

REGULAR MEETING AGENDA

- 1. Call to Order**
- 2. Approval of Agenda**
- 3. Public Comment:** The public may speak to the Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
- 4. Reconsiderations:** None
- 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.** HAPC minutes from July 20, 2016 **Page 1**
 - B.** CUP 16-03 Decision and Findings **Page 9**
- 6. Presentations:** Carey Meyer Public Safety building update
- 7. Reports:** Staff Report PL 16-41 City Planner's Report **Page 13**
- 8. Public Hearings:** Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.
 - A.** Staff Report PL 16-42 Vacation of a portion of the Mission Road right-of-way and Road Easement. **Page 19**
- 9. Plat Consideration:**
 - A.** Staff Report PL 16-44 Skyline View Sub 2016 Replat Preliminary Plat **Page 27**
- 10. Pending Business:**
 - A.** Staff Report PL 16-47, HAWSP Recommendations **Page 37**
- 11. New Business:**
- 12. Informational Materials:**
 - A.** City Manager's Report, July 25, 2016 **Page 77**
- 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 August 17, 2016. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.

Session 16-11, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Stead at 6:30 p.m. on July 20, 2016 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

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

STAFF: CITY PLANNER ABBODD
DEPUTY CITY CLERK JACOBSEN

Approval of Agenda

Chair Stead called for a motion to approve the agenda.

HIGHLAND/BRADLEY SO MOVED

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Public Comment

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

Reconsideration

Adoption of Consent Agenda

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

A. Approval of Minutes of June 15, 2016

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

STROOZAS/HIGHLAND SO MOVED

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Presentations

Reports

A. Staff Report PL 16-36, City Planner's Report

City Planner Abboud reviewed his staff report.

Commissioner Venuti suggested there be a ribbon cutting ceremony on the new east/west corridor at Grubstake.

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 16-37, Conditional Use Permit 16-03 Soccer Association of Homer

City Planner Abboud reviewed the staff report.

Daniel Zatz with the Soccer Association of Homer said he is here to answer questions the Commission might have about the project. He commented briefly they are working with the City and Borough to finalize the lease on the property and hope to begin excavation in August. Their goal is to have the structure up and ready to use by mid-October.

Chair Stead opened the public hearing. There were no comments so he closed the hearing and opened the floor to questions.

In response to questions Mr. Zatz explained the structure will have R25 insulation, be heated with forced air, and they are working to get the natural gas line brought in. They haven't completed their fundraising and have about \$120,000 to go, but they have enough to get started with the excavation, put up the building and floor, and maybe lighting. They hope to have the funding completed to finish up heat and bathrooms soon. Mr. Zatz reviewed some of the funding that has come in and said it's very heartwarming to see how many people in the community want to make this happen. He also responded that the building is less than 12,000 square feet because a larger size would trigger more requirements and raise the cost, but hopefully there can be a larger building in the future. The size will be suitable for other events besides sports, but the primary use will be sporting activities for all age groups. He thinks there will probably be time available for other uses that won't harm the building, and the hope is there will be something cool going on there at all times. They estimate the cost to be \$200 per day for the facility to be open and there will be a fee to play at the building to cover the daily costs.

VENUTI/BOS MOVED TO APPROVE CUP 16-03 AND STAFF REPORT PL 16-37 WITH FINDINGS 1-10 AND CONDITIONS 1-3.

Commissioners commented that this is an exciting project that will be a real asset to our community.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Staff Report PL 16-38 Towers and Tall Structures Ordinance

City Planner Abboud reviewed the staff report.

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

There were no questions from the Commission.

STROOZAS/VENUTI MOVED THAT THE PLANNING COMMISSION FORWARDS THE DRAFT ORDINANCE 16-XX REGARDING TOWERS AND TALL STRUCTURES TO THE CITY COUNCIL FOR PUBLIC HEARING AND ADOPTION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Plat Consideration

A. Staff Report PL 16-40, Commerce Park 2016 Preliminary Plat

City Planner Abboud reviewed the staff report.

There was no applicant presentation and no public comment.

Chair Stead asked if the flag had been modified on one of the drawings. City Planner Abboud explained the drawing on page 52 is the current configuration. On page 50 is the notice that went out showing the panhandle to the southwest and it was moved to the east.

BRADLEY/BOS MOVED TO APPROVE STAFF REPORT PL 16-40 AND THE COMMERCE PARK 2016 PRELIMINARY PLAT REPLAT WITH STAFF COMMENTS AND RECOMMENDATIONS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Pending Business

A. Staff Report PL 16-31, Comprehensive Plan Update Chapter 6 Parks & Recreation

City Planner reviewed the staff report.

Commissioner comments and questions included:

- The CUP they approved tonight for the indoor recreation facility helps move forward with goal 5 to offer year-round opportunities to the community.
- Line 25 on page 57 reads 4.73 FTE's are budgeted. Question was raised if 4.73 is correct.
 - City Planner Abboud noted that Parks and Recreation has their regular staff and seasonal hires. He will follow up and confirm the number.
- Question was raised if line 26 *There is also a desire to better coordinate all efforts through a combined parks and recreation program* is an appropriate comp plan statement or if it's editorializing.
 - City Planner Abboud explained that is a community and an internal conversation. If the demand is to grow the program then we need a structure to grow it. Currently Parks Maintenance is part of Public Works and Community Recreation is part of Administration. There would be benefit to a department that is all encompassing.
- Line 66 *Partner with other organizations to continue providing programs and facilities* is almost the same as line 48 *Expand and promote adopt a park program..*
 - Others didn't see it as the same and City Planner Abboud said generally they are similar and perhaps they could be expanded a little more for clarification.
- Line 50 number 3 in the in the implementation strategies to establish the park endowment fund and possibly partner with the Homer Foundation is a really good idea.

The Commission agreed overall that staff has done a great job and commended Rick and Julie for their work.

B. Staff Report 16-32, Homer Accelerated Water Sewer Program (HAWSP)

City Planner Abboud reviewed the staff report, highlighted areas of the HAWSP, and touched on the process for initiating a special assessment district. He explained the City Council directed the Commission to develop recommendations for HAWSP regarding:

- How the City should apply the debt service ratio;
- When the debt service ratio should be calculated;
- When pending HAWSP projects should be inputted into the debt service ratio calculation;
- A process for keeping track of and prioritizing special assessment district requests that occur while a moratorium on new districts is in effect;
- A process for lifting and implementing a moratorium on water and sewer special assessment district projects.

Commissioner Highland asked who is in charge of the program now and if this is causing people not to develop property in town. City Planner Abboud explained that several departments play a role in the process including the Clerk's office, Public Works, and Finance. He isn't sure if this prohibits anything because we aren't doing new subdivisions with the fund. However if someone has a bigger lot and the water and sewer lines are installed, they are able to subdivide in to smaller lots down to 10,000 square feet. In areas like Mission Road, there aren't a lot of customers, but if there were denser developments, it would increase the customer base.

Commissioner Highland commented the criteria listed at the bottom of page 81 need to be improved on and clarified.

City Planner Abboud suggested at some point they will need to come up with a staff recommendation that would include him, Public Works, Finance, and possibly some others to evaluate and determine when the debt service ratio should be calculated, and when to evaluate projects and get them in the system to keep the debt ratio going. A set of criteria could be established to rank the projects, and decide who would evaluate the projects. One part the Planning Commission could weigh in about is how it relates to the Comprehensive Plan because the future land use map shows areas we would like to see go more dense.

Commissioner Stroozas commented he's surprised this would come to the Planning Commission because it's more of an accounting issue. That aside, with the work they have done to protect the Bridge Creek Watershed area, now we should bring water and sewer in to those areas that don't have it and increase the density.

Commissioner Highland is also surprised this has been put before them. In her estimation, the departments this effects need to meet, because they have dealt with it. That group could come up with a recommendation and then we would try to put it into the comp plan. She could see the Commission playing that part.

Chair Stead commented having worked from a utilities perspective this is an odd way of doing business. He's used to cost causer/cost payer, not equal shares and once the debt is incurred by the city for the project, that debt should be re-allocated without a CPI because the debt already exists. He isn't sure it's their job to redefine how this program works; it's more of a finance and engineering collusion to figure it out.

The Commission agreed it would be a good idea to have a worksession with the Finance Director and Public Works Director.

City Planner Abboud reviewed some of the history of the program noting the initial cost to property owner was 50% of the project cost. Now it's becoming cost prohibitive to extend the system.

Chair Stead read from the plan that the intent is to improve health and welfare of the citizens by connecting residences to city water and/or sewer, thereby increasing the number of users on the system, increasing property values, and improving quality of life. Using the funds for maintaining the system doesn't increase the number of users or property values. He questions how using the funds to perform maintenance on the system meets the intent of the program.

There was discussion that using the program to help pay for the water treatment plant wasn't the right way to use the funds. It's a great system, but is too expensive and impacting the debt ratio.

New Business

A. 2017 Capital Improvement Plan Review

The Commission discussed briefly that they had discussed the Capital Improvement Plan during their worksession. All the Commissioners individually stated their top two CIP projects were the Ice Plant Upgrades and the Large Vessel Haul Out and Repair Facility.

STROOZAS/BOS MOVED THAT THE PLANNING COMMISSION ADOPT THE ICE PLANT PROJECT AND LARGE VESSEL HAUL OUT AS THEIR UNANIMOUS RECOMMENDATION TO THE CITY CITY COUNCIL.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Informational Materials

- A. City Manager's Report – June 22, 2016
- B. KPB Ordinance reducing the number of commissioners on the KPB Planning Commission

Comments of the Audience

Syverine Abrahamson commented that she's been a resident in the area for over 30 years. She heard there was a vacancy on the Commission and was here observing tonight to see if it's something she would be interested in. Her job is the coastal training program doing community collaborative planning and providing trainings and workshops. Her background is in geo-science, a lot of GIS and remote sensing and things like that. She grew up in the area, Homer is her home town, she works in the city and is very involved in some of the challenges the city will face like storm water management, coastal erosion, flooding, and transportation issues.

Comments of Staff

City Planner Abboud commented he will keep working on agendas along with all the other interesting things he gets to do. He's excited about the marijuana meeting; he has quite a memo for the meeting that includes an estimate of how much revenue the city would collect if we started some sort of retail taxation.

Deputy City Clerk Jacobsen commented about the upcoming candidacy filing period for City Council and Mayor.

Comments of the Commission

Commissioner Highland commented she heard on the radio about an eco-district. There is a town that made the whole town an eco-district which means they took in the environmental concerns of the whole city for every decision that got made. She'll be bringing it up again.

Commissioner Bradley thanked everyone. She thinks all the CIP projects are great and it's always interesting going through the selection process.

Commissioner Bos commented it was a good discussion about the CIP projects. He thinks they made the two right choices and he'll be waiting to find out what comes of their input.

Commissioner Venuti commented it was an interesting meeting. He commented about the Borough ordinance that was included in the informational material. He explained it reduces the membership of the Borough Planning Commission from 11 to 9 members. The Borough Planning Commission opposed it unanimously and the Cities of Seldovia, Soldotna, Kenai, and Seward presented resolutions in opposition. The change impacts Homer in that there would be one seat for a member from Homer or from Seldovia to represent both communities. He thinks it's important that we maintain representation from all parts of the Borough because each city has their own challenges specific to their communities. It will be discussed further at the Assembly meeting on Tuesday.

Tom Stroozas reported that Jorge is leaving the Chamber of Commerce in a few weeks and encouraged everyone who's worked with him to stop by and wish him well. They have found a replacement and he's encouraged that people in the community will like this person. Hopefully they will be able to come and start training with Jorge before he leaves.

Chair Stead said it was a good meeting and he's glad they dug into some of these things tonight. It was interesting to watch the discussion on the Capital Improvement Plan. We all have our pet projects, but agreed that there were better projects, and he appreciated that they came together in their choices.

Adjourn

There being no further business to come before the Commission, the meeting adjourned at 8:57 p.m. The next regular meeting is scheduled for August 3, 2016 at 6:30 p.m. in the City Hall Cowles Council Chambers. A worksession will be held at 5:30 p.m.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____



City of Homer

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HOMER ADVISORY PLANNING COMMISSION

Approved CUP 16-03 at the Meeting of July 20, 2016

RE: Conditional Use Permit (CUP) 16-03
Address: 500 & 600 Sterling Highway (Homer Middle School)

Legal Description: T 6S R 13W SEC 19 & 36 & 1 & 2 SEWARD MERIDIAN, HOMER SCHOOL SURVEY 1999 CITY ADDITION TRACT 1

DECISION

Introduction

Marcus Mueller and Daniel Zatz representing SAH Soccer, Inc. dba Soccer Association of Homer (the "Applicants") applied to the Homer Advisory Planning Commission (the "Commission") for a conditional use permit under Homer City Code HCC 21.14.030 (k) , and HCC 21.14.030(i) which allows more than one building containing a permitted principle use on a lot.

The applicant proposes to build an indoor recreational facility, just less than 12,000 square feet. A Conditional Use Permit (CUP) is required per HCC 21.14.030 (l), Indoor recreational facility, 21.14.030(k) More than one building containing a permitted principle use on a lot in the Urban Residential district. The building site is in the process of being subdivided off from the Homer Middle School grounds.

The application was scheduled for a public hearing as required by Homer City Code 21.94 before the Commission on July 20, 2016. Notice of the public hearing was published in the local newspaper and sent to 80 property owners of 108 parcels.

At the July 20, 2016 meeting of the Commission, the Commission voted to approve the request with six Commissioners present. The Commission approved CUP 16-03 with unanimous consent.

Evidence Presented

City Planner Abboud reviewed the staff report, and Daniel Zatz with the Soccer Association of Homer said he is here to answer any specific questions the Commission might have about the

project. He commented briefly that they are working with the City and Borough to finalize the lease on the property and hope to begin excavation in August. Their goal is to have the structure up and ready to use by mid-October.

There was no public testimony.

Findings of Fact

After careful review of the record, the Commission approves Condition Use Permit 16-03 to build an indoor recreational facility, just less than 12,000 square feet at 500 & 600 Sterling Highway (Homer Middle School).

The criteria for granting a Conditional Use Permit is set forth in HCC 21.14.030 (i) and (k).

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

Finding 1: HCC 21.14.030 (l) and 21.14.030(k) authorizes an indoor recreational facility and more than one building containing a permitted principle use on a lot as conditional uses 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 uses supported by the proposed facility serve children and adults commonly found residing within an urban residential district and is a compatible use.

Finding 3: The structure is compatible with the district.

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

Finding 4: An indoor recreational facility is not expected to negatively impact the adjoining properties greater than other permitted or conditional uses.

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

Finding 5: The proposal is compatible with existing uses of surrounding land.

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

Finding 6: Existing public, water, sewer, and fire services are adequate to serve both buildings. A separate water and sewer connection is required for the athletic facility and the design must be approved by DEC and Homer Public Works.

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

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

Finding 8: The proposal is not detrimental to the health, safety or welfare of the surrounding area or 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 9: The proposal is expected to comply with all applicable regulations.

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

Finding 10: The proposal is not contrary to the applicable land use goals and objects of the Comprehensive Plan. The proposal aligns Goal 1 and Objectives A and B and no evidence has been found that it is not contrary to the applicable land use goals and objects of the Comprehensive Plan.

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

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.**
- 2. Fences, walls and screening.**
- 3. Surfacing of vehicular ways and parking areas.**

4. **Street and road dedications and improvements (or bonds).**
5. **Control of points of vehicular ingress and egress.**
6. **Special restrictions on signs.**
7. **Landscaping.**
8. **Maintenance of the grounds, buildings, or structures.**
9. **Control of noise, vibration, odors, lighting or other similar nuisances.**
10. **Limitation of time for certain activities.**
11. **A time period within which the proposed use shall be developed and commence operation.**
12. **A limit on total duration of use or on the term of the permit, or both.**
13. **More stringent dimensional requirements, such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.**
14. **Other conditions necessary to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.**

Conclusion: Based on the foregoing findings of fact and law, Conditional Use Permit 2016-03 is hereby approved, with Findings 1-10 and Conditions 1, 2, and 3.

Condition 1: Homer Public Works and DEC must approve water and sewer design.

Condition 2: All exterior lighting shall be downlit and meet the requirements of the CDM.

Condition 3: Access roads must be designed to meet Fire Department requirements.

Date

Chair, Don Stead

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.



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STAFF REPORT PL 16-41

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: August 3, 2016
SUBJECT: City Planner's Report

Congratulations to Syverine Abrahamson!

Welcome aboard to the Homer Advisory Planning Commission.

City Council: At the meeting of July 25th, the Planning Office requested a mid-year budget amendment for \$8,000 to be taken out of Planning Reserves to update our coastal erosion maps with additional data produced in 2008 and 2013. This would be added to our last product that used 2003 data. A public hearing is forthcoming at the next meeting.

The August 8th meeting has the Tower ordinance scheduled. It is planned that the ordinance will be scheduled for a public hearing and the August 22nd meeting.

Projects: The Comprehensive Plan

I will be attending the EDC meeting Aug. 9th and will attempt to prepare a draft of Chapter 8 for Planning Commission review.

Hickerson Memorial Cemetery: Staff is still working on the Hickerson Memorial Cemetery with Public Works. It has been postponed.

FEMA - Community Rating System

The Planning Office has received notification from FEMA that Homer is now a part of the Community Rating System (CRS). The CRS is a voluntary program that recognizes communities for taking action to reduce flood risks. In Homer, 40% of the credits came from "Open Space Preservation" which included the Airport Critical Habitat Area, Beluga Slough and several parcels on the Spit. With this rating, property owners whom purchase flood insurance will save 10% on the cost of flood insurance.

On August 22nd FEMA will present a plaque to the City Council to congratulate the City for their efforts to join the Community Rating System.

Att: Community Rating System approval letter from FEMA

July 25, 2016



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

Dear Ms. Koester:

I want to congratulate your community on its application to the National Flood Insurance Program (NFIP) Community Rating System (CRS). The Department of Homeland Security, Federal Emergency Management Agency (FEMA), Federal Insurance and Mitigation Administration (FIMA), has verified that the voluntary floodplain management actions undertaken by your community exceed the minimum standards of the NFIP and meet the criteria for a CRS Class 8 rating.

