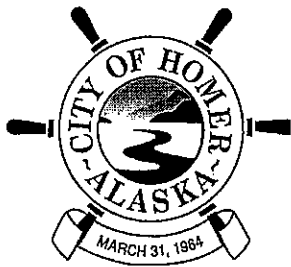


84 YES:
85 NO:
86 ABSTAIN:
87 ABSENT:
88
89
90 First Reading:
91 Public Hearing:
92 Second Reading:
93 Effective Date:
94
95
96
97 Reviewed and approved as to form:
98
99
100 _____
101 Walt E. Wrede, City Manager
102
103
104 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

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



City of Homer Planning & Zoning

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MEMORANDUM 11-068

TO: MAYOR HORNADAY AND HOMER CITY COUNCIL
WALT WREDE, CITY MANAGER
FROM: RICK ABOUD, CITY PLANNER
DATE: May 3, 2011
SUBJECT: Ordinance 11-17, Amending the 2008 Homer Comprehensive Plan to
Incorporate the Homer Spit Plan.

After several public workshops and extensive review and public hearings held by the Homer Advisory Planning Commission the Homer Spit Plan is now ready to be incorporated into the 2008 Homer Comprehensive Plan.

The plan has incorporated many public comments and concerns. 5 public workshops/meeting were conducted. The plan was reviewed at various stages at 18 regular Homer Advisory Planning Commission Meetings in addition to 2 Port and Harbor Commission meetings.

Starting in the summer of 2009, the City Planning Office worked with USKH to create the plan. After gathering information, conducting a parking study, and holding public workshops, a framework Plan was developed and a draft plan was created. Written comments on the draft plan were solicited for over 30 days. After reviewing comments and holding a Public Hearing to provide the opportunity for public testimony, the Planning Commission conducted an extensive line-by-line review of the plan. Once the Planning Commission revisions were completed, additional public hearings were held and the final draft was completed. A history of the plan Along with an extensive list of public comments can be found on the web at <http://www.homerspitfutureplan.com/index.html>.

The final draft is available for public review at several locations. Copies of the plan may be found on the Planning Page of the City web site, the Public Library, the Port Office, and at City Hall.

Recommendation:

The Homer Advisory Planning Commission recommends that the Homer City Council hold public hearings and forward the Homer Spit Plan to the Kenai Peninsula Borough for incorporation into the 2008 Homer Comprehensive Plan.

Attachments:

Draft Ordinance 11-XX
Spit Comprehensive Plan
Staff Reports
Minutes
Public Comments

HOMER SPIT

COMPREHENSIVE PLAN



City of Homer, Alaska
FINAL DRAFT

April 20, 2011

USKH

Acknowledgements

A special thank you to everyone at the City of Homer for their support and assistance with this planning effort:

Mayor
James Hornaday

City Manager
Walt Wrede

City Council
Kevin Hogan
Barbara Howard
David Lewis
Francie Roberts
Beth Wythe
Bryan Zak

Planning Commission
Sharon Minsch, Chair

Tom Bos
Gretchen Druhot
Roberta Highland
Kent Haina
Ray Kranich
Jeff Sinn
Franco Venuti

City Planner
Rick Abboud

Public Works Director
Carey S. Meyer

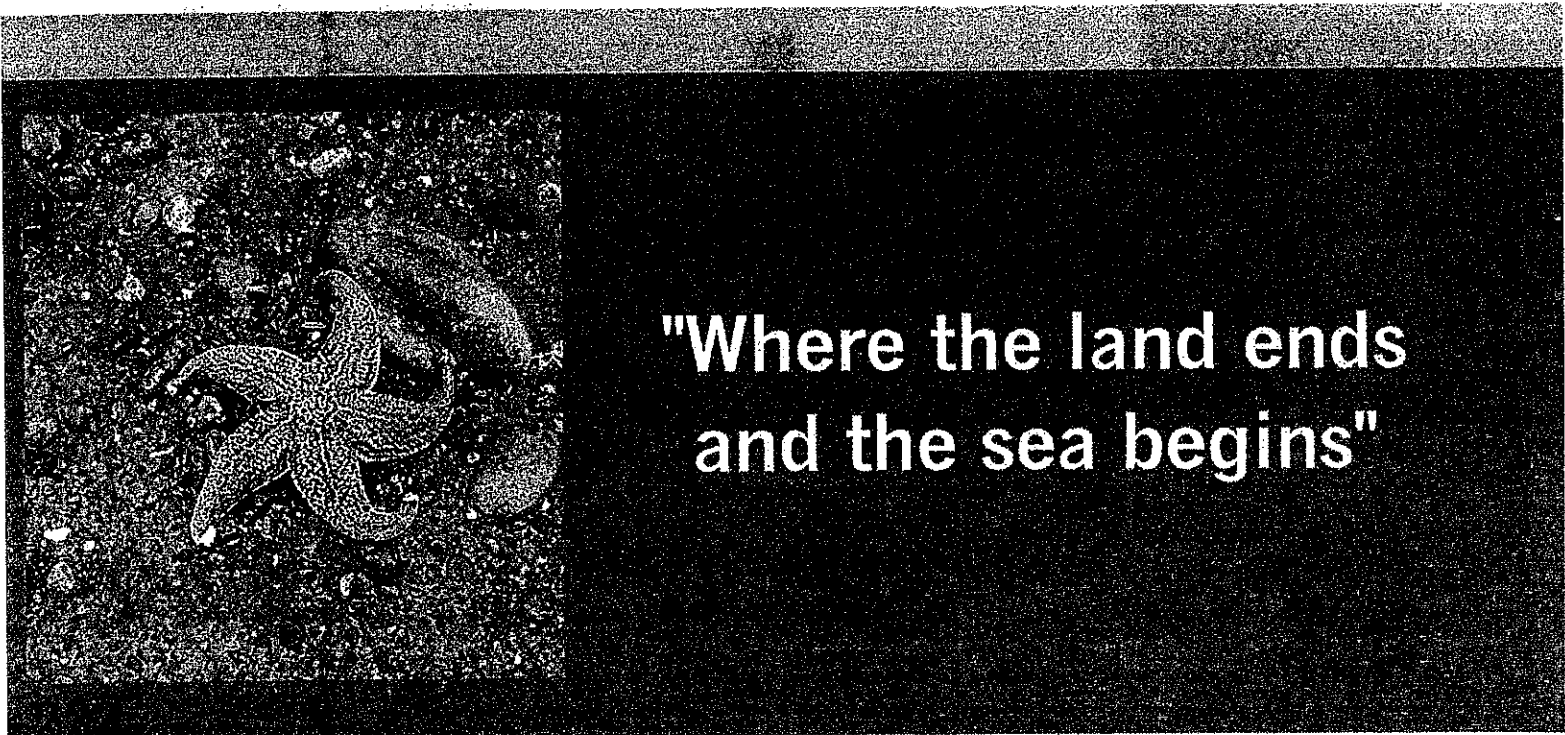
Port Director/Harbormaster
Bryan Hawkins

Planning Technician-GIS
Julie Engebretsen

**Planning Technician-
Code Compliance**
Dotti Harness

Administrative Assistant
Shelly Rosencrans

We also would like to acknowledge all of the many interested community members who attended public meetings and provided email input to the planning project.



"Where the land ends
and the sea begins"

HOMER SPIT

COMPREHENSIVE PLAN



City of Homer, Alaska

FINAL DRAFT

April 20, 2011

Table of Contents

Chapter 1. Introduction / page 1

Chapter 2. Background Data & Existing Conditions / page 5

Chapter 3. Vision 2030 / page 20

Chapter 4. Implementation / page 33

Maps

Map 1. South Spit Landmarks / page 7

Map 2. North Spit Landmarks / page 8

Map 3. Current Land Ownership / page 43

Map 4. Future Land Use Concept / page 44

Map 5. Future Land Use Concept, Inset / page 45

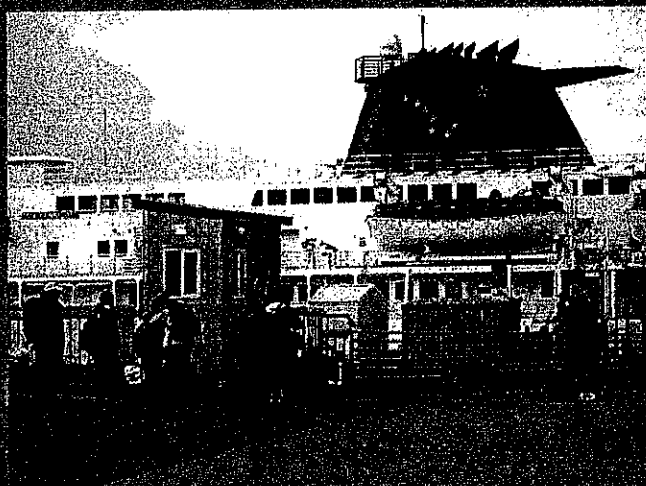
Map 6. Future Parking Concept / page 46

USKH

Homer Spit

Comprehensive Plan Goal:

Wise land management of the Spit and its resources to accommodate natural processes, while allowing fishing, tourism, other marine related development, and open space/recreational uses





1. Introduction

The Homer Spit is an intriguing natural phenomenon. It is one of the longest occupied natural sand spits in the world, extending southeast from the City of Homer, approximately 4.5 miles into Kachemak Bay. The Spit is a natural, dynamic system, which is constantly being shaped by deposition and erosion of sediments. The Spit is sensitive to changes in the natural environment and to human activities, both on the Spit itself and in the uplands of the mainland.

The Homer Spit is a lot of things to a lot of different and diverse groups of people. The Spit is unusual in that so much of it is owned by the City of Homer. The Spit was the site of the town's first settlement and survived the 1964 Good Friday earthquake. In more recent times, it has emerged as the centerpiece for Homer's tourism industry. It is a working port and harbor, a wildlife refuge, a place for outdoor recreation, and a place for employment and business. An economic engine for the region, it is the center of Homer's thriving

**"The beauty of the whole scene:
boats, birds, a place to go walking.
Access to boating and the ferry.
This is our greatest treasure; let's
not mess it up."**

~ Workshop participant

fishing industry and has become one of Alaska's most popular tourism destinations.

As one enters the City from the north and experiences the view of Kachemak Bay, the surrounding mountains and glaciers, the focus of attention is naturally drawn to the Spit as a place to investigate. This update of the City of Homer Spit Comprehensive Plan is similar to that view, focusing attention on current issues, defining a vision, and setting a course of action for the future.

The Homer Spit Comprehensive Plan was excluded from the overall city comprehensive plan update, which began in 2006. It was determined the Spit was such an important community feature it deserved and required



The Spit in the winter features some open businesses and an active harbor, but many shops are closed and boarded up.

its own planning effort. Some of the issues identified by the City to address in the plan include:

- Increasing traffic congestion
- Parking
- New demands for public services
- Future land use, zoning, and development
- Encouraging economic development without compromising the unique character of the Spit

Future comprehensive planning efforts should integrate the Spit with the rest of the community, rather than separating these geographic areas into different planning documents.

Purpose of the Plan

The Comprehensive Plan describes existing conditions and defines a preferred future development plan. The Plan recommends public improvements for this unique and special place and addresses future land use and zoning, parking, pedestrian issues and conservation. The Plan will serve to guide the Planning Commission, the City Council, and other community leaders and businesses as they make decisions related to the Spit over the next 20 years.

The Planning Process

The planning process began in April 2009 with a contract for professional services. The planning process has included ongoing public involvement opportunities, including to date five public

planning workshops, as well as ongoing input, work sessions, and discussion with the Planning Commission.

A project website was established from the project outset to provide information to interested persons. The website, www.homerspitfutureplan.com, provided meeting notices, summaries of community meetings, and draft documents. It also provided an email feedback function that a number of people used to provide comments.

In August 2009 public involvement workshops were held to introduce the project and identify community concerns, issues, and opportunities.

In September a second round of workshops were held, which were well attended by interested citizens, property owners, and business owners. Back-to-back workshops on September 10, 2009, included opportunities to comment on maps, a presentation about the planning process, and comments/suggestions from participants.

In October 2010, a final open house took place following the release of a public review draft plan. Participants discussed the draft plan, its recommendations, and provided comments.



Expansive tidal flats attract numerous shorebirds.

“Recognize the unique bird habitat of the Spit.”

~ Workshop participant



Citizens cover a wall with notes expressing their opinions and concerns at a public planning workshop.

In addition to public meeting input, a number of people submitted comments through the project website. These comments and ideas were used as a basis for planning recommendations, and representative quotations are included throughout this report.

After the initial phase of public input, a number of major themes and issues emerged from the public comments:

- A desire to make the Spit a better, year-round destination for locals and visitors alike.
- The Spit has great potential for economic/ industrial development and the creation of year-round, family sustaining jobs. Tourism development should not compromise this potential and land should be designated for industrial-type development. A balanced mix of tourism and maritime industry is needed.
- The need for improved transportation alternatives, including bicycles, pedestrians and shuttle buses.
- The recognition of the unique coastal bird habitat and sea mammal environment.
- Improve access, condition, and amenities of existing parks and open places and consider adding more parks, open space, a kayak launch, fishing dock, and a community central gathering place.
- Parking is a major issue.

“The Spit is really Alaska's jewel and should be a place for everyone.”

~ Workshop participant

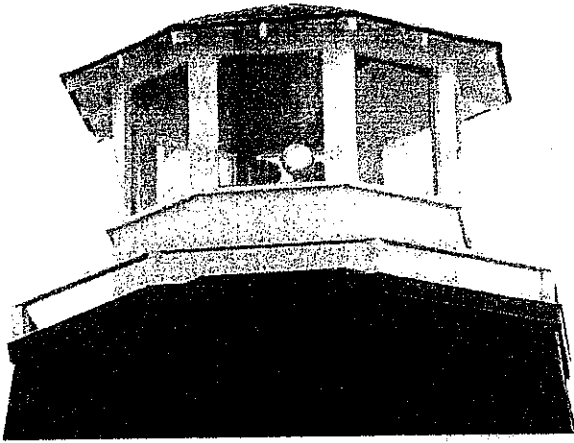
- Concern about future residential developments.
- Reduce pedestrian/vehicle conflicts.
- There is a desire for more overslope development (boardwalk of shops, restaurants, and services, etc.).
- Great opportunities for public art.
- Consider zoning that is unique to the Spit.

Over the fall, additional discussions, input, and research were completed and a “framework document” was released in January 2010 as a focal point for community discussion and to solicit additional direction from City Planning staff, the Planning Commission, and the Port and Harbor Advisory Commission. Additional public comments were received including:

- Recognize the importance of shorebird habitat for birds and the economic value for Homer.
- Adopt design standards for new construction, and to screen industrial activities.



Residents marked up maps highlighting site-specific concerns, ideas, and needs associated with the project.



The lighthouse tower of the Salty Dawg is a famous Spit landmark.

“There is an “old” attitude of industrial vs. tourism vs. commercial fishing on the Spit, and in reality all three are important. They each bring value and demonstrate we are an active, viable port—not just the end of the road.”

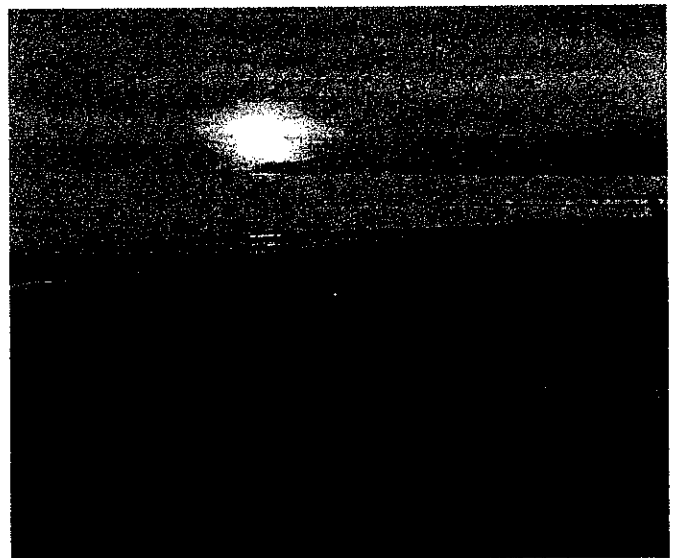
~ Workshop participant

- Create a viewing platform to observe the fish dock.
- Recognize the value of beach rye grass and encourage retention along the edge of the harbor and along parking areas and roads to help control dust and storm water erosion (rather than planting more formal landscaped areas).
- Continue to implement clean harbor operations to reduce harbor pollution.
- Keep the open space character and viewsheds of the Spit.
- Reduce the need for a conditional use permit for customary activities along Fish Dock Road. Allow maintenance, security, and crew quarters area-wide on the Spit.
- Make improvements to the Deep Water Dock area using cruise ship tax revenue to serve tourists (restrooms, guard shack, covered waiting area, etc.).

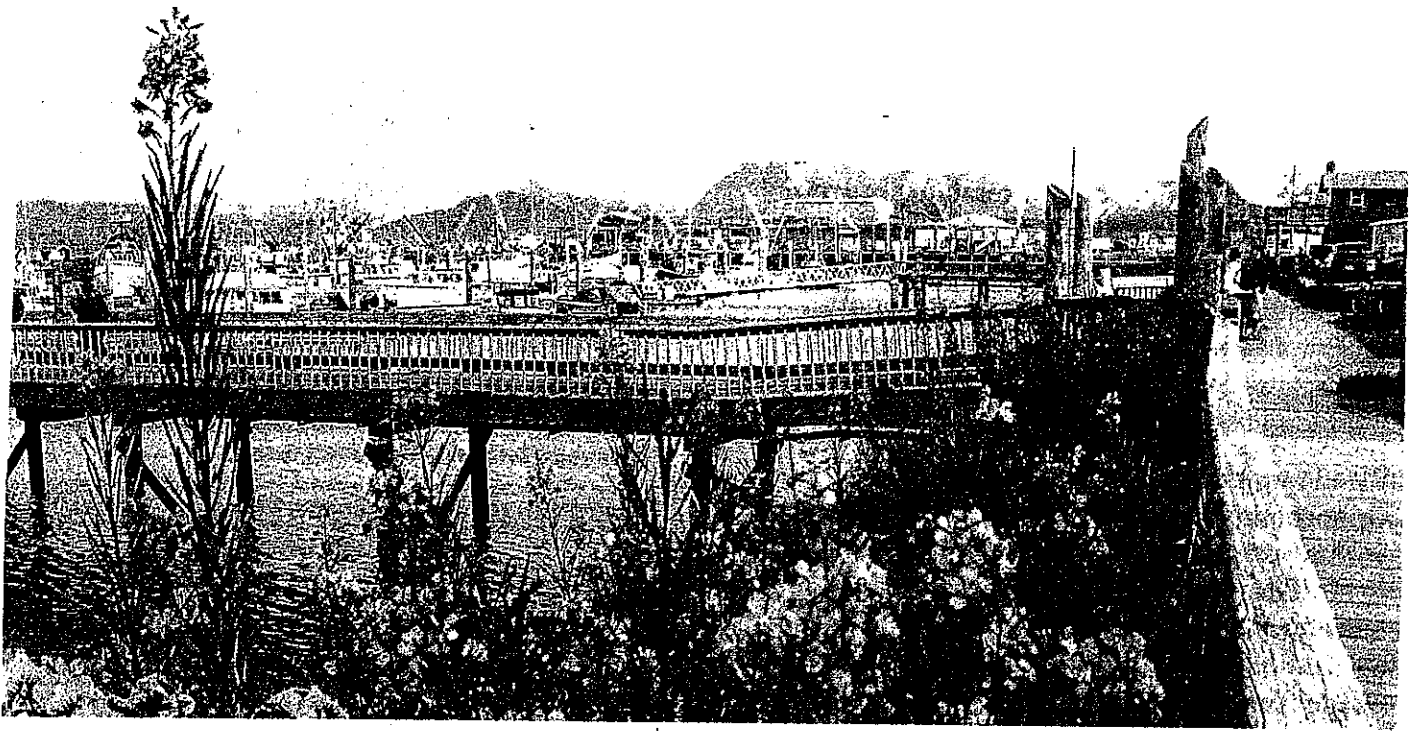
In terms of the overall planning process, the Spit Comprehensive Plan has followed a progression of research, community participation, study, and brainstorming. Listed below are the major steps that lead to a Final Plan for formal adoption as an element of the Homer Comprehensive Plan:

- Gather Information
- Research and Analysis
- Community Involvement
- Parking Study
- Future Development Concepts
- Framework Plan
- Community Review / City of Homer Planning Staff and Planning Commission Revisions
- Draft Comprehensive Plan
- Community Involvement and Revisions
- Planning Commission Review
- Final Plan

The Homer Spit Comprehensive Plan will be the end product of this planning progression, and will strongly reflect input from citizens, the Spit business community, the Planning Commission, and City staff.



Residents value the Spit’s open space character and viewsheds.



2. Background Data & Existing Conditions

The Homer Economy

The economy of Homer and the surrounding region is based upon commercial fishing, government, services, and tourism. The area has grown and prospered in recent years due to growth of these sectors. The Homer Spit is a major contributor to the regional economy as a hub for the commercial fishing industry and as one of Alaska's premier tourism destinations.

The recently adopted 2008 Homer Comprehensive Plan addressed the community's economy, as summarized below:

- Homer needs room to grow, in a way that respects the community's character as well as addresses concerns such as sprawl and climate change. The plan should designate locations and patterns for new growth, with consideration of needs like expanded water and sewer service.
- Tourism is likely to stay strong and grow.

"Wouldn't it be great to upgrade our Coney Island image? We would definitely have the ability to have higher lease rates."

~ Workshop participant

- The natural environment is important to Homer's economy and way of life. The community clearly desires to maintain the natural environment. New strategies will be needed to protect this environment as the community grows – particularly regarding drainage, erosion, and open space.
- Homer has a diverse, vibrant economy that builds from the community's strengths and character. The community will need to work to enhance and preserve economic opportunity.
- Lastly, it is likely these trends will continue, and Homer will face new forms of challenges and opportunities tied to growth.

Land Use

A variety of land uses have evolved over time on the Homer Spit and created a unique sense of place. Uses include marine-related industrial and commercial, including fishing and fish processing, the harbor and harbor related business, the marine highway terminal, port facilities, fuel storage, retail, lodging, camping, parking, and recreational, conservation, and public land uses.

