is going and not one red cent is taxed.

When you legalize cannabis and have regulations such as we have today, most of those problems disappear. You now have to test your product through a licensed, strict protocol, laboratory testing facility. These are state of the art facilities, that checks for things such as harmful substances, contaminants, mold, and general filth. The product becomes cleaner and safer now. Every single gram of cannabis sold also must be documented and is excise taxed at the rate of \$50/ounce. Then add sales tax on to that.

Doing this essentially will eliminate the unsafe black market, that you currently have no control over or ever will, without responsible regulation that promotes legal, safe, documented sales. If you create major barriers to legal operations, you essentially give the black market more control and you lose valueable tax revenues. Not only that the enforcement factor alone, is too costly.

The next item is the economy in general. Homer and many other communities in the state are all trying to figure out how to deal with budget cuts. Its hurting us and we all know it, yet, we are still poking at cannabis unsure of what we should do.

Let me tell you its not just about cannabis smokers and getting high. Now that folks can be legitimate, tax-paying business owners, they will act as such. What comes with that is jobs, growth, and revenues.

Think about this for a minute, if we create reasonable zoning that allows small start ups, to operate in small area its easier for them to "move on up", without high startup costs. Most generally want a facility that is designed to their needs and do not want to grow in their own homes, and they may also have property size limitations.

Regardless if they are looking to renovate or build a new property, or build a new unit on an existing property you just inextricably placed the construction industry and real estate industry together. The three become tied together and folks have jobs. They don't even have to be a cannabis consumer yet they are benefiting from the industry.

In conclusion, the cannabis industry brings so much more to the table than folks getting high. If we choke business out with zoning, limits, and unreasonable or ignorant decisions, were going to miss out in so many ways I can't even list them all today.

Here is my suggestion:

NO to 1000 foot buffers on schools, we already have a state mandated 500 square foot buffer.

NO to CUP permits for ANY Limited Cultivation Facility, anywhere in Homer. You may do a CUP on any Standard.

NO to restricting cannabis retail stores on the spit.

NO to requiring a property owner to hold 20k square feet to operate a Limited Cultivation Facility.

Please revert back to the November 4th, 2015 version of the proposed zoning, as this is the best version to date.

Jeremiah Emmerson

Local Resident

Owner of Alaska Cannabis Collective, an Online Business Directory and Blog

December 2, 2015,

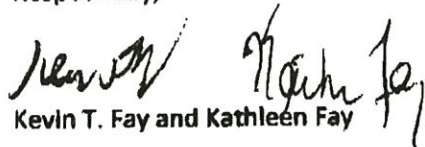
Homer Planning Commission, (907) 235-3118

Homer, Alaska 99603

Dear Homer Planning Commission,

Please be advised, that Kevin and Kathleen Fay, owners of 1590 East Skyline Drive, Homer, Alaska, and 1642 East Skyline Drive, Homer, Alaska strongly oppose the "Production sale or use of Marijuana." We are hopeful you will not approve this, within the City limits of Homer, Alaska.

Respectfully,


Kevin T. Fay and Kathleen Fay

2002 Ocean Ave.

Belmar, NJ 07719

(732) 681-4128

kevintfay@verizon.net

RECEIVED

DEC 4 - 2015

CITY OF HOMER
PLANNING/ZONING

Subject: FW: Zoning for Cannabis

RECEIVED

DEC 9 - 2015

From: Jeremiah Emmerson [<mailto:publisher@alaskacannabiscollective.com>]

Sent: Tuesday, December 08, 2015 5:59 PM

To: Department Planning

Subject: Zoning for Cannabis

CITY OF HOMER
PLANNING/ZONING

Looked at the zoning maps, I believe scheduled for a vote on the 6th of January, I am finding some positives and a few questionable items. I made comment before and one positive thing that I do see, is that we are going to allow retail on the spit.

Bravo!

Next, we are going to allow any establishment (minus manufacturing) near Kachemak Drive, Beluga Lake Area, and Baycrest Area with no CUP. Bravo!

Now, a couple of things that are questionable. First off, Not allowing ANY establishments in areas other than the one's I mentioned above, other than the CUP area in Old Town.

We need to do something that doesn't essentially "forbid it across the board".

Limited Cultivation Facilities (22 feet by 22 feet, max grow space allowed) were designed as a license type by the state marijuana control board for two reasons: convert the small home grower to the legal market as well as provide a "boutique grower" option.

Cutting out areas like West Hill, East Hill, Skyline, and Sterling Hwy headed out of Homer, is cutting out a lot of land that could be utilized for a limited cultivator. Most limited cultivators will more than likely use their own property for growing or lease space from a friend. We can't restrict this. Were being unreasonably impracticable here and were forcing folks to buy land elsewhere, lease space in that teeny little zone on Kachemak Drive, or were forcing them to leave Homer City Limits altogether.

Let limited's license in this area you have wiped out, at least the four major areas I mentioned above, if you want to cut out mid Homer, fine, so be it, lets compromise here. No CUP in those zones as well for limited cultivators.

Manufacturing facilities are also going to be defined by what they are manufacturing. Are they making brownies or extracts? How are they extracting? Are they making essential oils and lotions? What are they making?

The only time a CUP should be required for any manufacturing facility is if they are doing solvent-based extraction using flammables or hydrocarbons such as butane, propane, naphtha, alcohol, and or carbon dioxide, etc. Its simple, these things are explosive.

Heat and ice extraction, on the other hand, is less dangerous than a turkey fryer.

More thought needs to be placed into this. Good work so far in some areas, lots more work to do in others. If you have any questions about cannabis, extraction methods, anything, I can answer a lot of questions. Lets get this right now and help bring new revenues to Homer, with reasonable zoning.

Regards,
Jeremiah Emmerson
Local Resident

Diamond Ridge Art Studio

November 4, 2015

City of Homer

Planning Commission

491 E. Pioneer Avenue

Homer, AK 99603

RECEIVED

DEC 21 2015

CITY OF HOMER
PLANNING/ZONING

RE: Cannabis Advisory/Oversight Committee Proposed Spheres

Dear Commission Members:

In May of 2014, I opened Diamond Ridge Art Studio at 4025 Homer Spit Road, #17. My decision to locate my business there was based primarily on the nature of the prospective clientele that visits the area. The Homer Spit attracts large numbers of vacationing families, tourists, fishermen and boaters. Between May 4th and Labor Day of this year, I logged over 5,000 visitors to my gallery. Many of these visitors were families with children of all ages. Also, many were residents of Homer. I organized painting demonstrations that were attended by both children and adults, both from Homer and elsewhere. In addition, I carry art items that are appropriate for families.

The proposed city ordinance permits the retail sale of marijuana on the Spit. I would ask the Commission to consider establishing a buffer zone due to its proximity to the Nick Dudiak Lagoon, adjacent campgrounds (which serve as temporary residences) and the small boat harbor.

The Homer Spit is a seasonal retail environment. Virtually all of the businesses close for the winter. A police presence is a challenge to the city to maintain during the busy summer season and would need to become a greater presence during the winter should marijuana sales be conducted there.

I know that there are several families who would no longer come to my business for any reason if there is an establishment selling marijuana nearby. As a small business owner, I strive to attract every potential customer by providing an environment that is family-friendly and wholesome.

Homer has demonstrated its commitment to promoting tourism. The city, the Chamber of Commerce, and the business community have successfully collaborated to attract tourists and to grow the cruise

Olga Amaral, Owner
#17 Homer Spit Road
Homer, AK 99603
(907)299-7750
Diamond.ridge.art@gmail.com

Diamond Ridge Art Studio

ship business. Much of that is centered on the Spit. The retail sale of marijuana and cannabis products does not seem to me to be consistent with the promotion of a family-centered vacation destination.

I would welcome the opportunity to discuss this further with you and can be reached at the number listed below.

Sincerely,

Olga Amaral

*Olga Amaral, Owner
#17 Homer Spit Road
Homer, AK 99603
(907)299-7750
Diamond.ridge.art@gmail.com*



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Staff Report PL 16-03

Previously SR PL15-83

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: January 6, 2016
SUBJECT: Tower Considerations

Introduction

As our ordinance has evolved, I found myself more concerned with the city's ability to ensure the ordinance goals of safety and minimizing visual intrusiveness. In order to have a meaningful ordinance, we will need to verify the technical claims being made in the application and consider the requirement of inspections.

Analysis

An ordinance that ensures safety and requires towers that are the least visual intrusive requires the review of industry experts. If we take applications at face value and do not verify the claims, we may be doing the city a great disservice when it comes to regulating an industry that has only shown the propensity to create more and more foot prints as technology evolves.

I have included an update of the current ordinance with a few changes along with an industry model ordinance. The model ordinance is very precise and needs industry experts to review applications. If this ordinance is adopted, I will propose that a deposit be made by the applicant in order to fund the expert review. This way it will not cost the city and will limit the amount of time that the recently downsized planning staff will need to spend processing the application. Also included are informational items we have received from the consultant including the ordinance goals, examples of tower failure, and manipulated data.

My first read of the ordinance accounted for an hour of my life. I do have questions for the contractor and the model ordinance will certainly need to be tailored to meet the needs of Homer. This is the standard for hundreds of communities. It is quite a step for Homer, which does not even have a building code or inspector. While we learn more, I believe it would be best to at least scan the model ordinance and try to identify things you really like, really dislike, or have questions about. There are many things that have come up in our commission conversations that are addressed in the model ordinance. There are also many things that deal with the type of standards the city has yet to propose.

Staff Recommendation

Review model ordinance with an eye for things you like, dislike, or question and bring your thoughts to the table. I plan to go into further detail at subsequent meetings.

Attachments

1. Tower regulations Draft 5 markup 11.24.15
2. Model Ordinance
3. Ordinance Goals
4. Tower Failures
5. Manipulated Propagation Map

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**CITY OF HOMER
ORDINANCE 15-xx**

Planning Commission

AN ORDINANCE OF THE HOMER CITY COUNCIL AMENDING HOMER CITY CODE 21.03.040, DEFINITIONS USED IN ZONING CODE, HOMER CITY CODE 21.05.030, MEASURING HEIGHTS, AND HOMER CITY CODE 21.70.010, ZONING PERMIT REQUIRED; REPEALING HOMER CITY CODE CHAPTER 21.58, SMALL WIND ENERGY SYSTEMS; AND ENACTING HOMER CITY CODE CHAPTER 21.58, TOWERS AND RELATED STRUCTURES.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 21.03.040, Definitions used in zoning code, is amended by adding the following definitions:

“Collocation” means the placement or installation of wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound.

“Equipment compound” means the area occupied by a wireless communications support structure and within which wireless communications equipment is located.

“Tower, amateur radio” means a fixed vertical structure used exclusively to support an antenna used by an amateur radio operator licensed by the Federal Communications Commission, plus its accompanying base plates, anchors, guy cables and hardware.

“Tower, communications” means a fixed vertical structure built for the primary purpose of supporting wireless communications equipment, plus its accompanying base plates, anchors, guy cables and hardware.

“Wireless communications equipment” means the set of equipment and network components used in the provision of wireless communications services, including without limitation antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding any wireless communications support structure.

“Wireless communications services” means transmitting and receiving information by electromagnetic radiation, by an operator (other than an amateur radio operator) licensed by the Federal Communications Commission.

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

45 "Wireless communications support structure" means a structure that is designed to
46 support, or is capable of supporting, wireless communications equipment, including a
47 communications tower, utility pole, or building.
48

49 Section 2. Subsection (b) of HCC 21.05.030 is amended to read as follows:
50

51 b. When measuring height of a building, the following are excluded from the
52 measurement:

53 1. Steeples ~~steeple~~s, spires, belfries, cupolas and domes if not used for human
54 occupancy, chimneys, ventilators, weather vanes, skylights, water tanks, bulkheads,
55 monuments, flagpoles, wind energy systems, television and radio antennas, other
56 similar features, and necessary mechanical appurtenances usually carried above roof
57 level.

58 2. Wireless communications equipment that does not extend more than 10
59 feet above the height of the building.
60

61 Section 3. Subsection (d) of Homer City Code 21.05.030 is amended to read as follows:
62

63 d. When determining the height of a nonbuilding structure, such as a sign, ~~or fence,~~
64 amateur radio tower, communications tower or wireless communications support
65 structure, the height shall be calculated as the distance from the base of the structure at
66 normal grade to the top of the highest part of the structure, excluding lightning rods. For this
67 calculation, normal grade shall be construed to be the lower of (1) existing grade prior to
68 construction or (2) the newly established grade after construction, exclusive of any fill, berm,
69 mound, or excavation made for the purpose of locating or supporting the structure. In cases in
70 which the normal grade cannot reasonably be determined, structure height shall be calculated
71 on the assumption that the elevation of the normal grade at the base of the structure is equal
72 to the elevation of the nearest point of the crown of a public street or the grade of the land at
73 the principal entrance to the main building on the lot, whichever is lower.
74

75 Section 4. Homer City Code Chapter 21.58, Small Wind Energy Systems, is repealed.
76

77 Section 5. Homer City Code Chapter 21.58, Towers and Related Structures, is enacted
78 to read as follows:
79

80 CHAPTER 21.58

81 TOWERS AND RELATED STRUCTURES

82 Article I. Communications Towers and Wireless Communications Equipment

83
84
85
86 21.58.010 Purpose.

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

87 The purpose of this article is to provide standards and procedures for communications
88 towers and for wireless communications equipment.

89
90 21.58.020 Exemption from regulation.

91 a. Each of the following communications towers is a permitted principal or accessory
92 use or structure in each zoning district and is exempt from the provisions of this article:

93 1. A communications tower that is placed temporarily to support wireless
94 communications equipment that is provided in response to a state of emergency
95 declared by a federal, state, or local government authority and is removed within 12
96 months after the termination of the state of emergency.

97 2. A communications tower that is placed temporarily to support wireless
98 communications equipment that is provided for media coverage of a special event, and
99 that is placed no more than 30 days before the special event and removed no more than
100 15 days after the end of the special event.

101 3. A communications tower with a height not exceeding 35 feet.

102 4. An amateur radio tower, to the extent that it is exempt from regulation under
103 AS 29.35.141.

104 b. The collocation, removal, replacement or installation of wireless communications
105 equipment is a permitted principal or accessory use or structure in each zoning district and is
106 not subject to approval under this title if it meets all of the following requirements:

107 1. The collocation, removal or replacement is in an existing wireless
108 communications support structure or existing equipment compound that is in
109 compliance with the requirements of this title in effect at the time of its construction
110 and with the terms and conditions of any previous final approval under this title.

111 2. The collocation, removal or replacement will not do any of the following:

112 A. Increase the overall height of the wireless communications support
113 structure by more than 20 feet or 10% of its original height, whichever is
114 greater.