The floodplain management activities implemented by your community qualify it for a 10 percent discount in the premium cost of flood insurance for NFIP policies issued or renewed in Special Flood Hazard Areas on or after May 1, 2016. This savings is a tangible result of the flood mitigation activities your community implements to protect lives and reduce property damage. I am enclosing the field verification report showing the results of your application review for your records.

Please note that Preferred Risk Policies, applicable in Zones B, C, and X on your community's NFIP Flood Insurance Rate Map, are not eligible for the CRS discount. Standard rated flood insurance policies in Zones B, C, X, D, AR, and A99 are limited to a CRS discount of 10 percent in CRS Class 1–6 communities and 5 percent in CRS Class 7–9 communities. The rates for these zones already reflect significant premium reductions.

If your community remains in compliance with NFIP floodplain management regulations, the CRS rating will automatically be renewed annually and a notification letter will not be sent to your community. This renewal will occur as long as your community continues to implement the CRS activities you certify each October. If no additional modifications or new CRS activities are added, the next verification visit for your community will be in accordance with its established 5-year cycle. FEMA will periodically send the *NFIP/CRS Update* newsletter and other notices to your CRS Coordinator.

I commend you on your community's actions and your determination to lead your community to be more disaster resistant. This commitment enhances public safety, protects property, preserves the natural functions of floodplains, and reduces flood insurance premiums.

If you have any questions or need additional information, please contact the FEMA Region X Office, CRS Coordinator, Karen Wood-McGuinness, CFM, by telephone at (425) 487 - 4675.

Sincerely,

A handwritten signature in black ink that reads "William H. Lesser". The signature is written in a cursive, slightly slanted style.

William H. Lesser
CRS Program Coordinator
Federal Insurance and Mitigation Administration

Enclosure

cc: Dotti Harness-Foster, Planning Technician



City of Homer, AK

NFIP Number: 020107

Date of Verification Visit: August 4, 2015

Verified Class 8

New Application

This Verification Report is provided to explain the recommendations of Insurance Services Office, Inc. (ISO) to DHS/FEMA concerning credits under the Community Rating System (CRS) for the above named community.

A total of 1096 credit points are verified which results in a recommendation that the community improve from a CRS Class 10 to a CRS Class 8. The following is a summary of our findings with the total credit points for each activity noted in parenthesis:

Activity 310 – Elevation Certificates: The Planning Department maintains elevation certificates for new and substantially improved buildings. Copies of elevation certificates are made available upon request. (38 points)

Activity 320 – Map Information Service: Credit is provided for furnishing inquirers with basic flood zone information from the community's latest Flood Insurance Rate Map (FIRM). Credit is also provided for the community furnishing special flood related hazards and natural floodplain functions. The service is publicized annually and records are maintained. (70 points)

Activity 330 – Outreach Projects: Credit is provided for an informational outreach projects that encourages the purchase of flood insurance displayed in five public locations. (5 points)

Activity 340 – Hazard Disclosure: Credit is provided for state and community regulations requiring disclosure of flood hazards. (15 points)

Activity 350 – Flood Protection Information: Documents relating to floodplain management are available in the reference section of the Homer Public Library. Credit is also provided for floodplain information displayed on the community's website. (17 points)

Activity 420 – Open Space Preservation: Credit is provided for preserving approximately 23 percent of the Special Flood Hazard Area (SFHA) as open space, protecting open space land with deed restrictions, and preserving open space land in a natural state. (453 points)

Activity 430 – Higher Regulatory Standards: Credit is provided for enforcing regulations that require freeboard for new and substantial improvement construction. Credit is also provided for regulations administration. (80 points)

Activity 440 – Flood Data Maintenance: Credit is provided for maintaining and using digitized maps records in the day to day management of the floodplain. (140 points)

Activity 450 – Stormwater Management: The community enforces regulations for soil and erosion control and water quality. (78 points)

Section 502 - Repetitive Loss Category: The City of Homer, AK is a Category A community for CRS purposes and no action is required. (No credit points are applicable to this section)

Activity 540 – Drainage System Maintenance: All of the community's drainage system is inspected regularly throughout the year and maintenance is performed as needed. (200 points)

Activity 710 – County Growth Adjustment: All credit in the 400 series is multiplied by the growth rate of the county to account for growth pressures. The growth rate for the Kenai Peninsula Borough is 1.17.

Attached is the Community Calculations Worksheet that lists the verified credit points for the Community Rating System.

CEO Name / Address:

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

CRS Coordinator Name / Address:

Dotti Harness-Foster
Planning Technician
481 E Pioneer Avenue
Homer, Alaska 99603
(907) 235 3106

Date Report Prepared: December 21, 2015

720 COMMUNITY CREDIT CALCULATIONS (New Application):

CALCULATION SECTION :

Verified Activity Calculations:				Credit
c310	38			38
c320	70			70
c330	5			5
c340	15			15
c350	17			17
c360				
c370				
c410		x CGA	=	
c420	387	x CGA	1.17 =	453
c430	68	x CGA	1.17 =	80
c440	120	x CGA	1.17 =	140
c450	67	x CGA	1.17 =	78
c510				
c520				
c530				
c540	200			200
c610				
c620				
c630				

Community Classification Calculation:

cT = total of above	cT =	<u>1096</u>
Community Classification (from Table 110-1):	Class =	<u>8</u>

CEO Name/Address:

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

CRS Coordinator Name/Address:

Dotti Harness-Foster
 Planning Technician
 481 E Pioneer Avenue
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Date Report Prepared: December 21, 2015



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Staff Report PL 16-42

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: August 3, 2016
SUBJECT: Vacation of a portion of Mission Road ROW and vacation of a Road Easement.

Requested action: Conduct a public hearing on the proposed vacation of ROW and Road Easement.

Introduction

The applicant applying for the vacation of the ROW and Road Easement. A vacation of a 39.4' x 6.5' of the Mission Road ROW is proposed, along with the vacation of a 20' Road Easement located directly adjacent to Mission Road.

Analysis

KPB Code 20.70.110 Vacation consent-City Council or Assembly

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

KPB Code 20.70.190, Utility provisions.

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

The proposal to vacate 39.4' x 6.5' of the Mission Road ROW and accompanying Road Easement requires the approval of the City of Homer. The Planning Commission is expected to make a recommendation to the City Council on these items.

Public Works stated that they cannot support the vacation of the 39.4' x 6.5' portion of ROW proposed for the preliminary plat, stating that future water/sewer, road and private utilities will need the full ROW width. Public Works also stated that they cannot support the vacation of the 20' Road Easement for the same reasons listed above.

The ROW and Easement vacations are fueled by the garage that was built into the ROW just after annexation and approved in early 2003 before zoning was applied to the area. Zoning permit 0203-005 was issued February 20, 2003 for the construction of a 28' x 26' carport in the corner of the lot abutting the north and west lot lines. The borough and the state concurred, as this was a time of transition during annexation and the property had not been zoned yet. I found no evidence that relief was granted from the Road Easement. No allowance was proposed or provided for any structure in the ROW.

My research indicates that the current width of the ROW adjacent to these lots is fifty feet. I can find no evidence that any additional ROW was ever dedicated to the north of the center line of Mission Road. The lots to the north have not been replatted, as they have the same legal description indicated in the Skyline View Subdivision of 1954, which dedicated a 40' ROW. 5 feet to the south of the center line was added to the ROW in a 1969 replat and another 5 feet was added in a subsequent replat in 1982.

The structure was built into an already substandard ROW (50' dedication vs. the current 60' requirement) that is topographically challenged with a significant drop off on the south side of the road. Since no alternative ROW is proposed, Planning does not support the vacation on the Mission Road ROW. Public Works opposes both the ROW and Road Easement Vacation.

Staff Recommendation: Take public testimony and make motion for consideration of both the ROW vacation and Road Easement Vacation. These recommendations will need to be reflected on the proposed Preliminary Plat.

Attachments

1. Petition
2. Public Notice
3. Contour map

Note

Plat submittal with attachments may be found with item 9A in the packet.



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

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

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

- \$500 non-refundable fee to help defray costs of advertising public hearing.
 - City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
 - Name of public right-of-way proposed to be vacated is dedicated by the plat of Skyline View Sub 2016 subdivision, filed as Plat No. _____ in Homer Recording District.
 - Are there associated utility easements to be vacated? Yes No
 - Are easements in use by any utility company? If so, which company _____
 - Easement for public road or right-of-way as set out in (specify type of document) _____ as recorded in Book _____ Page _____ of the _____ Recording District. (Copy of recorded document must be submitted with petition.)
 - Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. In the case of public right-of-way, the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.
- Has right-of-way been fully or partially constructed? Yes No
 Is right-of-way used by vehicles / pedestrians / other? Yes No
 Is alternative right-of-way being provided? Yes No

The petitioner must provide reasonable justification for the vacation. Reason for vacating:
MINIMUM VACATION OF AREA INCLUDING
CONCRETE AND FRAME GARAGES = 250 SF
ADDITIONAL 20' ROW VACATION IN AREA UNDESIRABLE
FOR ROAD CONSTRUCTION. VACATING WILL NOT AFFECT

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

ACCESS OR UTILITIES TO ANY PARCELS PUBLIC SAFETY WILL NOT BE AFFECTED

Submitted By: Kirsten Bloom Signature as: Petitioner Representative
 Name: _____
 Address: 1044 E 100 St A
Homer AK 99603
 Phone: 907 235 4247

Petitioners:
 Signature: Irene M. Clark
 Name: Irene M. Clark
 Address: 1095 Mission Rd.
Homer, AK - 99603

Signature: J. R. Niemela
 Name: JAMES R. NIEMELA
 Address: P.O. BOX 2382
HOMER, AK. 99603

Owner of LOT 2 SKYLINE VIEW SUBD.
 Signature _____
 Name _____
 Address _____
 Owner of _____

Owner of LOT 3 SKYLINE VIEW SUBD.
 Signature _____
 Name _____
 Address _____
 Owner of _____

PUBLIC HEARING NOTICE

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, August 3, 2016 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska on the following matter:

A proposal to vacate the right-of-way easement along the northern lot line at 1095 and 1135 Mission Road, Lot 2 and Lot 3 Skyline View Subdivision Lot 20-B Replat, T 6S, R 13W Section 9 S.M. The right-of-way easement is 20 ft wide by 387.37 ft along Mission Road.

The proposal also includes vacating a portion of the right-of-way along Mission Road. The area is a 6.5 ft by 39.4 ft. along the northern portion of Lot 2 and Lot 3 Skyline View Subdivision Lot 20-B Replat, T 6S, R 13W Section 9 S.M.

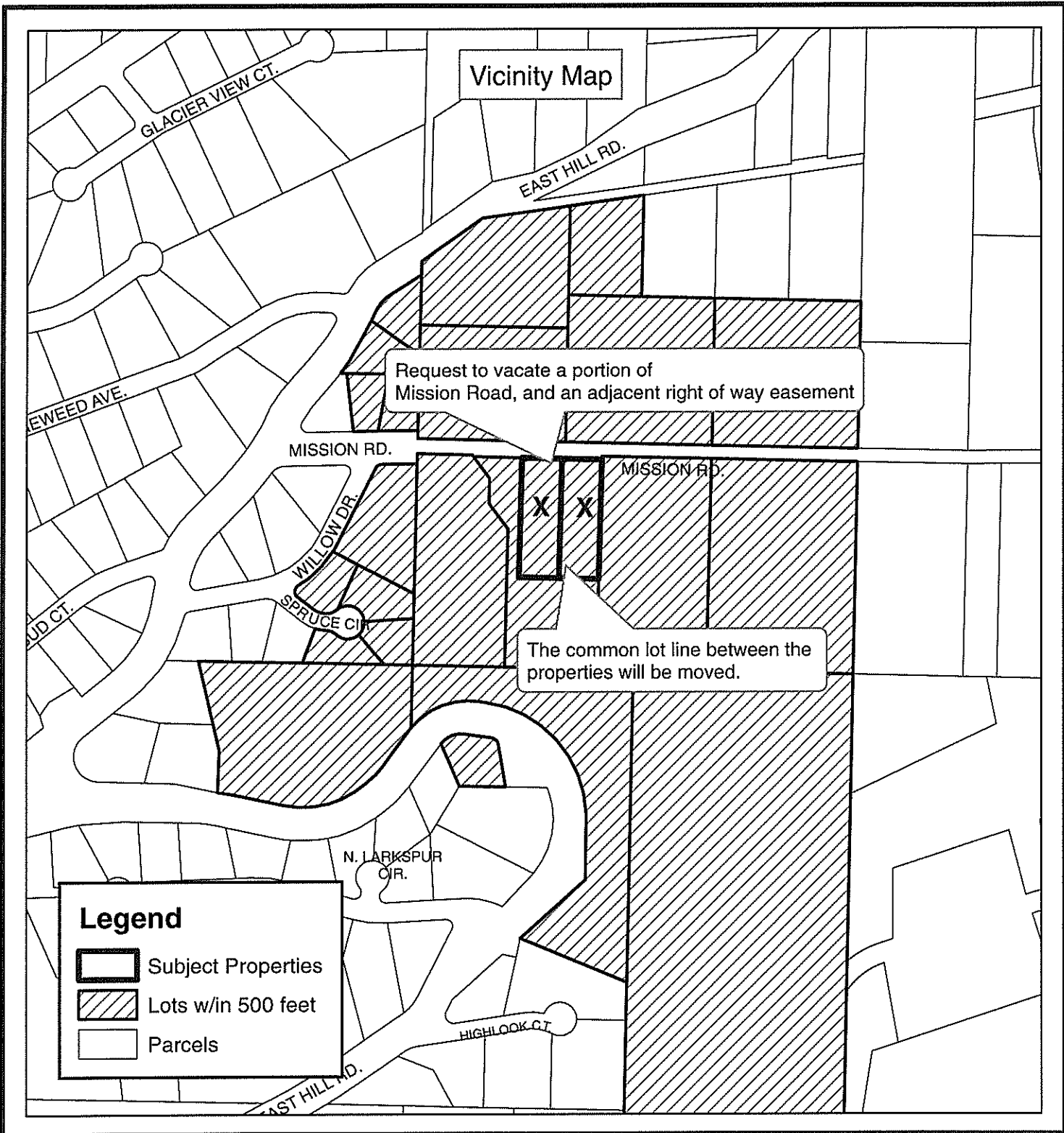
Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

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

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

.....

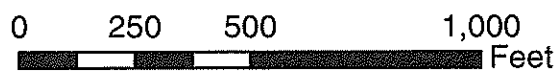
Vicinity Map on Reverse



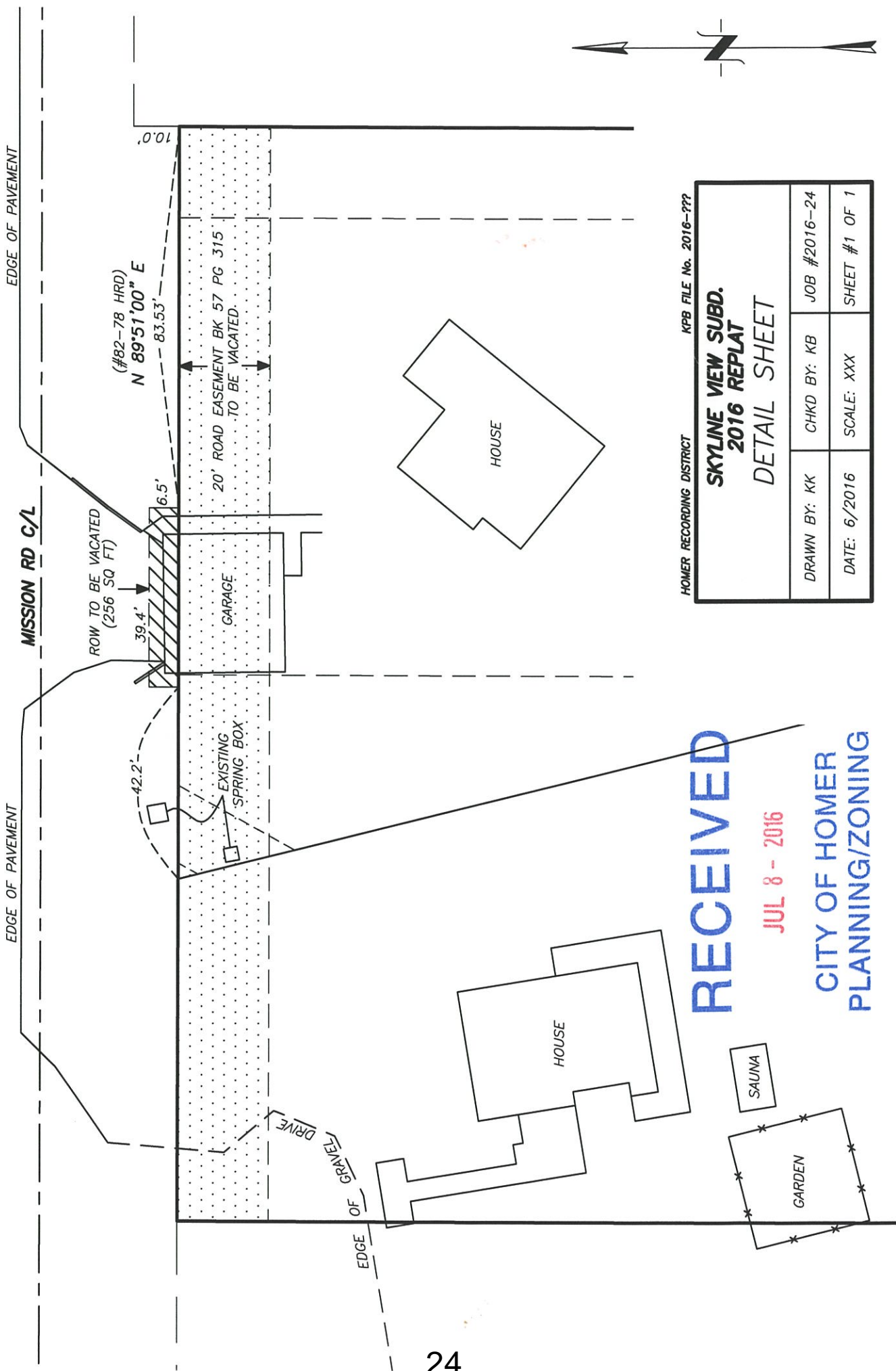
City of Homer
 Planning and Zoning Department
 July 6, 2016

Skyline View Sub 2016 Replat Preliminary Plat

Marked lots are within 500 feet
 and property owners notified.