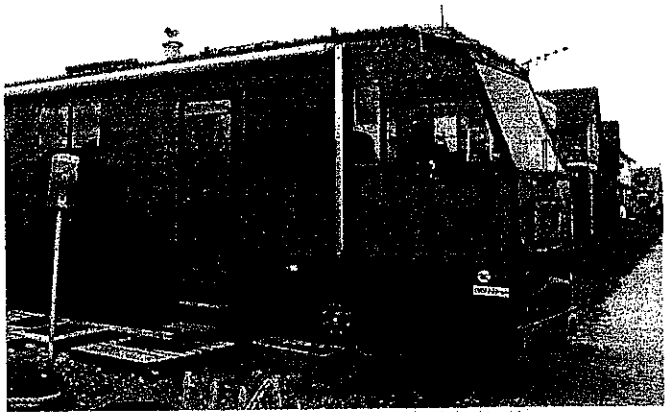
RV and tent camping is a major land use. Opportunities include tent camping on the beach with several public and private campgrounds. In the last decade, new residential condominium units have been developed near the end of the Spit. Combined with a hotel resort, and seasonal worker's makeshift lodgings squeezed into the commercial district, residential is a small but very visible land use on the Spit.

A map showing major Spit landmarks is provided on pages 7-8. The table and pie chart at right show the approximate distribution of land uses on the Homer Spit by major category. Note that while many tidal lands making up portions of parcels within the acreage may be unusable for development, such lands are valuable for many conservation and economic purposes including tourism, fishing, clamming and recreational activities. A generalized land ownership map for the Spit is provided on page 43.

The City of Homer's existing zoning code currently has four designations that apply to the Homer Spit. These are Marine Commercial (MC), Marine Industrial (MI), Open Space-Recreational (OSR), and Conservation (CO). Current codes and a zoning map are available on the City's website.

"We need to keep some of this [city land] as parking but we also need to get the property leased and get some new harbor businesses going."

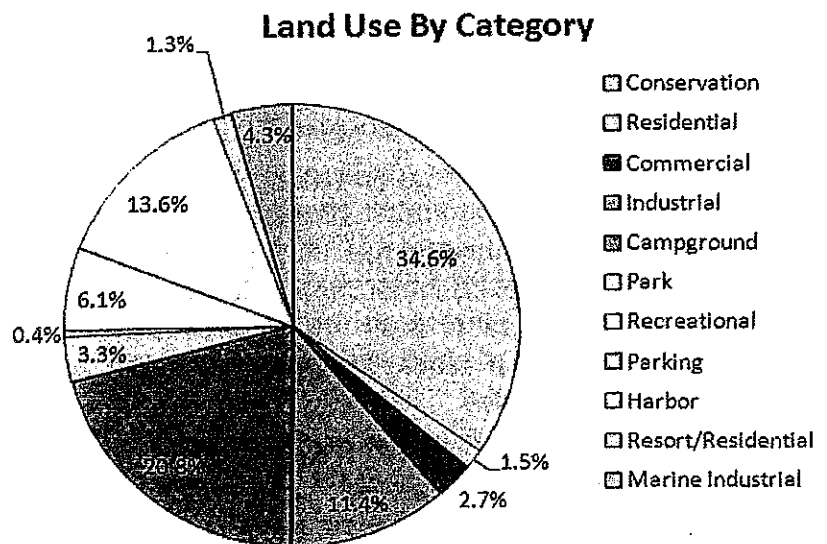
~ Workshop participant



Seasonal worker's residence on the Spit.

#	Usage	Approximate Acreage ¹	Percentage
0	Conservation	≈ 189.7	34.6%
1	Residential	≈ 8.19	1.5%
2	Commercial	≈ 14.67	2.7%
3	Industrial	≈ 62.64	11.4%
4	Campground	≈ 114.14	20.8%
5	Park	≈ 18.26	3.3%
6	Recreational	≈ 2.18	0.4%
7	Parking	≈ 33.34	6.1%
8	Harbor	≈ 74.31	13.6%
9	Resort/ Residential	≈ 7.25	1.3%
10	Marine Industrial	≈ 23.35	4.3%
TOTAL:		≈ 548.03	100%

¹ Acreage includes tidal lands



Map 1: South Spit Landmarks

Symbol Legend

- Public Park
- 🧑🧑 Public Restroom

Barge Basin

Kevin Bell
Ice Arena

Pier 1 Theater

Nick Dudiak
Fishing Lagoon

Dredge Piles

Boat Launch Ramp

PORT OF HOMER
DEEP WATER DOCK

Deepwater Dock:
Freight Shipping
Cruise Ship Arrival

Coal Point
Commercial District
Harbormaster's

Salty Dawg Saloon

Coal Point Park

Seafarer's Memorial

Dredge De-Watering
Site (seasonal)

End of the Road Park

Fish Dock
Ice Plant &
Processing

Fuel
tanks

Land
End

Pioneer Dock:
Alaska Marine Highway
U.S. Coastguard

Map 2: North Spit Landmarks

Mariner Lagoon

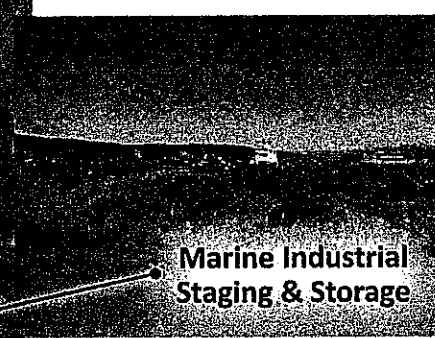
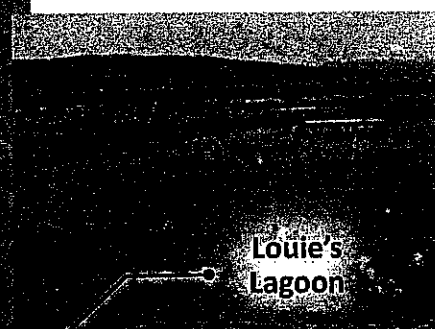
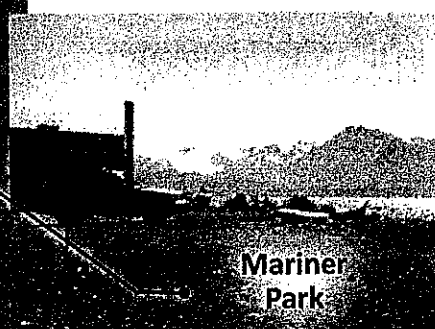
Mud Bay

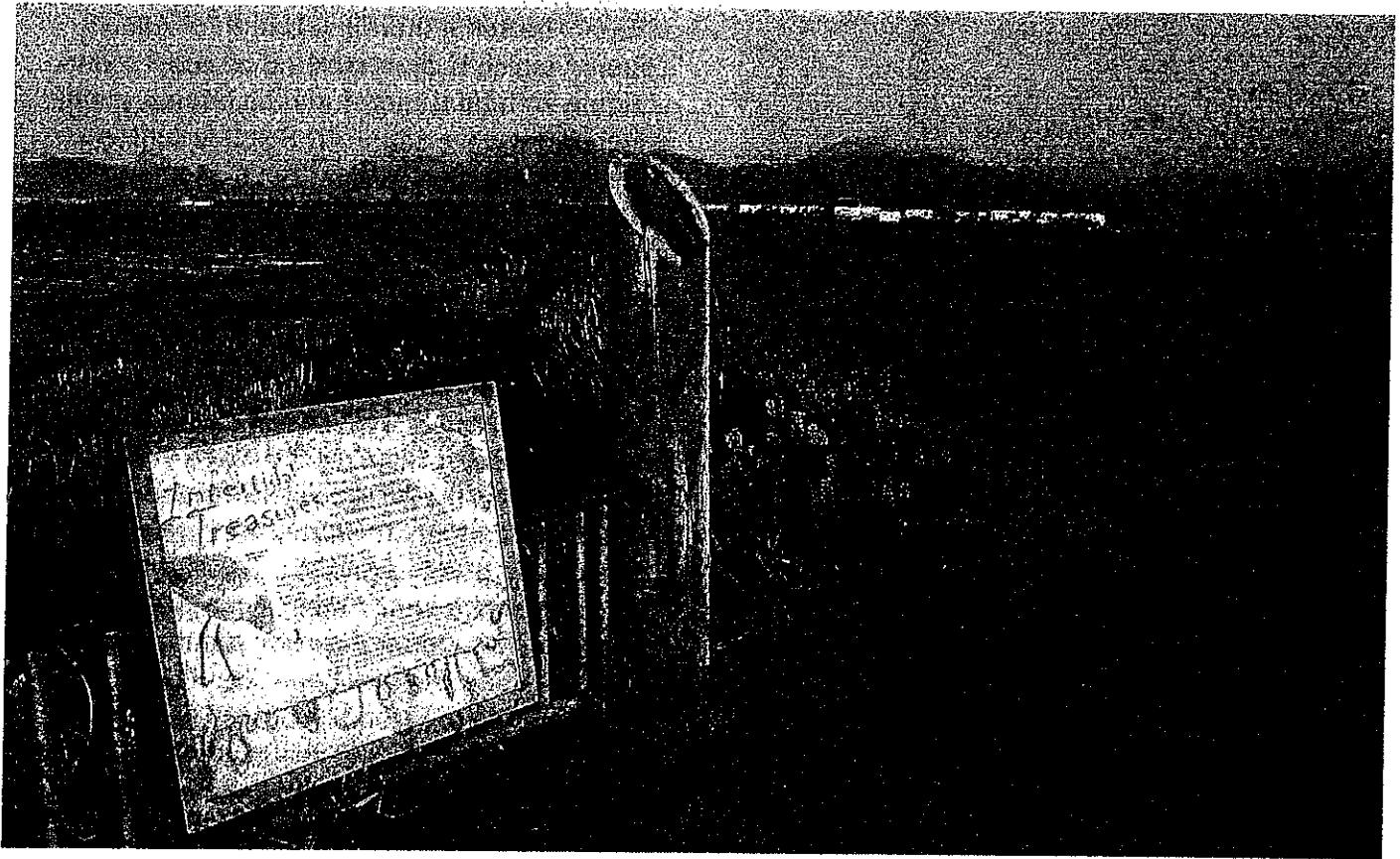
Symbol Legend

- Public Park
- 🧑🧑 Public Restroom

Wildlife Viewing
& Parking Spot

Wildlife Viewing
& Parking Spot





An interpretive sign guides birdwatchers along the Spit bike and walking path.

Natural Environment

The coastal area of the Spit is a marine and tidal environment, attracting numerous shorebirds and marine animals. The Spit is a nationally recognized birding area, and has international recognition due to the number of birds that pass through the area during annual migrations.

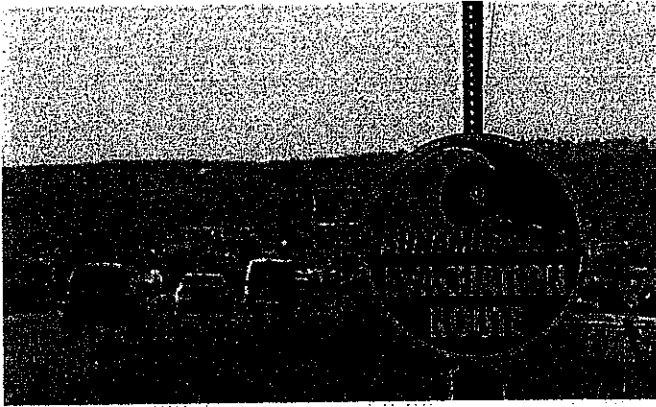
The Mud Bay and Mariner Lagoon areas are part of the Western Shorebird Reserve Network (WSRN). With a tidal range greater than 28 feet, Kachemak Bay has expansive tidal flats and provides a rich shore environment for wildlife. Kachemak Bay is also a State of Alaska designated Critical Habitat Area, which was supported by Alaskans statewide.

Much of the Spit's upland environment has been altered over time. The Spit was severely impacted by the 1964 earthquake as the elevation dropped significantly, although some

of that displacement has rebounded over time. Material from the subsequent excavation of the existing boat harbor and annual dredging was used to fill the Spit and raise the elevation of some of the land to the present level.

Tsunami Hazard

Kachemak Bay is situated in an active seismic area of Alaska. A tsunami analysis entitled "*Tsunami Hazard Maps of The Homer and Seldovia Areas, Alaska*" was published by the State of Alaska Department of Natural Resources, Division of Geological & Geophysical Surveys, in 2005. This report considered two earthquake scenarios and estimated tsunami inundation for Homer and Seldovia. It did not model the inundation by waves that might be generated by local submarine or underwater landslides, or the inundation from a debris avalanche generated by eruption of nearby Augustine Volcano.



Signs designate the Tsunami Evacuation Route.

The summary of the study concludes *"neither of the modeled scenarios results in inundation of the entire Homer Spit. However, it is important to note that the Border Ranges fault scenario results in flooding of a portion of the Spit and the road for a distance of approximately 0.3 mi (0.5 km) near the head of the Spit. Because this flooding may occur repeatedly during a tsunami, it is possible that the road may be washed out, cutting off the evacuation route from the Spit. Even though our numerical modeling does not show inundation of the entire spit for the scenarios we used, we recommend that evacuation of the Spit be a mandatory part of any tsunami evacuation plan."*

The report ends with the statement *"because of the uncertainties inherent in this type of modeling, these results are not intended for land-use regulation."* Thus, common sense must prevail in developing plans for the Homer Spit. Tsunami warning sirens and evacuation signs are currently in place and consideration should be given to provide additional warning siren locations and evacuation plans. Signage may also be added at public locations to educate the public about tsunamis and what the sirens mean.

Flood Hazard

In 2003, the City of Homer joined the National Flood Prevention Program and adopted regulations for development in flood zones. In general, the Federal Insurance Rate Maps identify the Spit as a Coastal High Hazard

Area. The Spit's shoreline is in the "Velocity Zone," which is characterized by coastal wave action with tidal surges and high energy, wind-generated wave action. The Spit is subject to constant coastal erosion. Much of Homer Spit Road is protected by large rock rip rap to absorb erosive wave energy.

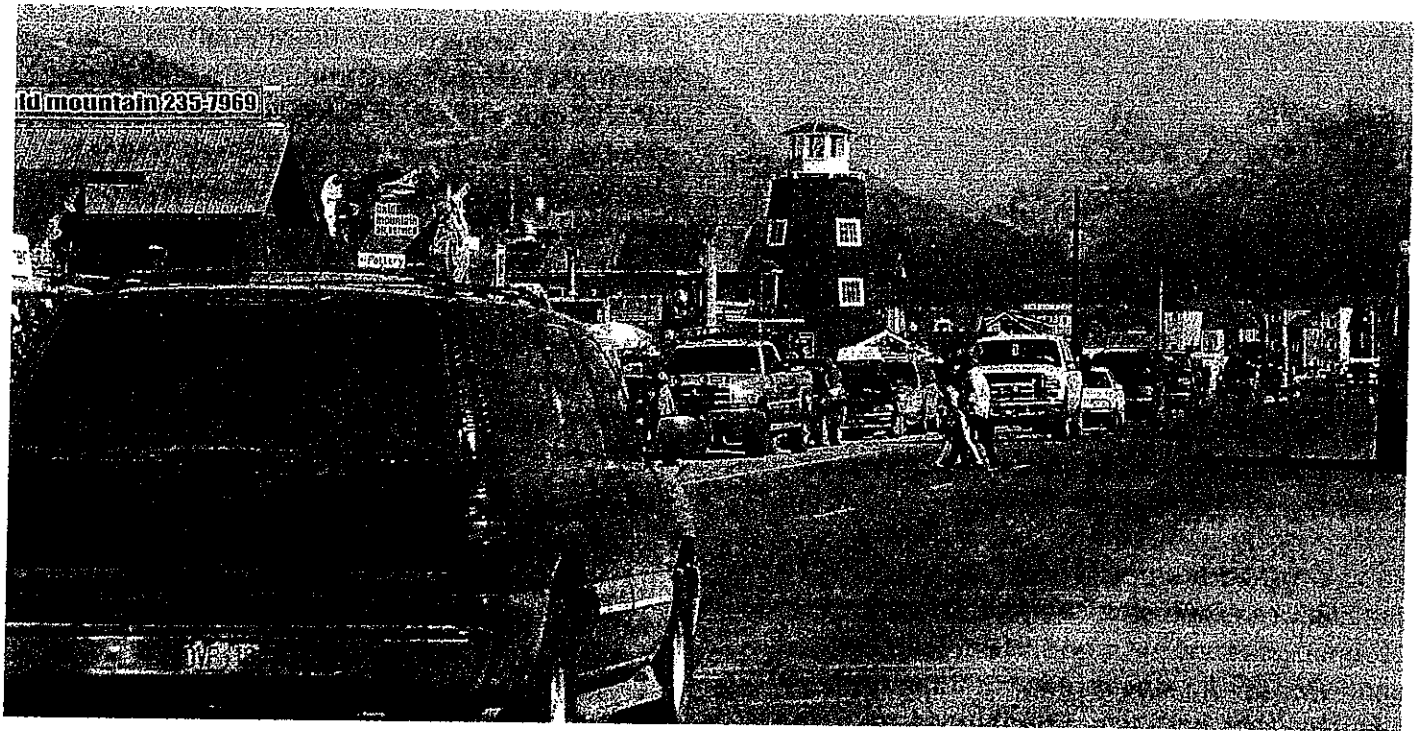
The Flood Standards aim to minimize exposure to flood damage while protecting the functions of the coastal zone. Meeting these development standards is costly. Buildings and boardwalks must be designed and certified by an engineer or surveyor that the pilings will withstand a 100-year flood event and that the structures are elevated properly. In order to provide this assurance, expensive engineering may be required, further increasing development costs. Additionally, engineers and surveyors have disputed the elevations on the Flood Insurance Rate Maps. FEMA intends to resolve the inconsistencies with a new comprehensive coastal restudy of the Homer Spit starting in 2010, which may result in new flood plain mapping.

Climate Change

Alaska is experiencing the impacts of global climate change. It is predicted that general warming of the oceans and potential melting of the Greenland and Antarctic ice sheets will impact coastal areas around the world, by raising water levels by the end of this century and beyond. Experts predict more frequent



The Deep Water Dock is where cruise passengers arrive in Homer. Although workable, the site lacks amenities and is distant from visitor destinations, requiring shuttling.



The mixing of pedestrian and automobile traffic during the busy season poses potential safety issues.

and severe storms, accelerating erosion of the shoreline. This forecasted effect of climate change may greatly impact the low lying Homer Spit and should be considered in planning efforts. The City of Homer's Climate Action Plan is an excellent resource.

Transportation

The Spit is served by the 2-lane Sterling Highway (Homer Spit Road). The highway is under the jurisdiction of the Alaska Department of Transportation (ADOT). A June 2009 traffic count indicates an average daily traffic (ADT) total of 3,540 vehicles for the month. Annual traffic data from 2007 indicates an annual ADT of 4,125 vehicles. The 2007 monthly ADT data ranges from a low of 1,636 vehicles in January to a high of 8,959 vehicles in July. The highest daily traffic counts occurred on several consecutive days in May of 2007 and were in excess of 10,500 vehicles. The next highest daily counts occurred in July and were in excess of 10,000 vehicles.

The State Highway Marine Terminal is adjacent to the Pioneer Dock near the tip of the Spit. Ferry service provides access to Seldovia, Prince William Sound, Kodiak Island, and the Aleutian Chain. Also based at Pioneer Dock is a U.S. Coast Guard Cutter with on-shore storage and facilities. Security and parking for staff are important practical issues associated with these sites.

Homer's Deep Water Dock is located on the eastern edge of the Homer Harbor. Its separation from the main activity center of the Spit works well when industrial vessels use the dock; however, recent cruise ship arrivals (nine vessels in 2010) have found the lack of amenities and distance from the commercial core of the Spit a challenge. Time and effort shuttling large volumes of passengers reduces visitors on-the-ground time for shopping, excursions, and sight-seeing.

Although proximity can be an issue, especially for elderly visitors, in general the Spit is very walkable, including along the beach (especially at low tide), on the commercial district boardwalks,



Commercial development on the Spit with specialty shops and restaurants connected by a boardwalk.

and along harbor docks. The busiest areas of the Spit can experience heavy foot traffic mixing tourists, boat owners, and a variety of carts and vehicles for staging and shuttling. Visitors watching the busy scene sometimes are in the way, causing a safety hazard especially in the vicinity of Fish Dock Road where forklifts, trucks, and utility vehicles are often in use. Additional safety concerns for pedestrians include crossing the busy Homer Spit Road, and parking areas where pedestrian access is not defined.

A separated bike and walking path parallels the highway from the mainland to just west of Freight Dock Road. The City is currently planning the continuation of the bike and pedestrian path from its current terminus to the end of the Spit.

Existing Parking Facilities and Policies

With vehicular parking a primary issue on the Spit, a parking study was conducted as part of the planning process. The goal of the parking analysis is to address these parking issues:

- Pedestrian safety
- Short and long-term recommendations
- Signage
- Parking lot design
- Parking policies, such as free vs. charge, time limitations, etc.

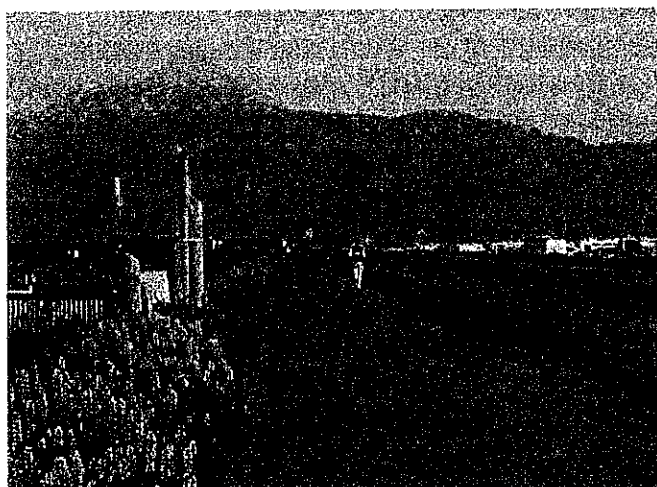
Parking is also a primary community concern as expressed by public comments at planning workshops and email feedback from the project website. The Port and Harbor Department is responsible for management of parking on the Homer Spit. A map showing existing parking facilities is included on page 14. Public parking facilities consist primarily of gravel open areas. Most parking is located around the harbor area and at the fishing lagoon. In recent years, several parking areas located near the marina ramps have been paved and designated as fee parking.

Portions of public and private parking areas are located within the ADOT right-of-way (ROW). The City is currently negotiating an agreement with the ADOT for management of the parking areas located in the ROW.

Organizing the gravel open areas for an efficient parking pattern and traffic flow is a challenge.

“The Spit Trail has been an excellent addition funded through Fed Hwy \$\$\$. It has increased family use, bicycle, and walking our new “track.” The extension will be welcome and tie the beginning into the end.”

~ Workshop participants



Pedestrians and bicyclists use the Spit pathway extensively.