115 B. Increase the width of the wireless communications support structure
116 by more than the minimum necessary to permit the collocation, removal or
117 replacement.

118 2,500 square feet.

119 3. The collocation, removal or replacement complies with the terms and
120 conditions of any previous final approval of the wireless communications support
121 structure or equipment compound under this title.

122 4. The installation is on an existing building that is in compliance with the
123 requirements of this title and with the terms and conditions of any previous final
124 approval under this title, and the wireless communications equipment does not extend
125 more than 10 feet above the height of the building.

126
127 21.58.030 Permission for communications towers.

128 a. Except as provided in subsection (b) of this section, a communications tower is
129 permitted as a principal or accessory use or structure in each zoning district.

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

130 b. A communications tower that exceeds the following maximum height for the zoning
131 district in which the communications tower is located is permitted only when authorized by
132 conditional use permit issued in accordance with Chapter 21.71.

133	<u>District</u>	<u>Maximum Height (feet)</u>
134	CBD	60
135	TC	60
136	GBD	60
137	GC1 (Beluga Lake)	120
138	RO	85
139	UR	60
140	RR	85
141	CONS	60
142	GC2	120
143	EEMU	120
144	MI	120
145	MC	120
146	OSR	60
147	BCWPD	120

148
149 21.58.040 Application requirements. An application for a zoning permit or conditional
150 use permit for a communications tower that is subject to regulation under this article shall
151 include the following information, in addition to information required by other provisions of
152 this title:

- 153 a. A level two site plan that shows the location of the communications tower.
- 154 b. A written narrative explaining why placing wireless communications equipment at
155 the proposed location is necessary to the applicant's wireless communications services
156 coverage, including confirmation that there is no available site for collocation of the wireless
157 communications equipment within a radius of 1,000 feet from the proposed location **in**
158 **consideration of the proposed technology, why an existing structure may not be used**, an
159 evaluation of ~~at least three~~ alternate communications tower locations that the applicant
160 considered, and an explanation why the proposed location is the best alternative.
- 161 c. A demonstration that the height of the communications tower is the minimum
162 required for the effective operation of the wireless communications equipment plus the
163 present and future collocations that it supports.
- 164 d. A map showing the locations of the applicant's existing communications towers that
165 serve customers in the city and of **all current and currently proposed** communications towers
166 that the applicant proposes to construct to serve customers in the city.
- 167 e. A ~~description~~ **a detailed list of major components** of the wireless communications
168 equipment that the communications tower will support, and accessory structures such as
169 equipment cabinets and generators.
- 170 f. An analysis of the potential visual impacts of the communications tower at distances
171 of 500 feet and 1,500 feet from the proposed location, through the use of photo simulations of
172 the communications tower and the wireless communications equipment that it will support.

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

173 The analysis shall include, to the extent practicable, the visual impact along two lines
174 extending from the shore of Kachemak Bay through the communications tower site that are
175 separated by an angle of at least 90 degrees, and show the relationship of the communications
176 tower to structures, trees, topography, and other intervening visual barriers. The analysis will
177 include recommendations to mitigate adverse visual impacts of the communications tower on
178 other properties.

179 g. A certificate from an engineer licensed in Alaska that the communications tower, and
180 all antennas and other wireless communications equipment located on it, meet industry
181 standards for their construction, **including ANSI 222 G or most recent version** ~~without~~
182 ~~limitation the ability to withstand anticipated wind and seismic loads.~~

183 h. Evidence that all wireless communications equipment supported by the
184 communications tower meets applicable Federal Communications Commission requirements.

185 i. A determination of no hazard to air navigation for the communications tower issued
186 by the Federal Aviation Administration.

187 h. For a conditional use permit, minutes of each public meeting held under Section
188 21.58.060(a), and copies of all public comments received under Section 21.58.060(b)(5).

189
190 21.58.050 Communications tower standards.

191 a. The distance from a communications tower to the closest property line of a lot that
192 contains a dwelling unit, dormitory, hotel, motel, bar, restaurant, school, day care facility,
193 church, retail establishment or place of public assembly may not be less than 1.1 times its total
194 height.

195 b. The height of the communications tower shall not be greater than the minimum
196 height required for the effective operation of the wireless communications equipment and
197 collocations that it will support upon its initial construction, plus 10 feet for each additional
198 unoccupied collocation site on the communications tower.

199 c. The communications tower and any related equipment compound are painted or
200 coated in a color that blends with the surrounding environment, except to the extent that
201 obstruction marking is required by the Federal Aviation Administration, and the fence or wall
202 that surrounds the equipment compound at the base of the communications tower, combined
203 with any landscaping adjacent to its exterior, shall obscure the equipment compound to view
204 from its exterior.

205 d. All guy wires, cables and other accessory support structures for a communications
206 tower shall be on the same lot as the tower, but may be located within required setback areas,
207 and shall be properly jacketed to ensure visibility in accordance with applicable safety
208 standards.

209 e. The equipment compound for a communications tower shall conform to the
210 minimum setback requirements of the zoning district in which it is located.

211 f. Not less than two off-street parking spaces conforming to the requirements of this
212 title shall be provided on the lot where a communications tower is located for use in the
213 operation and maintenance of the communications tower and the wireless communications
214 equipment that it supports.

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

215 h. The equipment compound at the base of a communications tower shall be
216 surrounded by a fence or wall not less than six feet in height with a secured gate. The lowest
217 part of a climbing apparatus that provides access to equipment on a communications tower
218 shall be at least 12 feet above the ground, and the tower shall have no handholds or footholds
219 below the climbing apparatus.

220 h. Except for switch type lighting, no artificial lighting shall be mounted on a
221 communications tower, and a communications tower shall not be illuminated with artificial
222 lighting, except when required by the Federal Aviation Administration.

223 i. Signs. No sign, flag or pennant may be attached to a communications tower except
224 that the following shall be posted in a location that is visible from the ground outside the
225 equipment compound:

226 1. A sign identifying the party responsible for the operation and maintenance of
227 the communications tower, with a 24-hour emergency contact telephone number.

228 2. Any antenna structure registration number required by the Federal
229 Communications Commission.

230 3. Warnings of dangers associated with the communications tower or
231 equipment that is located on the communications tower.

232
233 21.58.060 Public notification of communications tower application.

234 a. The applicant for a conditional use permit for a communications tower shall hold at
235 least one meeting informing the public of the application that conforms to the following
236 requirements.

237 1. The meeting shall be held at city hall, or at a public facility that is nearer to the
238 location of the proposed communications tower and capable of seating a minimum of 20
239 people.

240 2. The meeting shall be held on a day that is not a city holiday at least 15 days
241 before the applicant submits its application to the city.

242 3. The meeting shall be scheduled to last a minimum of two hours and shall not
243 start before 5:00 p.m. or after 7:00 p.m.

244 b. The applicant shall notify each record owner of property within 1200 feet of the
245 parcel that is the site of the proposed communications tower by first class mail at least 15 days
246 before the meeting of the following:

247 1. The legal description, street address and a map of the vicinity, of the parcel
248 that is the site of the proposed communications tower;

249 2. A description of the proposed communications tower, including its height,
250 design, and lighting, the proposed access to the site and the services proposed to be
251 provided by the tower;

252 3. The date, time, and location of the meeting;

253 4. A contact name, telephone number, and address of the applicant; and

254 5. A form on which to submit written comments, with a comment submittal
255 deadline and instructions.

256

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

257 21.58.070 Action on communications tower application.

258 a. The reviewing authority shall approve a communications tower only if the applicant
259 demonstrates that it meets the following criteria:

260 1. The communications tower conforms to the requirements in Section
261 21.58.050, and the other applicable standards in this title.

262 2. The coverage for the applicant's wireless communications services customers
263 that the communications tower will provide cannot be provided by collocation on an
264 existing wireless communications support structure.

265 3. Of the available alternate sites, the selected site provides necessary coverage
266 for the applicant's wireless communications services customers with the least visual
267 impact on other properties.

268 b. No action may be taken on a communications tower application on the basis of the
269 environmental effects of radio frequency emissions to the extent that the wireless
270 communications equipment that will be located on the tower complies with Federal
271 Communications Commission regulations concerning such emissions.

272 c. The reviewing authority shall act on a communications tower application within a
273 reasonable period of time after the application has been filed with the city taking into account
274 the nature and scope of the application, but within no more than 150 days after the application
275 is filed. The 150-day period excludes (i) any time that begins when the reviewing authority
276 gives written notice to the applicant within 30 days of receipt of the application that the
277 application is incomplete, clearly and specifically delineating all missing documents or
278 information, until the applicant makes a supplemental submission in response to the notice of
279 incompleteness; and (ii) any time that begins when the reviewing authority has given written
280 notice to the applicant within 10 days of receipt of such a supplemental submission that the
281 supplemental submission did not provide the information identified in the original notice
282 delineating missing information until the applicant makes another supplemental submission.

283 d. An action denying a communications tower application shall be in writing and
284 supported by substantial evidence contained in a written record.

285 21.58.080 Communications tower removal requirements.

286 The owner and the lessee of the property that is the site of a communications tower are
287 jointly and severally responsible for its removal:

288 a. If corrective action is not taken within six months after notice that the City Engineer
289 has found the communications tower, or equipment on the communications tower, to be
290 unsafe or not in compliance with applicable law.

291 b. Within 90 days after all wireless communications equipment on a communications
292 tower has not been operational for a period of at least 12 consecutive months.

293
294
295 Article II. Small Wind Energy Systems

296
297 21.58.110 Purpose and application. The purpose of this article is to establish minimum
298 health and safety standards for small wind energy systems. It applies to small wind energy
299 systems in all districts where they are allowed as permitted or conditional uses.

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

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21.58.120 Installation requirements.

a. The wind turbine of a small wind energy system may be mounted on a building or a wind energy system tower.

b. The surfaces of all small wind energy system components that are visible when the small wind energy system is in operation shall be painted a nonreflective, neutral color.

c. A zoning permit application for a small wind energy system shall include the following information:

1. A level one site plan that shows the location of the small wind energy system.

2. Specifications for the small wind energy system including manufacturer make and model, an illustration or picture of the turbine unit, maximum rated power output, blade diameter, total height, tower color and, if proposed, the location of ladders and/or climbing pegs.

3. Tower foundation blueprints or drawings.

4. Noise decibel data prepared by the wind turbine manufacturer or qualified engineer indicating noise decibel level at the property line nearest to the location of the small wind energy system.

5. Evidence of compliance with, or exemption from, Federal Aviation Administration requirements.

6. Evidence that the small wind energy system complies with current Underwriters Laboratories standards for local utility connections.

d. Dimensional Requirements.

1. A small wind energy system may be installed only on a lot having an area not less than one acre.

2. The distance from a small wind energy system to the closest property line may not be less than 1.1 times its total height.

3. All guy wires, cables and other accessory support structures for a small wind energy system must be on the same lot as the small wind energy system, but may be located within required setback areas, and shall be properly jacketed to ensure visible safety standards.

21.58.130 Operation standards.

a. Electrical Standards.

1. A small wind energy system shall comply with the National Electric Code.

2. All electric transmission wires connected to a small wind energy system must be underground, or within the building on which the small wind energy system is mounted.

3. A small wind energy system shall not interfere with television, microwave, navigational or radio reception.

b. Noise and vibration from a small wind energy system shall not exceed the levels permitted in HCC 21.59.010(b) and (c), except during short-term events such as utility outages and severe wind storms.

c. Tower Safety.

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

343 1. The lowest part of a climbing apparatus that provides access to a wind turbine
344 shall be at least 12 feet above the ground, and the wind energy system tower or
345 building on which the wind turbine is mounted shall have no handholds or footholds
346 below the climbing apparatus.

347 2. The lowest point through which a wind turbine blade rotates must be at least
348 20 feet above the ground.

349 d. Lighting. Except for switch type lighting, no artificial lighting shall be mounted on a
350 small wind energy system, and a small wind energy system shall not be illuminated with
351 artificial lighting, except when required by the Federal Aviation Administration and approved by
352 conditional use permit.

353 e. Signs. No sign, flag or pennant may be attached to a small wind energy system
354 except for the following:

355 1. A sign identifying the manufacturer or installer of the small wind energy
356 system.

357 2. Signs warning of dangers associated with the small wind energy system.

358 f. Removal. The owner and the lessee of the property that is the site of a small wind
359 energy system are jointly and severally responsible for its removal:

360 1. If corrective action is not taken within six months after notice that the City
361 Engineer has found the small wind energy system to be unsafe or not in compliance
362 with applicable law.

363 2. Within 90 days after the small wind energy system has not been operational
364 for a period of at least 12 consecutive months.

365
366 Section 6. Subsection (c) of Homer City Code 21.70.010 is amended to read as follows:

367
368 c. The following are exempt from the requirement to obtain a zoning permit, but not
369 from compliance with applicable requirements of the Homer Zoning Code, such as, but not
370 limited to, the development activity plan or stormwater protection plan:

371 1. Any change to an existing building that does not increase the height, or
372 exterior dimension of any floor, of the building, and any change to an existing structure
373 that does not increase the height, or footprint area, of the structure.

374 2. Erection or construction of a one-story detached accessory building used as a
375 tool and storage shed, playhouse, or other accessory use, provided the building area
376 does not exceed 200 square feet; and further provided, that there is already a main
377 building on the same lot.

378 **3. Erection or construction of a communications tower with a height not**
379 **exceeding 35 feet, or an amateur radio tower.**

380 ~~4~~3. Fences or walls used as fences, unless otherwise regulated by the Homer
381 City Code.

382 ~~5~~4. Removal of any building or structure.

383 ~~6~~5. Termination of any type of use.

384

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

385 Section 7. This Ordinance is of a permanent and general character and shall be included
386 in the City Code.

387
388 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this ____ day of
389 _____ 2015.

390
391 CITY OF HOMER

392
393
394 _____
395 MARY E. WYTHE, MAYOR

396 ATTEST:

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400 JO JOHNSON, MMC, CITY CLERK

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402 AYES:
403 NOES:
404 ABSTAIN:
405 ABSENT:

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408 First Reading:
409 Public Hearing:
410 Second Reading:
411 Effective Date:

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413 Reviewed and approved as to form:

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415
416 _____
417 Mary K. Koester, City Manager

Thomas F. Klinkner, City Attorney

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419 Date: _____

Date: _____

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

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Wireless Telecommunications Facilities or Complexes

Section 1. Purpose and Legislative Intent

1. The Telecommunications Act of 1996 affirmed the City of Homer's authority concerning the placement, construction and Modification of Wireless Telecommunications Facilities or Complexes. This Ordinance provides for the safe and efficient integration of Wireless Facilities or Complexes Necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless services to the public, government agencies and first responders, with the intention of furthering the public safety and general welfare.
2. The City of Homer (City) finds that Wireless Telecommunications Facilities (Facilities) and Complexes may pose significant concerns to the health, safety, public welfare, character and environment of the City and its inhabitants. The City also recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the City and its residents. In order to assure that the placement, construction or Modification of a Facility or Complex is consistent with the City's land use policies, the City is adopting a single, comprehensive, Wireless Telecommunications Facility or Complex application and permitting process. The intent of this Section is to minimize the physical impact of Wireless Telecommunications Facilities on the community, protect the character of the community to the extent reasonably possible, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the City.