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



HOMER RECORDING DISTRICT KPB FILE No. 2016-???

SKYLINE VIEW SUBD. 2016 REPLAT DETAIL SHEET		JOB #2016-24
DRAWN BY: KK	CHKD BY: KB	
DATE: 6/2016	SCALE: XXX	SHEET #1 OF 1

RECEIVED

JUL 8 - 2016

**CITY OF HOMER
PLANNING/ZONING**



KPB Parcel Viewer



Printed: Jul 27, 2016



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 16-44

TO: Homer Advisory Planning Commission
 FROM: Rick Abboud, City Planner
 DATE: August 3, 2016
 SUBJECT: Skyline View Subdivision 2016 Replat
Requested Action: Preliminary Plat approval to shift a common lot line.

General Information:

Applicants:	Irene M Clark 1095 Mission Road Homer, AK 99603	James R Niemela PO Box 2382 Homer, AK 99603
Location:	1095 & 1135 Mission Road	
Parcel ID:	17402106 & 17402107	
Size of Existing Lot(s):	.984 Acres, .984 Acres	
Size of Proposed Lots(s):	.984 Acres, .984 Acres	
Zoning Designation:	Rural Residential District	
Existing Land Use:	Residential	
Surrounding Land Use:	North: Residential South: Residential East: Vacant West: Residential	
Comprehensive Plan:	Goal 1 Object B (p. 4-4) Promote a pattern of growth characterized by a concentrated mixed use center, and a surrounding ring of moderate-to-high density residential and mixed use areas with lower densities in outlying areas.	
Wetland Status:	The 2005 wetland mapping shows no wetland areas.	
Flood Plain Status:	Zone D, flood hazards undetermined.	
BCWPD:	Not within the Bridge Creek Watershed Protection District.	
Utilities:	City water and sewer are not available at this time.	
Public Notice:	Notice was sent to 24 property owners of 25 parcels as shown on the KPB tax assessor rolls.	

Analysis: This subdivision is within the Rural Residential District. This request results in no change in the size of the existing lots; it only shifts the shared lot line.

Homer City Code 22.10.051 Easements and rights-of-way

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

Staff Response: The plat does not meet these requirements. Plat note 4 (or visual depiction) needs to indicate a 15' utility easement along the ROW per HCC 22.10.051.

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

Staff Response: The plat meets these requirements.

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

Staff Response: The plat meets these requirements.

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

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

Staff Response: The plat meets these requirements.

- B. North point;

Staff Response: The plat meets these requirements.

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

Staff Response: The plat meets these requirements.

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

Staff Response: The plat meets these requirements.

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

Staff Response: The plat meets these requirements.

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

Staff Response: The plat does not meet these requirements. According to the Replat of Lot 20B and Skyline View Subdivision, Oct. 23, 1954, the width of Mission Road ROW is 20' north of the original center line depicted in 1954 where a 40' ROW is depicted. 5' was added in a 1969 Replat and another 5' was added in a subsequent Replat in 1982. Both of these ROW additions were to the south of the original midpoint, adjacent to the subject properties. The total existing width of Mission Road north of these subject lots is 50 feet total, not 55 feet as displayed on the plat.

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

Staff Response: The plat meets these requirements.

- H. Approximate location of areas subject to inundation, flooding or storm water overflow, the line of ordinary high water, wetlands when adjacent to lakes or non-tidal streams, and the appropriate study which identifies a floodplain, if applicable;

Staff Response: The plat meets these requirements.

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

Staff Response: The plat meets these requirements.

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

Staff Response: The plat meets these requirements.

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

Staff Response: The plat does not meet these requirements. Plat note 5 is incorrect and should be removed. City water and sewer are not available to these lots.

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

Staff Response: The plat meets these requirements.

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

Staff Response: These requirements are incomplete. No notation is found describing areas that are in excess of 20 percent grade.

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

Staff Response: The plat meets these requirements with accompanying requests for vacations.

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

Staff Response: The plat meets these requirements.

Public Works Comments:

1. Public works cannot support the vacation of the 39.4' x 6.5' portion of ROW proposed for this plat. Future water/ sewer, road and private utilities will need the full ROW width.
2. Public works cannot support the vacation of the 20' road easement. (see above)
3. Remove Plat note 5, "these lots are served by COH water and sewer". Mission road does not currently have water and sewer.
4. Show contours on plat.

A development agreement is not required

Fire Department Comments: No Fire Department issues.

Staff Recommendation:

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

1. Indicate the dedication of a 15' utility easement along the ROW.
2. Correct the width of the Mission Road ROW.
3. Remove plat note 5.
4. Plant note 7 is not necessary because of plat note 3.
5. Plat note 8 and 9 are subject to City of Homer concurrence.
6. Clearly label areas where slopes are in excess of 20 percent grade.

Attachments:

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



CERTIFICATE OF OWNERSHIP
 WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT WE HEREBY ADOPT THIS PLAT OF SUBDIVISION, AND BY OUR FREE CONSENT DEDICATE RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND WAIVE ALL EASEMENTS TO THE USE SHOWN HEREON.

RENE M. CLARY
 1000 10TH AVE
 HOMER, AK 99603

JAMES P. NIEMELA
 PO BOX 2382
 HOMER, AK 99603

NOTARY'S ACKNOWLEDGMENT
 FOR: _____
 ACKNOWLEDGED BEFORE ME THIS _____, 2016
 DAY OF _____
 NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES _____

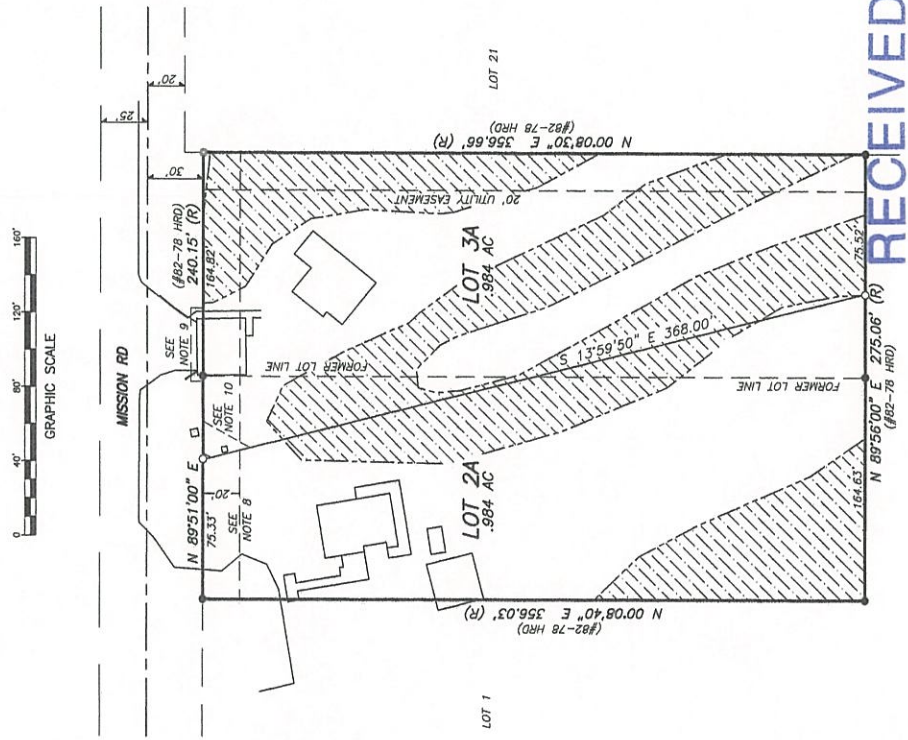
HOMER, RECORDING DISTRICT KPS FILE NO. 2016-777

SKYLINE VIEW SUBD. 2016 REPLAT

A REPLAT OF LOT 2 AND LOT 3, SKYLINE VIEW SUBD. (#82-78 HRD) LOCATED WITHIN THE SW 1/4 SW 1/4, SEC 9, T. 6 S., R. 13 W., S.M., CITY OF HOMER, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA CONTAINING 1.988 ACRES

SEABRIGHT SURVEY + DESIGN
 KENTON T. BLOOM, P.L.S.
 1044 EAST ROAD, SUITE A
 HOUMA, LA 70364-4903
 (504) 233-4247

DRAWN BY: KK CHKD BY: KB JOB #2016-24
 DATE: 6/2016 SCALE: 1"=40' SHEET #1 OF 1



RECEIVED
 JULY 1 - 2016
 CITY OF HOMER
 WASTEWATER DISPOSAL/ZONING
 PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

- NOTES**
- NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED OR PLACED WITHIN AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE SAID EASEMENT.
 - ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING APPLICABLE LAWS AT THE TIME OF CONSTRUCTION.
 - ALL DEVELOPMENT IN THIS SUBDIVISION IS SUBJECT TO THE REQUIREMENTS OF THE CITY OF HOMER'S ZONING DISTRICT.
 - THE FRONT 10' AND THE ENTIRE BUILDING SETBACK WITHIN 5 FT OF ANY SIDE LOT LINE IS ALSO A UTILITY EASEMENT.
 - THESE LOTS ARE SERVED BY THE CITY OF HOMER SEWER AND WATER.
 - NO ACCESS TO STATE MAINTAINED RIGHTS-OF-WAY PERMITTED UNLESS APPROVED BY STATE OF ALASKA DEPARTMENT OF TRANSPORTATION.
 - THERE IS A 20' BUILDING SETBACK REQUIREMENT FROM ALL DEDICATED RIGHT-OF-WAYS.
 - THERE IS A ROAD EASEMENT AFFECTING THESE LOTS RECORDED BK 57 PG 315 THAT IS TO BE WACKED THIS PLAT.
 - PROPOSED PORTION OF ROW (39.4' x 6.5') TO BE WACKED THIS PLAT. SEE DETAIL SHEET.
 - 15' WIDE EASEMENT TO BE GRANTED THIS PLAT FOR THE PURPOSE OF WIDER SYSTEM MAINTENANCE.

- LEGEND**
- 5/8" REBAR SET THIS SURVEY
 - 1/2" REBAR (82-78 HRD)
 - 5/8" REBAR (82-78 HRD)
 - ▨ AREAS OF 20% GRADE OR HIGHER



PLAT APPROVAL
 THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____ DATE _____
 BY: _____ AUTHORIZED OFFICIAL, KENAI PENINSULA BOROUGH

NOTARY'S ACKNOWLEDGMENT
 FOR: _____
 ACKNOWLEDGED BEFORE ME THIS _____, 2016
 DAY OF _____
 NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES _____

SEABRIGHT SURVEY + DESIGN

Kenton Bloom, PLS
1044 East Road Suite A
Homer, Alaska 99603
(907) 235-4247 (& fax)
seabrightz@yahoo.com

July 1, 2016

City of Homer
Planning Dept.
491 E. Pioneer
Homer, Alaska 99603

RE: Skyline View Subd. 2016 Replat

To Whom It May Concern:

Seabright Survey + Design is pleased to submit the preliminary plat for the **Skyline View Subd. 2016 Replat**

We are providing you two full size copies, one 11"x17" copy, and a check for \$800.00 to cover the fee for the plat review as well as the ROW vacation fee (250 sq ft). Please find the PDF 11"x17" in an email for your review. We look forward to working with the City of Homer on this project within city limits. Thank you for your consideration. Please call with any questions or concerns.

Cordially,



Kenton Bloom, P.L.S.
Seabright Survey + Design

NOTICE OF SUBDIVISION

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

Proposed subdivision under consideration is described as follows:

Skyline View Subdivision 2016 Replat Preliminary Plat

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

A public meeting will be held by the Homer Advisory Planning Commission on Wednesday, August 03, 2016 at 6:30 p.m. at Homer City Hall, Cowles Council Chambers, 491 East Pioneer Avenue, Homer, Alaska.

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

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

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

.....

VICINITY MAP ON REVERSE

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 3. ALL DEVELOPMENT IN THIS SUBMISSION IS SUBJECT TO THE REQUIREMENTS OF THE CITY OF HOMER'S ZONING DISTRICT.
 4. THE FRONT 10' AND THE ENTIRE BUILDING SETBACK WITHIN 5 FT OF ANY SIDE LOT LINE IS ALSO A UTILITY EASEMENT.
 5. THESE LOTS ARE SERVED BY THE CITY OF HOMER SEWER AND WATER.
 6. NO ACCESS TO STATE MAINTAINED RIGHTS-OF-WAY PERMITTED UNLESS APPROVED BY STATE OF ALASKA DEPARTMENT OF TRANSPORTATION.
 7. THERE IS A 20' BUILDING SETBACK REQUIREMENT FROM ALL DEDICATED RIGHT-OF-WAYS.
 8. THERE IS A ROAD EASEMENT AFFECTING THESE LOTS RECORDED BK 57 PG 315 THAT IS TO BE VACATED THIS PLAT.
 9. PROPOSED PORTION OF ROW (39.4' x 6.5') TO BE VACATED THIS PLAT. SEE DETAIL SHEET.
 10. 15' WIDE EASEMENT TO BE GRANTED THIS PLAT FOR THE PURPOSE OF WATER SYSTEM MAINTENANCE.

- LEGEND**
- 5/8" REBAR SET THIS SURVEY
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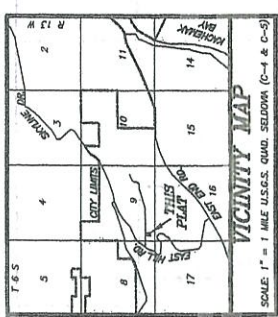
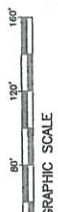
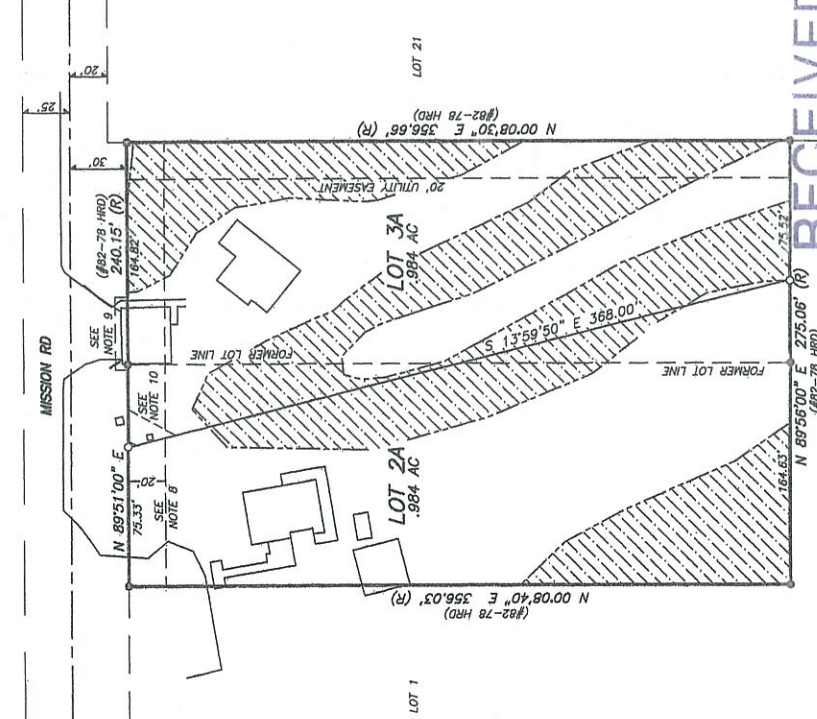


NOTARY'S ACKNOWLEDGMENT
 FOR: _____
 ACKNOWLEDGED BEFORE ME THIS _____, 2016.
 DAY OF _____

NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES _____

PLAT APPROVAL
 THIS PLAT WAS APPROVED BY THE KEMU PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____
 BY: _____ DATE _____
 AUTHORIZED OFFICIAL
 KEMU PENINSULA BOROUGH

RECEIVED
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CERTIFICATE OF OWNERSHIP
 WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY DESCRIBED IN THIS PLAT AND THAT WE HEREBY ADMIT THIS PLAT OF SUBDIVISION, AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

IRENE M CLARK
 1005 MISSION RD
 HOMER, AK 99603

JAMES P HEBELA
 PO BOX 2382
 HOMER, AK 99603

NOTARY'S ACKNOWLEDGMENT
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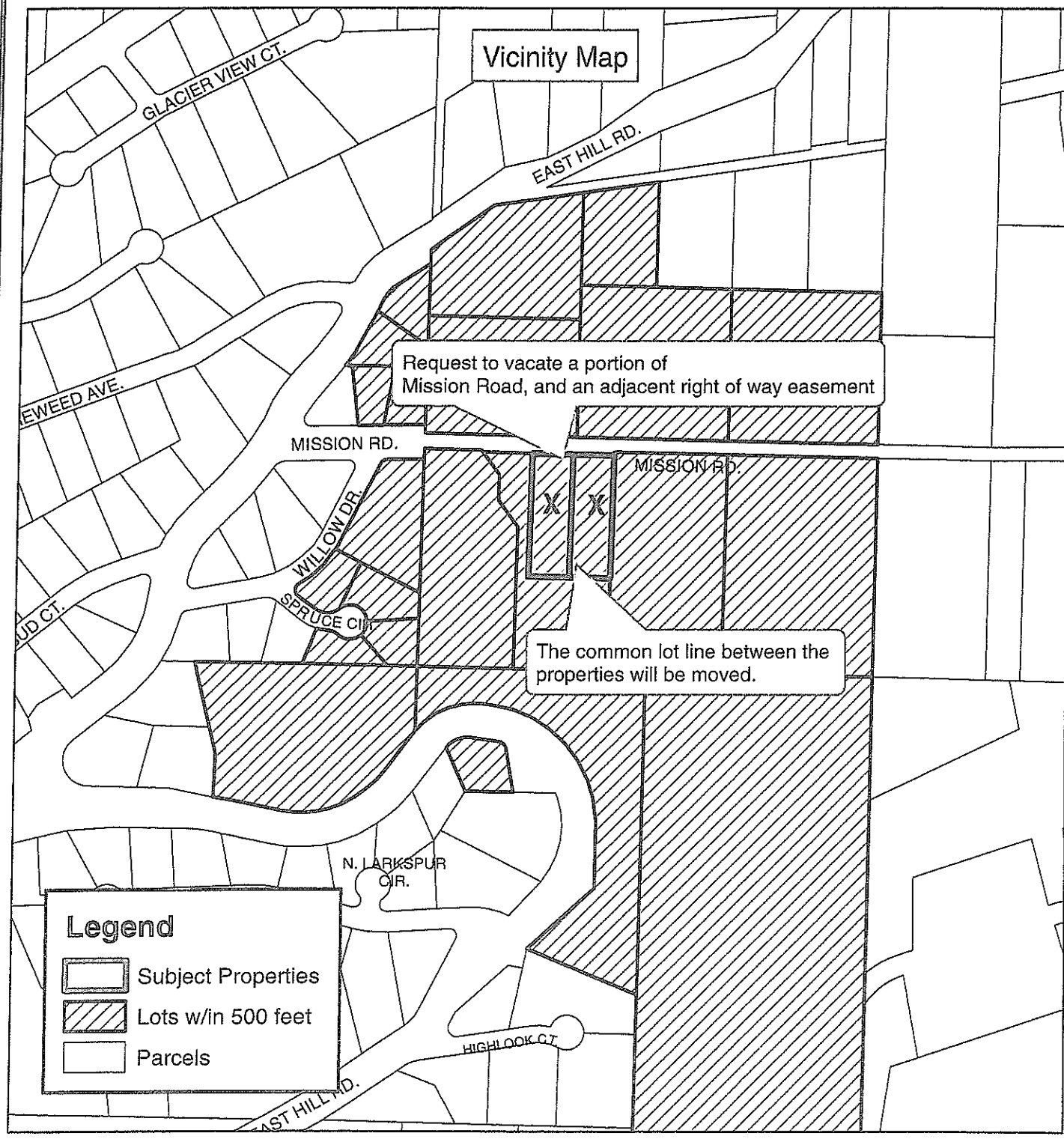
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HOMER RECORDING DISTRICT
 1978 FILE NO. 2016-777
**SKYLINE VIEW SUBD.
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


Vicinity Map



Request to vacate a portion of Mission Road, and an adjacent right of way easement

The common lot line between the properties will be moved.