Unmarked gravel lots create some unique parking patterns. As currently configured they also tend to drain poorly and become riddled with puddles when it is rainy.

Temporary pylons and rope are often used as an attempt to guide and organize parking. There is no signage identifying parking areas, except for the paved fee parking sites.

There are no existing parking areas for the large number of RVs and other large vehicles that visit the Spit, resulting in sometimes chaotic parking patterns.

Other than the few paved areas designated for fee parking, all other areas are designated as free parking for up to seven days. Thus, areas considered prime parking for day users and retail customers are used extensively by long-term parkers. There are few areas designated for short-term parking and delivery/service vehicles for commercial areas.

In 2010 the Port began more rigorous parking enforcement for vehicles and trailers, installed more signage, and created a 15-foot wide and 230-foot long loading zone in front of a busy boardwalk. This not only allowed delivery trucks to get off the street and unload, but also created greater visibility for the businesses along the boardwalk strip. In key areas, especially along the highway, parking spaces were limited to vehicles under 20-feet, which greatly improved visibility and safety for pedestrians and motorists moving through congested areas.

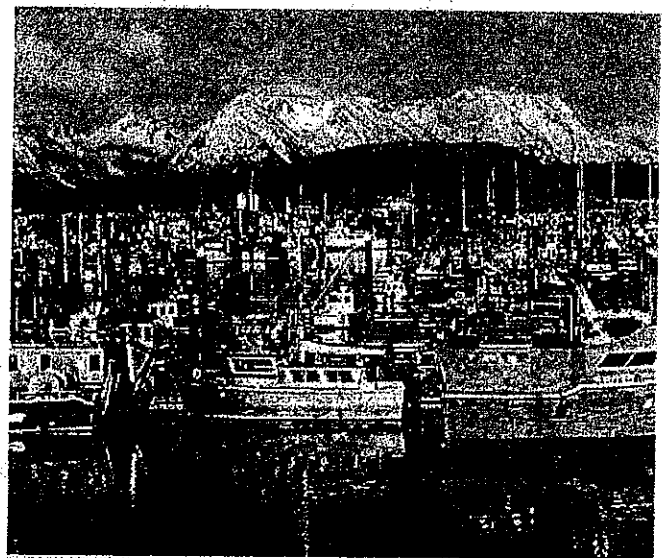
"I can see the increasing congestion on the Spit, particularly around the shops. For visitors just going out to the Spit to shop, sightsee, or catch a water taxi, public transit will eliminate the need to find that elusive parking spot on the Spit."

"Give consideration to the many elderly and disabled persons who enjoy visiting the Spit on a regular basis and who will not be comfortable or inclined to use a shuttle. Not everyone is able to walk around and carry their belongings and remain exposed to the elements outside the protection of their own vehicles."

"Need more parking."

"Consider a parking garage."

~Public comments



Congestion is a seasonal issue both on land and in the harbor, which has a long wait list for boat slips.



Homer Spit Comprehensive Plan

Parking Facilities

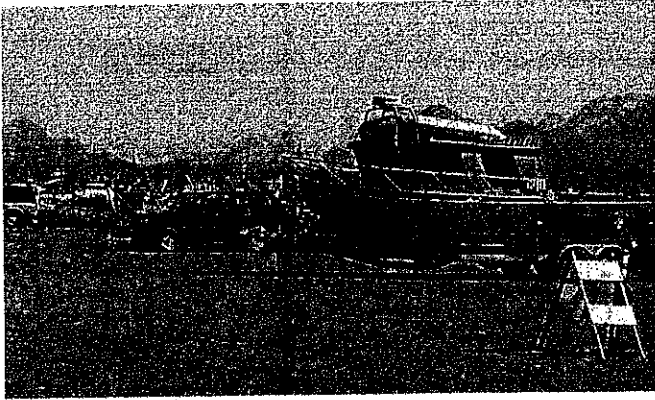


0 100' 200' 300' 400' 500'
SCALE: IN FEET

DAILY PARKING "SNAP-SHOT" - Estimated parking lot capacity and count of all parked vehicles in all public parking areas on an hourly basis, Friday, July 10, 2009

Lot Number	Lot Capacity	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	# & % vehicles parked all day
LOT 1	32	7	7	7	9	3	*	7	8	8	7	
% Occupied		21.88%	21.88%	21.88%	28.13%	9.38%	*	21.88%	25.00%	25.00%	21.88%	*
LOT 4	220	*	141	139	158	160	*	151	152	140	147	
% Occupied		*	64.09%	63.18%	71.82%	72.73%	*	68.64%	69.09%	63.64%	66.82%	*
LOT 6a	66	50	53	57	61	61	*	56	55	49	47	
% Occupied		75.76%	80.30%	86.36%	92.42%	92.42%	*	84.85%	83.33%	74.24%	71.21%	23 - 35%
LOT 6b	108	78	86	87	98	98	*	90	87	79	79	
% Occupied		72.22%	79.63%	80.56%	90.74%	90.74%	*	83.33%	80.56%	73.15%	73.15%	42 - 39%
LOT 6c	72	18	19	19	19	19	*	19	19	19	19	
% Occupied		25.00%	26.39%	26.39%	26.39%	26.39%	*	26.39%	26.39%	26.39%	26.39%	18 - 25%
LOT 7a	161	82	93	97	100	97	*	100	100	97	94	
% Occupied		50.93%	57.76%	60.25%	62.11%	60.25%	*	62.11%	62.11%	60.25%	58.39%	40 - 25%
LOT 7b	237	155	168	177	193	200	*	202	204	204	195	
% Occupied		65.40%	70.89%	74.68%	81.43%	84.39%	*	85.23%	86.08%	86.08%	82.28%	61 - 26%
LOT 8	72	24	25	31	38	50	*	47	49	50	49	
% Occupied		33.33%	34.72%	43.06%	52.78%	69.44%	*	65.28%	68.06%	69.44%	68.06%	12 - 17%
LOT 9	28	13	18	18	21	22	*	24	23	15	19	
% Occupied		46.43%	64.29%	64.29%	75.00%	78.57%	*	85.71%	82.14%	53.57%	67.86%	5 - 18%
LOT 10	77	58	63	70	70	71	*	73	74	73	74	
% Occupied		75.32%	81.82%	90.91%	90.91%	92.21%	*	94.81%	96.10%	94.81%	96.10%	34 - 44%
LOT 11	22	15	16	15	15	15	*	21	19	20	20	
% Occupied		68.18%	72.73%	68.18%	68.18%	68.18%	*	95.45%	86.36%	90.91%	90.91%	11 - 50%
LOT 12	32	5	5	6	9	18	*	23	27	24	21	
% Occupied		15.63%	15.63%	18.75%	28.13%	56.25%	*	71.88%	84.38%	75.00%	65.63%	*
LOT 13	35	28	30	30	30	31	*	30	33	33	31	
% Occupied		80.00%	85.71%	85.71%	85.71%	88.57%	*	85.71%	94.29%	94.29%	88.57%	26 - 74%
LOT 14a	86	76	76	77	84	*	*	85	84	82	82	
% Occupied		88.37%	88.37%	89.53%	97.67%	*	*	98.84%	97.67%	95.35%	95.35%	21 - 24%
LOT 14b	74	49	49	55	65	68	*	71	72	69	70	
% Occupied		66.22%	66.22%	74.32%	87.84%	91.89%	*	95.95%	97.30%	93.24%	94.59%	35 - 47%
LOT 15	21	4	5	6	10	13	*	20	17	17	19	
% Occupied		19.05%	23.81%	28.57%	47.62%	61.90%	*	95.24%	80.95%	80.95%	90.48%	2 - 10%

* No data



Boaters are important users of parking facilities on the Spit.

“Boat and trailer parking: A lot of land being used for low revenue. Make it more compact!”

“Major issue: we need to come up with a practical “central parking plan” both on/off Spit. Need real commitment to shuttle type transportation.”

~ Workshop participants

A few spaces were also dedicated to handicap parking and for loading/unloading with a 15 minute maximum time limit.

Parking Users

Parking facilities on the Homer Spit serve a number of different groups and needs. Listed below are the users identified:

- Vessel owners, crewmen, and clients
- State Park employees
- Water taxi customers and employees
- Shop owners and employees
- Tourists and residents
- Fish dock employees and commercial truck traffic for the fish industry
- Commercial delivery trucks
- Ferry dock customers/crewmen and commercial trucks

- Residents from across the bay such as Seldovia, Nanwalek, Port Graham, Halibut Cove, and Peterson Bay
- Load and launch customers, trailers and vehicles
- Marine Highway staging for freight, vehicles, and foot passengers, along with employee parking
- Coast Guard vessel staff parking
- Vessels parked on the uplands
- Fishing lagoon fishermen
- Campers and RVs
- Federal, State and City employees
- People selling boats and vehicles

Parking Analysis

An important part of the parking study was creating a one day “snapshot” of parking utilization. This included estimating parking lot capacity and counting all parked vehicles in all public parking areas on an hourly basis. Following is an overview summary of the one day parking count study and analysis:

- The parked vehicle count was made on Friday, July 10, 2009, between 7 am and 4 pm.
- Considered a busy, typical summer day.
- About 1,343+/- parking spaces were inventoried and counted every hour all day.
- 1,023 vehicles or 76% of the parking was occupied at the peak hour (2 pm).
- Up to 92% of all parking was occupied in retail and ramp areas at the peak hour.
- 330 parking spaces, or 24.5% of all parking, was occupied by the same vehicle all day in various locations.

Parking behavior observations were made during the count. The gravel parking surface creates inefficiencies as parkers have difficulty lining up. In addition, RVs require a larger parking space and can partially block driving lanes. People were also obviously camping in parking areas.

Port of Homer

Homer is a year round, ice free port supporting a range of diverse activities that are critical to the local economy, including shipping, commercial fishing, transportation, tourism, and recreational uses.

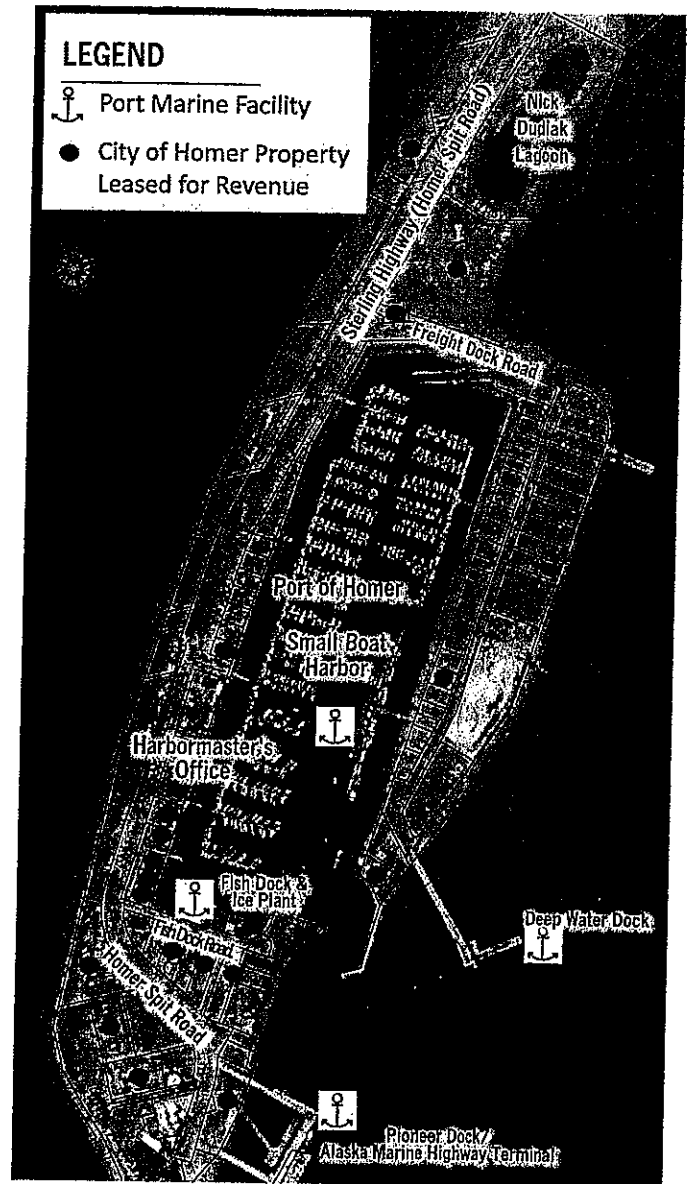
The City of Homer owns most of the Spit's major port and harbor infrastructure and a majority of the land on the Spit. Most public assets on the Spit are managed through a "Port and Harbor Enterprise Fund," which operates and is financed in a manner similar to private business enterprises where the cost of providing goods and/or services to the general public are financed or recovered primarily through user fees.

City ownership of the land and major assets retains long-term control over critical activity zones on the Spit and also allows coordinated infrastructure and services as and where needed, supported by lease and user fee income. The map at right shows Spit lands and areas that are leased by the City for income, as well as the major port-owned facilities that include:

- **Small Boat Harbor:** The harbor has 893 reserved stalls, 6,000 feet of transient mooring, a five-lane boat launch and fish cleaning stations.
- **Fish Dock and Ice Plant:** The Fish Dock operates for a nine-month season. The dock has eight cranes. The ice plant has 200 tons of ice storage.
- **Deep Water Dock:** A 345-foot face with 40 feet of depth.
- **Pioneer Dock:** A 469-foot face with 40 feet of depth. The Pioneer Dock serves the Alaska Marine Highway Terminal located adjacent to the dock.

"We need to keep some of this as parking but we also need to get the property leased and get some new harbor businesses going."

~ Workshop participant



The fish dock is an important piece of infrastructure for economic development and processing.

Parks and Recreation

Homer's Public Works Department operates parks and recreation facilities on the Spit including campgrounds, public restrooms, and an RV dump station. Currently there are five dedicated public parks on the Spit, which are highlighted at right, and are shown on Maps 1-2 (pages 7-8).

Although there are many recreational needs and opportunities on the Spit serving both local residents and visitors, these must be balanced within the overall context of the existing City of Homer Comprehensive Plan. Parks and Recreation priorities, currently planned Capital Improvement Projects (CIP), and staff and maintenance resources and capacity.

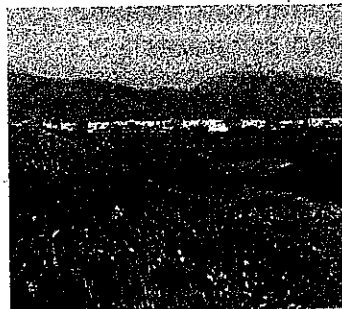
Moreover, addition of proposed new park sites and improvements outside of existing parks is very difficult to implement on the Spit. As described in the Port and Harbor Section, a majority of the Spit's land and infrastructure is controlled by an Enterprise Fund. Port users—not local taxpayers—would be asked to fund these endeavors making them challenging to implement, despite their merits and public support.

Thus, two ideas that generated some excitement during the public process—a park and gathering place concept focused around the Pier One Theater, and a landmark plaza and drop-off zone. Both would be challenging to fund and implement.

Another park issue is safe pedestrian access and connectivity. Specifically, access to End of the Road Park is challenged by the lack of pedestrian facilities. Currently cyclists and pedestrians use the road shoulder for access adjacent to a busy stretch of road. This park is the logical end point for future extensions of the Spit Trail.

Coal Point Park also has challenging pedestrian access, primarily because of its isolation amidst industrial land uses. Relocation or safer pedestrian connections were raised as options for addressing these concerns.

Mariner Park: Located on the north end of the Spit, this park is a popular camping spot and attracts local residents with children who enjoy wading and water play.



“Improve access and condition of existing parks and open places.”

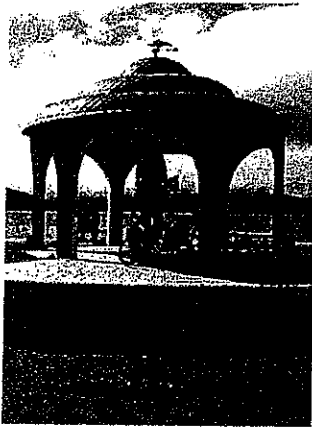
“Add more amenities (tables, shelters, grills, benches, bathrooms, etc.)”

“No one even knows it (Coal Point Park) is there!”

~ Public meeting and email input comments

Nick Dudiak Fishing Lagoon: The “Fishin’ Hole” attracts significant local and visitor recreational uses, and is stocked and managed for recreation.

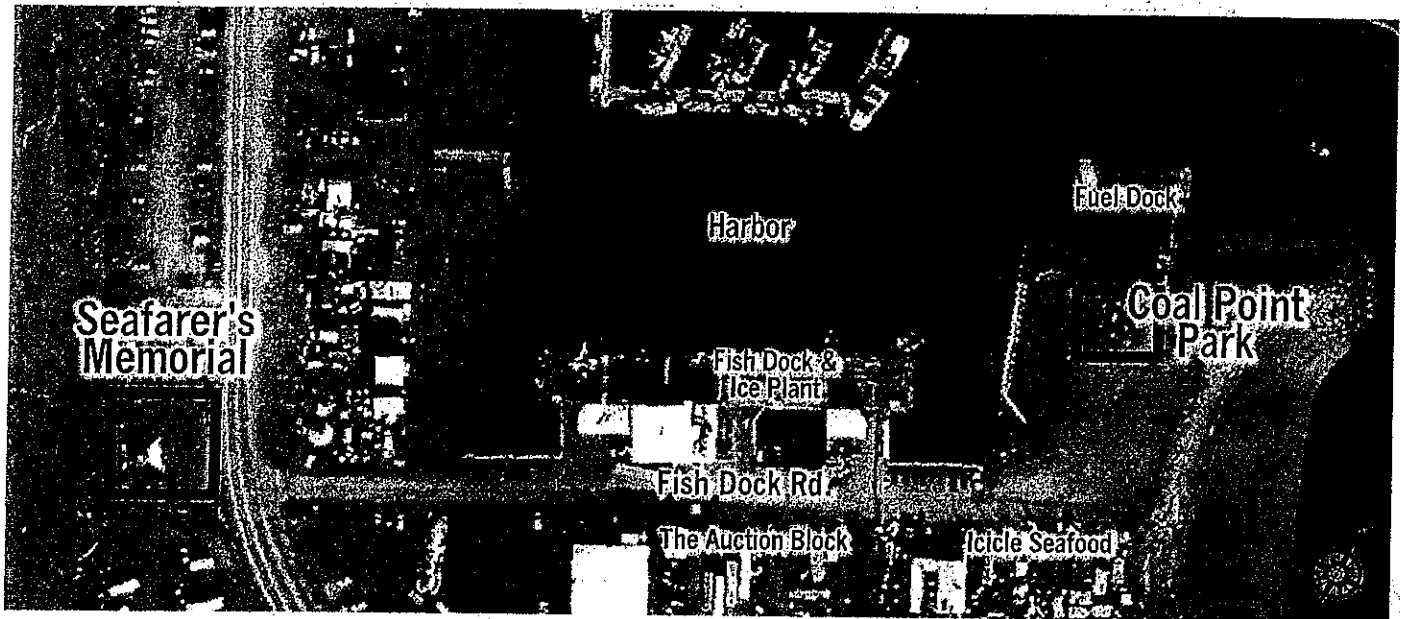




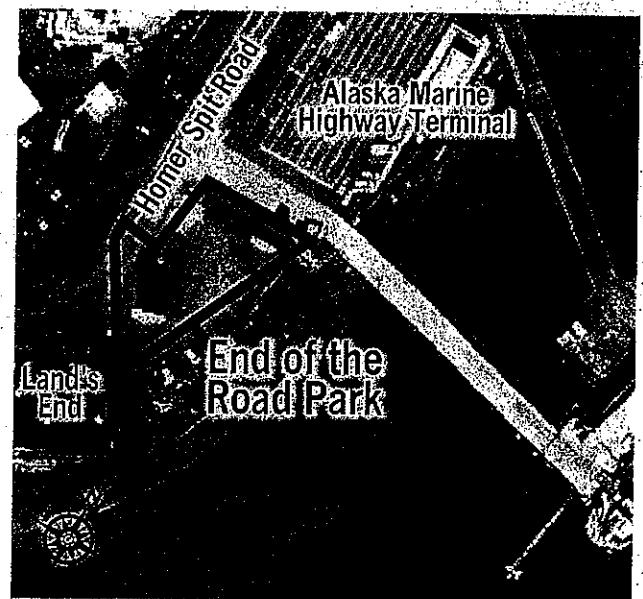
Seafarer's Memorial:
One of the more photographed icons on the Spit, this lovely memorial is an important public space that also provides a scenic lookout, benches for sitting, and maintained flowerbeds.



Coal Point Park: This small park is poorly located in terms of attracting users. It is surrounded by industrial activities and pedestrian access is a challenge. However the site does provide a nice location for viewing the harbor and has elements commemorating Alaska's 1967 Centennial.



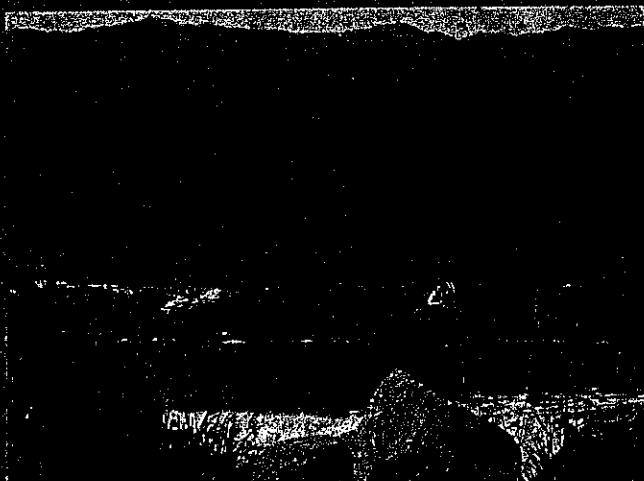
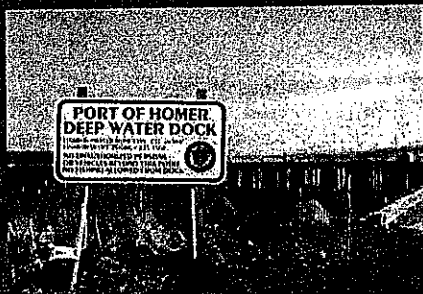
End of the Road Park:
This very popular area is generally unimproved and provides parking, beach access, and recreational on-shore fishing. The site also provides boaters with a good view of wave conditions outside the protected harbor.