Section 2. Severability

1. If any word, phrase, sentence, part, section, subsection, or other portion of this Section or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Section, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
2. Any Conditional Use Permit issued pursuant to this Section shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the City.

Section 3. Definitions

For purposes of this Section, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

1. **"Accessory Facility or Structure"** means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities or Complexes, including but not limited to utility or transmission equipment storage sheds or cabinets.
2. **"Amend", "Amendment" and "Amended"** as regards an Application or request to permit mean and shall relate to any change, addition, correction, deletion, replacement or substitution, other than typographical changes of no effect.
3. **"Applicant"** means any Wireless service provider submitting an Application for a Conditional Use Permit for Wireless Telecommunications Facilities.

4. **“Application”** means all Necessary and required documentation that an Applicant submits in order to receive a Conditional Use Permit or an Administrative Approval or a Building Permit for Wireless Telecommunications Facilities.
5. **“Antenna”** means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.
6. **“Board” or “Council”** means the City Council of the City of Homer.
7. **“Certificate of Completion” or “COC”** means a required document issued by the City that confirms that all work represented in the application i) was properly permitted; ii) was done in compliance with and fulfilled all conditions of all permits, including any final completion deadline; iii) was fully constructed as approved and permitted; and iv) a final inspection was requested, conducted and the Facility or Complex passed the final inspection.
8. **“Co-location”** means the use of an approved structure to support Antenna for the provision of wireless services.
9. **“Commercial Impracticability” or “Commercially Impracticable”** means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone and for a single site, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.
10. **“Completed Application”** means an Application that contains all necessary and required information and/or data necessary to enable an informed decision to be made with respect to an Application.
11. **“Complex”** means the entire site or Facility, including all structures and equipment located at the site.
12. **“DAS” or “Distributive Access System”** means a technology using antenna combining technology allowing for multiple carriers or Wireless Service Providers to use the same set of antennas, cabling or fiber optics.
13. **“Eligible Facility”** means an existing wireless tower or base station that involves collocation of new transmission equipment or the replacement of transmission equipment that does not constitute a Substantial modification. An Eligible Facility Application shall be acted upon Administratively and shall not require a Conditional Use Permit, but shall require Staff Administrative Approval.
14. **“FAA”** means the Federal Aviation Administration, or its duly designated and authorized successor agency.
15. **“Facility”** means a set of wireless transmitting and/or receiving equipment, including any associated electronics and electronics shelter or cabinet and generator.
16. **“FCC”** means the Federal Communications Commission, or its duly designated and authorized successor agency.
17. **“Height”** means, when referring to a Tower or wireless support structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightning protection device.
18. **“In-Kind Replacement”** means replacing a component(s) that is malfunctioning with a properly functioning component of the same weight and dimensions and that does not enable an increase in revenue for the service provider or increase the compensation paid to the owner or manager of the support structure or change the type of service or allow a new service to be provided.

19. **“Maintenance”** means plumbing, electrical, carpentry or mechanical work that may or may not require a building permit, but that does not constitute a Modification to the WTF.
20. **“Modification”** or **“Modify”** means, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless Facility or Complex with identical components, including but not limited to antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to an existing support structure or Tower as a co-location is a Modification, unless the height, profile or size of the compound is increased, in which case it is not a Modification. Modification also means anything that changes the structural loading on the support structure attached to.
21. **“Necessary”** or **“Necessity”** or **“Need”** means what is technologically required for the equipment to function as designed by the manufacturer and that anything less will result in prohibiting the provision of service as intended and described in the narrative of the Application. Necessary or Need does not mean what may be desired, preferred or the most cost-efficient approach and is not related to an Applicant’s specific chosen design standards. Any situation involving a choice between or among alternatives or options is not a Need or a Necessity.
22. **“NIER”** means Non-Ionizing Electromagnetic Radiation.
23. **“Person”** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
24. **“Personal Wireless Facility”** See definition for ‘Wireless Telecommunications Facilities’.
25. **“Personal Wireless Services”** or **“PWS”** or **“Personal Telecommunications Service”** or **“PTS”** shall have the same meaning as defined and used in the 1996 Telecommunications Act.
24. **“Repairs and Maintenance”** means the replacement or repair of any components of a wireless Facility or Complex where the replacement is identical to the component being replaced, or for any matters that involve the normal repair and maintenance of a wireless Facility or Complex without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless Facility or Complex that will impose new visible burdens of the Facility or Complex as originally permitted. Any work that changes the services provided to or from the Facility, or the equipment, is not Repairs or Maintenance.
25. **“Conditional Use Permit”** means the official document or permit by which an Applicant is allowed to file for a building permit to construct and use a Facility or Complex as granted or issued by the City.
26. **“Stealth”** or **“Stealth Siting Technique”** means a design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean building the least visually and physically intrusive facility and Complex that is not technologically or commercially impracticable under the facts and circumstances. Stealth technique includes such techniques as i) DAS or its functional equivalent; or ii) camouflage where the Tower is disguised to make it less visually obtrusive and not recognizable to the average person as a Wireless Facility or Complex.
27. **“State”** means the State of Alaska.
28. **“Structural Capability”** or **“Structural Capacity”** or **“Structural Integrity”** means, notwithstanding anything to the contrary in any other standard, code, regulation or law, up to and not exceeding a literal 100% of the designed loading and stress capability of the support structure.

29. **“Substantial Modification”** means a change or Modification that
- a. increases the existing vertical height of the structure by the greater of (a) more than ten percent (10%) or (b) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet; or
 - b. except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance; or
 - c. increases the square footage of the existing equipment compound by more than 2,500 square feet.
30. **“Telecommunications”** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
31. **“Telecommunications Site”** See definition for Wireless Telecommunications Facilities.
32. **“Telecommunications Structure”** means a structure used primarily to support equipment used to provide wireless communications.
33. **“Temporary”** means not permanent in relation to all aspects and components of this Section, something intended to, and that does, exist for fewer than ninety (90) days.
34. **“City”** means the City of Homer, Alaska.
35. **“Tower”** means any structure designed primarily to support an antenna(s) and/or other equipment for receiving and/or transmitting a wireless signal and is taller than forty feet (40’).
36. **“Wireless Telecommunications Facility or Facilities (WTF or WTFs)”, “Facility”, “Site”, “Complex”, “Telecommunications Site” and “Personal Wireless Facility Site”** all mean a specific location at which a structure that is designed or intended to be used to house, support or accommodate Antennas or other transmitting or receiving equipment is located. This includes without limit, Towers and support structures of all types and kinds, including but not limited to buildings, church steeples, silos, water Towers, signs or other any other structure that is used or is proposed to be used as a support structure for Antennas or the functional equivalent of such. It expressly includes all related facilities and equipment such as cabling, radios and other electronic equipment, equipment shelters and enclosures, cabinets and other structures associated with the Complex used to provide, though not limited to, radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services, Internet access service and any commercial wireless telecommunication service whether or not licensed by the FCC.

Section 4. General Policies and Procedures for Applications under this Section

In order to ensure that the location, placement, construction and Modification of a Facility or the components of a Complex do not endanger or jeopardize the City’s health, safety, public welfare, environmental features, the nature and character of the community or neighborhood and other aspects of the quality of life specifically listed elsewhere in this Section, the City hereby adopts an overall policy and related procedures with respect to the submittal, review, approval and issuance of permits or Administrative Approval granted authority for Wireless Facilities for the express purpose of achieving the following outcomes:

1. Requiring a Conditional Use Permit for any new Complex, Facility or any Substantial Modification of a Facility or Complex or for a Co-located Facility;

2. Requiring Administrative Approval and a properly issued Building Permit for any co-location or Modification of a Facility or Complex that is not a Substantial Modification or Substantial Co-location.
3. Implementing an Application process and requirements;
4. Establishing procedures for examining an Application and issuing a Conditional Use Permit or Administrative Approval that are fair and consistent;
5. Promoting, and requiring wherever possible, the sharing and/or co-location of support structures among service providers;
6. Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of attachments to a Facility or Complex in such a manner as to minimize the physical and visual impact on the community, including but not limited to the use of stealth siting techniques.
7. Requiring that the Facility and Complex shall be the least visually intrusive among those options available in the City given the facts and circumstances.
8. The City Council is the officially designated agency or body of the City to whom applications for a Conditional Use Permit for a Facility or Complex must be made, and that is authorized to make decisions with respect to granting or not granting or revoking Conditional Use Permits applied for under this Section. The City Council may at its discretion delegate or designate the City Planning Board or other official agencies or officials of the City or outside consultants to accept, review, analyze, evaluate and make recommendations to the Board with respect to the granting or not granting or revoking Conditional Use Permits for Wireless Telecommunications Facilities. However, the Board shall possess the sole right to grant all Conditional Use Permits.
9. The City Council hereby designates the City Manager or the City Manager's designee as the authority for requests for anything other than a Substantial Modification or Conditional Use Permit, i.e. for all Administrative Approvals.
10. There shall be a pre-application meeting for all intended applications prior to the submission of an application. The pre-application meeting may be held either on site, or telephonically as deemed appropriate by the City or its designee. The purpose of the pre-application meeting will be to address i) issues that will help to expedite the review and permitting process; and ii) certain issues or concerns the City or the Applicant may have. Costs of the City's consultant to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of a fee set forth in the City's Schedule of Fees, which shall have been paid to the City prior to any site visit or pre-application meeting.
11. If there has not been a prior site visit for the requested Facility or Complex within the previous six (6) months a site visit shall be conducted.
12. An Applicant shall submit to the City the number of completed Applications determined to be needed at the pre-application meeting. If Board action is required, applications will not be transmitted to the Board for consideration until the application is deemed Complete.
13. If the proposed site is within one (1) mile of another jurisdiction, written notification of the Application shall be provided to the legislative body of all such adjacent jurisdictions as applicable and/or requested.
14. The owner(s) of the support structure to which antennas or related equipment are to be attached must be an official Applicant of Record, unless the owner is the City, in which case, to prevent a conflict of interest, the City shall not be a party to the Application.
15. All Applicants shall closely follow the instructions for preparing an Application. Not following the instructions without permission to deviate from such shall result in the application being deemed

incomplete and a tolling of the time allowed for action on an Application until a Complete Application is received.

16. The Applicant shall be notified in writing of any deficiencies within forty-five days of the submission of an Application as regards any deficiencies related to the completeness of the Application. Remediation of deficiencies in an Application shall be deemed an amendment of the Application that was received.
17. The City may deny applications not meeting the requirements stated herein or which are otherwise not Complete after proper notice and a reasonable opportunity to make the Application Complete has been afforded. Applications will be deemed abandoned if left incomplete for more than ninety (90) days after the date of notice of incompleteness.
18. No work of any kind on or at a Facility or Complex shall be started until the Application is reviewed and approved and the Conditional Use Permit or Administrative Approval, as applicable, has been issued, and a Building Permit has been issued in accordance with the City's Land Development Ordinance.
19. Any and all representations made by the Applicant or that are made in support of the Application shall be deemed to be on the record, whether written or verbal, and shall be deemed to have been relied upon in good faith by the City. Any verbal representation shall be treated as if it were made in writing.
20. Other than to remediate non-compliant situations related to matters of safety or the conditions of a permit, no permits for work at a Facility or Complex shall be issued where the Facility or Complex is not in full compliance with all applicable local, State and federal laws, rules, regulations and orders. A Facility or Complex not in full compliance with this Section shall be required to be brought into full compliance before any Permit of any kind will be issued.
21. An Application shall be signed on behalf of the Applicant(s) by a person vested with the authority to bind and commit the Applicant attesting to the truthfulness, completeness and accuracy of the information presented
22. The Applicant must provide documentation to substantiate that it has the right to proceed as proposed on the site or at the Complex in the form of an executed copy of the lease with the landowner or landlord or a signed letter of agency granting authorization. If the applicant owns the Site or Complex, a copy of the ownership record is required.
23. Applications shall include written commitment statements to the effect that:
 - a. the applicant's Facility or Complex shall at all times and without exception be maintained in a safe manner, and in compliance with all conditions of all permits, as well as all applicable and permissible local codes, ordinances, and regulations and all applicable City, State and Federal Laws, rules, and regulations, unless specifically granted relief by the Board in writing; and
 - b. the construction of the Facility or Complex is legally permissible, including, but not limited to the fact that the Applicant is licensed to do business in the State.
24. Where a certification is called for in this Section, such certification shall bear the signature and seal of a Professional Engineer licensed in the State.
25. A support structure and any and all accessory or associated structures shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth or camouflage or concealment technique as may be required by the City.
26. All utilities at a Complex or site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the City, including specifically, but not limited to applicable electrical codes.

- 27.** At a Facility or Complex needing vehicular access, an access road, parking and turn around space for emergency vehicles shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. If the current access road or turn around space is deemed in disrepair or in need of remedial work to make it serviceable and safe and in compliance with any applicable regulations as determined at a site visit, the Application shall contain a commitment to remedy or restore the road or turn around space so that it is serviceable and safe and in compliance with applicable regulations.
- 28.** All work at a Facility or Complex shall be done in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent edition of the TIA ANSI Code, National Electric Safety Code, the National Electrical Code, the Occupational and Safety and Health Administration (OSHA) regulations, recommended practices of the National Association of Tower Erectors and accepted and responsible workmanlike industry practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- 29.** A holder of a Conditional Use Permit or Administrative Approval granted authority granted under this Section shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.
- 30.** Unless such is proven to be technologically impracticable, the City requires the co-location of new antenna arrays on existing structures, as opposed to the construction of a new Complex or support structure or increasing the height, footprint or profile of a Facility or Complex beyond the conditions of the approved Conditional Use Permit for an existing Facility or Complex. In instances not qualifying as an Eligible Facility, the Applicant shall submit a comprehensive report inventorying all existing structures more than fifty feet (50') in height within one-half (1/2) mile of the location of any proposed new Facility or Complex.
- 31.** An Applicant intending to co-locate on or at an existing Facility or Complex shall be required to document the intent of the existing owner to permit its use by the Applicant.
- 32.** Co-located equipment shall consist only of the minimum Antenna array technologically needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown in the form of clear and convincing evidence.
- 33.** DAS systems that are owned or operated by a commercial carrier and are part of a commercial wireless system, or are used for commercial purposes, are expressly included in the context of this Section, regardless of the location or whether the Facility or any of its components is located inside or outside a structure or building.
- 34.** The existence of a lease or an option to lease shall not be deemed justification for not complying with the siting priorities set forth in this Section, as well as other applicable land use and zoning regulations. An Applicant may not by-pass sites of higher priority solely because the site proposed is under lease or an option to lease exists. If a site other than the number 1 priority is proposed, the applicant must explain to the reasonable satisfaction of the City why co-location is technically or commercially impracticable. Build-to-Suit agreements between carriers and a proposed Tower owner shall not be a valid basis for any claim of exemption, exception or waiver from compliance with this Section.
- 35.** Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

36. All costs associated with the preparation and submission of an Application and/or necessitated by the requirements for obtaining and maintaining any and all City permits shall be borne by the Applicant or Permittee.