Legend

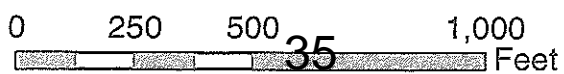
-  Subject Properties
-  Lots w/in 500 feet
-  Parcels



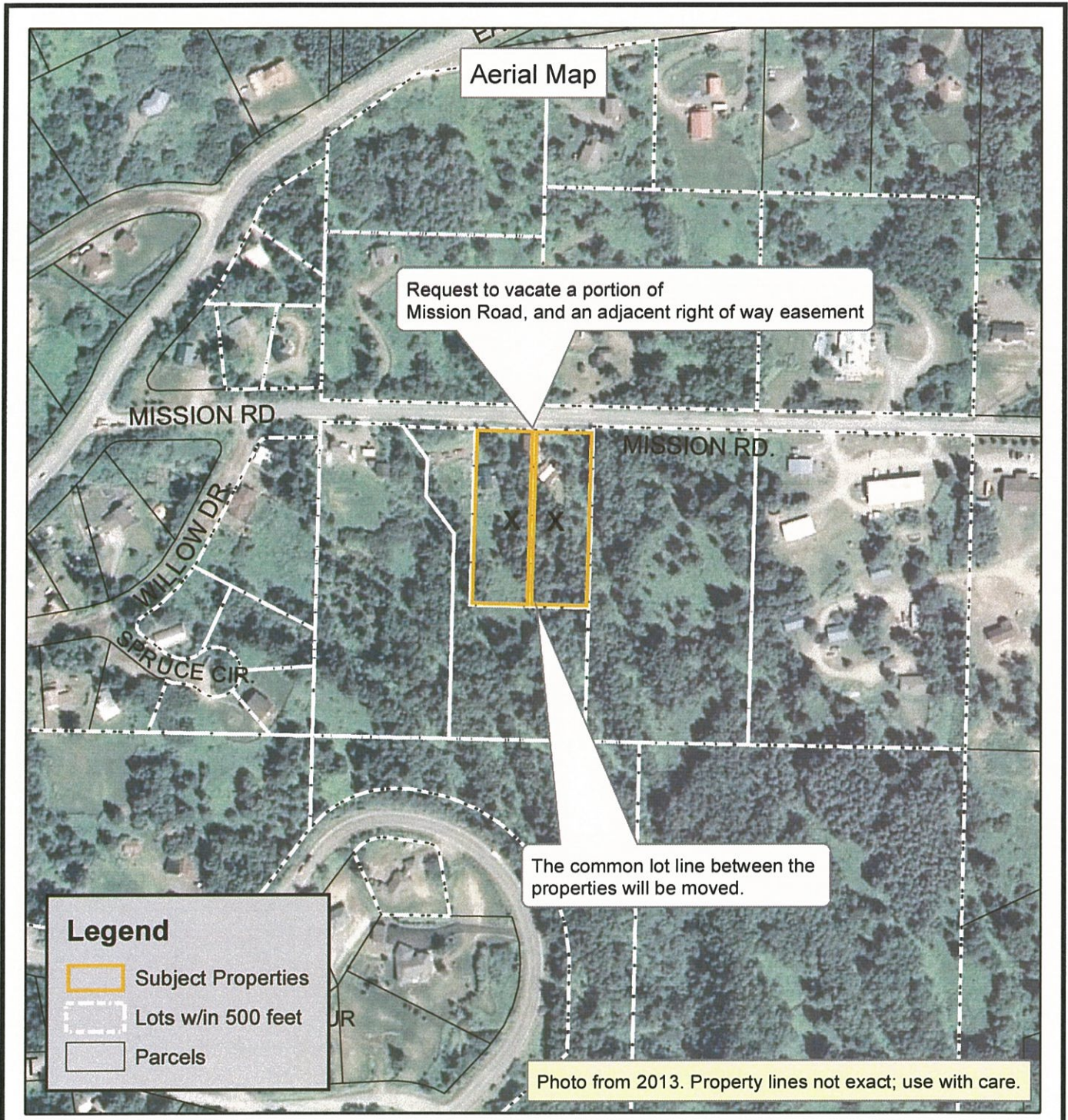
City of Homer
 Planning and Zoning Department
 July 6, 2016

Skyline View Sub 2016 Replat
 Preliminary Plat

Marked lots are within 500 feet and property owners notified.



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



City of Homer
Planning and Zoning Department
 July 6, 2016

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Planning

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Staff Report PL 16-47

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: August 3, 2016
SUBJECT: HAWSP - Recommendations

Introduction: This continues the conversation we started last meeting. Please review the previous staff report and call if you have any questions about the information provided last week or this week. While I am attempting to address the specific questions from council, I am still very much in a learning stage. I am looking for more insight and questions to help formulate better answers. You will recall the Commission was tasked with the following:

The Planning Commission has been directed by the City Council to develop recommendation regarding the HAWSP policies including:

- How the City should apply the debt service ratio
- When the debt service ratio should be calculated
- When pending HAWSP projects should be inputted into the debt service ratio calculation
- A process for keeping track of and prioritizing special assessment district requests that occur while a moratorium on new districts is in effect
- A process for lifting and implementing a moratorium on water and sewer special assessment district projects

Analysis: I am looking for the Finance Director to provide guidance on how and when the debt service ratio is calculated and when it may be best applied. The farther I am getting into this, the more I feel that the questions asked are very interrelated and the answer to one depends on the other. Linear answers to these concerns are difficult to formulate. The responses are very interrelated and dependent upon one another. It may be best to outline a recommended practice and then explain how it would address the concerns. This is very difficult to explain at this point, but after evaluating the questions you may see it.

I am including some examples from the Borough and Soldotna. KPBC, Chapter 14.31, Special Assessment-Road Improvements is an example of an improvement district where a contribution is made to the improvement, as is Soldotna, Ordinance 2012-022. KPBC 5.35 is an example of special assessments for public utilities where no contribution to the project is made and just the financing is addressed. City of Soldotna Resolution 2013-011 is their policy for matching funds.

How to apply debt service ratio?

This question is a bit vague. Generally speaking, I would surmise that the debt ratio is applied to all on-going and accepted projects and is based on current experience. We may ask the Finance Director his policy regarding the calculation of the ratio. Is it a projection based on projected revenues determined at the start of the budget year? And is it or when is it adjusted from current year experience?

When should the debt service ratio be calculated?

Finance has informed me that we make semiannual payment on the debt. Also, from time to time we may have some portion of debt forgiven. So, we know that we could count on having changes to the debt service ratio at least twice a year. I am not sure exactly when these payments are scheduled.

When to input pending projects into the debt service ratio? It will take 2 to 3 months just to define the project parameters and get out a petition of interest for the district. Once distributed, the property owners would have to get positive responses from those that would bear not less than 50 percent of the assessed cost of the improvement within 60 days of distribution (remember here we are talking about equal shares).

At this point, if the petition responses indicated sufficient response, a meeting of the owners of real property in the district will be scheduled. This meeting will include all the district information including boundaries, design, cost, and financing. A notice of not less than 60 days is required for the meeting. If those that would bear more than 50% of the costs file a protest before the meeting, the district may not proceed unless the boundaries are changed to create a district where less than 50% of the member object.

Once the above is met, then a resolution will be sent to the City Council to approve the project boundaries and costs. In the most ideal circumstances, it would take approximately 9 months to ensure a proposed project has the green light for construction.

This gets us back to **when should pending projects be inputted into the debt ratio.** I believe the answer to this is, after the projects have been selected as candidates for funding through the program. The first time we would have a number regarding the impact on the fund would be at the time an estimate, prior to the first mailing. But the project will not be assured until after the public meeting is held (approximately 6 months or more after the first mailing) and approved by the City Council afterwards.

At this point, I do not have a solid answer, but my research has given me something to consider. We have determined that, at this very time, we do not have the ability to fund an additional project. I do not believe that we should continue to cue up projects at a first come basis. We have limited resources and need carefully consider projects that best fit the criteria we are looking for and are within the realm of fiscal possibility. I believe it is reasonable to evaluate projects on an annual basis.

We could determine a date that would be driven by a preferred likely construction schedule and availability of funds, although our current system is filled with variables. The Borough accepts applications for its Road Improvement Assessment District (RIAD) no later than July 1st of every year per KPBC 14.31.050. These applications are then reviewed by the Assessor and Road Service Area (RSA) Director. An initial staff report is then sent to the RSA Board and their review is to be accomplished by September 1, for construction the following year. I really like the idea of a scheduled application period. Borough Code, KPBC 14.31.050 spells out the review criteria at the various points in the process. These include both technical and financial concerns.

Keeping track of and prioritizing special assessment district requests that occur while a moratorium on new districts is in effect.

I am coming up with two schools of thought I this regard, first come, first serve or a competitive process. Of course, those that find a need and get their request in first believe that they should have first considerations. This is the case with a proposal for a district to provide water on Mission Drive that has been subjected to a current moratorium because the current debt service coverage ratio is below 1.25. Now we also have someone interested in exploring a project on Alder Street.

We may have even more projects proposed during the moratorium. These could be local SAD's or, if current policy holds, Public Works projects that improve, repair, or expand the system. It is going to be difficult to have a project on hold for an extensive amount of time and have the project still considered valid. Above, I outlined a schedule for submission and review.

A process for lifting and implementing a moratorium

Because we make semiannual payments, we will have at least two opportunities to review our debt service ratio. We may need to have some sort of guideline established based on a reasonable amount of experience. We could explore this with finance.

Staff Recommendation: I am looking for insight and further questions. At this point, I am considering mechanics of the current process and how it might be reformed to incorporate the concerns of Council.

Attachments

1. City of Soldotna Resolution 2013-011
2. City of Soldotna Ordinance 2012-022
3. KPBC, Chapter 5.35
4. KPBC, Chapter 14.31

Introduced By: City Manager
Date: February 27, 2013
Action: Adopted
Vote: 6 Yes, 0 No

CITY OF SOLDOTNA
RESOLUTION 2013-011

A RESOLUTION OF THE COUNCIL OF THE CITY OF SOLDOTNA, ALASKA, ADOPTING A GENERAL POLICY REGARDING MUNICIPAL MATCHING FUNDS AVAILABLE FOR SPECIAL ASSESSMENT DISTRICT IMPROVEMENTS

WHEREAS, Ordinance 2012-022, adopted September 26, 2012, created Chapter 3.18 of the Soldotna Municipal Code, which provides a procedure for establishing Special Assessment Districts (SAD) in the City of Soldotna; and

WHEREAS, in accordance with SMC 3.18.070, the City Council is required to set a policy regarding use of city funds to fund a portion of the cost of the SAD; and

WHEREAS, citizens desiring to form an SAD would benefit from knowing the likely amount of municipal matching funds available for potential projects; and

WHEREAS, this policy is intended as a general guide, meant to inform the public and City administration of the Council's position regarding matching funds. The Council may alter this policy at any time, to reflect changes in availability of funding, or City priorities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

Section 1. This policy applies to public improvements which primarily benefit the owners of a limited geographical area, as opposed to improvements which benefit the entire community, and are entirely paid for with general governmental resources.

Section 2. In partially developed or undeveloped areas that include one or a small number of property owners, the City shall assess up to one hundred percent (100%) of all eligible costs of the SAD to the benefitted properties and contribute no municipal matching funds. This is intended in situations where the owner(s) are essentially acting as developers, with the intent of marketing and profiting from the undeveloped land.

Section 3. For improvements not categorized under Sections 1 or 2 above, the City may, in its sole discretion, contribute a minimum of fifty percent (50%) and a maximum of seventy-five percent (75%) of all eligible costs of the SAD, with the remaining amount assessed to the benefitted property owners. In determining the exact percentage of municipal matching funds for a particular SAD, the Council shall give preference to projects which:

- a. Reduce City cost and maintenance efforts of existing infrastructure;
- b. Increase development and/or employment potential in the community;
- c. Increase City revenues, for example through additional sales tax and/or real property taxes as a result of the improvements;

- d. Are identified as a priority project of the City, for example in the 5-year Capital Improvement Plan (CIP), legislative priority list, Comprehensive Plan, or other City planning document;
- e. Have secured grant funding that may be used to offset municipal expenditures;
- f. Contribute aesthetic or other quality of life benefits to the community as a whole.

It shall be the burden of the applicant to demonstrate the project's benefit to the City, by referencing the above criteria, if the applicant requests more than the minimum matching amount.

Section 4. Nothing in this policy shall prevent the City from funding an improvement without the formation of an SAD. In such cases, the City shall make a finding that the improvement is in the best interests of the entire community due to:

- a. Reduced City cost and maintenance efforts of existing infrastructure;
- b. Increased development and/or employment potential in the community; or
- c. Increased City revenues, for example through additional sales tax and/or real property taxes as a result of the improvements.

Section 5. Application. A sponsor of a special assessment district shall make his/her request for municipal matching funds, including all back-up or supporting documents, on the initial application to the City Clerk, per SMC 3.18.080(A). The City Administration shall make a recommendation as to the appropriate matching percentage, and include this recommendation with the petition which is returned to the sponsor for circulation.

Section 6. Final Determination. The determination as to the final amount of municipal matching funds provided to a particular SAD will be made by resolution of the City Council, following the public hearing in accordance with SMC 3.18.100. The decision of the Council shall be final. The Council reserves the right to apply percentages different from those listed above, based on the unique characteristics of any project.

ADOPTED BY THE CITY COUNCIL THIS 27TH DAY OF FEBRUARY, 2013.



 Brenda Hartman, Vice--Mayor

ATTEST:



 Teresa Fahning, City Clerk

Ayes: Bagley, Daniels, Eoff, Sprague, Czarnezki, Hartman
 Noes: None
 Absent: None

13RES011

Introduced By: Council Members
Bagley and Sprague
Date: September 12, 2012
Public Hearing: September 26, 2012
Action: Amended, Enacted
Vote: 4 Yes, 0 No, 2 Absent

CITY OF SOLDOTNA
ORDINANCE 2012-022

AN ORDINANCE TO REPEAL CHAPTER 3.17, SPECIAL ASSESSMENT DISTRICTS, OF THE SOLDOTNA MUNICIPAL CODE IN ITS ENTIRETY AND TO ADOPT A NEW CHAPTER FOR SPECIAL ASSESSMENT DISTRICTS, SMC 3.18, AND TO AMEND REFERENCES TO SMC 3.17 IN OTHER AREAS OF THE CODE

WHEREAS, special assessment districts are used to finance public improvements which primarily benefit property owners of a limited geographical area, as distinguished from improvements which benefit the entire community; and

WHEREAS, the current chapter governing special assessment districts, SMC 3.17, was adopted on November 14, 2007 (Ordinance 2007-27); and

WHEREAS, certain provisions of the current SMC 3.17 create confusion in administering the special assessment process, which causes additional burdens and costs for city administration, and can result in frustration for the public in attempting to create a special assessment district; and

WHEREAS, the City Council finds it is in the best interest of the citizens of Soldotna to revise the procedures for creating special assessment districts.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

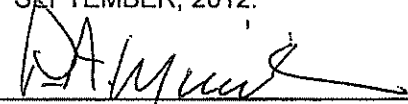
Section 1. That Section 3.17 of the Soldotna Municipal Code is repealed in its entirety.

Section 2. That a new chapter of the Soldotna Municipal Code is hereby adopted, to be cited as Soldotna Municipal Code Title 3, Chapter 18, and entitled Special Assessment Districts, which shall govern special assessments and the procedures to create special assessment districts for the construction of public improvements within the City of Soldotna.


[See 'Attachment A' for new text]

Section 3. This ordinance shall become effective immediately upon its enactment.

ENACTED BY THE CITY COUNCIL THIS 26th DAY OF SEPTEMBER, 2012.


Peter A. Micciche, Mayor

ATTEST:


Teresa Fahning, City Clerk

Ayes: Bagley, Daniels, Czarnezki, Sprague
Noes: None
Absent: Hartman, Anderson

12ORD022



City of Soldotna

177 North Birch Street ▶ Soldotna, Alaska ▶ Phone (907) 262-9107

MEMORANDUM

To: Larry Semmens, City Manager
Cc:
From: Stephanie Queen, Planning Director *Steph Queen*
Date: Tuesday, September 04, 2012
Subject: Ordinance 2012-022, Special Assessment District Code re-write

Ordinance 2012-022 proposes to repeal in its entirety, and readopt the chapter of municipal code governing special assessment districts (SAD) within the City of Soldotna. The City's first SAD code was adopted in 1986, and several special assessment districts were created and administered under this original chapter (including Endicott, the 'Flower Streets,' Golf Acres Subdivision, and Ridgewood/Diane Lane). In 2007, the City determined that sections of the code were outdated and no longer supported by State Statutes, and that the process was difficult to administer. Ordinance 2007-027, enacted November 14, 2007, repealed SMC 3.16 in its entirety, and readopted SMC 3.17, with the goal of establishing clearer standards and requirements.