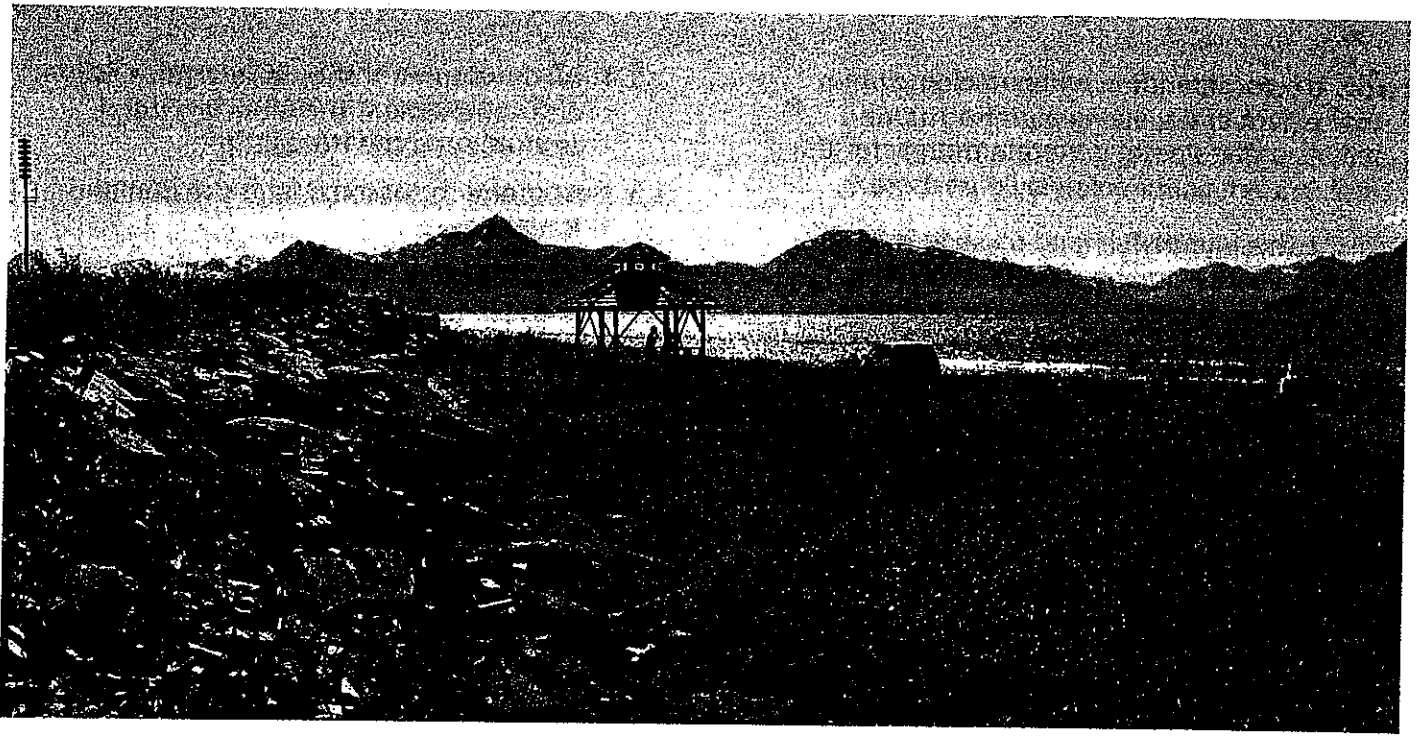


Homer Spit

Comprehensive Plan Goal:

Wise land management of the Spit and its resources to accommodate natural processes, while allowing fishing, tourism, other marine related development, and open space/recreational uses





3. Vision 2030

It is clear that the Homer Spit is a defining physical and social element of the larger Homer community and of Southcentral Alaska. Visitors and residents treasure this "jewel" of Alaska and its unique mix of art, culture, sport, recreation, retail business, and environmental assets.

The community wishes to protect and continue this mix, but at the same time wishes to promote commercial and maritime industrial vitality. Also, the community wishes to provide better connections for pedestrians and non-motorized users to improve access and safety.

This following section provides a vision for the Spit, but also recognizes some very important realities. One is that the Spit is unusual in that so much of it is owned by the City of Homer. In addition to standard municipal responsibilities such as parks and public facilities, the City also leases land to private companies. There are two types of goals that arise from this arrangement of land ownership:

"The Spit's unique landform and outstanding vistas give it character and attraction. Protecting the open space character, key viewing points, unblocked vistas, and open public access should guide any development considerations."

~ Public Input on Framework Plan

- 1) There are universal concepts and goals that apply to all lands regardless of ownership such as zoning; and
- 2) There are policies the City as a land owner should examine.

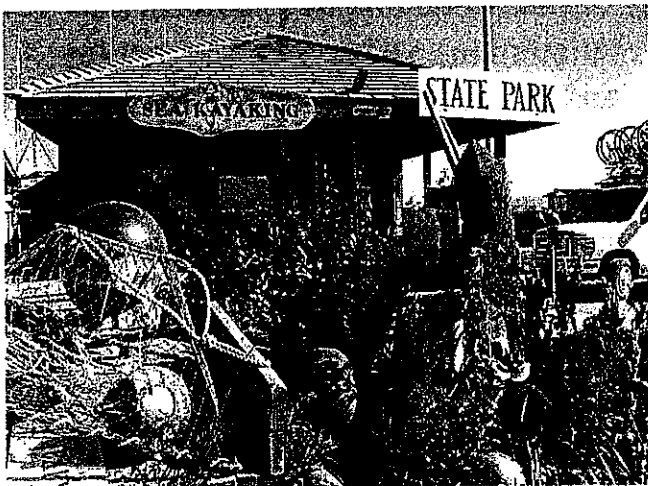
Another reality is that the City itself further manages its lands based on the way the land was purchased. The Port and Harbor is operated as an Enterprise Fund, meaning that general revenues such as City wide property and sales taxes are not used to support operations. Port revenue is used to purchase port land and to benefit port operations, not the city as a whole.

This is a consideration when deciding upon future park areas, viewing platforms, and activities that do not generate money for the port, but are paid for solely by port users.

Taking these underlying land use and fiscal concerns into account, a vision is provided in the following section that respects the public's desires by framing realistic options and opportunities. Specifically, the vision is outlined in terms of four overarching categories with subcategories:

1. Land Use and Community Design
2. Transportation
3. Economic Vitality
4. Natural Environment

The vision consists of goals within each of these categories that can help guide decision making and provide a framework for final plan recommendations.



1. Land Use and Community Design

Goals for Land Use and Community Design:

- 1.1 Maintain the variety of land uses that establish the unique "Spit" character and mix of land uses.
- 1.2 Improve the permanence and character of new commercial development.
- 1.3 Provide public facilities that attract residents and visitors to the Spit for recreational purposes.

- 1.4 All development should recognize, value, and complement the unique natural resources on the Homer Spit.
- 1.5 Respond to seasonal land use demand fluctuations.
- 1.6 Protect public access to and enjoyment of the Spit's unique natural resources.

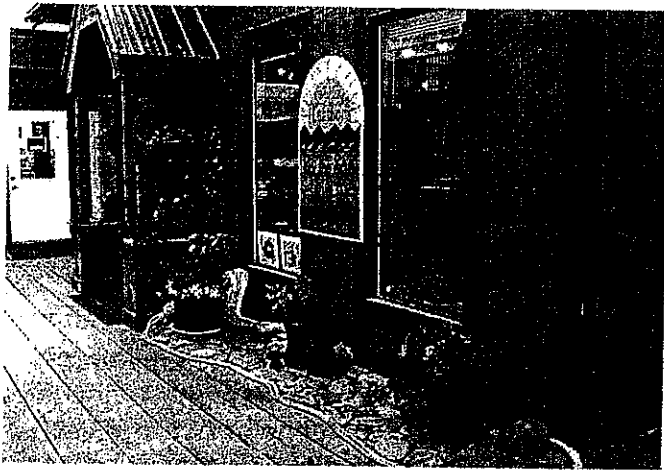
This plan does not suggest major changes to Spit land use. The community appreciates the eclectic mixture of land uses and activities. The goal is to keep the character of the Spit and make minor changes to improve the experience and functionality. The Spit should be a clean, safe, and fun place to fish, walk, bike, sightsee, and shop with a highly functional, efficient working harbor.

Traditionally, business owners have used creative solutions to solve problems; there is a desire to keep this independent spirit and sense of individuality. The Spit should avoid a "plastic" look that is "Anywhere USA." There is very limited developable area; compact development will be key to future economic growth. Reduced building setbacks and parking requirements are possible solutions.

The minimum lot sizes are 6,000 square feet in the Marine Industrial (MI) District and 20,000 square feet in the Marine Commercial (MC) District respectively. These minimums are for new platted lots. The uniform size and grid pattern that this promotes does not make sense for all development on the Spit given the underlying curvilinear land form and the premium value of land.

Greater flexibility in lot size and building setbacks are possible solutions. The minimum lot size of MC could be reduced. Buildings should also be designed to maintain the human scale and preserve views of the surrounding bay and mountains. A combination of lower building height regulations and conditional use allowances for buildings up to 35 feet should be considered.

Another set of zoning issues on the Spit relates to what uses are permitted, or are conditional use. Several common commercial



Zoning should be adjusted to support Spit business owner's sense of individuality and unique character.

uses are conditional uses in the MI zones, such as restaurants. Although these existing measures help limit the potential overexpansion of commercial and residential development, more carefully tailored tools are desired that better address the demand for these uses, while preserving the waterfront and other fishing, marine transportation, and economic uses.

Another issue relates to existing parking requirements. A clear policy is needed regarding off-street parking requirements. Separate, private, off-street parking facilities can create more traffic and detract from the pedestrian environment. An alternative is to waive parking requirements in lieu of a onetime parking system contribution or assessment, or requiring annual permit purchases.

A final zoning consideration relates to the current required setbacks. Setbacks may be needed on the Spit in some locations to provide egress, fire access, and buffer between different land uses. In other cases due to the uniqueness of the Spit, with its very limited amount of developable land and very wide right-of-ways, reduced setbacks may be one way to accommodate future growth and create a denser pattern of development that also improves pedestrian access. This is especially pertinent when a landowner with multiple lots is interested in developing the sites in an integrated approach, such as the successful commercial district around the privately owned boardwalks near Coal Point Seafoods.

Beyond zoning, each future land use has a number of issues and opportunities that need to be considered within the final comprehensive plan. These are addressed separately, followed by broad overarching goals for Land Use and Community Design.

1.A Industrial Development

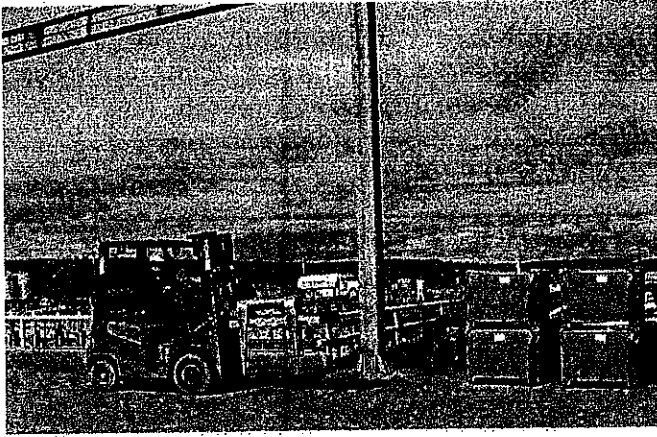
The Spit has great potential for future industrial development related to the fishing, marine, and shipping industries. Key issues include the need to:

- Better utilize the limited land available for industrial and economic development.
- Reserve sufficient land by the Deep Water Dock for future industrial development.
- Encourage development related to the fishing, fish processing, and boating industries.

Future industrial development should be clustered in specific locations as highlighted in the Future Land Use Concept Maps (pages 44-45). However, industrial activities can have deleterious impacts to scenic resources that are valued by the public. Selective screening of industrial land use should be considered where industrial activity takes place adjacent to other existing



Compact development, reduced setbacks, and integrated development approaches that cross lot lines—such as this private connected boardwalk—all help take better advantage of the Spit's limited land base.



Better definition of traffic circulation and safety are needed to ensure safe functioning of the existing fish dock, ice plant and processing plants.

development and transportation routes. However, care must be exercised to ensure that screening does not then restrict views to scenic resources or limit the public's ability to view areas and enjoy activities that add to the interest of the Spit, such as storage of crab pots.

The existing fish dock, ice plant, and processing plants are key economic generators on the Spit but they are potentially threatened by incompatible land uses. Furthermore, the mix of land uses in the area and the undefined circulation sometimes creates hazards to pedestrians and others that pass through. The public needs to be aware there are hazards in the area; signage can be used to discourage foot traffic. This area requires attention to provide for separation of uses and reservation of land for future industrial development.

The area east of the harbor basin by the Deep Water Dock is a bright spot in industrial activity on the Spit and receives high use. However, competing uses and traffic patterns may encroach into the activity in this area and create safety hazards in the future.

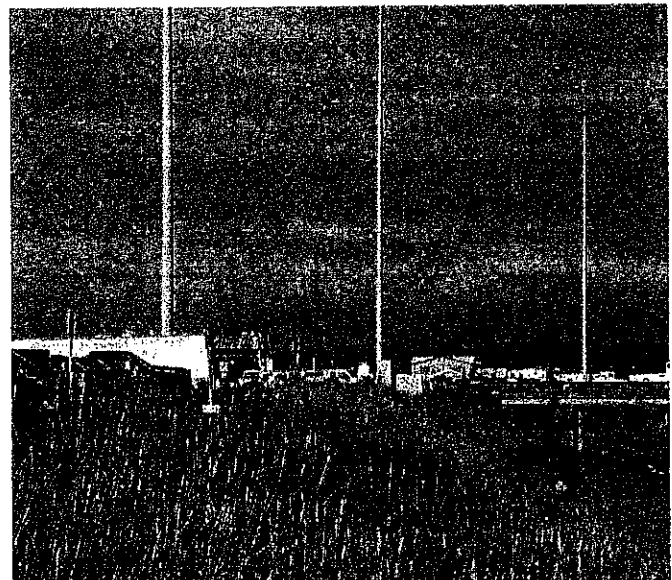
Finally, creep of commercial land uses into an industrial area should be avoided because it reduces future options for marine industrial uses and harbor facilities. Marine industrial and transportation are strategically important long term-uses, and commercial activity should be located so that future opportunities are preserved.

A related issue that is sometimes difficult to address is the issue of how to regulate commercial versus industrial development. More definition is needed with respect to commercial use to address the character of commercial development as it has occurred on the Spit.

1.B Commercial Development

Some commercial development on the Spit has contributed to a haphazard and "temporary" character, and blocked the view shed. Buildings should be no more than one or two stories to maintain a human scale and to preserve views of the surrounding bay and mountains. Sign size needs to be compatible and in scale with multiple buildings on one parcel. Developments should be encouraged to provide amenities such as benches, trash cans, planters, etc.

As more commercial opportunities are desired, the overslope area at the harbor basin offers excellent opportunities for commercial growth and maintaining a controlled and established character to the Spit. These opportunities are available in particular on the west and east sides of the harbor basin, which could accommodate 40,000 square feet of new overslope development. This level of leasable square footage devoted to small shops, restaurants,



Overslope commercial development could expand alongside the harbor basin; preservation of views and limiting overexpansion are key issues.



A major seasonal land use is RV/tent camping. While there may be community concern about additional Spit lodging, camping and residential uses, these uses are already there.

service businesses, or other uses should be sufficient to meet demands well into the future.

While this opportunity could provide tremendous economic benefits, the impact to existing commercial areas and the character of overslope development must be carefully considered. The City of Homer should look into developing appropriate standards and design guidelines for new development to maintain the character of the Homer Spit, including how to maintain public views into the harbor.

1.C Resort/Residential Development

In recent years, new residential condominium development was constructed on the Spit as a planned unit development. Strong community concerns over additional residential development were expressed at planning workshops. Concerns included the height of buildings blocking views and safety related to tsunami and flooding. Although some of these concerns and objections may be overcome through design, the concern over tsunami and severe flood/weather events is real.

Both formal permitted lodging facilities and campgrounds, and informal, unpermitted lodging and camping are present on the Spit. While there may be community concern about additional lodging, camping and residential uses, the uses

are already there. A residential option may be considered as part of the planning process. A clear policy is needed and appropriate regulations created and enforced to meet public health and safety concerns. Lodging and nightly rental facilities that may be permitted in the future can be located above existing and future commercial developments. By permitting these activities, the City can better regulate them and ensure facilities meet building, health, and safety codes.

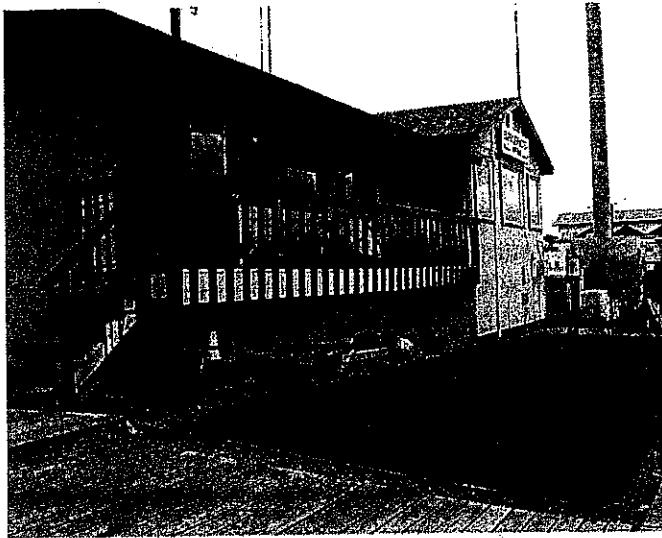
1.E Parks and Recreation

The public clearly expressed the high value placed on tidal habitat, beaches, and views available on the Homer Spit. These areas are not just important as habitat for a myriad of shorebirds, waterfowl, fish, mammals, and plant life, but are important to the identity of the community. Protection of these areas is a central consideration to any development or use that is allowed on the Homer Spit.

This planning effort recognizes the value of the natural environment of the Homer Spit by recommending continued preservation of this unique marine tidal habitat as conservation areas. In addition, public access to important use and viewing areas should be preserved, and where required, improved.



By permitting lodging and nightly rental facilities above existing and future commercial developments, the City can better ensure facilities meet building, health, and safety codes.



The Harbormaster's office is in poor condition, is expensive to heat, and has limited parking.

A new community park and gathering area was a priority identified during the planning workshops. A possible site identified in the public process is a portion of the city campground between the fishing lagoon and Freight Dock Road, near Pier One Theater. It may be feasible to purchase the property from the Port and Harbor Enterprise Fund. The area was envisioned as a place for picnics, kayak load and launch, and other day use activities.

Another new park concept discussed is incorporating a central plaza into the busiest part of the Spit. The plaza includes a pullout for passenger drop-off that can accommodate buses and vans, an attractive shelter, benches, bike racks, wayfinding and interpretive elements, and a restroom. The site could serve many first time visitors and charter and tour bus passengers by providing a logical site for meeting with excursion vendors. The site also could support a shuttle service for long-term parking or provide other transportation system links.

Another priority identified in the written comments was a viewing area to observe the commercial fishing activities on the Fish Dock. People like to watch what is going on, but need to do so in a safe place, away from forklifts and truck traffic. Potential locations include Coal Point Park or the southwest corner of the harbor and the steel grid.

Other improvements for existing parks include:

End of the Road Park: Provide a storm watch pavilion, restrooms, a fishing dock, better definition of the parking area, and an improved turn-around for vehicles.

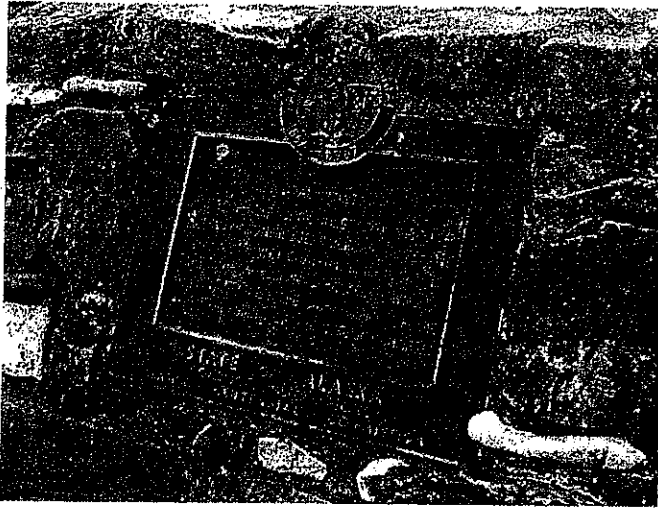
Seafarer's Memorial Park: It is suggested this park be expanded slightly to give it more prominence. This is another excellent location for a multi-season storm watch pavilion and public restrooms.

Coal Point Park: The existing small park located adjacent to the Fish Dock has difficult pedestrian access given the lack of pedestrian connectivity to the harbor boardwalk and the safety hazards of walking along Fish Dock Road. The park has a parking area that is too big and a small, but wonderful green space with excellent views of the harbor and Fish Dock. A community discussion may be warranted about whether this park should be improved by expanding its greenspace and upgrading its amenities, or whether relocation would provide more strategic benefit.

The now underutilized park is proximate to several key industrial sites and the space could be used to provide needed restrooms to serve the fish dock, the wood grid, and the fuel dock. An unused area south of the park could be used to provide parking for boat owners and/or Spit employees, which would remove them from the key activity zones.



A new park is proposed to include a kayak launch. This photo shows Alaska Kayak School preparations for a winter outing.



Coal Point Park has a historical plaque dating to Alaska's Centennial in 1967.

If the park is relocated, potentially some of its historic elements that are salvageable could be incorporated into a better location. One option would be to create a central landmark plaza as described earlier, which could also serve as a drop-off and meeting site for visitors. Another option would be to move the park to the vicinity of the cruise ship arrival zone and include a rain shelter and Spit viewing platform looking across the harbor.

Fishing Lagoon Improvements: The Nick Dudlak Fishing Lagoon (also known as the "Fishing Hole") is a man-made marine embayment approximately 5 acres in size, stocked to provide sport fishing harvest opportunity. It is extremely popular with locals and visitors alike. During the summer when salmon are returning, approximately 100 bank anglers may be present at any one time between 7 am and 10 pm.