Section 5. Responsible Party(s)

With the exception of the City, itself, the owner(s) of a Facility or Complex, any support structure used to accommodate wireless Facilities, and of the land upon which a Facility support structure or Complex is located, shall at all times be jointly and individually responsible for: (1) the physical and safe condition of the Facility or Complex, support structure and all components on the site related to the Facility or Complex; (2) assuring that all activities of owners, users, or lessees occurring on the site, and all components on the site related to the Facility or Complex, are at all times in compliance with all applicable laws, ordinances, rules, regulations, orders, and permits related to the Facility or Complex; and (3) assuring the proper permitting as required by this Article and other City regulations by all lessees and users of the Facility or Complex, including but not limited to any upgrades and/or Modifications of equipment. Said owner(s) shall regularly and diligently monitor activities at the site to assure that the Facility or Complex is operated in compliance with this Ordinance, other City regulations, and any Conditional Use Permit.

Section 6. Fees

All fees and charges, including but not limited to Application fees, Expert Assistance fees, Inspection fees and Permit fees, shall be as set forth in the City's Schedule of Fees and Charges.

Section 7. Existing Facilities and Complexes

- A. Any legally permitted Facility, Tower or other support structure or Complex that exists on the effective date of this Section of the City's codes shall be allowed to continue as it presently exists, provided that i) all work was properly permitted; ii) the Facility or Complex is in compliance with all applicable local, State and federal laws, rules regulations, orders and permit conditions; iii) the Site is in compliance with the latest version of TIA ANSI 222 as regards the physical condition of the Site; and iv) a Certificate of Completion (COC) was issued for the most recent work performed;
- B. Any work not properly previously permitted prior to the adoption of this Section must be properly permitted within ninety (90) days of the effective date of this Section or prior to any Modification on or at the site or Facility.
- C. Any new Co-location and/or Modification of a Facility, Tower or other support structure or Complex or a Carrier's equipment located on the Tower or Facility, must be permitted under this Section and will require the entire Facility or Complex and any new Co-location or Modification to comply with all applicable laws, rules and regulations, including obtaining a valid COC.

Section 8. Certificate of Completion

- A. No work shall be allowed to be done at or on any Facility or Complex, excepting normal repair and maintenance work as defined in this Section, for which the owner cannot produce the COC for the most recent work, until a final inspection has been conducted and a COC has been issued. The owner of the Facility, Tower or other support structure or Complex shall pay for the actual cost of the required final inspection prior to the inspection being conducted. If the Facility or Complex does not pass the initial final inspection, the owner shall be required to pay for any subsequent inspection prior to the inspection being conducted. A passing final inspection is required prior to the issuance of a COC.
- B. If no COC can be produced for previously done work, at the discretion of either the Planning Director or the Building Director, fines and other penalties as allowed by law maybe imposed until the Facility or Complex is compliant and the required COC has been issued.

Section 9. Exclusions

The following shall be exempt from this Section:

- A. Any facilities expressly exempt from the City's zoning, land use, siting, building and permitting authority.
- B. Any reception or transmission devices expressly exempted under the Telecommunications Act of 1996.
- C. A Facility used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications that is less than 100' above ground level.
- D. Facilities used exclusively for providing wireless service(s) or technologies where i) there is no charge for the use of the wireless service; ii) the Facility or Complex does not require a new Tower or increase the height or profile of the structure being attached to; and iii) the service is not intended to be useable more than one-hundred feet (100') from the Antenna(s).

Section 10. Application Requirements for a New Tower or Support Structure or For a Substantial Modification or Co-location

- A. All Applicants for a Conditional Use Permit for a new Wireless Facility or Complex, including for a new Tower or other support structure or that constitutes a Substantial Modification, shall comply with the requirements set forth in this Section. In addition to the required information set forth in this Section, all applications for the construction or installation of new Facility or Complex shall contain the information hereinafter set forth prior to the issuance of a Building Permit. Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

Ownership and Management

- 1. The Name, address and phone number of the person preparing the Application;
- 2. The Name, address, and phone number of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the applicant, the name and all Necessary contact information shall be provided;
- 3. The Postal address and tax map parcel number of the property;
- 4. A copy of the FCC license applicable for the intended use(s) of the Wireless Telecommunications Facilities, including all FCC licensed frequency bands;
- 5. The Applicant shall disclose in writing any agreement in existence that would limit or preclude the ability of the Applicant to share any new Telecommunication Tower that it constructs or has constructed for it;

Zoning and Planning

- 6. The Zoning District or designation in which the property is situated;
- 7. The size of the property footprint on which the structure to be built or attached is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
- 8. The location, size and height of all existing and proposed structures, enclosures and cabinets on the property on which the structure is located and that are related to the subject of the Application;
- 9. A site plan to scale, not a hand drawn sketch, showing the footprint of the Support Structure and the type, location and dimensions of access drives, proposed landscaping and buffers in compliance with Article 11 of the City's Land Development Ordinance, including but not limited to fencing and any other requirements of site plans;
- 10. Elevation drawings showing the profile or the vertical rendition of the Tower or support structure at the Facility or Complex and identifying all existing and proposed attachments, including the height above the existing grade of each attachment and the owner or operator of each, as well as all lighting;
- 11. The type and design of the Tower or support structure, the number of antenna arrays

proposed to be accommodated and the basis for the calculations of the Tower's or support structure's capacity to accommodate the required number of antenna arrays for which the structure must be designed;

12. Disclosure in writing of any agreement in existence prior to the submission of the Application that would limit or preclude the ability of the Applicant to share any new Telecommunication Tower that it constructs.
13. A certified statement of i) the total cost of construction for the work associated with the Application; and ii) the total cost of all equipment of the Applicant at the Facility. To verify the accuracy of the information, the City reserves the right to require copies of applicable invoices or other clear and convincing corroborating evidence.

Safety

14. the age of the Tower or support structure and Complex stated in years, including the date of the grant of the original permit;
 15. a description of the type of Tower, e.g. guyed, self-supporting lattice or monopole, or other type of support structure;
 16. for a tower, the make, model, type and manufacturer of the Tower and the structural design analysis and report, including the calculations, certified by a Professional Engineer licensed in the State and proving the Tower or support Structure's capability to safely accommodate the Facilities of the Applicant without change or Modification .
 17. if a Substantial Co-location, change or Modification of a Facility or Complex is needed, a detailed narrative explaining what changes are needed and why they are needed;
 18. a Complete, unredacted copy of the foundation design and report for the Tower or other structure, including a geotechnical sub-surface soils investigation report and foundation design for the Facility;
 19. if Substantially Modifying or Co-locating on an existing Tower or other support structure, a Complete, unredacted and certified TIA ANSI 222 Report regarding the physical condition of the Complex and all of its components done within the previous six (6) months. If such report has not been done within the previous six (6) months, one shall be done and submitted as part of the Application. No Building Permit shall be issued for any Wireless Facility or related equipment where the structure being attached to is in need of remediation to comply with the requirements of this subsection and other adopted standards of the City regarding the physical condition and/or safety, unless and until all remediation work that is deemed needed has been completed, or a schedule for the remediation work has been approved by the City Planning Department or Inspections and Permits Department;
 20. In an instance involving a Tower with only a single array of antennas, or for the first antenna array to be attached to a Tower where the array will be thirty-three feet (33') or more above ground level and not within 100 feet of areas to which the public has or could reasonably have or gain access to, in lieu of a full RF emissions study, if deemed appropriate by the City, signed documentation in the form of the FCC's "Checklist to Determine whether a Facility may be Categorized Excluded" may in certain cases be allowed to be used and shall be provided to verify that the Facility and Complex with the proposed installation will be in full compliance with the current FCC's RF Emissions regulations;
 21. In certain instances the City may deem it appropriate to have a post-construction on-site RF survey of the Facility or Complex done after the construction or Modification and activation of the Facility or Complex, such to be done under the direction of the City or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance. Such study shall reflect the cumulative effects, readings or levels of all active RF equipment at the Site;
 22. If not submitted in a previous application, a signed statement that the Applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.
- B. A written copy of an analysis completed by a qualified individual or organization to determine if the proposed Wireless Telecommunications Facility or Complex-is in compliance with Federal Aviation Administration Regulation Part 77, and if it requires lighting, including any Facility or

Complex where the application proposes to increase the height of the existing Tower or support structure.

- C. New Towers and other new support structures shall be prohibited in Residential Districts, Historic Districts and areas officially deemed to be visual or scenic sensitive areas, unless the Applicant provides clear and convincing technical evidence from a carrier demonstrating that i) a new Tower as proposed is technically Necessary, ii) that the intended area cannot be served from outside the District or visually sensitive area; iii) that no existing or previously approved Facility or Complex can reasonably be used to accommodate equipment needed to provide the intended service; and iv) that not to permit a new Tower would preclude eliminating or would create a significant gap in service.
- D. All Applications for a proposed Facility or Complex applicable to this Section shall contain clear and convincing evidence that the Facility or Complex is sited and designed so as to create the least visual intrusiveness reasonably possible given the facts and circumstances involved. To achieve this goal the City expressly reserves the right to require the use of Stealth or Camouflage siting techniques such as, but not limited to, DAS (Distributive Antenna System) or a functional equivalent as regards size, and such shall be subject to approval by the Board.
- E. If proposing a new Tower or support structure, or a Substantial Co-location or Modification of an existing structure, the Applicant shall be required to submit clear and convincing evidence that there is no alternative solution within one-half (1/2) mile of the proposed site that would be less visually intrusive and that not to permit the proposed new Tower or support structure, or a Substantial Co-location or Modification would result in the prohibition of service or the perpetuation of a significant gap in service.
- F. In order to better inform the public, in the case of a new Tower, the applicant shall hold a "balloon test" prior to the initial public hearing on the application. The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a ten (10) foot in length brightly colored balloon with horizontal stabilizers at the maximum height of the proposed new Tower. The use of spherical balloons shall not be permitted.
- G. At least fourteen (14) days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than fourteen (14) days after the conduct of the balloon test. The sign shall be at least four feet (4') by eight feet (8') in size and shall be readable from the road by a person with 20/20 vision.
 - 1. Such sign shall be placed off, but as near to, the public right-of-way as is possible.
 - 2. Such sign shall contain the times and date(s) of the balloon test and contact information.
 - 3. The dates, (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the City and as agreed to by the City. The Applicant shall inform the City in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four (4) consecutive hours between 10:00 am and 2:00 p.m. on the dates chosen. The primary date shall be on a week-end, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with pictures from various locations of the balloon shall be provided with the application.
 - 4. The Applicant shall notify all property owners and residents located within one-thousand five hundred feet (1,500) of the nearest property line of the subject property of the proposed construction of the Tower and Facility or Complex and of the date(s) and time(s) of the balloon test. Such notice shall be provided at least fourteen (14) days prior to the conduct of the balloon test and shall be delivered by first-class mail. The City Planner shall be provided an attested copy of the list of addresses to which notification is provided. The Wireless Telecommunications Facility or Complex shall be structurally

designed to accommodate at least four (4) Antenna Arrays, with each array to be flush mounted or as close to flush-mounted as is reasonable possible.

- H. The Applicant shall provide certified documentation in the form of a structural analysis and report, including all calculations, showing that the Facility or Complex will be constructed to meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute) TIA 222 guidelines. In the event of a conflict the more stringent shall apply.
- I. The Applicant shall furnish a Visual Impact Assessment, which may be required to include:
 - 1. a computer generated "Zone of Visibility Map" at a minimum of one mile radius from the proposed structure shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage; and
 - 2. To-scale pictorial representations (photo simulations) of "before and after" views from key viewpoints inside of the City as may be appropriate and required, including but not limited to state highways and other major roads, state and local parks, other public lands, historic districts, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key viewpoints at the pre-application meeting. In addition to photographic simulations to scale showing the visual impact, the applicant shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed structure;
- J. The Applicant shall provide a written description and a visual rendering demonstrating how it shall effectively screen from view the bottom fifteen feet (15') of the Facility or Complex and all related equipment and structures associated with the Facility or Complex.
- K. A Building Permit shall not be issued for the construction of a new Tower or other support structure until there is an Application for or by a specific carrier that documents that the Facility or Complex is Necessary for that carrier to serve the community and that co-location on an existing Structure is not feasible.
- L. Co-location on an existing structure is not reasonably feasible if such is technically or Commercially Impracticable or the owner of the Structure is unwilling to enter into a contract for such use at fair market value. Sufficient documentation in the form of clear and convincing evidence to support such claims shall be submitted with an Application for the first carrier in order to determine whether co-location on existing structures is reasonably feasible and to document the need for a specific stated height, and that less height will serve to prohibit or have the effect of prohibiting the provision of service.

Section 11. Expedited Application Process for Substantial Modifications and Substantial Co-locations.

An Applicant for a Substantial Modification or Substantial Co-location, but expressly not for a new Tower or other new support structure, may request a special expedited application process in which the Application shall be acted upon within forty-five (45) days of the receipt of a Complete Application. To be granted such status and treatment, in addition to all other required fees, the Applicant shall pay to the City a special Expedited Treatment Fee of \$5,000 for and prior to the grant of such status and treatment.

Section 12. Requirements for Eligible Facility Co-locations or Modifications

- A. For the co-location, modification or upgrade of a wireless facility that qualifies as an Eligible Facilities request under applicable law, the following information shall be required to be contained in an application. Any technical information must be provided in such a manner, form and with

such content that it is able to be verified by a third party using the information used and provided by the applicant.