Only one SAD petition has been submitted under our existing SAD code, and through the process, the City has again identified sections which could be revised to provide a clearer and more efficient procedure. This memorandum highlights the main differences between the proposed ordinance adopting Chapter 3.18, and our existing Chapter 3.17.

INITIATION OF A SPECIAL ASSESSMENT DISTRICT

Our existing code allows an SAD to be initiated either by a sponsor, or by the City Council (SMC 3.17.050). The proposed re-write provides both of these options as well (SMC 3.18.080). The main difference is how a sponsor-initiated petition is created, and at what point the city becomes involved in the formation of the district.

Initiation. Our existing code allows a sponsor to prepare a petition and collect signatures, then turn these documents in to the City Clerk with a non-refundable \$500 filing fee. The petition must contain a detailed description of the improvement and a map showing the proposed area to be benefitted, but the sponsor has the sole discretion to determine the extent (geographical area) of the improvements, and the level of improvement (i.e. paving vs. gravel, whether utilities are included, etc.) for their petition.

The process contained in the proposed re-write is similar to that used by the Kenai Peninsula Borough, and would allow for the city administration to become involved earlier. Under the proposed language, a sponsor may initiate an SAD by filling out an application and paying the \$500 fee, but the city administration would put the actual petition together, including determining the extent and level of improvements. In addition, the administration would make an initial recommendation as to the method of allocating the costs among the properties.

Withdraw a signature. The current code allows owners to remove their signature from the petition at any point in the process, if authorized by the City Council (SMC 3.17.050(D)).

The proposed alternate language would only allow an owner to withdraw their signature if they do so before the petition has been submitted to the City Clerk (SMC 3.18.080(A)(3)(b)). The owner's next opportunity to object would be during a 30-day objection period, prior to the public hearing at which the Council would consider a resolution to establish the SAD (SMC 3.18.100(D)).

Establishing a valid petition - Signatures required. The existing code contains an inconsistency here. SMC 3.17.050(C) states that a petition may be initiated by the "owners of at least **one-half in value** of the property to be benefitted." However, SMC 3.17.050(C)(1) requires signatures of owners of the property "that will bear **fifty percent or more of the estimated cost of the improvement.**" For the first test, the administration uses the KPB assessed values. However, we are not able to determine whether the second test is met, because at this point in the process, the Council has not yet determined which allocation method would be used. Therefore it would be impossible to know which parcels would bear 50% of the costs.

The proposed language would require the record owners of at least sixty percent (60%) of the total number of parcels in the SAD; and the record owners of parcels that would bear more than fifty percent (50%) of the total cost. This two-prong test *would be* feasible under the new process, because the petition created by the administration would already contain the recommended cost allocation method.

PROPOSED 3.18.070. CITY MATCH PROGRAM. (SMC 3.17.250)

Rather than the code containing specific details about the process for municipal matching funds, this section would instead require that the Council set such a policy by Resolution. It would be the administration's intent that a resolution be prepared and scheduled in conjunction with the public hearing on this ordinance.

CHAPTER 3.18. - SPECIAL ASSESSMENTS

- 3.18.010. – PURPOSE.
- 3.18.020. - ASSESSMENT AUTHORITY.
- 3.18.030. - AUTHORIZED CAPITAL IMPROVEMENTS.
- 3.18.040. - COSTS ASSESSED.
- 3.18.050. - PROPERTY SUBJECT TO ASSESSMENT.
- 3.18.060. - METHODS OF ALLOCATION.
- 3.18.070. - CITY MATCH PROGRAM.
- 3.18.080. - INITIATION OF SPECIAL ASSESSMENT DISTRICT.
- 3.18.090. - RESTRICTIONS ON DISTRICT FORMATION.
- 3.18.100. - RESOLUTION TO FORM DISTRICT AND PROCEED WITH IMPROVEMENT.
- 3.18.110. - ORDINANCE LEVYING ASSESSMENTS.
- 3.18.120. - NOTICE OF ASSESSMENT.
- 3.18.130. - PAYMENT.
- 3.18.140. – PRORATION OF ASSESSMENT.
- 3.18.150. - REASSESSMENT.

3.18.010. – PURPOSE.

Special assessments may be created for the purpose of acquiring, installing or constructing capital improvements and are used for the financing of public improvements which primarily benefit property owners in a limited geographical area. This distinguishes them from improvements which benefit the entire community, paid for with general governmental resources.

3.18.020. - ASSESSMENT AUTHORITY.

A. The city may assess all or a portion of the cost of acquiring, installing, or constructing improvements against the property of a state or federal governmental unit or private property to be benefitted by a capital improvement described in SMC 3.18.020, notwithstanding its exemption from taxation by law.

B. Pursuant to AS 29.46.020(a) the procedures in SMC 3.18.040 through 3.18.160 apply to the levying of assessments under this chapter in lieu of the procedures in AS 29.46.030 through 29.46.100.

3.18.030. - AUTHORIZED CAPITAL IMPROVEMENTS.

Special assessments may be levied under this chapter for the improvement of existing roads or construction of new roads, and installation of utilities in dedicated public rights-of-way to meet or exceed construction standards adopted by the City of Soldotna that are in effect at the time of the formation of the special assessment district in which the assessments are levied.

3.18.040. - COSTS ASSESSED.

The city council shall assess against the benefitted parcels costs of the improvement that are allowable under AS 29.46.110, including without limitation costs of land acquisition, design, engineering, administrative overhead, professional services, financing costs and interest; provided that the assessment allocated to a parcel shall be reduced by the amount of any prepayment for that parcel under SMC 3.18.090(A)(1).

3.18.050. - PROPERTY SUBJECT TO ASSESSMENT.

The city council may assess any real property or interest in real property that the council determines is benefitted directly or indirectly by an improvement. The real property or interest in real property that is benefitted by an improvement may be abutting, adjoining, adjacent, contiguous or noncontiguous to the improvement.

3.18.060. - METHODS OF ALLOCATION.

The method of allocating the cost of an improvement shall be proportional to the benefit of the improvement to each assessed parcel. The methods of allocating the cost of an improvement include without limitation the following, or any combination thereof:

- A. Allocation based on the area of a parcel;
- B. Allocation based on lineal feet of street frontage of a parcel;
- C. Allocation based on the assessed valuation of a parcel;
- D. Allocation by zones within the special assessment district which allow differential assessment based upon differing benefits to different geographic locations within the district; and
- E. Allocation on a per lot basis so that each lot is charged an equal amount.

3.18.070. CITY MATCH PROGRAM.

The City Council shall, by resolution, establish a policy regarding use of city funds to fund a portion of the cost of improvements associated with a special assessment district.

3.18.080. - INITIATION OF SPECIAL ASSESSMENT DISTRICT.

A special assessment district may be initiated either by application from a sponsor, and subsequent petition of the required number of property owners; or by action of the City Council. For the purposes of this chapter, the record owner shall be the owner(s) listed with the Kenai Peninsula Borough public parcel information.

A. Sponsor Initiated. To obtain a petition for formation of a special assessment district, the sponsor of the district must first submit an application to the city clerk. The application shall be on a form provided by the clerk.

1. Review of Application. After receiving an application to form a special assessment district, the city administration shall determine the boundaries of the proposed district. Once the city makes an initial determination that formation of the proposed district is feasible based on the proposed boundaries and criteria set forth in SMC 3.18.090, a filing fee of five hundred dollars (\$500.00) shall be paid. The filing fee shall be nonrefundable.

2. Preparation and Issuance of Petition. After consulting with the sponsor of the special assessment district concerning any legal deficiencies in the proposed district and collection of the filing fee, the administration shall, within thirty (30) days, prepare a special assessment district petition for circulation. The petition form will include the following:

- a. A copy of Soldotna Municipal Code chapter 3.18, Special Assessment Districts;
- b. A description of the proposed improvement;
- c. A map of the proposed district;

ORDINANCE 2012-022
ATTACHMENT A

- d. The name of the record owner of each parcel in the proposed district, as of the date the petition was created;
- e. The tax parcel number of each parcel in the proposed district;
- f. The assessed valuation of each parcel in the proposed district;
- g. The proposed method of allocating the cost of the improvement to each parcel in the proposed district;
- h. A description of the limitations on withdrawing a petition signature under SMC 13.18.080(A)(3)(b); and
- i. The name, address and daytime telephone number of the sponsor of the petition.

3. Circulation and Filing of Petition; Signature Requirements

- a. After the city has determined that a special assessment district is eligible to proceed, the sponsor may circulate the petition for signature. The petition must be filed with the clerk's office within 30 days of the date of the first signature on the petition.
- b. A signature on a petition may be withdrawn only by written notice from the signer filed with the city clerk. A withdrawal is effective only if notice of the withdrawal is filed before the filing of the petition with the city clerk.
- c. The sponsor shall file the signed petition with the city clerk. If the city clerk finds that the petition contains sufficient signatures, the clerk shall submit the petition to the city manager for preparation of a resolution to form the district and proceed with the improvement under SMC 3.18.100. The sufficiency of signatures on a petition shall be determined as of the date the petition is filed with the clerk. The petition contains sufficient signatures only if it contains the signatures of:
 - i. The record owners of sixty percent (60%) or more of the total number of parcels subject to assessment in the proposed district; and
 - ii. The record owners of parcels that would bear more than fifty percent (50%) of the total cost of the assessments in the proposed district.
- d. If the City of Soldotna is an owner of property in the assessment district, the City Manager is authorized to sign the petition on behalf of the City, upon passage of a resolution by the City Council.

B. City Council Initiated.

The City Council may initiate a special assessment improvement proposal by motion or other action directing the city manager to prepare the resolution in accordance with Section 3.18.100. Council-initiated special assessment districts are subject to restrictions contained in SMC 13.18.090, but do not require a petition signed by property owners.

3.18.090. - RESTRICTIONS ON DISTRICT FORMATION.

A. A special assessment district may not be formed if it violates any of the following restrictions, determined as of the date of filing the petition to form the district with the city clerk:

- 1. The estimated amount of the assessment to be levied against each parcel in the district may not exceed fifty percent (50%) of the current assessed value for land and improvements on the parcel. For the purposes of this restriction, the estimated amount of the assessment against a

ORDINANCE 2012-022
ATTACHMENT A

parcel will be reduced by the amount of a prepayment of the assessment for the parcel that is received by the city before the city council acts on the resolution to form the district and proceed with the improvement. If the council does not approve the resolution to form the district and proceed with the improvement, the city will refund the prepayment.

2. A special assessment district may not be formed if parcels in the proposed district which would bear more than 10 percent of the estimated cost of the improvement are delinquent in payment of borough real property taxes in the immediately preceding tax year.

3. A special assessment district for the upgrade of an existing road, including paving, may not be formed if unimproved parcels represent more than 40 percent of the total assessed value of real property in the district. A parcel is improved under this subsection if it contains operable water and waste-water disposal systems or a dwelling or a building suitable for commercial use.

B. The provisions of this section must be met at the time the clerk certifies the petition pursuant to SMC 3.18.080(A)(3).

C. The legal description of parcels within the proposed district as of the date of the clerk's certification will be used to determine assessment. Any replats or subdivision of parcels pending during the formation process must be recorded by the clerk's certification of the petition in order for the parcels to be assessed as replatted or subdivided.

3.18.100. - RESOLUTION TO FORM DISTRICT AND PROCEED WITH IMPROVEMENT.

A. Within one hundred twenty (120) days after the city clerk has determined that a petition bears sufficient signatures or was initiated by the city council in accordance with SMC 3.18.080(B), the city manager shall prepare for city council consideration a resolution to form the special assessment district and proceed with the improvement. The city manager shall submit to the city council with the resolution a report on the proposed district containing the following:

1. A legal description of the parcels to be benefitted by the improvement, and a map of the proposed district;
2. A description of the current condition of the rights-of-way that are to be improved and a statement of the need for the proposed local improvement;
3. A proposed allocation of the cost of the improvement among parcels in the district;
4. An engineer's estimate of the cost of the improvement to the district, and the estimated amount to be assessed against each parcel;
5. A profile of the parcels in the proposed district, including nature of ownership and status of tax payments;
6. Whether there are other special assessment liens against any of the parcels in the proposed district;
7. A description of any parcels that exceed the assessment-to-value ratio set forth in SMC 3.18.090(A)(1);
8. The method of financing the improvement; e.g., bonding, city investment, or a combination; and
9. All estimated costs of the improvement set forth in SMC 3.18.040

B. The city council shall hold a public hearing on the resolution. The city clerk shall give notice of the public hearing on the resolution:

ORDINANCE 2012-022
ATTACHMENT A

1. By certified mail, return receipt requested, mailed not less than thirty-five days before the date of the hearing, to each record owner of a parcel in the proposed district; and
 2. By publication once a week for two consecutive weeks in a newspaper of general circulation in the city, with the first publication appearing not less than thirty days before the date of the hearing.
- C. Each notice of the public hearing shall include the following:
1. A description of the special assessment district and the proposed improvement;
 2. The date of public hearing;
 3. The place for reviewing the estimated assessment roll, and
 4. The procedure for presenting objections to the formation of the district.
- D. Written objections to the formation of the district may be filed with the city clerk for a period of 30 days after mailing the notice of the public hearing. If written objections are filed by the owners of parcels bearing one-half or more of the estimated cost of the improvement, the city council may not proceed with the improvement unless it revises the district so that parcels objecting to the district bear less than one-half of the cost of the improvement, except on approval of not fewer than three-fourths of the council. The revised district shall be subject to notice and public hearing as provided in subsections B and C of this section.
- E. After public hearing, the city council may adopt the resolution to form the district and proceed with the improvement. The resolution shall:
1. Describe the improvement and its location;
 2. Describe the parcels benefitted by the improvement;
 3. Approve the estimated cost of the improvement;
 4. Approve any City Matching Funds for the improvement in accordance with SMC 3.18.070;
 5. State the method of allocating the cost of the improvement among the benefitted parcels;
 6. Include an estimated assessment roll showing the amount of the assessment against each parcel;
 7. Authorize the city manager to proceed with the construction of the improvement; and
 8. Require the clerk to record in the district recorder's office a copy of the resolution to proceed and the estimated assessment roll.
- F. After passage of the resolution to proceed, the improvement may be constructed by force account or by contract, or in any other manner provided by law.
- G. In the event that the contract amount for improvements exceeds the estimated cost of the improvement by more than 10 percent, then no contract shall be entered without further city council approval by resolution. The city council shall hold a public hearing on the resolution, to allow owners of parcels to be assessed to be heard. The city clerk shall publish notice of the public hearing once in a newspaper of general circulation in the city and shall, by regular mail, notify affected property owners. If written objections are not received by or on the date set for the public hearing from owners of parcels bearing at least one-half of the cost of the improvement, the city council may approve the improvement contract.
- H. If construction of the project has not been initiated within two (2) years of adoption of the

resolution forming the district, the special assessment district shall expire.

3.18.110. - ORDINANCE LEVYING ASSESSMENTS.

A. After the actual cost of an improvement authorized under SMC 3.18.040 has been ascertained, the city manager shall prepare and submit to the city council an assessment roll containing a description of the parcels in the special assessment district, the names of their record owners, and the amounts of the assessments. The assessment roll shall be submitted with an ordinance confirming the assessment roll and levying the assessments. The ordinance shall fix the times for payment of the assessments, the rate of interest on unpaid installments, and the penalty and rate of interest on delinquent installments. The assessment roll shall be filed with the city clerk at the time of the introduction of the ordinance and shall be open to public inspection.

B. The city clerk shall give notice of the public hearing on the ordinance:

1. By regular mail mailed not less than fifteen days before the date of the hearing to each record owner of a parcel in the district; and
2. By publication once not less than fifteen days before the date of the public hearing in a newspaper of general circulation in the city.

C. Each notice of the public hearing shall state that the assessment roll is on file in the office of the city clerk and is available for public inspection, and the time and place for the hearing of objections to an assessment. In addition, the notice mailed to each record owner of a parcel in the district shall state the amount of the assessment to be levied against the parcel.

D. After the public hearing on the ordinance, the council shall correct any errors in the assessment roll, and confirm the corrected roll by adoption of the ordinance.

3.18.120. - NOTICE OF ASSESSMENT.

A. Within fifteen days after the adoption of an ordinance levying an assessment under SMC 3.18.110, the city clerk shall mail an assessment statement to the record owner of each assessed parcel. The statement shall describe the parcel, state the date of mailing of the statement, the amount of the assessment, the times for payment of the assessment, the rate of interest on unpaid installments, and the penalty and rate of interest on delinquent installments. The statement shall include notice that it is the final determination of the assessment and that the property owner has thirty days from the date of mailing of the notice to appeal the assessment to the superior court.

B. Within five days after the assessment statements are mailed, the city clerk shall publish a notice that such assessments have been mailed and that the assessment roll is on file in the office of the city clerk.

C. After adoption of an ordinance levying a special assessment under SMC 3.18.110, the city clerk shall file in the office of the district recorder an appropriate notice of assessment lien on all assessed parcels.

3.18.130. - PAYMENT.

Payment may be in lump sum or by installments. Unless otherwise authorized by council, the following terms shall apply to the payment of assessments:

A. The period of time allowed for installment payments of assessments shall not exceed ten years.

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- B. A penalty equal to ten percent of the payment due plus any surcharge required to be imposed by AS 12.55.039 shall be added to all delinquent payments.
- C. The annual rate of interest on the unpaid balance of the assessment, excluding any penalty imposed on delinquent payments, shall be 2 percent (%) plus prime rate as published by the Wall Street Journal on the date the assessment roll is confirmed by the city council under SMC 3.18.110.
- D. Payment may not be required sooner than sixty (60) days after assessment.

3.18.140. – PRORATION OF ASSESSMENT.

Where any property on the confirmed assessment roll is subsequently subdivided or resubdivided prior to paying off the assessment, then the amount of principal and interest due on such property at the time of such subdivision or resubdivision shall be prorated between or among the subdivided or resubdivided lots in proportion to the benefitted area contained in each, as determined by the administration.