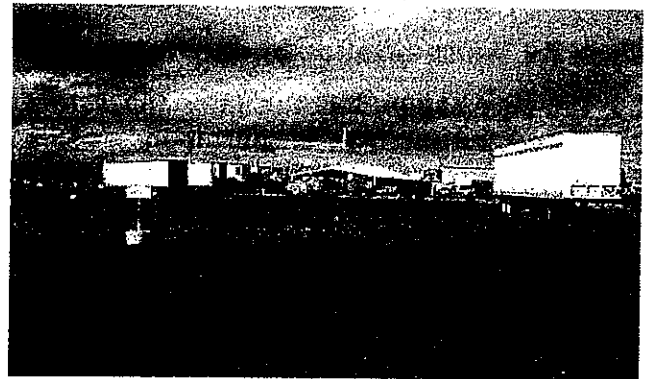
The lagoon embayment itself requires ongoing maintenance including removal of a gravel bar at the entrance, lengthening and increasing the height of the northern-most terminal groin using rip-rap armor stone from the City's small stockpile, rebuilding the north berm using beach nourishment methods, dredging the lagoon approximately 3 feet to remove deposits from tidal action, and planting wild rye grass sprigs to stabilize the inner basin slope.

Mariner Park Improvements: As one of Homer's most popular recreation areas, Mariner Park attracts campers, beach walkers, kite-flyers, trail users, birders, people with dogs, and others who come to enjoy the views and open-air recreation opportunities. Homer's growing population and tourist volume is placing greater demand on Mariner Park, increasing the need for recreation and safety enhancements. The City needs to continue to identify and prioritize improvements, and analyze how the park fits into the community's recreational activities. Several projects have been identified in the CIP. Strong public sentiment was voiced against any further expansion of the park by placing fill material in Mariner Lagoon.

1 F. Future Site Use Considerations

A final issue, important to the Land Use and Community Design discussion, are whether City leased lands are being used for their highest and best purposes, and whether some less visually attractive uses can be re-located. A couple of key issues include:

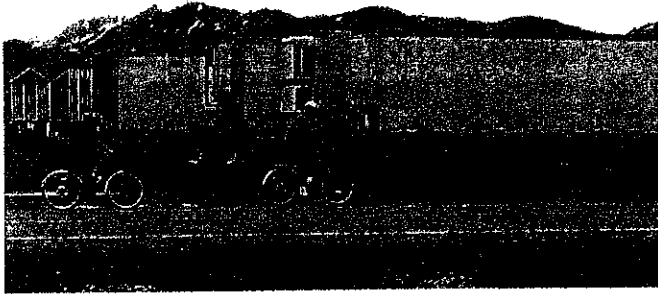
Dredge Spoils: Currently, a lot of material is dredged from the harbor entrance and it requires a large dewatering area. This should be considered when planning what to do with City owned properties, as planning and permitting for dredge spoils is a lengthy and complicated process. The City is working with the US Army Corps of Engineers (USACE) on a long-term dredge spoils plan.



Large areas must be maintained on the Spit for seasonal de-watering of dredge spoils. When de-watering is complete, the vacant site above is used for staging and parking.

Lease Renewals: As leases are renewed, particularly long-term leases, the City should consider how well the current use fits its specific parcel, and whether other activities might be better suited to the site. However, before displacing uses, impacts to the economic mix of enterprises on the entire Spit should be considered. As changes in use or lease re-negotiations occur, the following should be carefully analyzed:

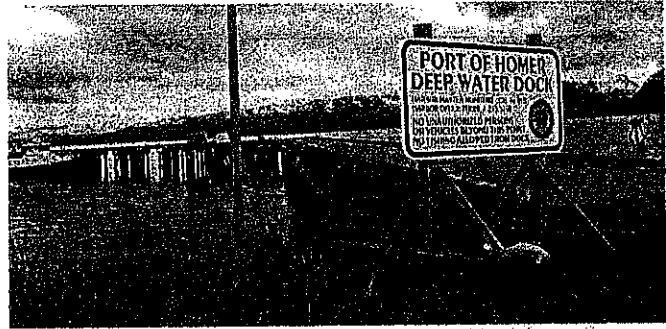
- How the displacement of an existing use will impact the overall commercial/land use mix;
- Whether a historic continuity of use on a site provides an important attraction for returning and future visitors; and
- Whether the economics of the proposed activity are proven and markedly more valuable to the community than the existing use.



2. Transportation

Goals for Transportation on the Homer Spit:

- 2.1 Enhance and protect the Spit's critical role in regional marine transportation.
- 2.2 Improve traffic flow and safety on the Sterling Highway.
- 2.3 Provide adequate and safe facilities for pedestrians and bicyclists.
- 2.4 Provide improved multi-modal transportation on and to the Spit.
- 2.5 Improve organization, wayfinding, and management of parking.



The Deep Water Dock provides a strategic port for large vessels. Although today it is primarily used for freight and cruise ship dockings, in the future it could get more use as the Northern Sea Route opens up.

2.A Marine Transportation

Comprehensive Planning for the Spit must carefully address land issues to remember that the Spit is a critical regional marine transportation link. Maintaining infrastructure, and enhancing and expanding the port facilities, freight capacity, and multi-modal access links are critical.

Multi-modal refers to the ability to move people and cargo by more than one method of transportation, such as barge, truck, air, and rail. This provides for improved transportation of goods and materials in and out of Homer, and also helps move people both regionally and along Alaska's Pacific Coast.

2.B Road and Trail Access

The City of Homer should continue to work with ADOT on use and management of the Sterling Highway right-of-way through the Spit commercial area. The proposed bike path extension was originally conceptualized to be located along the harbor basin. However, this concept creates conflicts with proposed overslope development, and safety issues with mixing bicycles, pedestrians, shoppers, and marina users.

An alternative concept would locate the bike path along the highway, with sufficient separation for the comfort and safety of pedestrians and careful placement of driveways. The bike path, situated in a median of saw grass or a rain-garden vegetated catchment system, would add natural green space and create the opportunity to define specific driveway locations for the large parking area.



The separation of parking, pedestrian areas, and traffic could improve safety and wayfinding.

2.C Parking Management

This plan recommends a number of actions to organize and manage parking on the Spit. These ideas focus on parking management, separating as much as possible different long- and short-term parking uses, redefining parking areas, and charging a fee for long-term parking. Experimenting with what works on the ground is an important element of discovering how to balance and meet the needs of the users and landowners.

Free Parking: Free 4-hour parking should be provided in key locations to support retail and commercial business on the Spit. The free parking areas should be patrolled during peak periods to enforce compliance and parking tickets issued for violations.

Permit Parking for Slip Rentals and Employees: Employees and annual slip customers should be issued permits for designated areas. The idea is not necessarily to charge a fee for this parking but rather to manage where this parking occurs. Parking for slip rentals is proposed adjacent to several of the marina ramps.

Permits for Long-Term Parking: Fee permits for those who need to leave a vehicle on the Spit for a longer term should be required. Under the current situation, people can leave a vehicle parked in some of the busiest commercial zones for up to 7 days, and it is difficult to enforce this term. There is no incentive not to leave a car on the Spit for extended periods of time. A long-term parking solution is needed.

Compress the Existing Boat Trailer Parking Area:

Currently, an area larger than required is being used for boat trailer parking. Average daily use is approximately 80 to 100 trailers parked during peak summer season, falling to a peak of 45 during fall and spring months. However, up to 165 trailer parking spaces may be required during the winter king salmon derby.

The boat trailer parking area should be compressed for better utilization, enforcement of policies, and maintenance. The area should be large enough to accommodate peak use. The land not being used for boat trailer parking can be made available for future economic development, but making the area smaller now will help identify exactly how much trailer parking is really necessary.

Parking Signage: Parking users need guidance and information to know where and how to park. Currently, parking areas are not clearly identified and policies are not well communicated. Clear identification of parking areas, occupancy rules, and fees through an attractive, informative, and consistent signage system will help resolve many of the parking problems. Information could also be provided at the launch ramp kiosk.

Create Specific Parking Lot Entrances: The large parking area that borders the west side of the harbor is wide open and vehicles can enter the parking area anywhere. This creates unsafe turning movements and confusion in the parking lot. RVs are prone to hang up on the elevation change present alongside the Spit

Road. Specific driveways should be created at key locations to control traffic flow, increase safety, and reduce confusion.

Parking Management: Parking facilities and land are valuable assets, especially on the Homer Spit, where land resources are limited. Public parking must be managed to balance the needs of the various different parking user groups. Consider creating a parking subcommittee to develop parking policies and improvement projects. Consider creating a mechanism to provide leases to private businesses to meet parking requirements.

Loading Zones and Handicap Parking: The commercial and retail businesses located on the Spit require numerous deliveries. Specific loading zones should be identified and designated. Handicap parking spaces are needed near marina ramps and retail areas. Specifically, handicap spaces are needed for the ramps on the east side of the harbor.

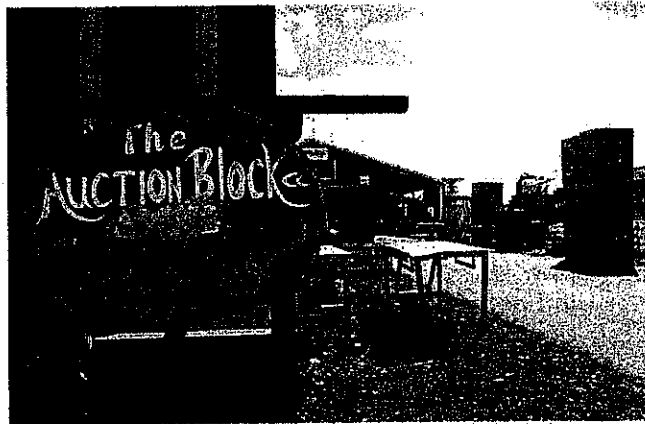


The Auction Block's Spit storefront provides a fresh catch menu, and processed items in the store front. Its web-based auction is very popular with both fishermen and fresh fish buyers.

A draft land use plan and map have been prepared to present recommendations (Maps 4-6, pages 44-46) supporting the goals outlined in this chapter. The plan does not make sweeping changes to the existing development pattern or use of the Spit. It does address future use of underutilized property, designates specific areas for economic development, and provides for reorganization of land use to create a community park and gathering place.

3.A Port and Harbor

The City of Homer has been attempting to secure funding for two major harbor projects including a Deep Water Dock expansion and Harbor expansion. Unfortunately, despite a long waiting list for smaller and mid-sized vessels, the Harbor expansion initiative has experienced a recent setback. The USACE



3. Economic Vitality

The 2008 Homer Comprehensive Plan contains a chapter exclusively on economic vitality. The goals and strategies of Chapter 8, Economic Vitality, may be applied to both the Spit and mainland area of Homer. The paragraphs following provide additional information gathered from the public meetings and comments.

Goals for Economic Development:

- 3.1 Improve the local economy and create year-round jobs by providing opportunities for new business and industrial development appropriate for the Homer Spit.



The Time Bandit, Homer's now famous contribution to the "Deadliest Catch" has generated public interest in the North Pacific fishing industry, and is a visitor attraction.

conducted an economic feasibility study of the project, which was funded jointly by the State of Alaska, USACE, and the City of Homer. The results of this study do not look favorable for harbor expansion in the short-term.

The Port is a major economic asset to the community and continued efforts should be made to maintain the port and incrementally improve it. A long range plan for the port and harbor facilities is warranted; the last plan was completed in 1984. Significant improvements have been made since then, and it is time to look forward to the next 25 years of port operations, regardless of the success of the expansion project.

3.B Multi-Seasonal Use

The Homer Spit and Harbor provide a jumping off point for many community and regional events. Events such as the Winter King Salmon Derby, Shorebird Festival, and many others, draw locals and visitors to the Spit. As a winter city, Homer should create more opportunities to make the Spit a year round destination. However, walking, running, beachcombing, and bird and mammal watching are all activities that can be enhanced for all season use.



4. Natural Environment

Goals for the Natural Environment:

- 4.1 Manage conservation areas and the natural resources of the Spit to ensure continued habitat and biological diversity.
- 4.2 Support environmentally responsible harbor operations by all user groups. Activities such as power washing and scraping, sanding



The Spit is a critical habitat area for 100,000 shorebirds in addition to other marine life. Local non-profits are playing an important role in helping to acquire and protect habitat zones.

and painting may not be allowed in the harbor in the future due to environmental regulations.

- 4.3 Manage storm water runoff.
- 4.4 Manage the Port as a working harbor, for recreational and working vessels, and remove the environmental hazard of "dead boats."

The Homer Spit and Kachemak Bay offer rich coastal waters for marine habitat. The Spit is a premier destination for birding; waterfowl and seabirds alike populate the sparkling waters. Public comment during this plan emphasized the importance of the habitat to birds and marine mammals, and the economic benefits to the community. Preserving habitat is important to the environment and the local economy. The Shorebird Festival is an important shoulder season tourism event that draws many visitors. Many years have been spent acquiring and protecting habitat on the Spit. Most recently, the Exxon Valdez Oil Spill Trustee Council worked with the City to acquire land in the Louie's Lagoon area and create conservation easements. The Kachemak Heritage Land Trust has been instrumental in partnering with the City on this project and others.

This plan makes a distinction between places for people and places for wildlife. Open space and recreational uses are meant to be areas



An important aspect of protecting the Spit's natural environment is removal of derelict boats.

for "active" recreation by people – fishing, beachcombing with the dog, etc. Goals for open space and recreation can be found under section 1, Land Use and Community Design.

Conservation areas are meant for "passive" human use, such as bird watching and photography. Conservation areas are defined through zoning, conservation easements, the Beach Policy, and the legal boundaries of the Kachemak Bay Critical Habitat Area. Management of conservation areas is important

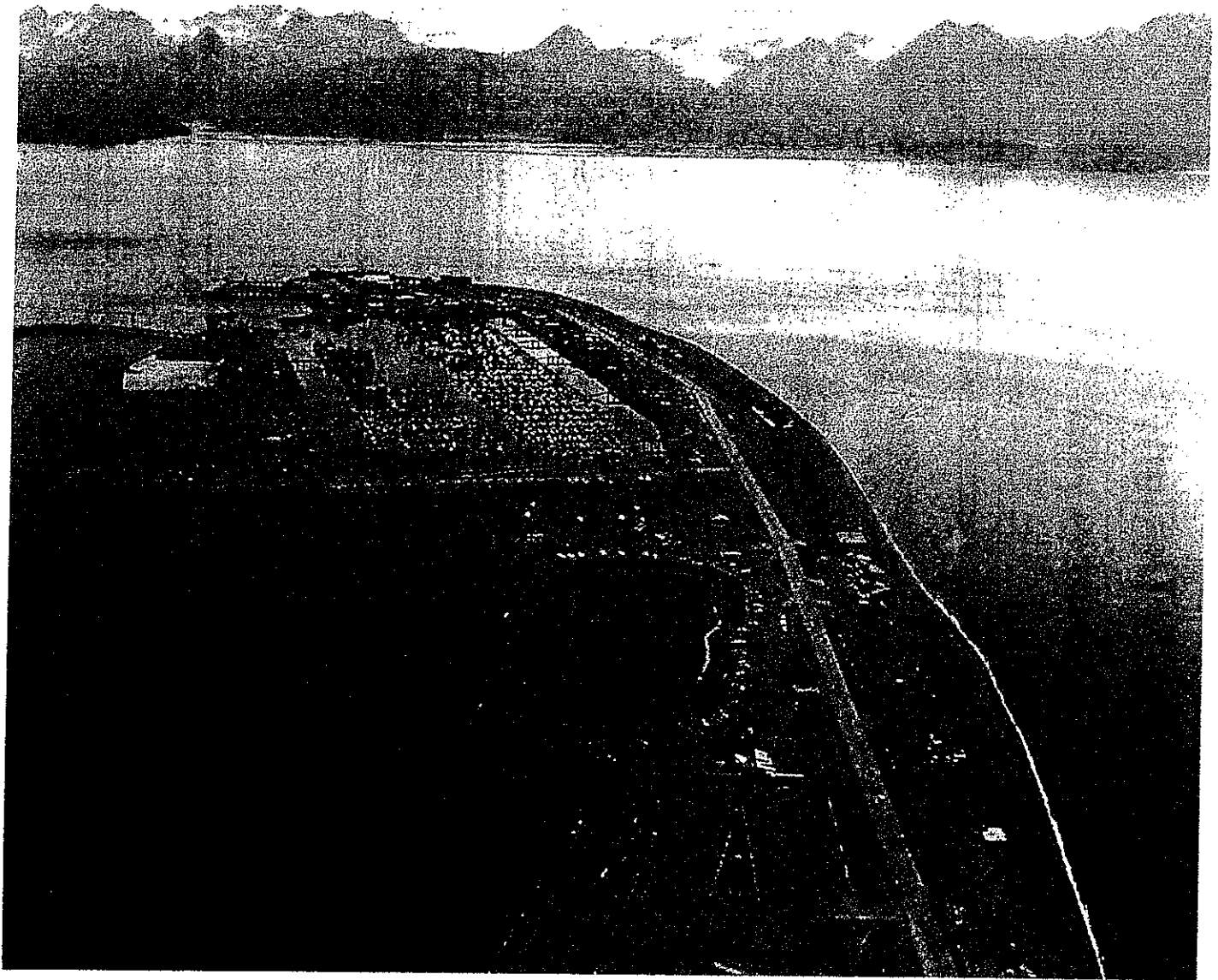
because these are spaces intended to be protected for wildlife habitat. Habitat in Kachemak Bay is irreplaceable and there are few alternatives in the region. Where else will 100,000 shorebirds land in May and feed on specific beach life to fuel up for the continuation of their journey?

Harbor operations and boat owner habits also play an important role in protecting Kachemak Bay resources. The City of Homer supports the Alaska Clean Harbor Pledge, which is a list of best management practices to address topics such as cleaning agents, garbage, recycling, and storm water and sewage management. Implementation of these practices will need to come from the Port. Boat owners also have a role in greener boating practices, and are encouraged to refer to the publication "Clean Boating for Alaskans."

Moreover, managing derelict/nuisance boats is a key concern both because of the environmental and sinking hazards of these vessels and because they occupy valuable moorage space. In 2010 a number of wrecking and disposal projects were completed including removal of the 450-foot Heavy Hauler barge.



There are many strategies for storm water management on the Spit including as rain gardens using native plants and driftwood, drainage ponds and ditches, retention of native vegetation, green roofs, and limiting of impervious surfaces.



4. Implementation

This final section provides specific objectives and strategies for meeting the vision and goals outlined in Chapter 3. The table is intended as an implementation tool over the next 20 years and/or the life of the plan. Key partners who are needed to help with implementation are listed, including the City of Homer, landowners and developers, state and federal agencies, non-profits, and local economic enterprises including the Chamber of Commerce. Cooperation and a "win-win" approach to implementation will be vital to the successful outcome of this planning effort.

"An important issue is actually implementing a plan. I remember being at Land's End in the 1980s at a community brainstorming. There were ideas galore, wall posters full, and actually some consensus to "plan" and do. Unfortunately all these folks, including myself all went back to jobs and lives and without planning, "Coney Island" emerged."

~ Workshop participants



1. Land Use and Community Design

Goal 1.1.1 Maintain the variety of land uses that establish the unique "Spit" character and mix of land uses.

Objective	Strategies	Responsibilities
Revise zoning to protect character and enhance commercial, industrial, and public facilities development	<p>Identify appropriate residential uses on the Spit.</p> <p>Similar land uses (such as charter offices, boat and gear sales, tourism activities) shall be encouraged to cluster to achieve a mix of related activities and minimize adverse impacts on other activities.</p> <p>Consider a 25-foot building height limit, with a Conditional Use Permit (CUP) process for buildings up to 35 feet.</p> <p>Encourage all developments to provide amenities such as bike racks, benches, picnic tables, trashcans, and landscape features such as planters and art.</p> <p>Review Spit parking requirements and possible solutions.</p>	Planning Department Port and Harbor Commission
The City should plan for the future land use of City-owned properties	<p>Reserve and cluster industrial land at specific nodes, including east and south of harbor.</p> <p>Better utilize the limited land available for industrial and economic development.</p> <p>Reserve sufficient land by the deep water dock for future industrial development.</p> <p>Designate "overslope" for commercial use focus on south and west sides.</p>	City Council Port and Harbor Commission
Address marine commercial and marine industrial zoning	<p>Submit draft ordinance to Planning Commission and City Council.</p> <p>Consider zero lot line construction and the amount of right-of-way realistically needed to support specific uses at build-out.</p>	Planning Department Planning Commission
Review land lease policy and determine impact on leasing and character of leasing	<p>Continue reviewing lease policies periodically.</p> <p>City leases shall include land sufficient for businesses and minimal employee parking.</p>	City Council
Develop standards to apply to development	<p>Address screening of dumpsters/noxious facilities.</p> <p>Address standards for screening of industrial development with view protection.</p> <p>Explore industrial subdivision standards.</p>	Planning Department, Commission

FINAL DRAFT

Goal 1.2 Improve the permanence and character of new commercial development.

Objective	Strategies	Responsibilities
Develop standards for public property development	Revisit design guidelines for overslope development to provide more specificity for development at harbor overslope, considering issues such as lot size, legal access, and parking policies.	City Council

Goal 1.3 Provide public facilities that attract residents and visitors to the Spit.

Objective	Strategies	Responsibilities
Provide amenities that aid residents and visitors	Identify locations and needs for restrooms/showers.	Port and Harbor Department, harbor users, leaseholders
Provide enhanced park and recreation facilities	<p>Identify and prioritize public recreation needs on the spit, and include projects on the CIP. Refer to the Master Parks and Recreation Plan, chapter 7, in the 2008 Comprehensive Plan.</p> <p>Prepare a master plan for development of a new community gathering space at the site of the existing City campground north of Freight Dock Road (pier 1 area).</p> <p>Provide kayak launching facilities.</p> <p>Set aside a new community park.</p> <p>Evaluate and develop a plan for non-boating access to fishing opportunities.</p> <p>Construct weather-protected picnic and outdoor meeting facilities.</p> <p>Open space recreation uses shall be encouraged on the west side of the Spit on public land.</p>	Public Works Department/ Parks and Recreation Division Chamber of Commerce

Goal 1.4 All development should recognize, value, and complement the unique natural resources on the Homer Spit.

Objective	Strategies	Responsibilities
Preserve and protect important wildlife and bird sanctuary areas.	<p>Require site-specific handling requirements for all runoff from parking areas.</p> <p>Provide information on preventing the growth of noxious weeds.</p> <p>Encourage the use of native plant materials for all landscaped areas.</p> <p>Encourage the presence of interpretive programs to identify plant and animal resources.</p> <p>Clearly sign beach areas designated off-limits for motorized travel.</p>	<p>Planning Department</p> <p>Parks and Recreation Division</p> <p>State of Alaska, DNR Parks</p> <p>Non-profit Organizations</p> <p>US Fish & Wildlife Services</p>

FINAL DRAFT

Goal 1.4 All development should recognize, value, and complement the unique natural resources on the Homer Spit.