Safety

- 1) the age of the Tower or other support structure in years, including the date of the grant of the original permit;
- 2) a description of the type of Tower, e.g. guyed, self-supporting lattice or monopole, or a description of another other type of support structure;
- 3) a narrative description and explanation of the specific objective(s) of the new equipment, expressly including the purpose of such (e.g. coverage and/or capacity), technical requirements, frequencies to be used and the identified boundaries of the specific geographic area of intended coverage;
- 4) technical documentation that shows by clear and convincing technical evidence that the Need for the requested height is Necessary to provide the type and coverage of the service primarily and essentially within the City using generally accepted industry methods.
- 5) certified documentation in the form of a structural analysis and report, including all supporting calculations, showing that the Facility, as it exists, will meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to, the Alaska Building Code and all applicable ANSI (American National Standards Institute) TIA 222 guidelines. In the event of a conflict, the more stringent shall apply.
- 6) a copy of i) the installed foundation design, including a geotechnical sub-surface soils investigation report and ii) foundation design recommendation for the Tower or other structure;
- 7) a certified, unredacted report and supporting documentation, including photographs, regarding the physical situation and physical condition of all equipment and facilities at the site in the form of a report based on an on-site inspection done pursuant to and in compliance with the latest version of TIA/ANSI 222. The inspection shall be done by a qualified individual experienced in performing such inspections and the report shall be signed by an individual with authority to order any needed remediation or resolution of issues.
- 8) a copy of the FCC licenses for each frequency band applicable for the intended use of the Wireless Telecommunications transmission and/or receive equipment;
- 9) a list of all frequencies, to be used at the Facility;
- 10) the maximum transmission power capability at which each type of radio is designed to operate;
- 11) the number, type and model of the Antenna(s) proposed, along with a copy of the manufacturer's specification sheet(s), i.e. cut sheet(s), for the antennas;
- 12) certification from the owner of the Facility certifying that the Facility and all attachments thereto are currently in compliance with the conditions of the approved Conditional Use Permit or Administrative Approval and setting forth any non-compliant situation.

Ownership and Management

- 13) the Name, address and phone number of the person preparing the Application;
- 14) the Name, address, and phone number of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the applicant, the name and all Necessary contact information shall be provided;
- 15) the Postal address and tax map parcel number of the property;
- 16) a copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities.

Construction

- 17) The total cost of construction and the value of all new and/or replacement components and equipment.

B. In certain instances the City may deem it appropriate to have an on-site RF survey of the facility performed after the construction or Modification and activation of the Facility, such to be done under the direction of the City or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance. Such study shall reflect the cumulative effects, readings or levels of all active RF equipment at the Site;

C. Attachments to Existing Structures Other Than Towers

- 1) Attachments to Buildings: To preserve and protect the nature and character of the area and create the least visually intrusive impact reasonably possible under the facts and circumstances, any attachment to a building or other structure with a facade, the antennas shall be mounted on the facade without increasing the height of the building or other structure, unless it can be proven that such will prohibit or have the effect of prohibiting the provision of service, and all such attachments and exposed cabling shall use camouflage or stealth techniques to match as closely as possible the color and texture of the structure.
- 2) Utility poles and light standards: If attaching to a utility pole or light standard, no equipment may extend more than six feet (6') beyond the top of the structure and no equipment other than cabling shall be lower than fifteen feet (15') above the ground.
- 3) Attachments to Water Tanks: If attaching to a water tank, in order to maintain the current profile and height, mounting on the top of the tank or the use of a corral shall only be permitted if the Applicant can prove that to locate elsewhere less visually on the tank will prohibit or have the effect of prohibiting the provision of service or that to do so would be technologically impracticable.
- 4) Profile: So as to be the least visually intrusive and create the smallest profile reasonably possible under the facts and circumstances involved, and thereby have the least adverse visual effect, all antennas attached shall be flush mounted or as near to flush mounted as is possible, unless it can be proven that such would prohibit or serve to prohibit the provision of service or be technologically impracticable.

Section 13. Location of Wireless Telecommunications Facilities

- A. No tower or other new support structure shall be permitted in any existing or planned (i.e. platted) residential neighborhood.
- B. If a new telecommunications support structure is proposed to be located within one-half mile of an existing or planned residential neighborhood, irrespective of the type of zoning, the support structure shall not be taller than ten feet (10') above the tallest obstruction between the proposed support structure and a residential neighborhood.
- C. Applicants shall locate, site and erect all Facilities and associated equipment in accordance with the following priorities, in the following order: more than 10' taller than existing surrounding structures.
 1. On existing structures without increasing the height or size of the profile of the Tower or structure.
 2. On existing structures without increasing the height of the structure by more than can be proven by clear and convincing technical evidence is technically Needed.
 3. On properties in areas zoned for Commercial use.
 4. On properties in areas zoned for Rural use.
 5. On properties in designated Historic Districts without increasing the height or size of the profile of the support structure and only if Camouflaged or Stealthed to the satisfaction of the Planning Director.
 6. On properties in areas zoned for Residential use without increasing the height of the support structure or size of the profile and only if Camouflaged or stealthed to the satisfaction of the Planning Director.
- D. If the applicant proposes and commits to locate on City-owned property or structures, the City expressly reserves the right to waive the Application Fee that would otherwise be paid to the City.
- E. If the proposed site is not proposed for the highest priority listed above, then a detailed narrative and technical explanation shall be provided as regards why a site from all higher priority designations was not selected. The person seeking such an exception must demonstrate to the satisfaction of the Planning Director and the Board the reason or reasons why a Conditional Use Permit or Administrative Approval should be granted for the proposed site.

- F. Notwithstanding anything else to the contrary, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood. The City may also direct that the proposed location be changed to another location that is more in keeping with the goals of this Section and the public interest as determined by the Board and that serves the intent of the Applicant.
- G. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an Application for any of the following reasons:
 - 1. Conflict with safety and safety-related codes and requirements, including but not limited to setback and Fall Zone requirements;
 - 2. Non-Compliance with zoning or land use regulations;
 - 3. The placement and location of a Facility or Complex would create an unacceptable risk, or the reasonable possibility of such, to any person or entity for physical or financial damage, or of trespass on private property;
 - 4. The placement and location of a Facility or Complex would result in a conflict with, compromise in or change in the nature or character of the adjacent and surrounding area, and expressly including but not limited to loss in value as measured over the twelve (12) months preceding the Application having been filed;
 - 5. Conflicts with the provisions of zoning or land use regulations;
 - 6. Failure to submit a Complete Application as required under this Section within sixty (60) days after proper notice and opportunity to make the Application Complete shall be deemed to have been abandoned and require no action.
- H. Notwithstanding anything to the contrary in this Section, for good cause shown such as the ability to utilize a shorter, smaller or less intrusive Facility or Complex elsewhere and still accomplish the primary service objective, if relocation could result in a less intrusive Facility or Complex singly or in combination with other locations, the City may require the relocation of a proposed site, including allowing for the fact that relocating the site chosen by the Applicant may require the use of more than one (1) site to provide substantially the same service.

Section 14. Type and Height of Towers

- A. All new Towers shall be of the monopole type. No new Towers of a lattice or guyed type shall be permitted, unless relief is otherwise expressly granted.
- B. The maximum permitted total height of a new tower or other proposed support structure shall be one hundred feet (100') above pre-construction ground level, unless it can be shown by clear and convincing technical evidence from a carrier who has committed to use the tower that such height would prohibit or have the effect of prohibiting the provision of service in the intended service area within the City. The maximum permitted height is permissive and is expressly not as-of-right.
- C. As the policy decision has been made that more Facilities of a shorter and less intrusive height is in the public interest, as opposed to fewer but taller support structures, spacing or the distance between Facilities shall be such that the service may be provided without exceeding the maximum permitted height.
- D. If proposed to be taller than the maximum permitted height, the Applicant for a new Tower or support structure shall submit clear and convincing technical evidence by a carrier or wireless service provider that has committed to use the Tower or other support structure justifying the total height requested and the basis therefore, as well as a copy of a lease or a written commitment to use the Facility upon completion of its construction. If the Applicant chooses to provide evidence in the form of propagation studies, such must include all modeling information and support data used to produce the studies at the requested height and a minimum of ten feet (10') lower to enable verification of the Need for the requested height. The City or its delegee will provide the form that shall be used for reporting such information.

- E. The City reserves the right to require a drive test to be conducted under the supervision of the City or its delegate i) as evidence of; or ii) to verify the technical Need for what is requested.
- F. At no time shall a Tower or other support structure be of a height that requires lighting by the FAA.
- G. Towers shall be structurally designed to support a minimum of four (4) carriers using functionally equivalent equipment to that used by the first carrier attaching to a Tower or other support structure, so that the height can be increased if Needed.

Section 15. Visibility and Aesthetics

- A. No Tower or support structure that is not a building and is constructed after the effective date of this Section shall be tall enough to require lighting by the FAA.
- B. Stealth: All new Facilities, including but not limited to Towers, shall utilize Stealth or Camouflage siting techniques that are acceptable to the City, unless such can be shown to be either Commercially Impracticable or Technologically Impracticable.
- C. Finish/Color: Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Section.
- D. Lighting: Notwithstanding the prohibition of lighting, in the event lighting is subsequently required by the FAA, the Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations. For any Facility or Complex for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 20 degrees vertical for a distance of at least 1 mile in a level terrain situation. Such device shall be compliant with or not expressly in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA.
- E. Retrofitting: In the event a Tower or other support structure that is lighted as of the effective date of this Section is modified, at the time of the first Modification of the Facility the City reserves the right to require that the Tower be retrofitted so as to comply with the lighting requirements of this Section or be reduced to a height that does not require lighting.
- F. Flush Mounting: Except for omni-directional antennas, all new or replacement antennas, shall be flush-mounted or as close to flush-mounted on the support structure as is functionally possible, unless it can be demonstrated by clear and convincing technical evidence that such has the effect of prohibiting the provision of service to the intended service area, alone or in combination with another site(s), or unless the Applicant can prove that it is technologically impracticable.
- G. Placement on Building: If attached to a building, all antennas shall be mounted on the facade of the building and camouflaged so as to match the color and, if possible, the texture of the building, or in a manner so as to make the antennas as visually innocuous and undetectable as is possible given the facts and circumstances involved.

Section 16. Security

All Facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- A. All Facilities, including Antennas, Towers and other supporting structures, such as guy anchor points and guy wires, shall be made inaccessible to unauthorized individuals and shall be constructed or shielded in such a manner that they cannot be climbed or collided with and shall

expressly include removing the climbing steps for the first ten feet (10') from the ground on a monopole; and

- B. Transmitters and Telecommunications control points shall be installed so that they are readily accessible only to persons authorized to operate or service them.

Section 17. Signage

Facilities shall contain a sign no larger than four (4) square feet and no smaller than two (2) square feet in order to provide adequate warning to persons in the immediate area of the presence of RF radiation. A sign of the same size is also to be installed bearing the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and must be visible from the access point of the Facility or Complex and must identify the equipment owner of the shelter or cabinet. On Tower sites, an FCC registration sign, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

Section 18. Setback and Fall Zone

- A. All proposed Towers and any other proposed Wireless support structures shall be set back from abutting parcels, recorded rights-of-way and roads and streets by the greater of the following distances: i) a distance equal to the height of the proposed Tower or support structure plus ten percent (110%) of the height of the Tower or other structure, otherwise known as the Fall Zone; or ii) the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory structure shall be located within the fenced compound area as approved in the Conditional Use Permit and so as to comply with the applicable minimum setback requirements for the property on which it is situated. The Fall Zone or setback shall be measured from the nearest portion of the tower to the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile, as well as any property boundary lines.
- B. The nearest portion of any private access road leading to a Facility shall be no less than ten (10) feet from the nearest property line.
- C. There shall be no development of habitable buildings within the Setback area or Fall Zone.

Section 19. Retention of Expert Assistance Cost to be Borne by Applicant

- A. To prevent the taxpayers from having to bear the cost related to the issue of permitting and regulating a commercially used Wireless Telecommunications Facilities or negotiating an agreement to lease or amend or modify a lease for any City-owned property or structure, an Applicant shall pay to the City fees as set forth in the City's Fee Schedule. The fees are intended to cover all reasonable costs of the expert assistance needed by the City in connection with the review of any Application, including both the technical review and non-technical review, and the permitting, inspection, construction or Modification requested, any Application pre-approval evaluation requested by the Applicant and any lease negotiations. The payment of the Expert Assistance fees to the City shall precede any work being done that is related to the intended Application or lease, including a pre-application meeting or site visit.
- B. The City may hire any consultant of its choice to assist the City in reviewing and evaluating Applications and negotiating leases, provided the consultant has at least five (5) years experience working exclusively for the public sector regulating Towers and Wireless Facilities and negotiating leases.
- C. The total amount of the funds needed for expert assistance as set forth in the City's Fee schedule may vary with the scope and complexity of the Application, the completeness of the Application and other information as may be needed to Complete the necessary technical and non-technical reviews, analysis and inspection of any construction or Modification or the amount of time spent

responding to an Applicant's arguments as regards its Application or the requirements of this Section.

- D. The City will maintain an accounting record for the expenditure of all such funds.
- E. Pursuant to N.C. 160A-400.52(f), if an Application is Amended, or a waiver or relief is requested from any regulations at any time prior to the grant of the Certificate of Completion required under this Ordinance, the City reserves the right to require additional payment for the review and analysis equal to, but not exceeding, the cost created for the City by the Applicant or its Application. Such amount shall be paid to the City prior to the issuance of the Conditional Use Permit or Administrative Approval or the Certificate of Completion, whichever is procedurally needed next.

Section 20. Procedural Requirements for a Granting a Conditional Use Permit

- A. When a Conditional Use Permit is requested, the following procedures shall apply, including those set forth in Section 7.8 of Article 7 of the City's Land Development Ordinance.
- B. The City shall schedule any required public hearing(s) once it finds the Application is Complete and there are no issues of non-compliance or conflict with applicable law, rule or regulation. The City shall not set a date for a hearing if the Application is not Complete or if there are unresolved issues of non-compliance. The City may, at any stage prior to issuing a Conditional Use Permit or Administrative Approval, require such additional information as it deems Necessary and that is not expressly prohibited from being required by applicable law as relates to the issue of the siting, construction or Modification of or at a Wireless Telecommunications Facility or Complex.
- C. Upon Board approval, a Conditional Use Permit shall be issued for a new Tower or Substantially Modified Wireless Support Structure or Substantial Co-location. Notwithstanding the preceding, the Building Permit for a new Tower or other proposed support structure shall not be issued until an Applicant has provided clear and convincing substantiating documentation governing the placement of the first antenna array of a carrier who has committed to use the structure prior to its construction and that carrier has been properly permitted under this Ordinance.