3.18.150. - REASSESSMENT.

- A. The city council shall within one year correct any deficiency in a special assessment found by a court. Notice and hearing must conform to the initial assessment procedures in SMC 3.18.100(B).
- B. Payments on the initial assessment are credited to the property upon reassessment. The reassessment becomes a charge upon the property notwithstanding failure to comply with any provision of the assessment procedure.

CHAPTER 5.35. - SPECIAL ASSESSMENTS—PUBLIC UTILITIES

5.35.010. - Assessment authority.

This chapter is enacted under the authority of and in conformance with chapter 29.46 of the Alaska Statutes, to provide for the establishment of special assessment procedures. Under this authority the borough assembly may assess against private real property and/or the property of a governmental unit all or a portion of the cost of constructing or improving those capital projects of local benefit as described hereunder. As provided by AS 29.46.020, these procedures set out through KPB Chapter 5.35 shall replace and supersede the procedures set out by AS 29.46.030—AS 29.46.100.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.020. - Authorized capital improvements.

Special assessments may be utilized solely for financing of the extension of the lines of service of those public utilities regulated by the Regulatory Commission of Alaska, or of city-owned utilities to areas outside the boundaries of the city. Special assessments are not available for the construction and financing of private hookups or service connections running from the utility's main line to private structures or facilities to be served on the benefitted parcels.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 2009-25, § 1, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.030. - Initiation of improvement proposal—Preclearance—Resubmission.

- A. When a petition application is submitted by a project sponsor, the boundaries of the district shall be approved following these steps:
1. A special assessment district proposal shall be initiated by submitting a complete application and a map or detailed description of the proposed geographic area subject to inclusion in the special assessment district to the borough assessor or assessor's designee. Any property owner interested in bringing the public utility improvement to their property or neighborhood can initiate the process.
 2. Upon receipt of the application and map or description, the assessor or the assessor's designee shall review the materials to determine whether the proposed boundary is proper. The boundary will be considered improper if:
 - a. any property adjacent to the proposed district will be benefitted by the proposed utility and is clearly excluded for the primary purpose of enabling the included properties to meet assessment percentage and signature requirements of this chapter;
 - b. the boundary covers a large, non-contiguous area, such as parcels unconnected by roadways, utility easements or property boundaries; or
 - c. the boundary includes too many parcels with the intention of diluting costs or minimizing the effect of delinquent properties; or
 - d. such other grounds as may be established by regulation or administrative policy.

3. If the assessor makes a preliminary finding that the boundary is proper, s/he shall then obtain the approval of the borough mayor to submit the proposed boundary to the utility whose service is sought.
 4. Once the assessor and mayor both approve the boundary, the assessor shall consult with the utility whose service is sought to be extended and obtain written acknowledgment that the proposed boundary meets the requirements of the utility, that the utility approves and will support construction of the extension, and a written estimate of the utility's total cost of constructing the extension.
 5. If the utility company approves the project as described in subsection (A)(4), the assessor shall contact the sponsor and inform him/her of the assessor's approval and the utility's cost estimate.
- B. In the event that the assessor determines the proposed boundary is improper, the boundary description shall be returned to the sponsor along with a written explanation describing why the proposed boundary has been deemed improper. The sponsor may modify and resubmit the boundary description to the assessor for approval as described in Section A above.
 - C. If the proposed boundary is approved under KPB 5.35.030(A), the sponsor may provide written notice to the assessing department of intent to proceed with full administrative review of the petition report under KPB 5.35.105.
 - D. A non-refundable filing fee as established in the most current Schedule of Rates, Charges and Fees under KPB chapter 1.26 shall be submitted with the sponsor's notice to proceed with administrative review.
 - E. After the written notice to proceed and filing fee are received by the assessing department from the sponsor, the assessing department shall provide notice of the proposed USAD to all parcel owners within the proposed USAD by certified mail, return receipt requested. The notice shall include the following:
 1. a description of the special assessment district and proposed improvement;
 2. a map of the proposed improvement;
 3. the timeframe for the mayor to complete the administrative review pursuant to KPB 5.35.105(C);
 4. notice that the legal description of parcels within the proposed district as of the date the mayor approves the petition report will be used to determine assessments per KPB 5.35.070(B). Any action to replat parcels within the proposed district shall be completed and recorded before the date the mayor approves the petition report under KPB 5.35.105(C); and
 5. notice that parcel owners shall submit any comments, including objections to their parcel's inclusion in the proposed district, in writing within 45 days of the date the assessing department mails the notices under this section, in order to be considered in the mayor's review of the petition report pursuant to KPB 5.35.105. Comments may be submitted via mail, hand-delivery, email, or facsimile. The date the assessing department receives the written comment will determine whether that comment has been timely submitted.
 - F. If any changes are made to the proposed district boundary by the sponsor after the assessing department receives the sponsor's written intent to proceed with administrative review of the proposed district, the revised district shall be subject to all steps for preclearance and resubmission of the proposed district as provided in KPB 5.35.030. The sponsor will not be required to submit an additional filing fee.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 2009-25, § 2, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.040. - Reserved.

Editor's note— Ord. No. 2009-25, § 7, adopted May 19, 2009, renumbered § 5.35.040 as § 5.35.106 and amended same. See also the Ordinance List and Disposition Table.

5.35.050. - Reserved.

Editor's note— Ord. No. 2009-25, § 8, adopted May 19, 2009, renumbered § 5.35.050 as § 5.35.107 and amended same. See also the Ordinance List and Disposition Table.

5.35.060. - Administration—Regulations—Procedures.

The mayor may adopt regulations, subject to assembly approval, setting out such requirements and procedures as deemed necessary for the efficient administration of this program. The assessing department shall be responsible for the processing of petitions and development of an assessment roll for the special assessment district. The finance department shall be responsible for the sale of any bonds and collection of assessments.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.070. - Property assessed—Restrictions on formation.

- A. The assembly may assess for an improvement any real property, or any interest in real property, directly benefitted by the improvement. The property to be assessed may include any property which is otherwise for any reason exempt from taxation by law.
- B. The legal description of parcels within the proposed district as of the date of the mayor's approval of the petition report under KPB 5.35.105 will establish the parcels for assessment. No subdivision, reversion of acreage, or lot line adjustment will be recognized for USAD assessment purposes after the mayor's approval of the petition report.
- C. In no case may a property be assessed an amount in excess of 50 percent of the fair market value of the property.

For the purposes of this restriction, the estimated amount of the special assessment lien against a parcel will be reduced by the amount of a prepayment of the assessment for the parcel that is received by the borough before the assembly acts on the resolution to form the district and proceed with the improvement. Any such payment shall be received no later than the close of business at least 15 days prior to the date the assembly is scheduled to act on the resolution to form the district and proceed with the improvement. If the assembly does not approve the resolution to form the district and proceed with the improvement, the borough shall refund the prepayment.

- D. In no case shall a special assessment district be approved for formation by the assembly under KPB 5.35.110 where properties which will bear more than 10 percent of the estimated costs of the improvement are subject to unpaid, past-due borough property taxes at the time the assembly approves the resolution to form the district and proceed with the improvement.

For the purposes of this restriction, the delinquent tax may be paid before the assembly acts on the resolution to form the district and proceed with the improvement. Any such payment shall be received no later than the close of business at least 15 days prior to the date the assembly will act on the resolution to form the district and proceed with the improvement.

- E. A special assessment district may not be formed under this chapter if one owner owns more than 40 percent of the total number of parcels to be benefitted.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 3, 5-19-09; Ord. No. 2001-03, § 1, 4-3-01; Ord. No. 96-38, § 2, 1996; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.080. - Costs assessed.

The assembly shall assess one hundred percent of all costs of a public improvement against the parcels of property directly benefitted by the improvement, less any costs prepaid prior to assessment. The total costs for an improvement shall include the actual costs of the improvement, including costs of acquisition of interest in land necessary for the improvement, design, engineering, administrative costs, professional services, bond costs, financing costs, and interest incurred as a result of the improvement, and all other costs resulting from the construction of the improvement.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 96-38, § 3, 1996; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.090. - Method of assessment.

The method of assessment shall be an allocation of costs on a per parcel basis so that each benefitted parcel is charged an equal amount.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 4, 5-19-09; Ord. No. 97-23, § 1, 1997; Ord. No. 96-38, § 4, 1996; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.100. - Financing special assessment districts.

The mechanism for financing of special assessment districts shall be determined on a case by case basis and set out and approved by the assembly in the resolution to form the district and proceed with the improvement adopted for each respective special assessment district.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 5, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.105. - Preparation and review of petition report.

A. After the sponsor gives notice of intent to proceed with administrative review of the proposed USAD, the assessor or assessor's designee shall prepare a petition report for the mayor's approval. The petition report shall include the following information:

1. a description of the proposed improvement;
2. the total estimated cost of the improvement supported by a written statement from the utility constructing the improvement;
3. a map showing the boundary of the proposed district;
4. the estimated roll:
 - a. the total estimated cost of the improvement;
 - b. the name of the record owner of each parcel in the proposed district;
 - c. the tax parcel number of each parcel in the proposed district;
 - d. the legal description of each parcel in the proposed district;
 - e. the assessed valuation of each parcel in the proposed district;

- f. an estimate of the amount to be assessed to each parcel in the proposed district;
 - g. whether there are other special assessment liens against any of the parcels in the proposed district; and
 - h. a description of any parcels that violate the restrictions listed in KPB 5.35.070(C) or (D);
5. all written comments timely received per KPB 5.35.030(E)(5), including any objections from parcel owners regarding inclusion of their property in the proposed district;
 6. the method of proposed financing for the improvement; and
 7. the name, address and daytime telephone number of the sponsor.
- B. The mayor shall exclude from the proposed district any real property, or any interest in real property, that is not directly benefitted by the improvement. If a property owner claims the physical characteristics of his or her property make it legally impermissible, physically impossible, or financially infeasible to develop or improve it in a manner that would enable the property to benefit from the proposed improvement, the property owner has the burden of demonstrating that the property cannot be developed or improved.
1. Factors that may allow a parcel to be excluded from the district include, but are not limited to, the utility company's inability to provide service to the parcel via main line, and plat restrictions on development.
 2. For the purposes of this section, "financially infeasible" means the cost to develop the property would exceed the increase in value due to development.
- C. The mayor will consider the petition report and make a final determination to approve the report or to require additional or amended information not less than 45 days and not more than 60 days from the date the assessing department mails notice to affected property owners under KPB 5.35.030(E) to allow for the comment period described in that section. In the case where the mayor determines the district boundary as proposed in the petition report is improper, the mayor may modify and resubmit the district boundaries to the utility company for further consideration. The sponsor shall provide written agreement of any changes to the boundaries, cost per parcel, or other project elements prior to the project proceeding.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 2009-25, § 6, 5-19-09)

5.35.106. - Petition.

- A. Once the petition report is approved by the mayor, the assessing department shall create the final petition containing all information required under KPB 5.35.107(A) and provide at least one copy of the petition to the sponsor for distribution to affected property owners.
- B. Upon receiving a copy of the petition, the sponsor may pursue the signatures of owners of property within the approved boundaries. Once sufficient signatures are obtained, the sponsor shall file a complete petition with the assembly, through the assessing department, following the process described in KPB 5.35.107.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 2009-25, § 7, 5-19-09; Ord. No. 94-26, § 1(part), 1994)

Note— Formerly § 5.35.040.

5.35.107. - Petition filing; Requirements of petition.

- A. *Petition content.* The petition, which shall be distributed by the sponsor to all owners of property within the proposed district, shall include: the petition report approved by the mayor under KPB 5.35.105; a statement notifying the property owners to contact the applicable utility for any additional costs that may be required to utilize the improvement; notification that any costs to connect individual parcels to the main improvement are not included in the assessment; and a signature page with instructions.
- B. *Deadline for signatures.* The sponsor shall submit the completed petition signature page(s) to the assessing department within 45 days of the date on which the assessing department distributes the petition to the sponsor.

Proposed districts involving more than 150 properties may have additional time, up to 30 days, to collect signatures at the discretion of the mayor, so long as the delay has no negative impact on the utility company's estimate and timeframe for construction. The sponsor shall request the additional time when submitting the notice of intent to proceed with administrative review under KPB 5.35.030(C). However, the mayor has the discretion to approve a request for additional time at a later point in the process so long as the request for additional time does not impact the timeline for the project.

- C. *Signature requirements.* The petition shall contain the signatures of (a) the owners of record of at least 60 percent of the total number of parcels subject to assessment within the proposed district, and (b) the owners of at least 60 percent in value of the property to be benefited, in order to be considered by the assembly for formation.
 - 1. *Multiple owners.* When a parcel is owned by more than one person or entity, signatures for each record owner are required in order for the parcel to count towards the signature thresholds, consistent with the requirements listed in KPB 5.35.107(C)(2)—(6), as applicable.
 - 2. *Signature by Proxy.* Signatures by proxy will not be accepted by the clerk.
 - 3. *Power of Attorney.* The signature of a power of attorney will only be accepted by the borough if the signature is accompanied by a copy of the Power of Attorney document providing authority for such signatures.
 - 4. *Business entities.*
 - a. *Corporations.* Where a parcel is owned by a corporation, the petition shall be signed by two individuals, one of whom is the chair of the board, the president, or the vice president, and the other of whom is the secretary or treasurer, or by another person or persons who have been given authority via corporate resolution.
 - b. *Limited liability companies.* Where a parcel is owned by a LLC, the petition shall be signed by a member if the LLC is member-managed, or by the manager, if a manager has been designated.
 - c. *Other business owners.* Where a parcel is owned by another type of business entity, only those persons who have signatory authority to bind the business entity under Alaska Statutes shall sign the petition as owner.
 - 5. *Trusts.* Where a parcel is owned by a trust, only the trustee may sign as the property owner. If there are co-trustees, a majority must sign the petition in order for the parcel to count towards the signature thresholds unless otherwise provided in the trust document. The signature of the trustee(s) shall be accepted by the borough if it is accompanied by a copy of the trust document.
 - 6. *Kenai Peninsula Borough.* The mayor shall be the designee for signing any petition when borough land is part of the proposed district. Where the Kenai Peninsula Borough abstains from participating in the petition signature process, the total number of parcels within the district, for the purpose of calculating the signature thresholds, shall be reduced by the number of parcels owned by the borough within the proposed district.
 - 7. *Excluded parcels.* When a parcel is excluded from the district by the mayor under KPB 5.35.105(B) or by law, the total number of parcels within the district, for the purpose of

calculating the signature thresholds, shall be reduced by the number of excluded parcels within the proposed district.

- D. *Utility acknowledgement.* The petition shall contain or be accompanied by a statement from an authorized officer or employee of the utility whose service is sought to be extended acknowledging that the project as proposed by the petition meets the requirements of the utility and that the utility approves and will support construction of the extension.
- E. *Withdrawal of signature.* A signature on a petition may be withdrawn only by written notice from the signer submitted to the assessing department prior to the final filing of the petition signatures by the sponsor. A withdrawal is effective only if notice of the withdrawal is submitted before the completed petition is filed.
- F. *Certification of petition.* Once the sponsor files the signed petition with the assessing department, the borough clerk shall determine whether the petition contains sufficient signatures as described in KPB 5.35.107. If the petition meets the requirements of KPB 5.35.107, the borough clerk shall certify the petition and submit the petition to the mayor for preparation of a resolution to form the district and proceed with the improvement under KPB 5.35.110.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 2011-32, § 12, 9-20-11; Ord. No. 2009-25, § 8, 5-19-09; Ord. No. 96-38, § 1, 1996; Ord. No. 95-16, § 1, 1995; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

Note— Formerly § 5.35.050.

5.35.110. - Resolution to form the district and proceed with the improvement.

- A. When the borough clerk has determined that a petition bears sufficient signatures as described in KPB 5.35.107, the mayor or mayor's designee shall prepare for assembly consideration a resolution to form the special assessment district and proceed with the improvement. The mayor shall submit to the assembly with the resolution a copy of the petition as described in KPB 5.35.107(A).
- B. The assembly shall hold a public hearing on the resolution. The borough clerk shall give notice of the public hearing on the resolution:
 - 1. by certified mail, return receipt requested, mailed not less than 35 days before the date of the hearing, to each record owner of a parcel in the proposed district; and
 - 2. by publication once a week for two consecutive weeks in a newspaper of general circulation in the borough, with the first publication appearing not less than 30 days before the date of the hearing.
- C. Each notice of the public hearing shall include the following:
 - 1. a description of the special assessment district and the proposed improvement;
 - 2. the date of public hearing;
 - 3. the place for reviewing the estimated assessment roll; and
 - 4. the procedure for presenting objections to the formation of the district.
- D. Written objections to the necessity of formation of the district may be filed with the borough clerk for a period of 30 days after mailing the notice of the public hearing. If written objections to the necessity of formation of the district are filed by the owners of parcels bearing one-half or more of the estimated cost of the improvement, the assembly may not proceed with the improvement.
- E. After public hearing, the assembly may adopt the resolution to form the district and proceed with the improvement. If the assembly approves the district, the resolution shall:
 - 1. describe the improvement and its location;

2. describe the parcels benefitted by the improvement;
 3. make a finding that the improvement is necessary and should be made;
 4. identify any parcels within the boundaries excluded from the district, which will not receive the benefit of the improvement and will not be subject to the assessment;
 5. if the mayor signed the petition on behalf of the borough, approve the mayor's action;
 6. approve the estimated cost of the improvement;
 7. include an estimated assessment roll showing the amount of the assessment against each parcel;
 8. authorize the mayor to proceed with the construction of the improvement; and
 9. require the clerk to record in the district recorder's office a copy of the resolution to form the district and proceed with the improvement and the estimated assessment roll.
- F. After passage of the resolution to form the district and proceed with the improvement, the improvement may be constructed by force account or by contract, or in any other manner provided by law.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 9, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.120. - Reserved.

Editor's note— Ord. No. 2009-25, § 10, adopted May 19, 2009, repealed § 5.35.120, which pertained to resolution to proceed. See also the Ordinance List and Disposition Table.

5.35.125 - Ordinance of appropriation.