Objective	Strategies	Responsibilities
Identify private lands to become conservation areas	Buy private property from willing landowners for conservation purposes. Encourage containment and cleanup of junk. The City should pursue ownership or preservation of the west side of the Spit for open space recreation, camping, and view shed protection.	City Council
Allow the natural transport of sediments along the west side of the Spit to continue uninterrupted.	Proponents of bulkheads, groins, breakwaters, or other devices shall demonstrate that their project will not adversely disrupt this sediment transportation.	Public Works Department

Goal 1.5 Respond to seasonal land use demand fluctuations.

Objective	Strategies	Responsibilities
Ensure that high demand seasonal uses are given priority	Allow interim/temporary uses of vacant City land when they are supportive of seasonal demands (fishing, tourism, etc.). Rationalize parking areas to make sure demand is met but at the same time, reduce the overall footprint and visual impact.	Port and Harbor Commission Administration Port & Harbor Department

Goal 1.6 Protect public access to and enjoyment of the Spit's unique natural resources.

Objective	Strategies	Responsibilities
Maintain and protect traditional public use of the beaches along the Spit such as gathering coal, shellfish, fishing and other recreational activities.	Inventory and identify key traditional use areas and access routes. Obtain public ownership of land on the Spit especially focused around key sites. Conservation of the Mud Bay area of the Spit. Maintain and increase public access to the harbor and beaches to improve opportunities for fishing, and other recreational activities. Minimize conflicts between motorized and non motorized users on the Spit. Install signage to educate ATV users about responsible ATV use.	Public Works Department Parks and Recreation Planning Department Port and Harbor Commission
Protect the scenic, natural and aesthetic resources.	Encourage the build-up of driftwood on Spit Beaches. Use native landscape elements in public design projects (beach grass, driftwood).	Public Works Department Parks and Recreation Planning Department Port and Harbor Commission

FINAL DRAFT

2. Transportation

Goal 2.1 Enhance and protect the Spit's critical role in regional marine transportation.

Objective	Strategies	Responsibilities
Prioritize transportation and land use decisions to support waterfront dependent activities	<p>Priority for use of the Small Boat Harbor and distal end of the Homer Spit shall be marine commercial, marine industrial (fishing), industrial transportation, waterfront tourism, and recreation (both day use and outings across the bay).</p> <p>Enhance the connectivity and infrastructure needed to support Deep Water Cargo activities and Main Dock Areas.</p> <p>The City shall reserve right-of-way for access to the east side of the harbor.</p>	<p>Port and Harbor Public Works</p> <p>Administration</p> <p>City Council</p>
Balance cruise ship and other commercial activities. One should not happen at the expense of another	<p>Improve cruise ship passenger disembarkation area by the Deep Water Dock.</p> <p>Create way finding kiosks along the harbor.</p> <p>Create a covered harbor overlook area in near ramp 7 or the Deep Water Dock and the harbor entrance.</p> <p>Consider temporary solutions and how to prioritize improvements for cruise ship passengers, since the number of port calls varies year to year.</p>	<p>Port and Harbor Public Works</p> <p>Administration</p> <p>Existing commercial/retail business owners</p> <p>Excursion vendors</p> <p>Chamber of Commerce</p>

Goal 2.2 Improve traffic flow and safety on the Sterling Highway (Homer Spit Road).

Objective	Strategies	Responsibilities
Maintain the capacity of the Sterling Highway (Homer Spit Road)	<p>Limit number of access points to the Sterling Highway.</p> <p>Initiate a Reconnaissance Study to better define and control crossing points in the harbor commercial area.</p> <p>Evaluate traffic calming as an element of the Reconnaissance Study.</p> <p>Enter Memorandum of Agreement with ADOT&PF to address parking, maintenance, and management of the right-of-way.</p>	<p>ADOT</p> <p>Administration</p>

FINAL DRAFT

Goal 2.3 Provide adequate and safe facilities for pedestrians and bicyclists.

Objective	Strategies	Responsibilities
Provide safe walkways and trails	<p>Develop pedestrian plan for Spit.</p> <p>Work with DOT on solutions such as crosswalks.</p> <p>Consider options for location of the bike path to best address safety and all users.</p> <p>Plan and design the proposed bike path extension to meet the needs of bicyclists and pedestrians.</p> <p>Plat easements for walkways in commercial areas and along overslope area.</p> <p>Require provision of connectivity between adjacent commercial properties in permit process/zoning language.</p> <p>Connect harbor to Seafarers Memorial with trail.</p> <p>The City shall reserve 15' pedestrian/safety rights-of-way and access for overslope development around the periphery of the small boat harbor.</p> <p>Construct pedestrian pathway around northerly harbor rim.</p>	<p>Public Works Department</p> <p>Planning Department</p> <p>Port & Harbor Dept</p>

Goal 2.4 Provide improved multi-modal transportation on and to the Spit.

Objective	Strategies	Responsibilities
Support year round car ferry service to the outlying communities of Kachemak Bay	Participate in a public or private task force or organization.	<p>City Council</p> <p>Economic Development Commission, Chamber of Commerce</p> <p>Administration</p>
Encourage a shuttle bus system during peak summer months to transport visitors and employees to town, lodging and remote parking.	<p>Participate in a public or private task force or organization.</p> <p>Create business plan/model to determine funding/cash flow.</p>	

FINAL DRAFT

Goal 2.5 Improve organization, wayfinding, and location of parking and harbor facilities

Objective	Strategies	Responsibilities
Better define parking locations	Separate long-term parking from short-term/day use parking. Designate specific areas for RV parking. Provide loading zones for delivery trucks and motor coaches in the retail district. Implement a fee and permit system for long term parking.	Port and Harbor Planning Department
Provide coherent wayfinding system for parking, and restrooms	Establish a consistent theme for all parking graphics and signage. Develop color or other graphic/design feature to clearly indicate intended use. Clearly identify City of Homer as owner and requirements for use of lots. Clearly label all ramps so they are visible from the roads and parking lots. Create a kiosk or signage at each ramp and restroom showing the layout of the harbor, and parking in the immediate area of the user.	Port and Harbor Planning Department
Define loading and unloading areas	Create a bus loading zone near the harbormasters office. Analyze options for a turn around/cul-de-sac/roundabout at End of the Road Park.	Port and Harbor ADOT City Council



3. Economic Vitality

Goal 3.1 Improve the local economy and create year-round jobs by providing opportunities for new business and industrial development appropriate for the Homer Spit.

Objective	Strategies	Responsibilities
Enhance the circulation and safety in the fish dock area	Create site-specific land use study for fish dock/processing/ice house area. Develop appropriate safety measures on Fish Dock Road. Construct an observation deck near the Fish Dock.	Port and Harbor Dept Parks and Recreation

FINAL DRAFT

Goal 3.1 Improve the local economy and create year-round jobs by providing opportunities for new business and industrial development appropriate for the Homer Spit.

Objective	Strategies	Responsibilities
Enhance east harbor area for industrial use	<p>Review zoning for adequacy of provisions for industrial growth.</p> <p>Compress trailer parking to ensure there is no encroachment into needed industrial reserve lands.</p> <p>Expand the port facilities and freight capacity for improved transportation of goods and materials in and out of Homer.</p> <p>Expand and improve the deep water dock and other related port facilities.</p> <p>Improve Outer Dock Road.</p>	Public Works Planning Department Port and Harbor
Determine economic development opportunities for "value added" growth such as processing, small scale local retail, and restaurants serving local products	<p>Encourage development related to the fishing, fish processing, and boating industries.</p> <p>Host economic development forum and determine opportunities for value added growth.</p>	Alaska Economic Development Corporation Planning Department Chamber of Commerce Processing plant managers/ operators
Determine incentives needed to promote Overslope development	<p>Analyze and develop market plan for development.</p> <p>Determine alternate incentives that would encourage growth.</p> <p>Identify sources of funding or implementation actions for identified incentives.</p>	Public Works Department Port and Harbor Commission Alaska State DEC Finance Department



4. Natural Environment

Goal 4.1 Manage conservation areas and the natural resources of the Spit to ensure continued habitat and biological diversity.

Objective	Strategies	Responsibilities
Minimize human impact on conservation areas.	<p>Avoid development on city owned tidelands adjacent to Conservation Areas, such as Louie's Lagoon and Mud Bay.</p> <p>Minimize all development that is not marine related within the Kachemak Bay Critical Habitat Area, defined as below the 17.4 ft mean high tide.</p> <p>Improvements to public lands should focus active recreation on the west side of the Spit, Mariner Park, and south of the Fishing Lagoon.</p>	Port and Harbor Dept Parks and Recreation

FINAL DRAFT

Objective	Strategies	Responsibilities
Purchase or obtain conservation easements on private lands on the Spit, such as between north of the hockey rink, and the base of the Spit.	Work with willing land owners to conserve land through methods such as conservation easements, or public or nonprofit ownership. Consider purchasing first right of refusal options, right of occupancy for remainder of lifetime or other less traditional methods that will ensure conservation of the properties at some point in the future.	Public Works Planning Department Port and Harbor

Goal 4.2 Support environmentally responsible harbor operations by all user groups. Activities such as power washing and scraping, sanding and painting may not be allowed in the harbor in the future due to environmental regulations.

Objective	Strategies	Responsibilities
Support and implement the Alaska Clean Harbor Pledge	Implement relevant portions of Chapter 9 Energy, from the 2008 Comprehensive Plan, such as energy efficient public buildings, recycling and solid waste management. Implement a bilge water management program. Pursue public education on boat cleaning agents, to reduce the use of harsh chemicals such as bleach.	Public Works Planning Department Port and Harbor
Support the concepts presented in "Clean Boating for Alaskans"	Continue to support environmentally responsible boating habits. Partner with harbor user groups on public education and providing appropriate facilities.	Port and Harbor Harbor user groups

Goal 4.3 Manage Storm Water Runoff

Objective	Strategies	Responsibilities
Address stormwater issues, puddling, and erosion	Explore better parking lot maintenance and storm water management approaches such as rain gardens, settling ponds and shallow ditches. Use to also help define parking areas, particularly where winter maintenance is not needed. Parking revenues could be used to help pay for these projects. Create a spit drainage and grading plan. Drainage needs to be planned and implemented block by block rather than haphazardly for all properties.	Public Works Port and Harbor

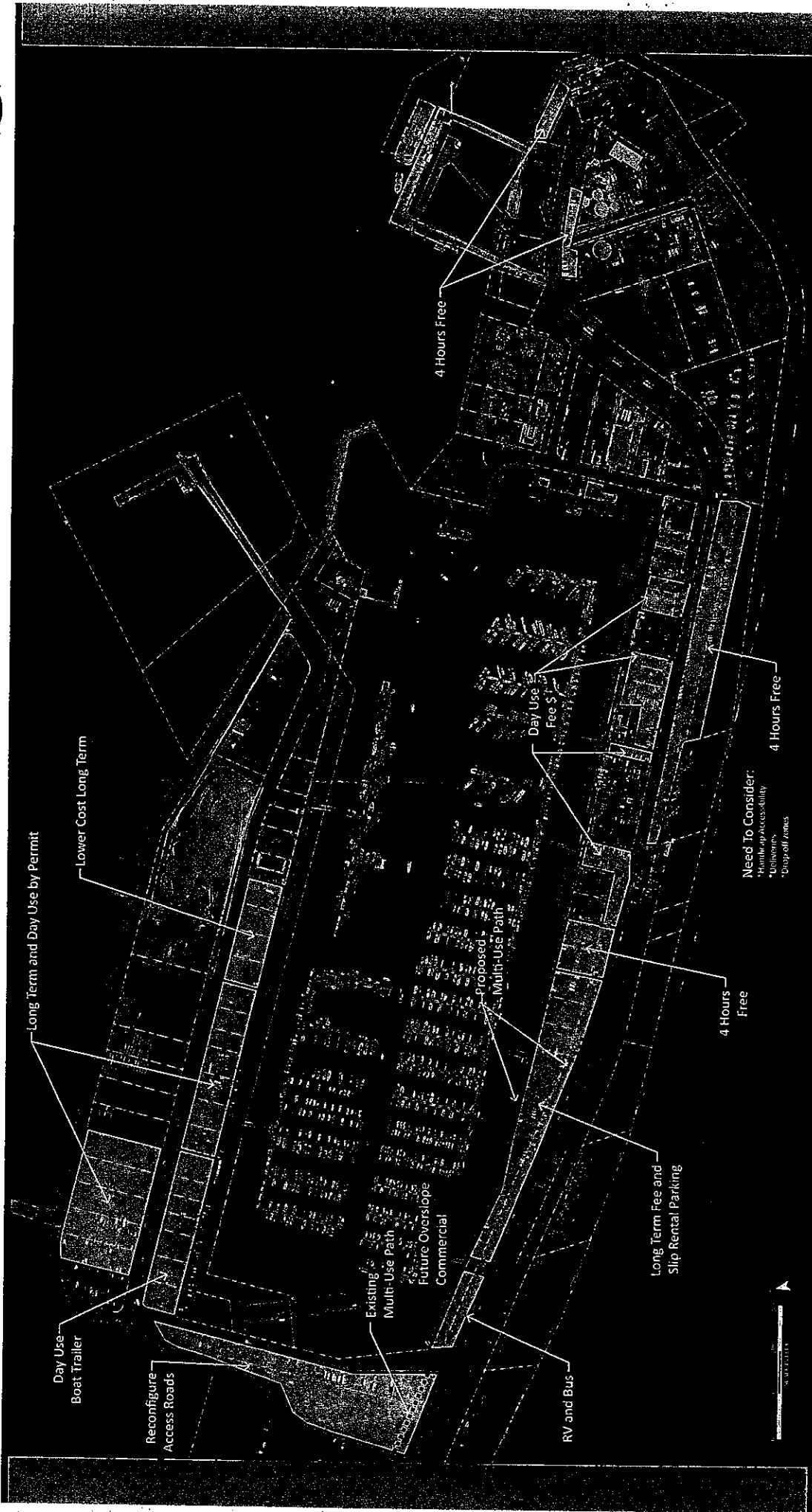
FINAL DRAFT

Goal 4.4 Manage the Port as a working harbor, for both recreational and working vessels

Objective	Strategies	Responsibilities
Remove derelict vessels	Continue to get rid of boats not paying moorage; the harbor is not a storage facility or museum. Harbor expansion is expensive; the harbor should be fully utilized by active users. Dead boats can also be an environmental hazard if no one is responsible for making sure they don't sink or leak.	Public Works Port and Harbor

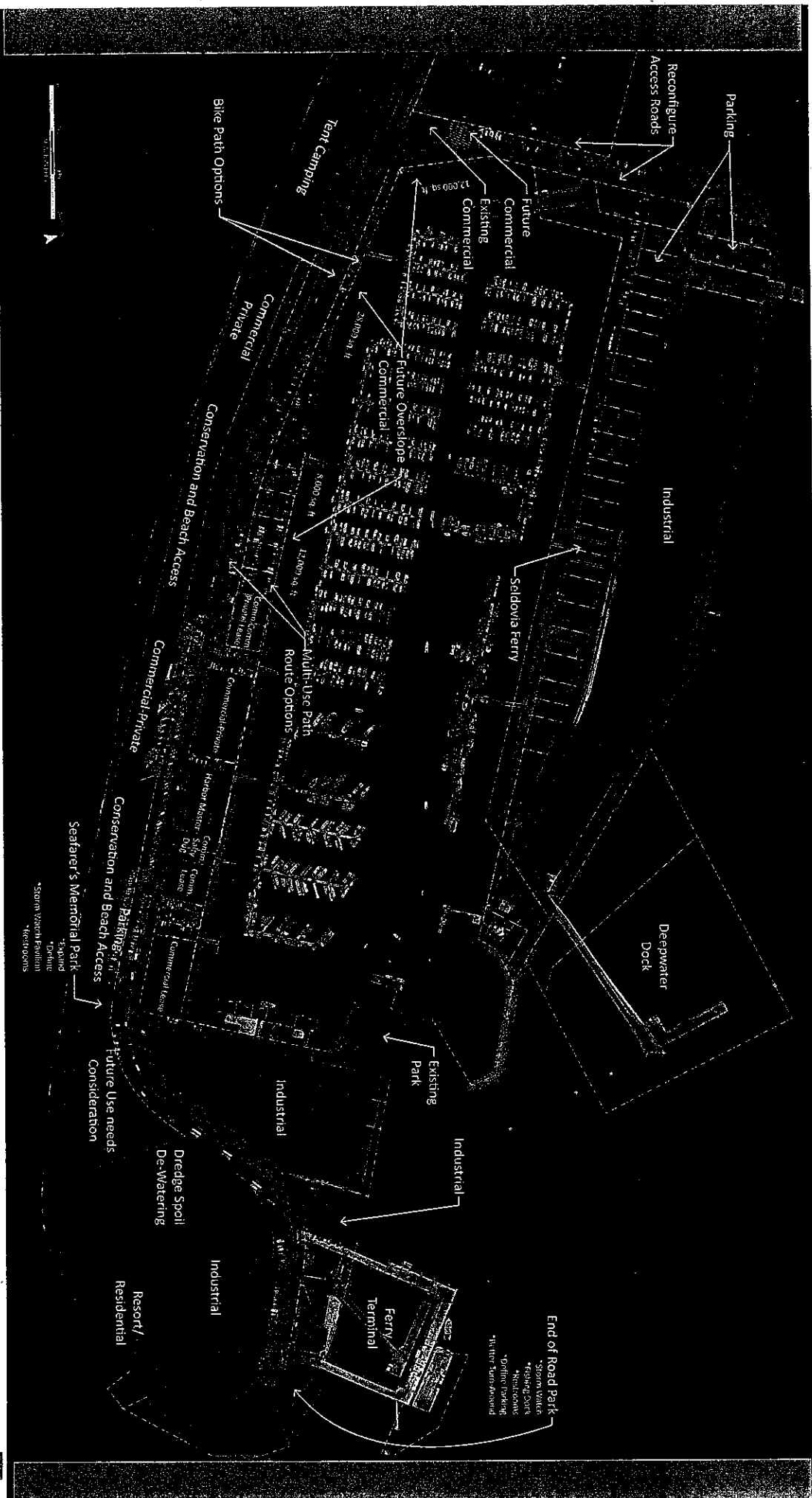
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Map 6: FUTURE PARKING CONCEPT