Section 21. Action on an Application

- A. The City will undertake, or have undertaken, a review of an Application pursuant to this Article in a timely fashion, consistent with its responsibilities and applicable law, and shall act within the time required by applicable law.
- B. The City may refer any Application or part thereof to any advisory committee or consultant for a non-binding recommendation.
- C. Either after the public hearing if a hearing is required, or after Administrative review as applicable, and after formally considering the Application, the City may i) approve; ii) approve with conditions; or iii) deny for cause a Permit or Administrative Approval. The decision shall be in writing and shall be supported by substantial evidence contained in a written record, which record may be the minutes of any or all official meetings. Throughout the Application and permitting process, the burden of proof for compliance with this Ordinance or the need for a waiver or relief shall always be upon the Applicant.
- D. An Applicant shall not be permitted to refuse to provide information needed to establish the substantial written record required under federal law and applicable case law. Refusal for more than sixty days without agreement by the Board shall result in denial of the Application or the Application shall be deemed abandoned.
- E. Approval Notification: If the City approves the Conditional Use Permit or Administrative Approval for the Facility or Complex, then the Applicant shall be notified of approval of its Application, including any conditions, within 30 calendar days of the City's action. The Conditional use Permit or Administrative Authorization shall be issued within thirty (30) days after such approval.

- F. Denial Notification: The Applicant shall be notified of a denial of its Application at the Board Meeting, and in writing within 30 calendar days of the Board's action, which notice shall contain the reason or reasons for the denial.

Section 22. Transfer or Assignment

The extent and parameters of a Conditional Use Permit or Administrative Authorization for a Facility or Complex shall be as follows:

- A. Such Conditional Use Permit or Administrative Authorization shall not be assigned, transferred or conveyed without the express prior written notification to the City, such notice to be not fewer than thirty (30) business days prior to the intended assignment, transfer or conveyance.
- B. A transfer, assignment or other conveyance of the Conditional Use Permit or Administrative Authorization shall require the written commitment of the proposed new holder of the Conditional Use Permit or Administrative Authorization to abide by all applicable laws, rules and regulations, including but not limited to this Ordinance.

Section 23. Violations

- A. Following written notice of violation and an opportunity to cure, any Permit or Administrative Approval granted under this Ordinance may be revoked, canceled, or terminated for a violation of the conditions and provisions of the Conditional Use Permit or other applicable law, rule, regulation or order, and if warranted the payment of a fine(s) as is permissible.
- B. If not cured within the time frame set forth in the Notice of Violation, a hearing shall be held upon due prior notice to the Applicant citing the violation and the date, time and place of the hearing, which shall be provided by registered mail to the last known address of the holder of the Conditional Use Permit.
- C. Following the original notice and an opportunity to cure, subsequent or repeated violations of a substantially similar nature shall not require an opportunity to cure prior to the imposition of fines or penalties.

Section 24. Removal and Performance Security

- A. Removal and Performance: The Applicant and the owner of record of any proposed new Tower or other support structure or Complex shall, at its sole cost and expense, be required to execute and file with the City a bond or other form of security that is acceptable to the City as to the type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a Tower or other support structure and with such sureties as are deemed adequate by the City to assure the faithful performance of the terms and conditions of this Section and conditions of any Conditional Use Permit issued pursuant to this Section. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Conditional Use Permit. The amount of the Bond is, in part, determined by the current cost of demolition, removal and site restoration multiplied by the compounding or cumulative effect of a three percent (3%) annual cost escalator over a thirty (30) year projected useful life of the structure.
- B. Performance: The owner of any equipment attached to a support structure or located in a Complex shall be required to execute and file with the City a performance bond or other form of performance security that is acceptable to the City as to the type of security and the form and manner of execution, in the amount of \$25,000.

Section 25. Reservation of Authority to Inspect Wireless Telecommunications Facilities

- A.** In order to verify that the holder of a Conditional Use Permit for a Facility or Complex and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, places, constructs and maintains such facility in accordance with all applicable technical, safety, fire, building codes, zoning codes, laws, ordinances and regulations and conditions of any permit granted under this Ordinance, the City or its designee shall have the right to inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, Modification and maintenance of such facilities, including, but not limited to, Towers, Antennas, buildings and equipment and connections contained therein, or other structures constructed or located on the permitted site.
- B.** Refusal to allow or grant access to the City's representative upon reasonable notice shall be deemed a violation of this Ordinance.

Section 26. Liability Insurance

- A.** A holder of a Conditional Use Permit for a Wireless Telecommunications Support Structure shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Conditional Use Permit in amounts as set forth below:
 - 1.** Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$3,000,000 aggregate; and
 - 2.** Automobile Coverage: \$1,000,000.00 per occurrence/ \$3,000,000 aggregate; and
 - 3.** A \$3,000,000 Umbrella coverage; and
 - 4.** Workers Compensation and Disability: Statutory amounts.
- B.** For a Facility or Complex located on City property, the Commercial General Liability insurance policy shall specifically name the City and its officers, Boards, employees, committee members, attorneys, agents and consultants as additional insureds.
- C.** The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with an AM Best's rating of at least A.
- D.** The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
- E.** Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
- F.** Before construction of a permitted Wireless Telecommunications Facility or Complex is initiated, but in no case later than fifteen (15) days prior to the grant of the Building_Permit, the holder of the Conditional Use Permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.
- G.** A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the City shall not be deemed to comply with this Section.

Section 27. Indemnification

- A.** Any application for Wireless Telecommunication Facilities that is proposed to be located on City property shall contain a signed statement fully and completely indemnifying the City. Such provision shall require the applicant, to the extent permitted by applicable law, to at all times defend, indemnify, protect, save, hold harmless and exempt the City and its officers, Boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at

law or in equity, which might arise out of, or are caused by, the placement, construction, erection, Modification , location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility or Complex, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

- B. Notwithstanding the requirements noted in subsection A of this section, an indemnification provision will not be required in those instances where the City itself, or an agency or department of the City, applies for and secures a Conditional Use Permit for a Wireless Telecommunications Facility or Complex.

Section 28. Fines

- A. In the event of a violation of this Section, or any Conditional Use Permit or Administrative Approval issued pursuant to this Section, the City may impose and collect, and the holder of the Conditional Use Permit or Administrative Approval for a Wireless Telecommunications Facility or Complex shall pay to the City, fines or penalties as set allowed by State law or as otherwise established by the City.
- B. Notwithstanding anything in this Section, the holder of the Conditional Use Permit or Administrative Approval for a Facility or Complex may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Section or any section of this Ordinance. An attempt to do so shall subject the holder of the Conditional Use Permit to termination and revocation of the Conditional Use Permit in addition to the payment of fines. The City may also seek injunctive relief to prevent the continued violation of this Section without limiting other remedies available to the City.

Section 29. Default and/or Revocation

If a support structure, Facility or Complex is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Conditional Use Permit or Administrative Approval, then the City shall notify the holder of the Conditional Use Permit or Administrative Approval in writing of such violation. A Permit or Administrative Approval holder found to be in violation may be considered in default and subject to fines as permitted under applicable State law, and if a violation is not corrected to the satisfaction of the City in a reasonable period of time the Conditional Use Permit or Administrative Approval shall be subject to revocation.

Section 30. Moving or Removal of Co-located Facilities and Equipment

- A. If attached to an existing tower or other support structure, unless the Board deems doing so to be in the public interest, it shall be impermissible for a wireless service provider's or carrier's equipment to be relocated from one structure to another without clear and convincing evidence that not to do so would, for technical reasons, prohibit or serve to prohibit the provision of service in the service area served by the existing wireless facility.
- B. If the lease for the existing attachment and use expires and is not renewed, thereby forcing the facility to be moved, such move shall be allowed upon i) the provision of clear and convincing evidence satisfactory to the Board of the need to move or relocate the facility; and ii) clear and convincing evidence satisfactory to the Board of the lack of impact on the neighborhood or area of intended new location. Cancellation or abandonment of a lease by a lessee or refusal to agree to terms of a lease that are not Commercially Impracticable shall not be deemed a permissible reason for relocating.
- C. The owner of any Facility or Complex shall be required to provide a minimum of thirty (30) days written notice to the City Clerk prior to abandoning any Facility or Complex.

- D. Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of Facilities.
 - 1. a Facility or Complex that has been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety (90) consecutive days or a cumulative total of one hundred-eighty (180) non-consecutive days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall be completed within 90 days of abandonment;
 - 2. A Support Structure or Facility or Complex falls into such a state of disrepair that it creates a health or safety hazard or is deemed an attractive nuisance or a visual blight;
 - 3. A Support Structure or Facility or Complex has been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Conditional Use Permit, or Administrative Approval, and the Conditional Permit or Administrative Approval may be revoked.
- E. If the City makes such a determination as noted in subsections (2) or (3) of this section, then the City shall notify the holder of the Permit or Administrative Approval for the Facility or Complex that said Facility or Complex is to be removed.
- F. The holder of the Conditional Use Permit or Administrative Approval, or its successors or assigns, shall dismantle and remove such Facility or Complex and all associated structures and equipment from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability. Restoration shall be completed within ninety (90) days of receipt of written notice from the City. However, if the owner of the property upon which the Facility or Complex is located wishes to retain any access roadway to the Facility or Complex, the owner may do so with the approval of the City.
- G. If a Facility or Complex has not been removed, or substantial progress has not been made to remove the Facility or Complex, within ninety (90) days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the Facility or Complex at the sole expense of the owner or Conditional Use Permit holder.
- H. If the City removes, or causes Facilities to be removed, and the owner of the Facility or Complex does not claim and remove it from the site to a lawful location within ten (10) days, then the City may take steps to declare the Facility or Complex abandoned, and sell them and their components.
- I. Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the Facility or Complex for no more than ninety (90) days duration, during which time a suitable plan for removal, conversion, or re-location of the affected Facility or Complex shall be developed by the holder of the Conditional Use Permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the Conditional Use Permit or Administrative Approval and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession of and dispose of the affected Facility or Complex in the manner provided in this Section and utilize the bond in Section (BB).

Section 31. RF Emissions

- A. To assure the protection of the public health and safety the City expressly reserves the right to require that an Applicant, a user of a Facility or Complex or the owner of the Facility or Complex verify compliance with the FCC's regulations regarding RF emissions cumulatively at the Site, as may be deemed appropriate from time to time, and that all users of the Facility or Complex cooperate with the party responsible for such testing or verification. Failure to cooperate shall be deemed a violation of this Section and subject the non-cooperating party to all applicable and permissible fines and penalties.

- B. With respect to Support Structures other than Towers, if any section or portion of the structure attached to or to be attached to, or any adjacent to the Site, is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and be marked off with brightly colored plastic chain or striped warning tape, as appropriate, as well as placing RF Radiation signs as needed and appropriate to warn individuals of the potential danger. As deemed warranted by the City at any time, the right of the City is expressly reserved to do itself, or order done, an on-site RF emissions survey.

Section 32. Relief

- A. Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Section shall address and identify such at the Pre-Application meeting. The relief or exemption must be contained in the submitted Application for either a Conditional Use Permit or Administrative Approval, or in the case of an existing or previously granted Conditional Use Permit or Administrative Approval, a request for Modification of the Facility or Complex and/or equipment. Such relief may be temporary or permanent, partial or complete.
- B. The burden of proving the need for the requested relief, waiver or exemption shall be solely on the Applicant to prove.
- C. The Applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption.
- D. No relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers.

Section 33. Adherence to State and/or Federal Rules and Regulations

- A. To the extent that the holder of a Conditional Use Permit or Administrative Approval for a Wireless Telecommunications Facility or Complex has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Conditional Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- B. To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Conditional Use Permit or Administrative Approval for Wireless Telecommunications Facilities, then the holder of such a Conditional Use Permit or Administrative Approval shall conform the permitted Facility or Complex to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

Section 34. Conflict with Other Laws

Where this Section differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, State or federal government, the more stringent shall apply.

Section 35. Effective Date

This Section shall be effective immediately upon passage, pursuant to applicable legal and procedural requirements.

Section 36. Authority

This Section is enacted pursuant to applicable authority granted by the State and federal government.

Approved as to Form

The Center for Municipal Solutions

We are frequently asked what the goals of a *well-crafted* ordinance regulating tower and wireless facilities should be. Here are some suggestions as regards some of the goals a community may wish to achieve in the development of its ordinance. We've found that a key to preventing a successful challenge is that ordinances regulating this issue should **require, limit, prohibit, allow or incent** (through specific policies); and should avoid words like not 'encourage' or 'request'. While some may disagree, we've found this approach works extremely well and discourages arguments and challenges.

Establish an ordinance that contains the ability to create '**Win-Win**' scenarios for all parties when possible. *Only a community that is truly in true control can do this;*

Protect all legal rights and authority allowed under applicable law and does not sacrifice rights a community's legal rights and authority for a 'get along' relationship¹;

Assure the Community is placed in control and knows **how to use** the ordinance (*to the extent allowed by applicable law*), so that it may then make *informed* decisions and **choose** the extent to which it wishes to exercise that control;

Assure there are **no loopholes** or ways to avoid, evade or circumvent the ordinance, or the Community's intent as expressed in the ordinance;

Assure the ordinance is as **technology neutral** as possible to minimize the need to amend or revise it as technology evolves;

For new towers and other support structures, establish an *enforceable* '**Proof-of-Technical-Need**' requirement for what is requested, as the first 'test', since *everything else should be based on this;*

Minimize the likelihood of **residents' fears, resentment and political dissatisfaction;**

Assure the means to require the **least visually intrusive** facility reasonably possible;

Assure that certain types of facilities, e.g. towers, **do not go in areas not deemed in the public interest** and that the **right** types of facilities (that don't change the **nature, character or property values** of an area) are located in areas where the Community deems the visual intrusiveness to be a concern;

Assure that the **cost to construct is not a factor** that is required to be considered;

Assure that taxpayers' dollars **don't ever have to pay for or subsidize** the processing of applications, **inspections** and the **administration** of the permit;

Assure that **the right safety codes** and standards are required to be complied with, e.g. the latest edition of ANSI EIA/TIA 222. This is *critical;*

Provide a means to identify [previously] **unpermitted facilities** and **unpermitted work** on facilities and remedy the situation;

Assure required compliance with all applicable State and Federal laws and rules;

Assure the ordinance allows the Community to realize the **maximum revenue allowable** from carriers and owners of support structures for the Community;

Minimize the likelihood of successful legal challenges to the ordinance.

Contact Info:

Rusty Monroe
Phone: (518) 573-8842
E-Mail: Lmonroe8@nc.rr.com
Address: 3113 Billiard Ct.