- A. An ordinance of appropriation shall be scheduled for enactment at the same assembly meeting that the resolution to form the district and proceed with the improvement is adopted. The amount of the appropriation shall be equal to the estimated cost of the improvement included in the petition report under KP 5.35.105(A).
- B. In the event that the borough puts the project out to bid, and the lowest, responsive, responsible, qualified bid exceeds the appropriation by more than 10 percent, then no contract shall be entered without further assembly approval. Prior to such further approval, the borough clerk shall publish notice once in a newspaper of general circulation in the borough stating the time and place when owners of parcels to be assessed may be heard on the question and shall, by certified mail, return receipt requested, notify affected property owners of the time and place when they may be heard on the question.

(Ord. No. [2015-12](#), § 1, 6-16-15)

5.35.130. - Effect of resolution to form the district and proceed with the improvement.

Adoption of the resolution to form the district and proceed with the improvement shall be a final determination that properties in the assessment district are properly included and subject to assessment for the improvement.

(Ord. No. 2009-25, § 11, 5-19-09; Ord. No. 94-26, § 1(part), 1994)

5.35.140. - Improvements financed through the sale of bonds.

If the cost of the improvements are to be paid from bond proceeds the bonds shall not be sold until 30 days after the adoption of the resolution to proceed. No construction may begin prior to receipt of the proceeds from the sale of the bonds.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 94-26, § 1(part), 1994)

5.35.150. - Ordinance of assessment.

- A. After the actual cost of the public improvements has been ascertained, the borough assembly shall by ordinance assess a lien against each parcel enumerated in the estimated assessment roll adopted under KPB 5.35.110. The final assessment roll shall be developed in the same proportion to the estimated assessment roll as the actual cost of the improvement bears to the estimated cost of the improvement. This assessment shall be payable in the manner provided in the resolution to form the district and proceed with the improvement adopted under KPB 5.35.110, and shall be final upon the enactment of the ordinance.
- B. The assessment roll made under this section shall be filed with the borough assembly at the time of the introduction of said ordinance of assessment and shall be open to public inspection.
- C. Prior to enactment of the ordinance of assessment, the assembly shall:
 - 1. Fix a time to hear objections to the assessment roll;
 - 2. Provide that the borough clerk publish notice of the ordinance of assessment as required under KPB 22.40.010(D); and
 - 3. Provide that the borough clerk notify the owners of record of the parcels to be assessed for the improvement by regular mail not less than 10 days before the hearing; the notice shall include notice of individual assessment and notice of the time and place of the hearing.

(Ord. No. [2015-26](#), § 1, 12-8-15; Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 12, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.155. - Deferral of payment of principal.

- A. The principal of the special assessment lien on real property owned and occupied as the primary residence and permanent place of abode by a resident who is economically disadvantaged may be deferred as provided in this section. The deferral of payment on the principal of the special assessment lien means that such payment will be postponed, but not forgiven.
- B. For purposes of this section, a resident is economically disadvantaged if the person's adjusted gross income is less than 200 percent of the current U.S. Health and Human Services Poverty Guidelines for Alaska.
- C. Interest shall continue to accrue on the assessment during the period of deferral.
- D. Property owners wishing to seek a deferral of the assessment shall submit a form prescribed by the finance director or designee no later than February 1 of each calendar year to certify that the conditions described in this section continue to exist.
- E. Deferral is for the principal balance only. Individuals who qualify for the deferral shall pay the accrued interest by the due date each year.
- F. The deferred assessment, including all unpaid accrued interest, becomes due and payable in full when the property ceases to be owned or occupied by the resident who qualified for the deferral. Any remaining balance due shall be paid on the same schedule as would have been in place if no deferral had applied.

- G. If the resident who previously qualified for the deferral no longer qualifies, but continues to own and occupy the property, then payments on the principal shall resume starting with the next payment due.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 13, 5-19-09)

5.35.160. - Notice of assessment.

- A. Within 15 days after the enactment of an ordinance under KPB 5.35.150 levying a special assessment, the finance director shall mail a statement to the owner of record of each property assessed. For each property the statement shall designate the property, the total allocated assessment, the assessment lien amount, the schedule of payments, the time of delinquency, penalties, and notice of the deferral of principal option described in KPB 5.35.155.
- B. Within 5 days after the statements are mailed, the finance director shall publish a notice that such assessments have been mailed and that the assessment roll is on file in the office of the borough clerk.
- C. After enactment of an ordinance under KPB 5.35.150 levying a special assessment, the clerk shall file in the office of the district recorder an appropriate notice of assessment lien on all lands assessed.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 14, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.170. - Return of excess funds.

Any and all funds collected from assessments levied for a specific project which exceed the actual total expenditures made by the borough on the project; and, any and all funds returned to the borough by the utility as a refund of expenditures made by the borough on a specific project, shall either be returned to the owners of record of the assessed properties on a pro rata basis or applied to the outstanding debt, in the manner provided by the ordinance of assessment.

(Ord. No. 96-38, § 5, 1996; Ord. No. 94-26, § 1(part), 1994)

5.35.180. - Reassessment.

When it appears to the assembly that a special assessment is invalid or when an assessment is adjudged to be illegal by a court, the assembly shall order a reassessment whether the improvement has been made or not. Proceedings for a reassessment and for the collection thereof, shall be conducted in the same manner as is provided for the original assessment.

(Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.190. - Definitions.

"Application" means the form provided by the borough assessing department and completed by the district sponsor to initiate the process of proposing a special assessment district.

"Benefit" means an advantage gained from the improvement greater than that shared by the general public under this ordinance. Benefit may include, for example, increased property value and marketability, a special adaptability of the land, or a relief from some burden (for example, lower energy costs).

"Deferral of payment" means that payment is postponed or suspended until a certain time or event.

"Directly benefitted" means that the property may hook up its private service line to the main service line without any further extension of the main line, based upon the utility's guidelines.

"District" means an area composed of individual parcels of land that are connected to the public improvement for which the special assessment is to be levied.

"Estimated assessment roll" means a spreadsheet that includes the name of each recorded owner, tax parcel number, assessed value and legal description of the parcels of land and other property which will be specially benefited by the proposed improvement and the estimated amount of the cost and expense thereof to be borne by each parcel of land or other property.

"Petition report" means the document created by the assessing department, for the mayor's review, which contains all pertinent information regarding the proposed district and special assessment project.

"Petition" means the formal written request signed by record owners within the proposed boundaries to form the utility special assessment district.

"Sponsor" means the person who initiates the process proposing a special assessment district and coordinates the project on behalf of the property owners of the proposed district.

(Ord. No. 2015-12, § 1, 6-16-15)

CHAPTER 14.31. - SPECIAL ASSESSMENTS—ROAD IMPROVEMENTS

14.31.010. - Assessment authority.

- A. Within the borough road service area, the borough may assess against the property of a state or federal governmental unit and private property to be benefitted by a capital improvement described in KPB 14.31.020 all or a portion of the cost of acquiring, installing or constructing the capital improvement.
- B. Pursuant to AS 29.46.020(a) the procedures set out in KPB chapter 14.31 shall replace and supersede the procedures in AS 29.46.030 through 29.46.100.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 97-32, § 2(part), 1997)

14.31.020. - Authorized capital improvements.

Special assessments may be levied under this chapter for the improvement of existing roads or construction of new roads in public rights-of-way to meet or exceed road construction standards adopted in KPB Chapter 14.06 that are in effect at the time of the formation of the special assessment district in which the assessments are levied.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2009-05, § 1, 2-17-09; Ord. No. 2008-05(S), § 2, 5-6-08; Ord. No. 97-32, § 2(part), 1997)

14.31.030. - Property subject to assessment.

The assembly may assess any real property or interest in real property that the assembly determines is directly benefitted by an improvement. The real property or interest in real property that is benefitted by an improvement may be abutting, adjoining, adjacent, or contiguous to the improvement. Real property may be assessed for an improvement notwithstanding its exemption from taxation by law.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2001-05(S), § 2, 4-3-01)

14.31.040. - Initiation of special assessment district.

To initiate a petition for the formation of a special assessment district, the sponsor of the proposed district submits an application and a map or detailed description of the proposed geographic area subject to inclusion in the special assessment district to the borough assessor or assessor's designee. Applications to form a road improvement assessment district (RIAD) and participate in the RIAD match program shall be received no later than July 1 of each year.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 97-32, § 2(part), 1997)

14.31.050. - Review of petition application.

- A. *District boundaries—Review by assessor and RSA director.* After receiving an application for a petition to form a RIAD, the borough assessor or the assessor's designee, in consultation with the road service area director, shall determine whether the boundaries of the proposed district are proper. The boundary will be considered improper if:

1. any property adjacent to the proposed district will be benefited by the proposed improvement and is clearly excluded for the primary purpose of enabling the included properties to meet assessment percentage and signature requirements of this chapter;
 2. the boundary covers a large, non-contiguous area, such as parcels unconnected by the roadway or property lines;
 3. the boundary includes too many parcels with the intention of diluting costs or minimizing the effect of delinquent properties; or
 4. such other grounds as may be established by regulation or administrative policy.
- B. Based upon the proposed district boundaries, the borough assessor shall inform the sponsor whether the proposed district may violate any of the restrictions on district formation in KPB 14.31.080.
- C. *District boundaries—Deemed improper.* In the event that the assessor determines the proposed boundary is improper, the boundary description shall be returned to the sponsor along with a written explanation describing why the proposed boundary has been deemed improper. The sponsor may modify and resubmit the boundary description to the assessor for approval as described in KPB 14.31.050(A).
- D. *Initial staff report.* Once the assessor approves the boundaries of the proposed district, assessing and road service area staff will prepare an initial report for the road service area (RSA) board to consider for approval of an order for the engineer's estimate regarding the proposed project. The initial staff report shall contain the following information:
1. Sponsor's application, description of the subject road(s) and scope of the proposed project;
 2. Review of KPB 14.31.080(A)(3) and (4) restrictions on formation for the proposed project;
 3. Review of KPB 14.31.050(E) criteria for the proposed project;
 4. Any additional comments that may help the RSA board evaluate the project; and
 5. RSA staff recommendation for the proposed project.
- E. *RSA Board—Approval to proceed with engineer's estimate.* The RSA board shall review the staff reports for all RIAD applications timely submitted under KPB 14.31.040 no later than September 1 of each year, for construction in the following year. The road service area board shall consider the following factors in evaluating petition applications and determining whether to approve an order for an engineer's estimate:
1. Whether the road is currently on the maintenance system;
 2. The number of petitions for projects received that year;
 3. The funds available in the RIAD engineer's estimate fund established under KPB 5.20.160; and
 4. Whether an application for district formation has been previously filed and whether conditions have changed that make the project more feasible than in past application years.
- F. *RSA board—Administrative procedures.* The RSA board may adopt administrative procedures for application of the factors set forth in KPB 14.31.050(E) by board resolution.
- G. *Non-refundable filing fee.* Upon receiving notice that the RSA board has approved an order for an engineer's estimate under KPB 14.31.050(E), the sponsor must submit a non-refundable filing fee as described in the borough's Schedule of Rates, Charges and Fees, before any additional efforts are made by the borough to proceed with the proposed district.
- H. *Engineer's estimate.* After the sponsor submits the non-refundable filing fee, the road service area director or designee shall obtain an estimate of the cost of the improvement proposed for the district, referred to as the "engineer's estimate." The borough assessor shall re-evaluate whether the proposed district may violate any of the restrictions on district formation in KPB 14.31.080 taking into account the estimated costs, and inform the sponsor if any violations have been identified.

- I. *Sponsor's intent to proceed.* If the sponsor wishes to proceed after receiving the engineer's estimate under KPB 14.31.030 (H), s/he must submit to the assessor a written notice of intent to proceed with the project.
- J. After the written notice to proceed is received from the sponsor, the assessing department shall provide notice of the proposed RIAD to all parcel owners within the proposed RIAD district by regular mail, at least 10 days prior to the RSA board's consideration of the resolution to approve the petition report and recommend a borough match under KPB 14.31.065. The notice shall include the following:
 - 1. A description of the special assessment district and proposed improvement;
 - 2. A map of the proposed improvement;
 - 3. The date of RSA public hearing; and
 - 4. Notice that the legal description of parcels within the proposed district as of the date the RSA board approves the resolution will be used to determine assessments per KPB 14.31.080(C). Any action to replat parcels within the proposed district must be completed and recorded before the date the RSA board approves the resolution.
- K. If any changes are made to the proposed district boundary by the sponsor after the assessing department receives the sponsor's written intent to proceed with the project, the revised district shall be subject to all steps for preclearance and resubmission of the proposed district as provided in KPB 14.31.050. The sponsor will not be required to submit an additional filing fee.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 2011-32, § 18, 9-20-11; Ord. No. 2009-05, § 2, 2-17-09; Ord. No. 2001-05, § 3, 4-3-01; Ord. No. 2000-19-08, § 2, 8-1-00; Ord. No. 99-45, § 1, 9-7-99; Ord. No. 97-32, § 2(part), 1997)

14.31.055. - Road service area match program.

- A. There is established pursuant to KPB 5.20.170 a borough match program for RIAD projects that upgrade existing roads. The RSA board may authorize up to 50 percent of the costs of a RIAD be defrayed from this fund for any project that upgrades existing roads subject to the assembly's annual appropriation to that fund.
- B. A borough match may be considered for the following types of RIAD projects:
 - 1. Pavement projects for existing roads which have been certified for borough maintenance;
 - 2. Pavement or gravel projects for existing roads, which do not meet borough standards in order that the road will be brought to borough standards; and
 - 3. Pavement or gravel projects for existing substandard gravel roads, which have been certified for borough maintenance in order that the road will be brought to borough standards.
- C. The annual deadline application for the match program is July 1 of each year, and must be submitted with the application to form a proposed district.
- D. The RSA board shall consider the following factors in evaluating applications for the match program:
 - 1. Whether it is economically feasible to improve the road to RSA certification standards;
 - 2. To what extent do the assessed values of properties support the scope of work for each project;
 - 3. The number of applications for projects received that year;
 - 4. The funds available in the Road Improvement Assessment District Match Fund;
 - 5. Whether an application for district formation has been previously filed and whether conditions have changed to make the project more feasible than in past application years;

6. The number of residents served;
 7. The number of parcels served;
 8. The feasibility of the project's compliance with KPB 14.31.080 criteria regarding restrictions on formation; and
 9. Whether there is alternate access to properties served by the road and the condition of that alternate access.
- E. The road service area board may adopt procedures by board resolution for implementation of this program consistent with this chapter.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2009-05, § 3, 2-17-09; Ord. No. 2004-11, § 5, 5-18-04; Ord. No. 2002-02, § 1, 2-5-02; Ord. No. 2001-05(S), § 4, 4-3-01)

14.31.060. - Preparation and issuance of petition report.

After the sponsor submits a written notice to proceed under KPB 14.31.050(I), the borough assessor or the assessor's designee, in consultation with RSA staff, will prepare a special assessment district petition report for circulation. The petition report will include the following:

1. A description of the proposed improvement;
2. The estimated roll:
 - a. the total estimated cost of the improvement based on the engineer's estimate and other allowable costs, including a ten percent contingency calculated by the assessing department;
 - b. the name of the record owner of each parcel in the proposed district;
 - c. the tax parcel number of each parcel in the proposed district;
 - d. the legal description of each parcel in the proposed district;
 - e. the assessed valuation of each parcel in the proposed district;
 - f. an estimate of the amount to be assessed to each parcel in the proposed district; and
 - g. whether there are other special assessment liens against any of the parcels in the proposed district; and
 - h. a description of any parcels that violate the restrictions listed in KPB 14.31.080(A).
3. A map of the proposed district;
4. A description of the limitations on withdrawing a petition signature under KPB 14.31.070(E); and
5. The name, address and daytime telephone number of the sponsor of the petition.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 97-32, § 2(part), 1997)

14.31.065 - RSA board resolution to approve the petition report and recommend a borough match.

- A. The assessor or assessor's designee, with the assistance of road service area staff, shall submit to the road service area board the petition report described in KPB 14.31.060 and a recommendation on formation of the district. Borough staff shall prepare for RSA board's consideration a resolution to approve the petition report and recommend a borough match.
- B. The RSA board shall vote on whether to approve the petition report for the proposed RIAD and make a recommendation to the borough assembly regarding formation of the district. The petition will be

distributed to the sponsor for circulation only if the petition report is approved by the road service area board.

- C. When a timely application to participate in the match program has been received, the RSA board shall vote on whether to approve the proposed district for participation in the match program using the criteria set forth in KPB 14.31.055(D). The RSA resolution to approve the petition report and recommend a borough match must include the RSA board's findings with regards to the KPB 14.31.055(D) criteria.

(Ord. No. 2015-13, § 1, 6-16-15)

14.31.070. - Circulation and filing of petition; signature requirements.

- A. After the road service area board approves the RSA resolution to approve the petition report and recommend a borough match, the assessing department shall create the final petition and distribute at least one copy to the sponsor.
- B. The petition must include the petition report approved by the RSA board under KPB 14.31.065 and a signature page with instructions.
- C. Upon receiving a copy of the petition, the sponsor is responsible for distributing the petition to all property owners within the approved boundaries and collecting the signatures of those property owners who support the formation of the RIAD. Completed petition signature page(s) must be filed with the assessing department within 45 days of the date the assessing department distributes the petitions to the sponsor.
- D. In order for the assembly to consider the proposed special assessment district, the petition must contain the signatures of the owners of record of (a) at least 60 percent of the total number of parcels subject to assessment within the proposed district and (b) at least 60 percent in value of the property to be benefited, in order to be considered by the assembly for formation.
 - 1. *Multiple owners.* When a parcel is owned by more than one person or entity, signatures for each owner are required in order for the parcel to count towards the signature thresholds. All signatures shall be consistent with the requirements listed in KPB 14.31.070(D)(2)—(6), as applicable.
 - 2. *Signature by Proxy.* Signatures by proxy will not be accepted by the clerk.
 - 3. *Power of Attorney.* The signature of a power of attorney will only be accepted by the clerk if the signature is accompanied by a copy of the Power of Attorney document providing authority for such signatures.
 - 4. *Business entities.*
 - a. *Corporations.* Where a parcel is owned by the corporation, the petition must be signed by two individuals: one of whom is the chair of the board, the president, or the vice president, and the other of whom is the secretary or treasurer; or by another person or persons who have been given authority via corporate resolution.
 - b. *Limited liability companies.* Where a parcel is owned by a LLC, the petition must be signed by a member if the LLC is member-managed, or by the manager, if a manager has been designated.
 - c. *Other business owners.* Where a parcel is owned by another type of business entity, only those persons who have signatory authority to bind the business entity under Alaska Statutes may sign the petition as owner.
 - 5. *Trusts.* Where a parcel is owned by a trust, only the trustee may sign as the property owner. If there are co-trustees, a majority must sign the petition in order for the parcel to count towards the signature thresholds unless otherwise provided in the trust document. The signature of the trustee(s) will only be accepted by the clerk if it is accompanied by a copy of the trust document.