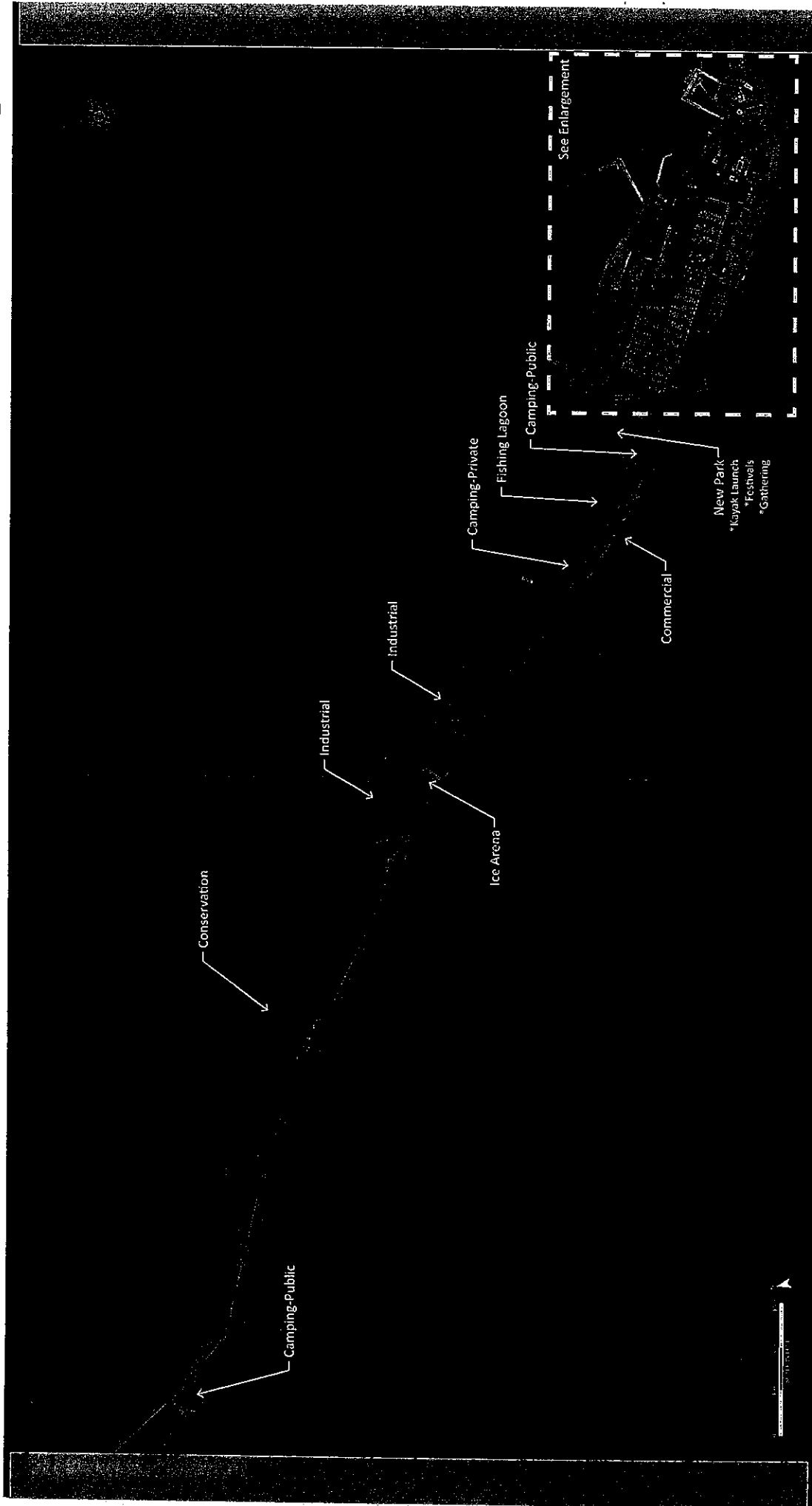
FINAL DRAFT April 20, 2011

Map 5: FUTURE LAND USE CONCEPT ENLARGEMENT



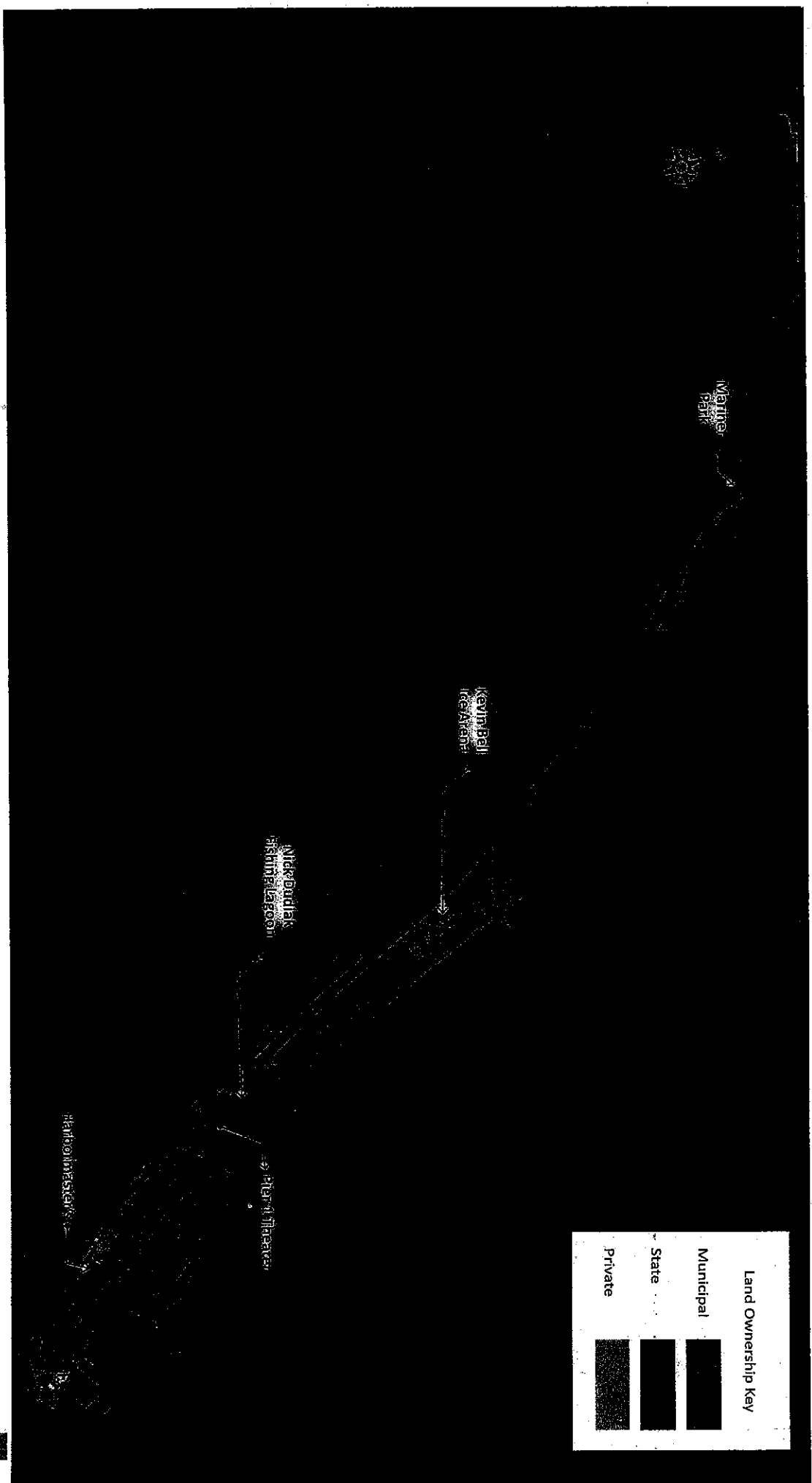
FINAL DRAFT April 20, 2011

Map 4: FUTURE LAND USE



Map 3: CURRENT LAND OWNERSHIP

HOMER SPIT COMPREHENSIVE PLAN



FINAL DRAFT April 20, 2011

ORDINANCE REFERENCE SHEET
2011 ORDINANCE
ORDINANCE 11-18

An Ordinance of the City Council of Homer, Alaska, Amending the FY 2011 Operating Budget by Appropriating \$7,793.75 from the Public Works Depreciation Reserve for the Purpose of Sandblasting and Recoating a CAT Loader.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting May 9, 2011 Introduction
 - a. Memorandum 11-064 from Public Works Superintendent as backup

CITY OF HOMER
HOMER, ALASKA

City Manager/
Public Works Director

ORDINANCE 11-18

AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
ALASKA, AMENDING THE FY 2011 OPERATING BUDGET
BY APPROPRIATING \$7,793.75 FROM THE PUBLIC WORKS
FLEET RESERVE FOR THE PURPOSE OF SANDBLASTING
AND RECOATING A CAT LOADER.

WHEREAS, In order to properly maintain and extend the life of heavy equipment, it is
necessary to periodically sandblast and recoat the frame to prevent rust and corrosion; and

WHEREAS, The Public Works Department would like to apply this treatment to a CAT
Loader consistent with its equipment maintenance schedule; and

WHEREAS, The 1987 CAT 950B Front End Loader is a vintage piece of equipment and
it is important to keep it in good repair since funding for new equipment is in short supply.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby amends the FY 2011 Operating Budget by
appropriating \$7,793.75 from the Public Works Fleet Reserve for the purpose of sandblasting
and recoating a CAT Loader as follows:

Expenditure:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
152-383	Sandblasting / Recoating Equipment	\$7,793.75

Section 2. This is a budget amendment ordinance, is temporary in nature, and shall not
be codified.

ENACTED BY THE HOMER CITY COUNCIL this _____ day of _____, 2011.

ATTEST:

YES:

NO:

ABSENT:

ABSTAIN:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt Wrede, City Manager

Thomas F. Klinkner, City Attorney

Date: _____

Date: _____



CITY OF HOMER PUBLIC WORKS DEPARTMENT

Jan C. Jonker, Superintendent
3575 Heath St.
Homer, Alaska 99603

Telephone: (907)235-3170
Fax: (907)235-3145
EMAIL : jjonker@ci.homer.ak.us

MEMORANDUM 11-064

To: Walt Wrede, City Manager

From: Jan Jonker, Public Works Superintendent

Thru: Carey Meyer, PW Director

Date: Tuesday, May 03, 2011

Subject: HEAVY EQUIPMENT SANDBLASTING & REPAINTING

Discussion

The City owns several pieces of heavy equipment which are 25+ years old and should be replaced. However due to the climate of the economy we do not have the funds for these major purchases. In light of this we are proposing that several of our main pieces of equipment be sandblasted and repainted in an effort to extend their useful life.

We have contacted two local and one Mat Su Valley vendors that provide this service. One local vendor, Homer Boat Yard, indicated that they are too busy with boat work. The quotes from the two others are as follows.

	Active Coatings LLC Homer, AK	Northern Industrial Coatings Wasilla, AK
• 1980 Cat 120G Motor Grader	\$8,268.75	\$5,500.00 + \$4,000 trucking
• 1986 Cat 140G Motor Grader	\$9,527.85	\$5,500.00 + \$4,000 trucking
• 1987 Cat 950B Front End Loader	\$7,793.75	\$3,600.00 + \$4,000 trucking
• Trucking	n/a	<u>\$12,000.00</u>
Total Quote	\$25,590.35	\$26,600.00

Recommendation

As this is an unbudgeted item and due to the quoted costs, we recommend award to Active Coatings LLC, Homer, Alaska in the amount of \$7,793.75 for sandblasting and repainting of the 1987 Cat 950B Loader.

We will request additional funding to complete the other two pieces of equipment in 2012.

Fiscal Note

Public Works Fleet Reserve Account 152-383. Account balance is \$336,700.00

ORDINANCE REFERENCE SHEET
2011 ORDINANCE
ORDINANCE 11-19

An Ordinance of the City Council of Homer, Alaska, Establishing a Preliminary Budget and Authorizing the Expenditure of \$486,948 from Depreciation Reserves for the Renovation and Expansion of City Hall.

Sponsor: Roberts/Wythe

1. City Council Regular Meeting May 9, 2011 Introduction
 - a. Memorandum 11-066 from Public Works Director as backup
 - b. 65% Budget Breakdown
 - c. Resolution 11-028

1 CITY OF HOMER
2 HOMER, ALASKA

3 Roberts/Wythe

4 ORDINANCE 11-19
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
7 ALASKA, ESTABLISHING A PRELIMINARY BUDGET AND
8 AUTHORIZING THE EXPENDITURE OF \$486,948 FROM
9 DEPRECIATION RESERVES FOR THE RENOVATION AND
10 EXPANSION OF CITY HALL.
11

12 WHEREAS, Upon review of the renovations and expansion of City Hall, the City Hall
13 Renovation and Expansion Task Force recommended improvements to the current City Hall
14 heating system, lighting, and air handling unit and replacement of the roof, deck, carpets and
15 exterior siding; and
16

17 WHEREAS, Depreciation reserves were set aside for the purpose of repairs and
18 maintenance of the existing City Hall building to extend the useful life of the building; and
19

20 WHEREAS, Council declared via Resolution 11-028 their support to use City Hall
21 Depreciation Reserves to assist with the costs of renovation to the existing City Hall, finding it
22 economically sensible to complete the improvements and replacements of the existing building
23 during the renovation and expansion project.
24

25 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
26

27 Section 1. The Homer City Council hereby establishes a preliminary budget and
28 authorizes the expenditure of Depreciation Reserves for the Renovation and Expansion of City
29 Hall as follows:
30

31 Expenditure:
32

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
34 156-375	Depreciation Reserves	\$486,948

35

36 Section 2. This is a budget amendment ordinance, is temporary in nature, and shall not
37 be codified.
38

39 ENACTED BY THE HOMER CITY COUNCIL this _____ day of _____, 2011.
40

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSENT:

ABSTAIN:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

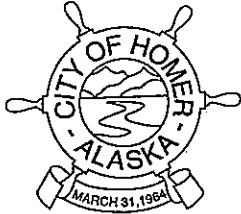
Reviewed and approved as to form:

Walt Wrede, City Manager

Thomas F. Klinkner, City Attorney

Date: _____

Date: _____



**CITY OF HOMER
PUBLIC WORKS**

3575 HEATH STREET HOMER, AK 99603

TELEPHONE (907)235-3170
FACSIMILE (907)235-3145

MEMORANDUM 11-066

TO: Walt Wrede, City Manager

FROM: Carey Meyer, Public Works Director

DATE: May 3, 2011

RE: **City Hall Expansion and Renovation Project
Additional Funding to Complete Renovations**

The City Hall Expansion and Renovation Task Force has been meeting since February to provide guidance and oversight of the design team regarding the development of plans for this project.

During the conceptual design stage, it became evident that additional funding would be required to complete both the expansion and renovation portion of the project.

The Task Force supports the idea that City Hall expansion work be funded using the available State Legislative Grant monies; and that it would be appropriate to use City reserve account depreciation funds to complete the renovation of the existing City Hall building.

Attached is the current budget for the project, separating the expansion work from the renovation work. An additional \$486,948 is required to complete all renovation work.

Recommendations: The City Council pass an ordinance authorizing the use of depreciation funds to complete the renovation portion of the project.

65% Budget Breakdown
City Hall Renovation and Expansion
May 3, 2011

Proposed Project	Original Budget	Proposed Budget
Expansion Construction	\$1,500,000	\$1,510,909
1% for Art	\$15,000	\$15,000
Preconstruction Services	\$135,000	\$129,869
Construction Assistance Services	\$30,000	\$22,150
City Salaries/Administration	\$40,000	\$40,000
Contingency (10%)	\$150,000	\$150,000
Total Proposed Project	\$1,870,000	\$1,867,928

4100 SF new bldg; removal of HEA power line, no work on existing bldg

Additional Work (addn funding r'qrd)	Proposed
Energy Efficiency Improvements	
New Heating System	\$39,400
Lighting Upgrade	\$27,500
New Air Handling Unit	\$24,500
Subtotal Energy Improvements	\$91,400
Renovations per UAA Architect's Report	
New Roof	\$52,000
Deck Replacement	\$25,000
New Carpet	\$62,900
Interior Painting	\$22,660
Exterior Siding	\$71,850
Window Replacement (2)	\$2,000
Work Space Improvements	\$131,400
Elevator Pit Repair	\$4,550
Subtotal Renovation Improvements	\$372,360
Contingency (5%)	\$23,188
Total Addition Funding Required =	\$486,948

replace electric heat with hydronic (heating fuel)
replace lighting with energy efficient lighting
replace old roof AHU with new efficient unit

replace shingle roof/rehab flat roof
replace handicap ramp and deck (north side of bldg)
install new carpeting in existing bldg
paint and patch all interior wall surfaces
new siding on exterior of existing building
replace two damaged windows
Wall moving/breakroom relocation/storage area adjustments
repair mountings bottom of elevation shaft

**CITY OF HOMER
HOMER, ALASKA**

Wythe

RESOLUTION 11-028

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, IN SUPPORT OF USING CITY HALL DEPRECIATION RESERVES TO ASSIST WITH THE COSTS OF RENOVATION TO THE EXISTING CITY HALL FACILITY.

WHEREAS, The City Hall Renovation and Expansion Task Force is working with the architects and contractors in reviewing and discussing improvements for the renovated and expanded City Hall; and

WHEREAS, Areas in the existing building were identified as requiring upgrade and replacement in the University of Alaska Anchorage engineer's facility report and are being considered for inclusion in the renovation project; and

WHEREAS, It is economically sensible to replace the roof, deck, and carpets of the existing building during the remodel; and

WHEREAS, Improvements to the current heating system, lighting, and air handling unit are desired to increase overall energy efficiency; and

WHEREAS, Exterior siding to the existing building will add stability, reduce long term maintenance costs, and create an aesthetically pleasing flow with the new addition; and

WHEREAS, Depreciation reserves are allocated to be made available for the purpose of repairs and maintenance of the building as required to extend the useful life of the building; and

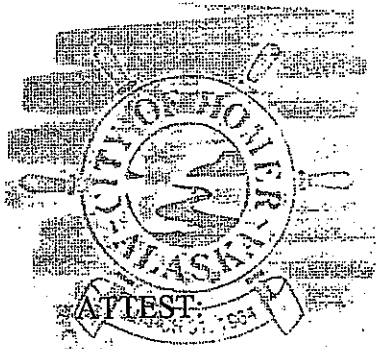
WHEREAS, Consistent with the design build process, it is desirable to know at this time if depreciation reserve funds may be utilized to finance the projects identified as necessary repairs in the existing building.

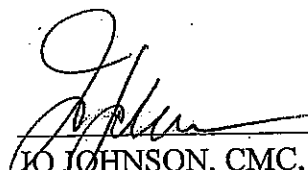
NOW, THEREFORE, BE IT RESOLVED that the Homer City Council supports utilizing depreciation reserves to assist with the costs of renovation to the existing City Hall facility.

PASSED AND ADOPTED by the Homer City Council this 14th day of March, 2011.

CITY OF HOMER


JAMES C. HORNADAY, MAYOR




JO JOHNSON, CMC, CITY CLERK

Fiscal Note: N/A

ORDINANCE REFERENCE SHEET
2011 ORDINANCE
ORDINANCE 11-20

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.24.020, Permitted Uses and Structures; and Homer City Code 21.24.030, Conditional Uses and Structures; Regarding the Permission of Single Family and Duplex Dwellings as Conditional Uses in the General Commercial 1 Zoning District.

Sponsor: Planning

1. City Council Regular Meeting May 9, 2011 Introduction
 - a. Memorandum 11-063 from City Planner as backup w/attachments:
 1. Petition
 2. Draft Ordinance
 3. Staff Reports 11-15 and 11-32
 4. Planning Commission Minutes of February 16 and March 2, 2011
 - b. Written public comment

CITY OF HOMER
HOMER, ALASKA

Planning

ORDINANCE 11-20

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
AMENDING HOMER CITY CODE 21.24.010, PURPOSE; HOMER CITY
CODE 21.24.020, PERMITTED USES AND STRUCTURES; AND HOMER
CITY CODE 21.24.030, CONDITIONAL USES AND STRUCTURES;
REGARDING THE PERMISSION OF SINGLE FAMILY AND DUPLEX
DWELLINGS AS CONDITIONAL USES IN THE GENERAL COMMERCIAL
1 ZONING DISTRICT.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.24.010, Purpose, is amended to read as follows:

21.24.010 Purpose. The General Commercial 1 (GC1) District is primarily intended to provide sites for businesses that require direct motor vehicle access and may require larger land area, and to provide business locations in proximity to arterials and transportation centers. It is also intended to minimize congestion and adverse effects on adjacent residential districts and on the appearance of the community. **Residential uses are permitted as conditional uses, but conflicts between residential and nonresidential uses will be resolved in favor of nonresidential uses.**

Section 2. Homer City Code 21.24.020, Permitted uses and structures, is amended to read as follows:

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

- a. Air charter operations and floatplane tie-up facilities;
- b. General business offices and professional offices;
- c. Dwelling units located in buildings primarily devoted to business uses;
- d. Auto repair;
- e. Auto and trailer sales or rental areas;
- f. Auto fueling stations and drive-in car washes;
- g. Building supply and equipment sales and rentals;
- h. Restaurants, including drive-in restaurants, clubs and drinking establishments;
- i. Garden supplies and greenhouses;
- j. Heavy equipment and truck sales, rentals, service and repair;
- k. Hotels and motels;
- l. Lumberyards;
- m. Boat and marine equipment sales, rentals, service and repair;
- n. Mortuaries;
- o. Open air businesses;

- 47 p. Parking lots and parking garages, in accordance with HCC Chapter 7.12.
48 q. Manufacturing of electronic equipment, electrical devices, pottery, ceramics,
49 musical instruments, toys, novelties, small molded products and furniture;
50 r. Publishing, printing and bookbinding;
51 s. Recreation vehicle sales, rental, service and repair;
52 t. Retail businesses;
53 u. Trade, skilled or industrial schools;
54 v. Wholesale businesses, including storage and distribution services incidental to the
55 products to be sold;
56 w. Welding and mechanical repair;
57 x. Parks and open space;
58 y. Appliance sales and service;
59 z. Warehousing, commercial storage and mini-storage;
60 aa. Banks, savings and loans, credit unions and other financial institutions;
61 bb. Customary accessory uses to any of the permitted uses listed in the GC1 district,
62 provided that no separate permit shall be issued for the construction of any type of accessory
63 building prior to that of the main building;
64 cc. Dry cleaning, laundry, and self-service laundries;
65 dd. Taxi operation;
66 ee. Mobile food services;
67 ff. Itinerant merchants, provided all activities shall be limited to uses permitted
68 outright under this zoning district;
69 gg. Recreational vehicle parks, provided they shall conform to the standards in HCC
70 § 21.55.090.
71 hh. Day care homes, provided that a conditional use permit was obtained for the
72 dwelling, if required by HCC § 21.24.030; all outdoor play areas must be fenced.
73 ii. Rooming house and bed and breakfast, **provided that the dwelling has been**
74 **approved as a conditional use.**
75 jj. Dormitory.
76 kk. As an accessory use, one small wind energy system per lot.

77
78 Section 3. Homer City Code 21.24.030, Conditional uses and structures, is amended to
79 read as follows:

80
81 21.24.030 Conditional uses and structures. The following uses may be permitted in the
82 General Commercial 1 District when authorized by conditional use permit issued in accordance
83 with HCC Chapter.21.71:

- 84 a. Campgrounds;
85 b. Crematoriums;
86 c. Multiple family dwelling;
87 d. Public utility facility or structure;
88 e. Mobile home parks;

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

- 89 f. Planned unit developments;
90 g. Townhouses;
91 h. Pipelines and railroads;
92 i. Heliports;
93 j. Shelter for the homeless, provided any lot used for such shelter does not abut an
94 RO, RR, or UR zoning district;
95 k. More than one building containing a permitted principal use on a lot.
96 l. Day care facilities; provided, however, that outdoor play areas must be fenced.
97 m. Other uses approved pursuant to HCC § 21.04.020.
98 n. Indoor recreational facilities;
99 o. Outdoor recreational facilities.
100 **p. Single-family dwelling, excluding mobile home.**
101 **q. Duplex dwelling, excluding mobile home.**
102

103 Section 4. This Ordinance is of a permanent and general character and shall be included
104 in the City Code.

105
106 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
107 _____ 2011.

108
109 CITY OF HOMER
110

111
112
113 JAMES C. HORNADAY, MAYOR
114

115 ATTEST:
116
117

118
119 JO JOHNSON, CMC, CITY CLERK
120

121 YES:

122 NO:

123 ABSTAIN:

124 ABSENT:
125
126

127 First Reading:

128 Public Hearing:

129 Second Reading:

130 Effective Date:

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

131 Reviewed and approved as to form:

132

133

134

135 Walt E. Wrede, City Manager

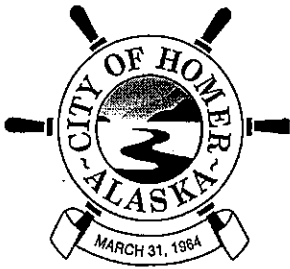
136

137 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

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



City of Homer Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-8121
Fax (907) 235-3118
E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

MEMORANDUM 11-063

TO: MAYOR HORNADAY AND HOMER CITY COUNCIL
WALT WREDE, CITY MANAGER

FROM: RICK ABOUD, CITY PLANNER

DATE: MAY 4, 2011

SUBJECT: An Ordinance of the City Council of the City of Homer, Alaska, amending Chapter 21.24.030 General Commercial 1 District, Conditional uses and structures.

After holding a public hearing February 16th and reconsideration on March 2nd, the Homer Advisory Planning Commission has recommended against adopting the citizen petition requesting a text amendment to the General Commercial 1 District, and have adopted nine findings in support their decision.

The Homer Advisory Planning Commission reviewed a citizen petition requesting a text code amendment to allow for single family and duplex residences to be permitted in the General Commercial District as a Conditional Use according to HCC 21.95.020, "A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council, if requested, in writing and signed by fifty voters registered within the City." During the time in that the City Clerk verified the signatures, Ordinance 10-58 was enacted. The ordinance maintained the previous submittal requirements of a citizen petition for a text amendment while incorporating a new review standard (HCC 21.95.040). The Planning Department and Planning Commission reviewed the petition according to the new codified standards. After receiving a positive recommendation in Staff Report PL 11-15 at the Planning Commission's February 16th meeting, the Commission voted against supporting the proposed amendment 3 to 3. Noting few findings and little on the record to support the decision, the item was reconsidered.

At the March 2nd meeting, the Commission voted 5 to 1 in favor of reconsideration. After a lengthy discussion, the commission voted 5 to 1 not to adopt the recommendations and findings in Staff Report PL 11-15. The Commission then continued to adopt nine findings, all with a unanimous approval, in support their decision.

FINDINGS:

AMENDING GC1 ZONING TO ALLOW SINGLE FAMILY AND DUPLEX DWELLINGS IS NOT CONSISTENT WITH THE INTENT AND WORDING OF OTHER PROVISIONS OF TITLE 21.

GRANTING CUP STATUS WOULD INCREASE CONFLICTS WITH OTHER MORE FAVORED USES LIKE COMMERCIAL AND INDUSTRIAL.