Wake Forest, NC 27587

Examples of Need for Local Governments to Require Safety Inspections & Reports
as part of the Application Process re Existing Facilities

This Tower had an ‘Engineered’ Break Point Cell Tower Collapse Could Have Been Prevented

Posted on: 5:53 pm, March 6, 2013, by [George Sells](#), updated on: 06:54pm, March 6, 2013

ST. LOUIS, MO (KTVI)– There are new questions in south St. Louis in the wake of a cellular tower collapse in high winds Tuesday afternoon. FOX 2 has obtained video showing the tower swaying violently in a different wind storm nearly three months earlier. Witnesses say someone apparently tried to make repairs, though the work clearly was not enough.

Martin Howard is a security guard who works at a nearby grocery store. He shot the video in question on his phone back in December. The images show the tower swaying from left to right with a great deal more flexibility than would seem normal. Howard was concerned enough that he had people parked nearby move their cars farther away.

“There was like an uneven seam in it and they had already been out there before to fix it, and the seam was still there and it was swaying and I was saying, that sucker’s gonna snap off because there was nothing tethering it down.”

His prediction came true Tuesday. Gusting winds tore in on the tail end of morning snow showers. The tower apparently flexed again, then snapped.

“I heard a loud crackle and bang,” Howard said of the pole, which was “sliding down and breaking apart and **hitting the brick building**, and then **swinging back up and hitting the other building**.” (emphasis added)

The owner of a nearby business, Ross Watson, owns the brick building that was hit.

“It sounded as if it were incoming howitzer,” he said of the noise.

He wasn’t surprised by the video when we showed it to him.

“I’ve seen this thing in this condition before,” Watson said.

He and Howard both agree it’s miraculous no one was hurt in the incident. And both find it a little disconcerting that it might have been prevented.

FOX 2 attempted to contact the tower's owner, Crown Castle International, both at their St. Louis location and at their corporate offices in Houston, Texas. Our calls were not returned.

Certified by PE as Being Structurally Adequate

North County Communications Affected by Radio Tower Collapse (Excerpt from Complete Article)

By Jack Guerino

iBerkshires Staff

North Adams, Ma.

04:01PM / Sunday, March 30, 2014



Update: 4:07 p.m. with information from press conference; complete rewrite throughout.

Officials report that service should be restored within 24 hours but new towers will have to be installed to permanently fix the situation.

NORTH ADAMS, Mass. — Two radio towers on Florida Mountain collapsed sometime between midnight and 3 a.m. Sunday morning, causing disruptions in communications throughout North County.

"We are still left in shock by the events of this past week, but I just want everyone to be rest assured that this is being taken care of at a very very high level with all state agencies involved," North Adams Mayor Richard Alcombright said at a press conference Sunday afternoon at City Hall.

The cell towers hold the emergency communications relays for North Adams; the collapses also affected some of the countywide emergency communications.

Fire Director Stephen Meranti said the damage has left limited-to-no cell phone service, however emergency communications have been restored through temporary means.

"Right now we have temporary communications vehicle stationed at the Western Summit [on Route 2], and we are transmitting and receiving through that unit," Meranti said. "Contractors are at the site, and they are working to reinstall the antennas on a temporary pole until the tower can be reconstructed."

The towers are owned by North Adams Tower Co. and space is leased to local carriers. Owner Corydon Thurston was on the scene and working with crews and the Massachusetts Emergency Management Agency to evaluate the situation.

An emergency operations center has been set up at North Adams Ambulance Service and the city is working with the communications and dispatch center at the Berkshire County sheriff's office to ensure contact with Berkshire Medical Center in Pittsfield.

With the closure of the emergency room at North Adams Regional Hospital on Friday, communication with BMC has been critical.

Although 911 services are available, the lack of cell phone service is making emergency communications more problematic. The mayor urged citizens to use alternative methods of communications if they don't have a landline.

He added citizens can post emergencies on the North Adams Police Departments Facebook page or email napd911@gmail.com. Both options are being actively monitored.

"In this day in age everyone depends on that cell phone, but look to your alternate methods of communication for at least the next 24 to 48 hours until we can have some real confidence that we are back up and running," said Lt. Col. Thomas Grady of the Berkshire County sheriff's office.

He'd earlier described the destruction as "a catastrophic failure, there's no nice way to spin this."

"This is Mother Nature at its best," Grady said.

Grady explained that even though temporary antennas are being installed, the restoration of the towers will be a long process. He added that the Department of Public Health must investigate the structural integrity of the towers and the ability to safely work on the site. After this determination the site will be cleaned up and new towers will constructed.

"It's not an overnight fix, and we are looking at the immediate needs, the interim needs, and then the long term needs to get everything up to where it needs to be for the city," Grady said. "The mayor and the two commissioners from police and fire have done a good job in ensuring the city and its residents that public safety has not been compromised."

Earlier Sunday, at the scene of the cell tower collapse, Meranti said radio interference had alerted first-responders to the problem.

"Last night, we had a wind gust, we were getting some interference on our radios trying to locate the problem, where the interference was coming from," said Meranti. "We came up here and found the towers over."

A temporary solution had been set up for now in van parked near the site, he said. "We're actually using that [van] as a relay point for fire, police and EMS."

Minehold Gap, Buncomb County, N.C.

(Structural Design Signed and Stamped by a P.E.)

Thank goodness no one was walking on the path at the time.



Structure design appears to have contributed to Crown Castle monopole collapse in Missouri

March 7, 2013 - A monopole that was either incorrectly installed, under-designed or over-capacity partially **collapsed** Tuesday afternoon in St. Louis, Mo. in wind gusts that were well below required design standards.(emphasis added)

Two techs remain in serious condition after riding a collapsing tower to the ground

October 12, 2012 - Two tower technicians are still in grave condition a week after a tower they were working on **collapsed** in Camuy, located near Puerto Rico's north coast.

Authorities said that Jaime Montero ,48, and Jesus Maldonado, 58, were performing maintenance on the structure last Friday when it fell. They were unable to identify at what height both men were working.

A review of a number of photographs by Wireless Estimator indicates that the men might have been changing out braces near the 30-foot level at the time of the accident.

No redundant bracing appeared to be in place to prevent the 225-foot guyed angle iron tower built in 1981 from collapsing.

Straight line winds topple Minnesota PBS tower

September 6, 2012 - An early morning storm on Wednesday toppled an Austin, Minn. broadcast tower owned by KSMQ-TV, but the station returned to the air at about 8 p.m. using a temporary tower. . .

Its 444-foot tall guyed tower went down (**totally collapsed**) Wednesday in a parking lot in Riverland Community College. . .

Wind speed in Austin gusted to 53 mph at the Austin Municipal Airport and as high as 74 in northwest Rochester, according to the National Weather Service in La Crosse, Wis.

Excerpt from Wireless Industry News – June 30, 2009

. . . Severin said Prelog was at the top of the radio tower, attached by a safety harness lanyard, when it **fell down sideways**, crashing him to the ground. "**The tower failed at the base**," Severin said.

Two of three metals legs at the base bent and buckled, causing the tower to lurch sideways and collapse. It was not immediately known who the tower manufacturer was. The tower was anchored into the ground at the base and stabilized by guy wires, and it is not known what caused the metal braces to give way, Severin said.

Severin said Monday that the tower was 30 feet tall and Prelog was at the top when it **toppled over**. Climbing the tower is a common way to install an antennae on a tower of that height, and Prelog was **following proper safety measures**, Severin said.

Prelog died Sunday morning at Borgess Hospital in Kalamazoo from injuries suffered in the fall. He is survived by a wife, two daughters and a son. He was employed as Andrews University's telecommunications manager since 1994.(emphasis added)

Leaning cell tower of Jefferson County fails inspection, closing school

11/4/13

ARNOLD • A leaning cellphone tower near Lone Dell Elementary School has failed a safety inspection, and classes will not be held there today, officials said Wednesday.

The tower owned by US Cellular is on property owned by the Fox School District. The tower and school are in the 2500 block of Tomahawk Drive near Arnold.

The worry isn't that the tower could fall on the school, but rather for cars and buses entering the driveway near the tower, according to a statement posted on the Fox website by Superintendent Dianne Critchlow.

Critchlow said the tower was inspected Tuesday. The results of that inspection were issued Wednesday — it failed, Critchlow said.

The tower failed a stability evaluation, according to the Jefferson County Sheriff's Office. According to District Superintendent Dianne Critchlow, inspectors said there were bolts loose or missing.

Lone Dell students will be picked up today at their usual bus stops, but will be taken to Rickman Auditorium for class. They will also use the district's service center for fall parties. The district asks that parents pack a lunch for their kids, but if that isn't possible, the district will provide a sack lunch.

Tomahawk Drive and Gary Road near the school were closed Wednesday evening but should reopen today.

Deputies and US Cellular employees were to be posted near the tower throughout the night and "protective measures" were under way in case of a collapse, the sheriff's office said.

Parents with questions should call the district at 636-296-8000 or [check its website](#) for more information.

Examples of Why Adequate Fall Zones are Critical

Note: 'Catastrophic' failure is an industry term for a total collapse

Risk factors soar as LTE installs overload carriers' antenna mounts

January 31, 2013 - The issue isn't **whether** new LTE loading on existing antenna mounts will jeopardize the safety of telecom workers and the public, the question is **how soon** will it be before there is a **catastrophic** failure?

Many manufacturers, engineers, carriers and installers will readily acknowledge that **current loading configurations are overstressing scores of mounts that were not designed to handle the additional weight and flat plate loading of remote radio units required for LTE installations.**

Although some carriers are mapping existing structures and requiring new mounts when they've been identified to be inadequate, **in the feverish rush for LTE deployment, others are ignoring the problem and exposing tower technicians to fatal risks, even if they are properly tied off elsewhere on the mount's supporting structure.** (emphasis added)

Two workers killed in collapse of Kansas cell towers

[KMAN-AM story](#)

March 26, 2014

Staff *Wichita Business Journal*

Two cell phone towers collapsed Tuesday near Blaine, a town about 50 miles northwest of Topeka, killing two workers who were in the process of dismantling the older tower.

[KMAN-AM reports](#) the workers were reported to be at a height of more than 250 feet when the collapse happened.

Two other workers who were on the ground were not hurt, KAKE News reports.

Two Men Identified, Tower Related Fatalities Increasing In Kansas

March 26, 2014

BLAINE, Kan. (WIBW) The two workers who died after two communications towers collapsed near Blaine Tuesday have been identified and the Federal Occupational and Health Administration is involved in the investigation.

Pottawatomie County Sheriff Greg Riat has identified the men as 25-year-old Seth Garner of Saint Peters, Missouri and 38-year-old Martin Powers of Saint Charles, Missouri.

They died Tuesday while working at the 250 foot level of the telecommunication tower that collapsed. Riat said Powers died at the scene and Garner at a local hospital.

13 News has learned the two men had worked for Wireless Horizon of Saint Louis for less than five months. Wireless Horizon is a subcontractor working for the Union Pacific Railroad.

The two men were dismantling an old tower which was right next to a new tower when the accident happened, destroying both towers.

Michael Moon, Acting Director for OSHA (Occupational Safety and Health Administration), says there were 13 tower related fatalities in Kansas last year and 4 this year.

"They are in a very high risk job. In 2013, we were more than double in the number of fatalities for tower related incidents than we were in 2011 and 2012 combined," said Moon.

This isn't the first time Wireless Horizon employees have been killed. According to http://www.wirelessestimator.com/breaking_news.cfm, in 2005, an Illinois technician was killed after falling 120 feet. Wireless Horizon was fined \$1,500.

And in West Virginia, five people have died on or around cell phone towers in the past eight months.

Their deaths are attributed to towers collapsing and equipment failures, according to <http://www.wvgazette.com>, a West Virginia online newspaper.

"There isn't a specific cause that we can say but they are all preventable, should be preventable, if employers would just simply take a few extra moments and a few extra precautions to check and see what they are doing," said Moon.

Moon told 13 News they had investigators on site Wednesday near highway 16 and Rock Creek Road where the incident happened. He said the investigation could take up to 6 months. Violations could mean a fine anywhere from \$7,000-\$70,000.



Is this supposed to be the 'engineered' break point?



The Maintenance inspectors over the years must have been wearing blindfolds to have missed this.



The tanker truck driver miraculously escaped injury as the 300-foot guyed tower threaded itself between his cab and the truck's explosive load.

The driver was the luckiest man in this Illinois town that day!



The latest type of car crusher?

Oh well, the Chief needed a new car anyway.



And they question why adequate 'fall zones' are necessary



No injuries were reported when a 300-foot self supporting tower fell upon church property. A neighbor's home less than 20-feet away was spared following the cell tower's collapse.

Thank goodness it wasn't Sunday



New back yard freeform sculpture . . . or do they need a permit to start a new junkyard in their back yard?

Incorrect Structural Design
Wrong type of foundation design for the type of soils
(Structural Design Signed and Stamped by a P.E.)



Imported from Pizza, Italy?

Incorrect Structural Design
Wrong type of foundation design for the type of soils
(Structural Design Signed and Stamped by a P.E.)



Another Pizza, Italy import?

Failed *When it's Most Needed* . . .

What Do 'First Responders' and the public do now?

Tower did not break at 'engineered' break point



Failed *When it's Most Needed* . . .

What Do 'First Responders' and the public do now?

Tower did not break at 'engineered' break point



Failed When it's Most Needed . . .

What Do 'First Responders' and the public do now?

Tower did not break at 'engineered' break point



Failed *When it's Most Needed* . . .

What Do 'First Responders' and the public do now?

Tower did not break at 'engineered' break point



Why is Expert Assistance Needed by Local Officials? Survey Question re Staff Training

Have you or any of your staff been trained in, and are they technically capable of, addressing the **safety** issues vis-à-vis tower-related structural requirements and the physical conditions of the various components of a tower or other support structure as relates to wireless carriers. The question is this:

As a certified planner and/or licensed inspector, have you or members of your staff ever been provided training in the interrelationship among the International Building Code, the State Building Code and the ANSI/TIA 222 code, and applying it in the real world, specifically in relation to communications towers and wireless facilities/antennas, and if so by what organization?

This is Why (see next page) . . .

A Few Examples of Typical Responses to E-Mail Survey

**From close to a hundred responses, not a single response said
anyone had been trained**

'No'

Michael D. Harvey AICP, CFO, CZO
Current Planning Supervisor – Planner III
Orange County Planning Department

In response to your question below, no one in the inspections department has received training in the matters you referenced as regards cell towers and the requirements of ANSI/TIA 222.