- 6. *Kenai Peninsula Borough.* The mayor shall be the designee for signing any petition when borough land is part of the proposed district. Where the Kenai Peninsula Borough abstains from participating in the petition signature process, the total number of parcels within the district, for the purpose of calculating the signature thresholds, will be reduced by the number of parcels owned by the borough within the proposed district.
- E. A signature on a petition may be withdrawn only by written notice from the signer submitted to the assessing department prior to the final filing of the petition signatures by the sponsor. A withdrawal is effective only if notice of the withdrawal is submitted before the filing of the completed petition.
- F. The sponsor shall timely submit the petition signatures to the borough assessor, who will provide the complete petition, along with supporting documentation, to the borough clerk. If the borough clerk finds that the petition contains sufficient signatures as described in KPB 14.31.070(D), the borough clerk shall certify the petition and submit the petition to the mayor, who will prepare a resolution to form the district and proceed with the improvement under KPB 14.31.090 for assembly consideration.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 2012-33, § 1, 9-4-12; Ord. No. 97-50, § 1, 1997; Ord. No. 97-32, § 2(part), 1997)

14.31.080. - Restrictions on district formation.

- A. A special assessment district may not be formed if it violates any of the following restrictions:
 - 1. The estimated amount of the assessment to be levied against each parcel in the district may not exceed 21 percent for gravel improvements to an existing road, or 25 percent for paving improvements, or 40 percent for construction of a new road, of the current assessed value of the parcel.
 - A. For the purposes of this restriction, the estimated amount of the assessment against a parcel will be reduced by the amount of a prepayment of the assessment for the parcel that is received by the borough before the assembly acts on the resolution to form the district and proceed with the improvement. If the assembly does not approve the resolution to form the district and proceed with the improvement, the borough will refund the prepayment.
 - B. Any such prepayment must be received no later than the close of business at least 15 days prior to the date the assembly will act on the resolution to form the district and proceed with the improvement.
 - 2. In no case shall a special assessment district be approved by the assembly where properties that will bear more than 10 percent of the estimated costs of the improvement are subject to unpaid, past-due borough property taxes at the time the assembly approves the resolution to form the district and proceed with the improvement.

For the purposes of this restriction, the delinquent tax may be paid before the assembly acts on the resolution to form the district and proceed with the improvement. Any such payment must be received no later than the close of business at least 15 days prior to the date the assembly will act on the resolution to form the district and proceed with the improvement.
 - 3. A special assessment district for the upgrade of an existing road, including paving, may not be formed if unimproved parcels represent more than 40 percent of the total assessed value of real property in the district. A parcel is improved under this subsection if it contains operable water or waste-water disposal systems, or a structure assessed for more than \$5,000.
 - 4. For construction of new roads, a special assessment district may not be formed if one owner owns more than 40 percent of the parcels to be benefited.
- B. The legal description of parcels within the proposed district as of the date of the RSA resolution to approve the petition report and recommend a borough match under KPB 14.31.065 will be used to

determine assessment. No subdivision, reversion of acreage, or lot line adjustment will be recognized for RIAD assessment purposes after the RSA board issues the resolution under KPB 14.31.065.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 2009-05, § 4, 2-17-09; Ord. No. 2001-03, § 2, 4-3-01; Ord. No. 97-50, § 2, 1997; Ord. No. 97-32, § 2(part), 1997)

14.31.090. - Assembly resolution to form district and proceed with improvement.

- A. When the borough clerk has determined that a petition bears sufficient signatures as described in KPB 14.31.070, and the borough assessor has determined that the proposed district complies with KPB 14.31.080, the mayor shall prepare for assembly consideration a resolution to form the special assessment district and proceed with the improvement. The mayor shall submit the following information to the assembly with the resolution:
 - 1. The petition report prepared by borough staff under KPB 14.31.060, updated to account for any change in information;
 - 2. The RSA resolution to approve the petition report and recommend a borough match;
 - 3. A description of the current condition of the rights-of-way that are to be improved and a statement of the need for the proposed local improvement; and
 - 4. The method of financing the improvement; e.g., bonding, borough investment, or a combination.
- B. The assembly shall hold a public hearing on the resolution. The borough clerk shall give notice of the public hearing on the resolution:
 - 1. By certified mail, return receipt requested, mailed not less than 35 days before the date of the hearing, to each record owner of a parcel in the proposed district; and
 - 2. By publication once a week for two consecutive weeks in a newspaper of general circulation in the borough, with the first publication appearing not less than 30 days before the date of the hearing.
- C. Each notice of the public hearing shall include the following:
 - 1. A description of the special assessment district and the proposed improvement;
 - 2. The date of public hearing;
 - 3. The place for reviewing the estimated assessment roll, and
 - 4. The procedure for presenting objections to the formation of the district.
- D. Written comments, including any objections as to the necessity of the formation of the district may be filed with the borough clerk for a period of 30 days after mailing the notice of the public hearing. If written objections to the necessity of the formation of the district are filed by the owners of parcels bearing one-half or more of the estimated cost of the improvement, the assembly may not proceed with the improvement.
- E. After public hearing, the assembly may adopt the resolution to form the district and proceed with the improvement. The resolution shall:
 - 1. Describe the improvement and its location;
 - 2. Describe the parcels benefitted by the improvement;
 - 3. Approve the estimated cost of the improvement;
 - 4. Make a finding that the improvement is necessary and should be made, as required by AS 29.46.020;

5. Identify any parcels within the boundaries excluded from the district, which will not receive the benefit of the improvement and will not be subject to the assessment;
 6. If the mayor signed the petition on behalf of the borough, approve the mayor's action;
 7. Include an estimated assessment roll showing the amount of the assessment against each parcel;
 8. Authorize the mayor to proceed with the construction of the improvement; and
 9. Require the clerk to record in the district recorder's office a copy of the resolution to proceed and the estimated assessment roll.
- F. After passage of the resolution to proceed, the improvement may be constructed by force account or by contract, or in any other manner provided by law.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2000-01, § 1, 2-15-00; Ord. No. 97-32, § 2(part), 1997)

14.31.095. - Ordinance of appropriation.

- A. An ordinance of appropriation shall be scheduled for action at the same assembly meeting as the resolution to form the district and proceed with the improvement. The amount of the appropriation shall be equal to the estimated cost of the improvement presented in the petition report under KPB 14.31.060, including the 10 percent contingency calculated by the assessing department.
- B. In the event that the lowest, responsive, responsible, qualified bid exceeds the appropriation, then no contract shall be entered without further assembly approval.

Prior to such further approval, the borough clerk shall by regular mail, at least 10 days before the public hearing on the matter, notify affected property owners of the time and place when they may testify before the assembly.

(Ord. No. [2015-13](#), § 1, 6-16-15)

14.31.100. - Ordinance levying assessments.

- A. After the actual cost of an improvement authorized under KPB 14.31.090 has been ascertained, the mayor shall prepare and submit to the assembly an assessment roll containing a description of the parcels in the special assessment district, the names of their record owners, and the amounts of the assessments. The assessment roll shall be submitted with an ordinance confirming the assessment roll and levying the assessments. The ordinance shall fix the times for payment of the assessments, the rate of interest on unpaid installments, and the penalty and rate of interest on delinquent installments. The assessment roll shall be filed with the borough clerk at the time of the introduction of the ordinance and shall be open to public inspection.
- B. The borough clerk shall give notice of the public hearing on the ordinance:
 1. By regular mail mailed not less than 10 days before the date of the hearing to each record owner of a parcel in the district; and
 2. By publication as required by KPB 22.40.010(D).
- C. The notice mailed to each record owner in the district shall state that the assessment roll is on file in the office of the borough clerk and is available for public inspection, the time and place for the hearing of objections to an assessment, and the amount of the assessment to be levied against the parcel.
- D. After the public hearing on the ordinance, the assembly shall correct any errors or inequalities in the assessment roll, and confirm the corrected roll by adoption of the ordinance.

(Ord. No. [2015-26](#), § 2, 12-8-15; Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 97-32, § 2(part), 1997)

14.31.110. - Costs assessed.

The assembly shall assess against the benefitted parcels any costs of the improvement that are allowable under AS 29.46.110, including without limitation costs of land acquisition necessary for the improvement, design, engineering, administrative costs, professional services, financing costs and interest; provided that the assessment allocated to a parcel shall be reduced by the amount of any prepayment for that parcel under KPB 14.31.080. Before the costs are allocated to the benefitted parcels under KPB 14.31.120, the amount of the approved borough match will be subtracted from the total cost of the improvement.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2001-05(S), § 5, 4-3-01; Ord. No. 97-32, § 2(part), 1997)

14.31.120. - Methods of assessment.

The method of assessment shall be an allocation of costs on a per parcel basis so that each benefitted parcel is charged an equal amount.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2000-01, § 2, 2-15-00; Ord. No. 97-32, § 2(part), 1997)

14.31.130. - Notice of assessment.

- A. Within 15 days after the adoption of an ordinance levying an assessment under KPB 14.31.110, the finance director shall mail an assessment statement to the record owner of each assessed parcel. The statement shall describe the parcel, state the date of mailing of the statement, the amount of the total allocated assessment, the assessment lien amount, the times for payment of the assessment, the rate of interest on unpaid installments, the penalty and rate of interest on delinquent installments, and notice of the deferral of principal option described in KPB 14.31.145. The statement shall include notice that it is the final determination of the assessment and that the property owner has 30 days from the date of mailing of the notice to appeal the assessment to the superior court.
- B. Within five days after the assessment statements are mailed, the finance director shall publish a notice that such assessments have been mailed and that the assessment roll is on file in the office of the borough clerk.
- C. After adoption of an ordinance levying a special assessment under KPB 14.31.110, the borough clerk shall file in the office of the district recorder an appropriate notice of assessment lien on all assessed parcels.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 97-32, § 2(part), 1997)

14.31.140. - Special assessment financing.

- A. Special assessment bonds. The borough may, by ordinance, authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of bonds so issued shall be payable solely from the levy of special assessments against the property to be benefitted. The assessment shall constitute a sinking fund for the payment of principal and interest on the bonds. Interest on funds borrowed to finance the improvement prior to the sale of special assessment bonds shall be a cost of the assessment district.

- B. Borough Investment Funds. In conformance with KPB Chapter 5.10 on investment of borough funds, the assembly may authorize investment of borough moneys in special assessment districts to pay all or part of the cost of an improvement at an interest rate determined by the assembly. In all such cases, the properties benefitted shall stand as security for payment of the cost of improvements.

(Ord. No. 97-32, § 2(part), 1997)

14.31.145. - Deferral of payment of principal.

- A. The principal of the special assessment lien on real property owned and occupied as the primary residence and permanent place of abode by a resident who is economically disadvantaged may be deferred as provided in this section. The deferral of payment on the principal of the special assessment lien means that such payment will be postponed, but not forgiven.
- B. For purposes of this section, a resident is economically disadvantaged if the person's adjusted gross income is less than 200 percent of the current U.S. Health and Human Services Poverty Guidelines for Alaska.
- C. Interest will continue to accrue on the assessment during the period of deferral.
- D. Property owners wishing to seek a deferral of the assessment must submit a form prescribed by the finance director or designee no later than February 1 of each calendar year to certify that the conditions described in this section continue to exist.
- E. Deferral is for the principal balance only. Individuals who qualify for the deferral must pay the accrued interest by the due date each year.
- F. The deferred assessment, including all unpaid accrued interest, becomes due and payable in full when the property ceases to be owned or occupied by the resident who qualified for the deferral. Any remaining balance due shall be paid on the same schedule as would have been in place if no deferral had applied.
- G. If the resident who previously qualified for the deferral no longer qualifies, but continues to own and occupy the property, then payments on the principal will resume, starting with the next payment due.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 2010-25, § 1, 7-6-10)

14.31.150. - Reassessment.

When it appears to the assembly that a special assessment is invalid or when an assessment is adjudged to be illegal by a court, the assembly shall order a reassessment whether the improvement has been made or not. Proceedings for a reassessment and for the collection thereof, shall be conducted in the same manner as provided for the original assessment.

(Ord. No. 97-32, § 2(part), 1997)

14.31.160. - Definitions.

"Application" means the form provided by the borough assessing department and completed by the district sponsor to initiate the process of proposing a special assessment district.

"Benefit" means an advantage gained from the improvement greater than that shared by the general public under this ordinance. Improved access is one way of ascertaining that a parcel is benefitted.

"Deferral of payment" means that payment is postponed or suspended until a certain time or event.

"Directly benefitted" means a property that is abutting, adjoining, adjacent or contiguous to the proposed improvement.

"District" or "special assessment district" means an area composed of individual parcels of land that are directly benefitted by the public improvement for which the special assessment is to be levied.

"Estimated assessment roll" means a spreadsheet which includes the name of each recorded owner, tax parcel number, assessed value and legal description of the parcels which will be specially benefited by the proposed improvement and the estimated amount of the cost and expense thereof to be borne by each parcel.

"Improved parcel" means a parcel that contains an operable water or wastewater disposal system, or a structure assessed for more than \$5,000.

"Petition" means the formal written request signed by parcel owners within the proposed boundaries to form the road improvement assessment district.

"Petition report" means the document created by the assessing department, for the RSA board's review, which contains all pertinent information regarding the proposed district and special assessment project.

"Sponsor" means the person who initiates the process proposing a special assessment district and coordinates the project on behalf of the property owners of the proposed district.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 2009-05, § 5, 2-17-09; Ord. No. 2004-11, § 6, 5-18-04)



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Memorandum

TO: Mayor Wythe and Homer City Council
FROM: Katie Koester, City Manager
DATE: July 20, 2016
SUBJECT: July 25 City Manager's Report

Animal Control Contract Advertised

The contract for Animal Control is up for renewal in December of 2016. The City will be issuing a request for proposals this week. The Animal Control Sustainability Committee spent a great deal of time updating City Code (changes to Title 20 before you today) and made useful suggestions on updates to the contract to be more reflective of current standards and practices. The RFP will be open for a full 7 weeks in an effort to give prospective contractors plenty of time to respond.

ICMA Conference in September

I will be missing the September 26 Council meeting as I will be attending the International City Manager Association conference in Kansas City, Missouri. I am very excited about so many workshops that pertain directly to City Manager responsibilities, development in small communities, and the Council-manager relationship. I really appreciate Council's support of my professional development. I applied for and received a Workplace Diversity scholarship that will cover much of the conference and travel expenses (about \$2,200 value).

What is Next with Harbor Rates?

Resolution 16-055, amending the harbor tariff failed at introduction and its companion, Resolution 15-054 amending the fee schedule to implement a graduated rate, was postponed until the second meeting in September, leaving many to question what is next. I appreciate all the Councilmembers and public who have met with me and expressed a desire to tackle this issue and build on the work of the Port and Harbor Commission. There is approximately \$8,000 left in the budget for moorage rate consultant services. Given the complexity of the issue, I suggest an extended work session with Northern Economics to help explain how the Port and Harbor Commission got to their recommendation, alternatives and compromises, and answer any questions Council may have. With elections in October and the potential for 2 new councilmembers and a new Mayor, the timing is awkward. I propose postponing Resolution 15-054 until the second meeting in October and scheduling an extended worksession on Monday October 17th with Northern Economics. Does that work for Council? Please submit any specific questions you have on harbor rates to so we can make the best use of Council's time and maximize time with the consultant.

How Useful are Monthly Stats?

Council should be receiving monthly statistical reports in their box (see attached March 2016 example). These stats cover items like animals reported lost at the shelter, number of packets distributed by the Clerk's office, Fire and EMS calls, number of arrests, volunteer hours at the Library, work orders process at Public Works, and wait list requests at the Homer Harbor (just to name a few, there is a great deal of information in the reports). While this information is interesting, I wonder how useful you find it. Most of the information is collected by the departments regardless of whether or not it is provided to Council, however it is an extra step to report it to the City Manager's office and my staff can spend a great deal of time hunting down and compiling statistics. How useful does Council find the statistics? Are there suggestions on how to present the information in a more useful way? Should we consolidate our energy in a single comprehensive annual report?

Status of Borough's Property and Sales Tax Code Revisions

The borough assembly has approved an ordinance to ask the voters to raise the maximum sales tax transaction to \$1,000, effective Jan. 1, 2017, and to eliminate sales tax on residential rent. Look for this on the October municipal ballot (October 4). The Assembly is scheduled at its July 26 meeting to vote on whether to put the senior citizen property tax exemption ordinance before voters Oct. 4. The ordinance would reduce, over several years, the optional (second) \$150,000 exemption in borough code. A third ordinance, dealing with other property tax issues (no voter approval required), will be introduced at the July 26 assembly meeting. Public hearings will be Aug. 9 and 23. The ordinance contains mostly procedural issues, but also amends code so that no one can get a residency-based property tax exemption if they have applied for or received a similar residency-based exemption outside of the borough in the same year. And it requires taxable personal property owners to notify the borough of sales, including the name and address of the new owner, so that the assessor can maintain an accurate list for assessments and tax billings. This Ordinance will have little impact for Homer.

Of greater interest to the City of Homer, is an ordinance dealing with all-things-sales-tax that is scheduled for introduction Aug. 9. This is the one that scales back which businesses can sell non-prepared foods as tax-exempt, amends code to require sales tax on flightseeing rides, says sales by a nonprofit ongoing business are subject to sales tax, and seeks to expand (as much as legally possible) the taxation of goods ordered and delivered into the borough. Per the direction given in the Revenue Worksessions, I will be drafting a resolution in support of many of these items for consideration at the next Council meeting (August 8).

Alaska Public Library Assistance Grant Agreement FY2017

The Library has received a grant from the Alaska State Library for \$6,900 for purchasing materials and staff training. This is a routine grant that the Library receives every year. In the past, it has been accepted and appropriated by ordinance. However, during the 2016 budget Council gave the City Manager the authority to accept and appropriate grants under \$25,000. I will report any small grant we receive to Council in the City Manager's report.

Enc:

March monthly statistical report

Alaska State Library grant agreement