We are all aware of its reference in Section 3108 (Telecommunication and Broadcast Towers) and in Chapter 35 (Referenced Standards) of the NC Building Code. But as with many portions of the code, *we must rely on third party expert assistance in dealing with the matter.*

David Sudderth CZO, CFM
Stokes County
Director of Planning & inspections

No. That's why we use an outside expert.

Chip Russell, AICP
Planning Director
Wake Forest, NC

The answer to your questions below is, no and no.

Berry Gray
Planning Director
Johnston County Planning Department

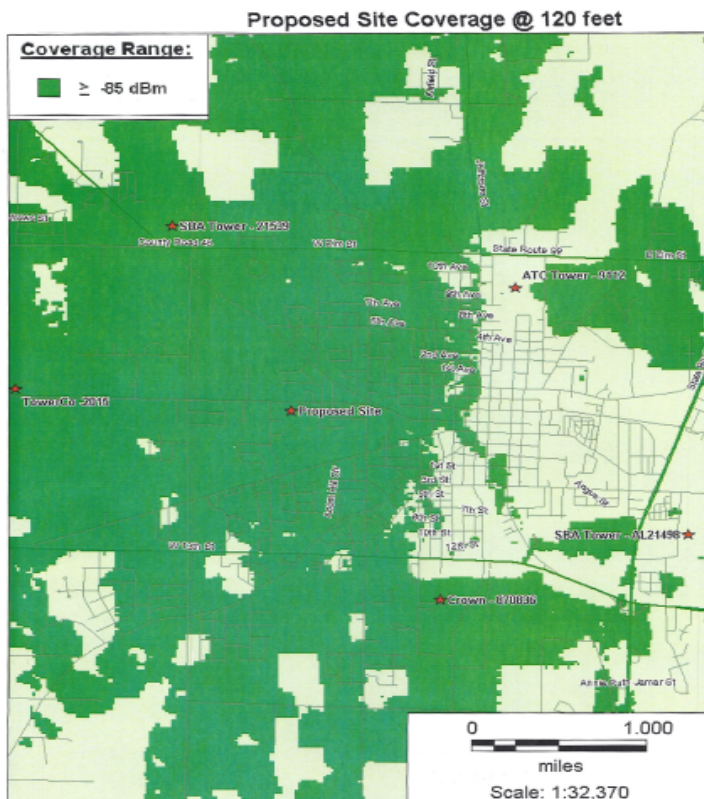
No, and thus the need for an outside consultant to protect the safety of the public and of private property.

Paula Murphy
Planning Director
Person County

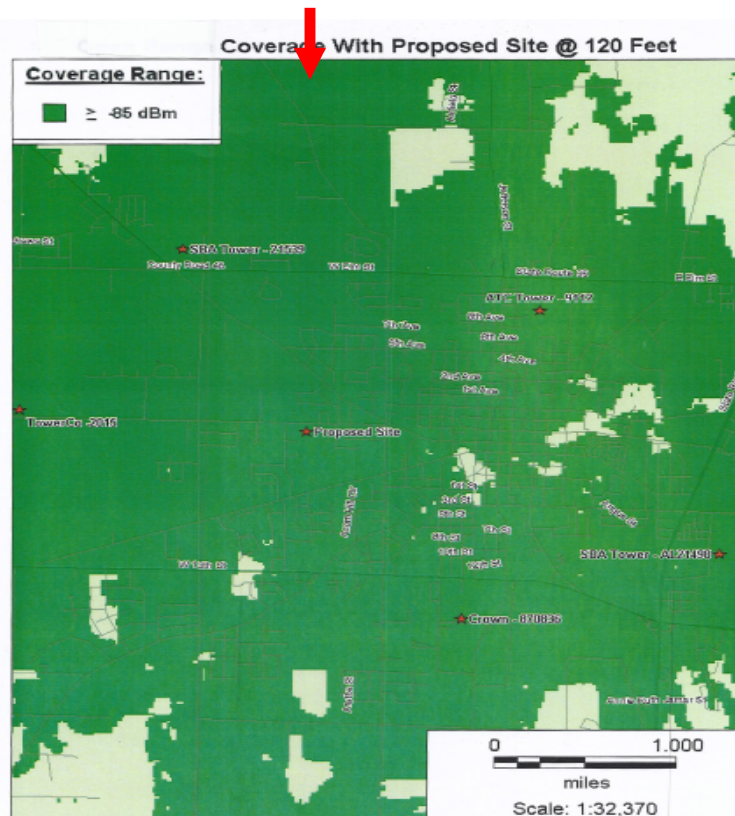
'MANIPULATED' PROPAGATION MAP (Oops. Busted!)

SAME SITE, SAME HEIGHT, SAME SIGNAL STRENGTH, DIFFERENT COVERAGE.

Original submittal showing large gaps at 120'



Later submittal, after an analysis showed that the original map was 'manipulated' to try to prove that 120' would not fill a significant gap when trying to get a 199' tower approved. Note: Large gaps 'miraculously' disappeared after analysis.



This is the bottom-line or underlying issue in most applications for a new facility, as it determines i) the technical need for a proposed new facility in the first place; ii) the need for the proposed location; and iii) the visual intrusiveness (e.g. the need for a tower versus a co-location and the needed height of the tower).

The basic underlying issue is '**Proof-of-Technical Need**', which the 1996 Telecommunications Act allows a community to require proof of. The point of this is to demonstrate that *without the modeling information (i.e. inputted variables) used to produce the maps, the map is useless* and should not be relied upon, as it can easily be manipulated to show a pre-determined (desired) outcome, as the original submittal above did.

Manipulating propagation maps to show a desired, pre-determined outcome is an all-too-common practice and results in facilities being permitted for which there is **no technical justification**. All-too-many communities simply take the applicant's word, which is *not recommended as evidenced by the example above*. Avoiding the issue of verifying the technical need for what is requested is *not doing the due diligence officials are supposed to be doing vis-à-vis serving the public interest and protecting the nature and character of the community*. Avoiding the issue of verification of evidence, claims or assertions i) does not fulfill the mandate of local government and ii) can create major political problems when it's discovered.



City of Homer

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(f) 907-235-3148

City Manager's Report

TO: Honorable Mayor Wythe and Homer City Council
FROM: Katie Koester, City Manager
DATE: December 7, 2015
SUBJECT: City Manager's Report

Proposition 1: Suspension of HART for 3 years

I want to express my gratitude for how everyone has handled a difficult budget process this year. The Mayor and Council demonstrated leadership and courage by proposing Proposition 1 and engaging in difficult revenue conversations with the public. Every Council member went above and beyond participating in educating the public, advertising the special election and talking to their friends and neighbors. The staff has maintained a positive attitude and exemplary work ethic during a time of budget uncertainty. With reduced staff and reduced budgets, Budget A has many cuts that will affect employees' day to day ability to do their jobs, yet staff has stepped up to the plate and is ready to take on the challenges of leaner times. The community has been engaged since this conversation began in July. They have come out in sunshine and snowstorms to share solutions, ideas and give input. They have written emails, participated in online surveys, stopped by my office and attended Council meetings. My faith and appreciation for this community is reinforced with every conversation I have with Council, staff, and the public. I know the work has just begun, but I also know we have a great team and community that is willing to put in the time and effort. Thank you.

Permanent Fund and Investment Policy

The Permanent Fund Committee reviews the permanent fund investment policies during their first meeting of every year. Ordinance 15-43 eliminates the full service broker contract with US Bank and disbands the committee. The investment policy for all City funds is lengthy and could be simplified. The City needs to make sure we are striking the right balance between safety and returns – keeping in mind that government money must be treated differently than other investments. I think with the shift in management of the Permanent Fund the timing is right for a thorough review of the City-wide investment policy. To facilitate that conversation, Finance Director Li will reach out to other municipalities and see what investment policies they have in place and best practices. One recommendation that was brought to us by Time Value Investments, who holds some bonds for the City of Homer, is to invest dollars the City is willing to take a higher risk with (like the Permanent Fund) in index funds that track the market. This will be one, among many, considerations. How involved would Council like to be in looking at the investment policy? Should we schedule a work session in February to get into details or would you like staff to bring forward an ordinance, at which time Council can decide if more hands-on work is warranted?

February 12, 2016 Due Date set for Condominium Natural Gas HSAD

Resolution 15-081(S) delegated authority to the City Manager to set a deadline for the condominium units in the Natural Gas HSAD. The court mandated that the deadline be no more than 90 days after court approval of the assessment roll, November 16. City code requires 60 days notice before the assessment is due. I have set February 12, 2016 as the due date for the assessments. Statements will be mailed to condominium owners no later than December 11, 2015. Condominium owners all owe a different amount depending on how much their percentage of ownership is in the building. Owners can pay the balance off in full or a minimum of \$405.27 (principal plus interest). According to Resolution 15-081(S) interest will be applied beginning July 1, 2015.

3rd Quarter Sales Tax Returns Up Slightly

Good news - sales tax figures for 3rd quarter were up slightly from 2nd quarter (0.3%). Though this does not represent a significant increase in revenue, it does mean that the estimates we based the 2016 budget on are on track and we are not forced to make up a big hole. We will watch 4th quarter returns closely with hopes that they continue to improve.

Visits from the Attorney

I have been working with Birch Horton Bittner and Cherot on ways we can utilize their services to their maximum capacity. As part of our retainer, the firm has agreed to send an attorney to Homer once a month to meet with staff, participate in committee/commission meetings, and spend more face time in Homer. For example, Attorney Wells will spend all day Thursday with staff working on Lease Committee issues. I think this will be a good use of attorney time and that we will get a lot of value from it.

Enc:

Homer City Code 3.10 Investment and Collateralization of Public Funds

Memorandum 15-206 Alaska Abandoned and Derelict Vessel Task Force report from Port and Harbor Director

Memorandum 15-207 Harbor Safety Committee Report from Port and Harbor Director

Notice of Certificate of Achievement for Excellence in Financial Reporting

Dotti Harness

From: Chad Jones <cj99603@icloud.com>
Sent: Saturday, December 19, 2015 4:29 PM
To: Department Planning
Subject: Hickerson Memorial cemetery expansion without any assessment to environmental concerns

RECEIVED

DEC 21 2015

Please include this in the next possible planning commission meeting materials.

Dear Planning Commission,

CITY OF HOMER
PLANNING/ZONING

As you may know the City is planning a cemetery expansion adjacent to Diamond View Estates near Belnap and Diamond Ridge this summer.

Hello, please read with care. If you spend only ten minutes reading this and any articles linked below I'm certain you will agree this is bad news and is hastily being planned. I'm asking for your support to protect our soil and drinking water. And if you do nothing at least you now know that a threat exists so near our homes.

The City of Homer owns the Hickerson Memorial cemetery up hill from us, and a 700 body expansion is in the works. The city has done no environmental impact statement or public meetings that include information about the threat that is posed by cemeteries. I'm very familiar with the three lots the City purchased for this project. Some of the area I consider wetlands, it is wet all year long and most of it drains right down Belnap Drive.

Cemeteries pose a threat to drinking water from embalmed bodies and a host of other hazardous chemicals leaching into the ground water. Alaska is very lax on properly containing this hazardous material by not requiring a vault, a body can be buried only 75 feet from your families drinking water well. State employees have admitted to me that this is a serious problem in Alaska. A body turns into an awful hazardous goo and leaks into the surrounding soils and is carried down by water moving. Please see the many article links from Gov't and non profit groups below.

The expansion will add 700 additional bodies to the existing 700 plots, for a **total body count of 1400, all on top of a hill, above 100s of homes**, potentially destroying our clean well waters. I have asked the City to stop and assess what is already happening, and ask how are they going to stop contamination from happening. To hire an environmental firm to study the threats and create a committee to recommend how to proceed, or if to proceed with adding plots.

Possible contaminants include poisonous chemicals, such as arsenic and mercury, which were used in past embalming and burial practices, formaldehyde from current embalming practices; varnishes, sealers, and preservatives used on wood coffins; and lead, zinc, copper, and steel from metal coffins and mercury from watch batteries.

Obviously the City has been looking for more cash cows to help with the deficit. But should it be hastily done to only potentially ruin our health? According to the central Kenai Peninsula funeral chapel there is a cremation rate of between 70 and 75 percent. [peninsula clarion] So this project only benefits roughly 25-30% of the population. And a shrinking population wants to be buried. During a budget deficit the City is spending \$200,000 on a cemetery expansion without even knowing the threats that exist or that could happen.

Attached to this email is a pdf of the project. I'm really hoping people will see this a bad thing in a residential area. And support stopping it until more study and information is obtained. I'm asking to support a request to the City of Homer to stop the project until the situation can be properly assessed.

Please feel free to contact me with any questions...

Chad Jones
907.299.7879

> very good article from Ireland

<http://www.belfasttelegraph.co.uk/news/northern-ireland/toxins-leaking-from-embalmed-bodies-in-graveyards-pose-threat-to-the-living-31211012.html>

>article from 1999

<http://www.motherjones.com/politics/1999/01/dead-water>

Also reading the sustainability statement on the City web site it talks about creating the kind of community that will provide a healthy environment and quality of life for future generations as well as current residents. By allowing an expansion to happen and not knowing whether there is ground water contamination already is surely not sustainable or wise.

Many more articles:

- *Arsenic and Old Graves*
<https://eponline.com/articles/2006/09/01/arsenic-and-old-graves.aspx>
- *Til Death Do We Pollute, and Beyond: The Potential Pollution of Cemeteries and Crematoriums*
https://archive.org/stream/tilDeathDoWePolluteAndBeyondThePotentialPollutionOfCemeteriesAnd/TillDeathDoWePollute_djvu.txt
- *Mineral Contamination from Cemetery Soils*
<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3315260/>
- *Cemeteries, Burials & The Water Environment*
<http://www.doeni.gov.uk/niea/cemeteryguidance.pdf>
- *Landscapes of the Dead: An Argument for Conservation Burial*
<http://ced.berkeley.edu/bpj/2012/09/landscapes-of-the-dead-an-argument-for-conservation-burial/>
- *Concerns: Embalming and Cemetery Pollution*
<http://villagememorial.blogspot.ca/2015/05/pollution-from-embalming-and-cemeteries.html>
- *Groundwater near cemeteries*
<http://www.wspgroup.com/en/WSP-UK/Who-we-are/Newsroom/features/Groundwater-near-cemeteries/>
- *Arsenic Contamination in Graveyards: How the Dead Are Hurting the Environment*
<http://www.utne.com/environment/arsenic-contamination-ze0z1306zpit.aspx>
- *Issues to Consider in Preparing for Disposition of Decedents*
<http://www.mass.gov/eohhs/gov/departments/dph/programs/environmental-health/comm-sanitation/burial-and-cremation.html>
- *Natural burial*
https://en.wikipedia.org/wiki/Natural_burial