AMENDING GC1 ZONING WILL NOT BE REASONABLE TO IMPLEMENT OR ENFORCE. THE ISSUE IS NONCONFORMING CITY WIDE.

ALLOWING SINGLE FAMILY RESIDENCES AND DUPLEX DWELLINGS AS A CONDITIONAL USE IN GC1 DOES NOT PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE FOR CHILDREN IN THE DISTRICT.

GRANTING CUP'S FOR NONCONFORMING USES PERPETUATES THE USES INSTEAD OF DISCOURAGING THEM.

AMENDING THE GC1 DISTRICT WILL FURTHER LIMIT AVAILABLE LAND FOR COMMERCIAL ACTIVITIES.

AMENDING THE GC1 DISTRICT TO ALLOW SINGLE FAMILY AND DUPLEX DWELLINGS DOES NOT SOLVE THE PROBLEM OF THE NONCONFORMING ISSUE IN HOMER.

ZONING REGULATIONS THAT GROUP COMPATIBLE USES TEND TO REDUCE THE OCCURRENCE OF CONFLICT.

ALLOWING A CUP IS NOT INTENDED TO RESOLVE CONFLICT OF NONCONFORMING USES.

According to HCC 21.95.070, Review by the City Council, "After receiving the recommendations of the Planning Commission regarding an amendment proposal, the City Council shall consider the amendment proposal in accordance with the ordinance enactment procedures in the Homer City Code. The City Council may adopt the proposed amendment as submitted or with amendments, or reject the proposed amendment." The proposed amendment has been reviewed by the City Attorney.

Recommendation:

The Homer Advisory Planning Commission recommends the Homer City Council **reject** the proposed amendment.

ATTACHMENTS:

Petition
Draft Ordinance
SR PL 11-15, 11-32
HAPC minutes 2/16, 3/2

Petition

To allow single family and duplex dwellings in the General Commercial One Zoning District as a Conditional Use. HCC 21.24.30.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City.

MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
✓ Merlin Cordes	Merlin L. Cordes	146 E Fairview Ave	146 E Fairview Ave
✓ Robby Smith	Robby J Smith	PO Box 941 Homer AK	1411 Race Rd Homer AK
✓ Marilyn Parrett	Marilyn Parrett	PO Box 4271 Homer AK 99603	1201 Jeffery Ave
✓ Randall Parrett	Randall Parrett	" "	" "
✓ MARK COOPER	Mark Cooper	4023 Pennock St Homer AK	SAME
✓ Pat Callahan	Pat Callahan	385 Lee Dr.	SAME
✓ LEEYA CALLAHAN	Leeya Callahan	385 LEE DR. HOMER, AK	SAME
✓ Judith Mullikin	Judith Mullikin	38 P.O. Box 790, Homer	381 E. Bonanza Ave
✓ David C. Presneau	David C. Presneau	P.O. Box 3467, Homer AK 99603	1266 Trus Ct, Homer AK
✓ Tim Miller	Tim Miller	PO BOX 2155 Homer, AK	408 Soundview Ave

RECEIVED
JAN 12 2011
CITY OF HOMER
PLANNING/ZONING

Petition

To allow single family and duplex dwellings in the General Commercial One Zoning District as a Conditional Use. HCC 21.24.30.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City.

MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
Hope Otero	<i>Hope Otero</i>	Po Box 2516 Homer AK	183 Ocean Dr Lp Homer AK
Amber Miotke	<i>Amber Miotke</i>	P.O. Box 38 Homer AK	4530 Jade Dr Homer, AK
Scott Fraley	<i>Scott Fraley</i>	Po Box 141 Homer AK	829 Smokey Bay way Homer AK
Virginia Benson	<i>Virginia Benson</i>	Po Box 1727 Homer AK	1623 E. END RD
Kevin Stoll	<i>Kevin Stoll</i>	Po Box 2868 Homer AK	3671 Poppy Circle
Rebecca Thompson	<i>Rebecca Thompson</i>	584 Bonanza Ave. P.O. Box 2887.	562 Bonanza Ave.
David Frate	<i>David Frate</i>	2164 Sprucewood	2164 Sprucewood
Dave K. Gilbert	<i>Dave K. Gilbert</i>	4814 Rochelle Rd - Homer AK 99603	4814 Rochelle Rd Homer
Mary Ellen Ulrich	<i>Mary Ellen Ulrich</i>	1233 Cook way - Homer	same
Danvia Huhlen	<i>Danvia Huhlen</i>	4142 Mattox St Lot 8 - Homer	same

Petition

To allow single family and duplex dwellings in the General Commercial One Zoning District as a Conditional Use. HCC 21.24.30.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City.

MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
✓ Annice Suleyevski	<i>Annice Suleyevski</i>	PO Box 314, Homer AK 99603	1580 Lincoln Drive Homer 99603
✓ Bruce Timken	<i>Bruce Timken</i>	Box 1181 Homer AK 99603	2000 Coyote Drive
✓ Karen West	<i>Karen West</i>	355 Crestwood Ave Homer AK 99603	same
✓ Glenn Caldwell	<i>Glenn Caldwell</i>	349 Elderberry Ct, Homer AK 99603	PO Box 2308 Homer AK
✓ Doug Bowen	<i>Doug Bowen</i>	P.O. Box 1642, Homer AK 99603	279 Lee Drive, Homer AK
✓ Mike Brown	<i>Mike Brown</i>	P.O. Box 2561 Homer	5165 Hopkins Way Homer AK
✓ Scott Wilmer	<i>Scott Wilmer</i>	Box 1950 Homer	1425 Mission Rd Homer AK
✓ Rob McCallen	<i>Rob McCallen</i>	152 W Bayview	same
✓ Frances Van Sant	<i>Frances C. Van Sant</i>	527 Ocean Dr. Loop Homer	same
✓ David Davis	<i>David J. Davis</i>	1505 Hillside Pl.	← PO Box 114

Petition

Proposed amendment:	To allow single family and duplex dwellings in the General Commercial One Zoning District as a Conditional Use. HCC 21.24.30.
HCC 21.95.020(a)(2)	A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City.

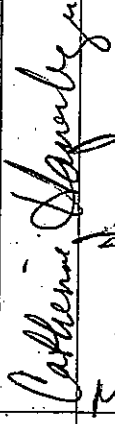
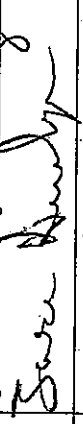






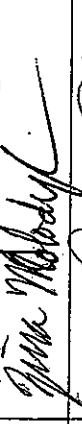
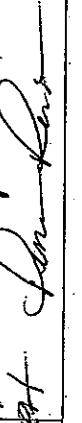
MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
✓ Roddy Heinlen	✓ Roddy Heinlen	41412 Mattox Lot 8	same
✓ Elizabeth Gallagher	✓ Elizabeth Gallagher	436 Spruceview Ave	same
✓ Colleen Wagner	✓ Colleen Wagner	2485 Larry Ln Homer	same
✓ Eileen Heppner	✓ Eileen Heppner	PO Box 2690 Homer 99603	1400 E. END RD
✓ Lana Simpson	✓ Lana M. Simpson	P.O. Box 2604 Homer, AK 99603	5080 Slavin Drive
✓ Fred Albrecht	✓ Fred W. Albrecht	PO Box 248 Homer, AK 99603	617 Soundview, Homer 99603
✓ Lorraine Heas	✓ Lorraine Heas	3870 Forest Glen, Homer AK.	same
✓ Charles W. Valsworth III	✓ Charles W. Valsworth III	1984 Skyline Dr., Homer, AK 99605	same
✓ Bill Bortner	✓ Bill Bortner	4121 Seaside Ln Homer	same
✓ Dolores Butler	✓ Dolores Butler	4181 Svedlund Home	✓

Petition

Proposed amendment:	To allow single family and duplex dwellings in the General Commercial One Zoning District as a Conditional Use. HCC 21.24.30.
File #	21-05-020(a) (2)
A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City.	

MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
Catherine Hagenberger		PO Box 2048 Homer, AK	2225 Aspen Lane, Homer
Susan Hagenberger		Box 2048 Homer AK	2225 Aspen Lane, Homer
Jeanie Fabich		4976 Alder Lane Homer	same
Missy Beacham		2213 Aspen Lane Homer	same
David Doren		Box 195 Homer AK	2213 Aspen Lane
Loid Dunnean		Box 553 Homer AK 99603	185 East Pan American Ave Homer
April Elliott		P.O. Box 1102, HOMER AK 99603	61941 Paper Plat Ave HOMER
Tammy Rainwater		45425 East End Rd Homer AK 99603	SAME
Zina Molodtch		P.O. Box 15196 Frite Creek, AK 99603	33515 Morrison Dr. Homer AK 99603
Penny Kurovost		314 E. 1st St. Homer AK 99603	same

Petition

To allow single family and duplex dwellings in the General Commercial One Zoning District as a Conditional Use. HCC 21.24.30.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City.

MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
Heidi Seay	<i>Heidi Seay</i>	PO Box 920 Homer	64235 Sheep Dr.
Jeff Helgeson	<i>Jeff Helgeson</i>	PO Box 920 Homer	4486 Early Spring St.
Shila Houk	<i>Shila Houk</i>	Box 291 Homer	Blue Sky, Homer AK
Janet Hamenberger	<i>Janet Hamenberger</i>	Box 920 Homer	44186 Early Spring
Amanda Mittle	<i>Amanda Mittle</i>	PO Box 38 Homer AK 99603	4530 Jade Dr.
Mike Hougan	<i>Mike Hougan</i>	PO Box 291 Homer, Alaska	1 mile west of Homer, Alaska

Petition.

Proposed amendment:

To allow single family and duplex dwellings in the General Commercial One Zoning District as a Conditional Use. HCC 21.24.30.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City.

MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
V Clifford Rhoton	[Signature]	P.O. Box 2385	5045 Meadow Dr.
Timothy O'Leary	[Signature]	P.O. Box 173 Anchor Pt., AK	5023 MEADOW DR HOMER
Lynnda Gauthier	[Signature]	P.O. Box 173 Anchorage, AK	5023 Meadow DR, Homer
Renee Bond	[Signature]	P.O. Box 3130 Homer, AK	2725 E. End Rd. Homer

RECEIVED
[Stamp]

RECEIVED
JAN 21 2011
CITY OF HOMER
PLANNING/ZONING

CITY OF HOMER
HOMER, ALASKA

Planning/

ORDINANCE 11-XX

ORD. 11-XX AMENDING THE GENERAL COMMERCIAL ONE ZONING DISTRICT 21.24.030 CONDITIONAL USES AND STRUCTURES AND AMENDING HCC 21.24.010 PURPOSE STATEMENT FOR THE GENERAL COMMERCIAL ONE DISTRICT.

WHEREAS, The Homer Advisory Planning Commission reviewed a request to allow single family and duplex dwellings in the General Commercial One Zoning District as a Conditional Use; and

WHEREAS, The Homer Advisory Planning Commission held a public hearing on the matter on February 16, 2011, as required by Homer City Code, Section 21.95.060; and

WHEREAS, The amendment meets the requirements of 21.95.040 Planning Department review of code amendment; and

WHEREAS, To be consistent with other provisions in the code, the Homer Advisory Planning Commission included rooming houses and bed and breakfast as uses needing a Conditional Use Permit in the General Commercial One district; and

WHEREAS, The Homer Advisory Planning Commission determined that the code amendment was consistent with the goals and objectives of the Comprehensive Plan; and

WHEREAS, The Homer Advisory Planning Commission determined that this code amendment was reasonable to implement and enforce; and

WHEREAS, The Homer Advisory Planning Commission determined the code amendment would promote the present and future public health safety and welfare.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.24.010 is hereby amended to read as follows:

21.24.010 Purpose. The General Commercial 1 (GC1) District is primarily intended to provide sites for businesses that require direct motor vehicle access and may require larger land area, and to provide business locations in proximity to arterials and transportation centers. It is also intended to minimize congestion and adverse effects on adjacent residential districts and on the appearance of the community. **Conflicts between residential and nonresidential uses shall be resolved in favor of nonresidential use**

Section 2. Homer City Code 21.24.030 is hereby amended to include the following:

21.16.030 Conditional uses and structures. The following uses may be permitted in the General Commercial One district when authorized by conditional use permit issued in accordance with HCC Chapter 21.71:

ii. "Rooming house and bed and breakfast, **provided that a conditional use permit was obtaining for the dwelling.**

kk. Single family and duplex dwellings, but not including mobile homes;

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this _____ day of _____, 2011.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and Approved as to form and content:

Walt E. Wrede, City Manager

Thomas Klinkner, City Attorney

Date: _____



City of Homer Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-8121
Fax (907) 235-3118
E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

STAFF REPORT PL 11-15

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Dotti Harness-Foster, Planning Technician
MEETING: February 16, 2011
SUBJECT: Draft Ordinance 11-xx Amending the General Commercial One (GC1) district, HCC 21.24.030 to allow single family and duplex dwelling(s) as a Conditional Use.

Introduction

On January 12, 2011 the Planning and Zoning Office received a petition for a zoning text amendment per HCC 21.95.020(a)(2). The petition states: "To allow single family and duplex dwellings in the General Commercial One Zoning District as a Conditional Use. HCC 21.24.030."

The Clerk has certified that fifty (50) registered voters within the City signed the petition. Per HCC 21.95.040 one or more public hearing(s) before the Planning Commission is required. After the public hearing(s) and the Commission's review, the draft ordinance is forwarded to the City Council.

Background: When a property owner seeks to sell or refinance their existing home, the bank and appraiser asks "If destroyed, can the home be rebuilt?" Currently, the GC1 district does not allow single family or duplex dwellings. Existing homes in the annexed GC1 East End area are nonconforming; however our nonconforming code does not allow a structure to be replaced if damaged by fifty percent (50%) or more. Without the ability to rebuild or replace, lenders will not provide favorable financing. According to the Kenai Peninsula Borough tax records; there are 43 single family homes within the GC1 zones, excluding mobile homes. Including mobile homes, (there are 9), residential dwellings account for 19.6% of the land use. This means that nearly 20% of the properties cannot be financed under current zoning rules. Without financing, buying, selling, maintaining, remodeling and insuring a structure becomes a thorny issue.

The General Commercial 1 district covers three commercial-industrial areas; from west to east:

Baycrest GC1 area at the top of Baycrest Hill includes the landfill, KPB maintenance yard, a RV park, and gas station. Annexed in 2002.

Ocean Drive GC1 area south of Beluga Lake includes residences, auto repair, commercial storage units, mechanical repair shops, restaurants and retail.

East End Road GC1 area is approximately 3 miles east of Homer's core and extends for approximately 1.3 miles along the south side of East End Road. The area includes residences, boat yard, excavation site, storage units, warehouses, bar, and retail. Some of this area was annexed in 2002 and rezoned from Rural Residential to GC1 in 2003.

Purpose HCC 21.24.010. "The General Commercial 1 (GC1) district is primarily intended to provide sites for businesses that require direct motor vehicle access and may require larger land area; and to provide business locations in proximity to arterials and transportation centers. It is also intended to minimize congestion and adverse effects on adjacent residential districts and on the appearance of the community."

Comprehensive Plan:

Ocean Drive GC-1/Residential "Allow residential uses; encourage water dependant uses along Beluga Lake, and encourage small commercial enterprises on Lakeshore Drive. Maintain the neighborhood character of mixed commercial and residential use, retain mature healthy evergreen trees when practical and plant trees in landscaped areas." Ch 4, Goal 1, Obj. B, pg 4-5.

East End Road "Mixed-use development with fewer constraints on uses than existing GC-1 and GC-2. Designed to accommodate the wide range of uses found in the area today, as well as other future uses; examples include industrial, marine-oriented, construction services (including batch plants), storage, and artist workshops. Residential and retail are allowable, but residential/retail and commercial conflicts will be resolved in favor of commercial/industrial uses." App. B, pg B6

Mobile Homes: Staff considered the effect of mobile homes in the Baycrest, Ocean Drive and East End GC1 districts. Based on the KPB tax records there are no mobile homes in the Baycrest and Ocean Drive GC1 areas. Excluding mobile homes from the Baycrest and Ocean Drive is consistent with the existing structures.

The East End GC1 area has approximately nine (9) mobile homes, which are now nonconforming. Nonconforming structures may continue; but may not be enlarged or replaced per HCC 21.16.030. The draft ordinance excludes mobile homes from all GC1 districts. If the commission wants to allow mobile homes in the East End GC1 area an amendment is needed, or this could be considered in the proposed East Mixed Use district.

East End Mixed Use: In the coming year(s) the Commission will review a draft ordinance for East End Mixed Use. Notwithstanding the need to currently resolve this single family and duplex issue, this code change will be proposed for the East End Mixed Use district, as the Comprehensive Plans states that residential and retail are allowable in the East End Mixed Use district and conflicts will be resolved in favor of commercial/industrial uses.

Conditional Use/Conflicts: Due to the purpose of the GC1 district, the Comprehensive Plan statements and the variety of permitted uses, staff has three recommendations:

1. Single family and duplex dwellings to be a conditional use as requested by the petition.
2. Require rooming houses and bed and breakfasts to obtain a CUP, as this is consistent with the intent of the GC1 district because by definition they are dwellings.
3. Amend the purpose statement to reflect the intent of the Comprehensive Plan which states residential and commercial conflicts will be resolved in favor of commercial and industrial uses.

Consistency with residential uses and structures: The GC1 district has two permitted residential use which do not require a CUP; rooming house and bed and breakfast HCC 21.24.020(ii). By definition "rooming house" and "bed and breakfast" must be in a dwelling*.

<u>Permitted uses:</u>	<u>Conditional uses:</u>
Day care homes (provided a CUP)	Multi-family dwelling
*Rooming house and B & B	Mobile home parks
Dwelling in a primary business	Townhouses
	Day care facilities

To be consistent and meet the intent of the Comprehensive Plan staff recommends requiring a CUP for rooming houses and bed and breakfasts, as in:

HCC 21.24.020(ii) Rooming house and bed and breakfast **provided a conditional use permit is obtained for the dwelling.**

Review Criteria: HCC 21.95.040 requires that the Planning Department review code amendments using the following criteria from Ord. 10-58:

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

Analysis: Homer's Comprehensive Plan addresses the:

- Ocean Drive GC-1/Residential areas and states "Allow residential uses." Ch 4, Goal 1, Obj. B, pg 4-5.
- East End Road GC1 district states, "Residential and retail are allowable, but residential/retail and commercial conflicts will be resolved in favor of commercial/industrial uses." App. B, pg B6
- Baycrest GC1 district is included in the general intent, use and standards for the GC1 district. Appendix B5

Finding 1: The Comprehensive Plan recommends allowing residential use in the GC1 district, with conflicts being resolved in favor of commercial/industrial uses.

b. Will be reasonable to implement and enforce.

Analysis: Prior to construction, single family, duplexes, rooming houses and bed and breakfasts will require a Conditional Use Permit which are approved by the HAPC.

Finding 2: Adding single family and duplex dwellings as a conditional use is reasonable to implement and enforce.

Finding 3: Requiring a Condition Use Permit for rooming houses and bed and breakfast is reasonable to implement and enforce.

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

Analysis: Requiring a CUP for single family, duplexes, rooming houses and bed and breakfasts allows the Planning Commission to review each proposal for health, safety and welfare per HCC 21.71.030(g).

Finding 4: Allowing single family and duplex dwellings as a conditional use in the GC1 district promotes public health, safety and welfare.

Finding 5: Requiring a Condition Use Permit for rooming houses and bed and breakfasts promotes public health, safety and welfare.

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

Analysis: The GC1 district has two permitted residential uses which do not require a CUP; rooming house and bed and breakfast HCC 21.24.020(ii). To be consistent with the intent and wording of other provisions of the GC1 district staff recommends requiring rooming houses and bed and breakfast to obtain a CUP also. All conflicts would be resolved in favor of non-residential uses.

Finding 6: Allowing single family and duplex dwellings as a conditional use, with conflicts being resolved in favor of non-residential uses is consistent with the intent of the GC1 district.

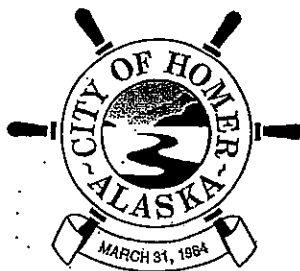
Finding 7: Requiring a Condition Use Permit for rooming houses and bed and breakfasts meets the intent of the GC1 district.

STAFF RECOMMENDATIONS: The HAPC recommends the Homer City Council adopt draft Ordinance 11-xx which would amend the General Commercial One (GC1) district to add:

1. **"Single family and duplex dwellings, but not including mobile homes"** as a Conditional Use in the GC1 district.
2. **"Rooming house and bed and breakfast, provided that a conditional use permit was obtaining for the dwelling."**
3. Amends 21.24.010 Purpose: The General Commercial 1 (GC1) district is primarily intended to provide sites for businesses that require direct motor vehicle access and may require larger land area, and to provide business locations in proximity to arterials and transportation centers. It is also intended to minimize congestion and adverse effects on adjacent residential districts and on the appearance of the community. **Conflicts between residential and nonresidential uses shall be resolved in favor of nonresidential uses.**

ATTACHMENTS

1. Draft ordinance
2. Ord. 10-58 Rezone



City of Homer Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

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STAFF REPORT PL 11-32

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
MEETING: March 2, 2011
SUBJECT: Reconsideration to allow single family and duplex dwelling as a Conditional Use in the GC1 district.

At the February 16, 2011 the Commission voted NOT to amend the General Commercial One (GC1) district to allow single family and duplex dwelling(s) as a Conditional Use, HCC 21.24.030. Voting No (prevailing side) was: Highland, Venuti, Dolma.

On Friday February 18, 2011 through the Vice-Chair, (Chair was unavailable), Commission Highland requested reconsideration of the Feb. 16, 2011 vote. HAPC Bylaw, pg 3, G.

Procedure:

First, the Commission must vote to reconsider

If a majority of the Commissioners vote YES then the Commission will need a motion to discuss the GC1 topic.

If a majority of the Commissioners vote NO the Feb. 16, 2011 decision as presented stands.

Either way, a written decision will be drafted and forwarded to the City Council, per HCC 21.95.040(c). The City Council may or may not adopt the proposal, per HCC 21.95.050(b).

Because the matter is legislative, rather than an adjudication, the requirement for findings is not so strict. However, HCC requires the Commission to send recommendations to the City Council. With a tie vote on the ordinance amendment, it would be helpful to have all seven commissioners give it consideration. A well documented discussion of the merits of the proposal will allow the City Council to understand why the Commission made a certain decision. The minutes only reflect one concern that supports the result of the vote, "public health safety and welfare issues when looking at safety issues with having children in commercial area." I do believe that I heard a concern about the limited available land for commercial activities, which is not reflected in the minutes. Regardless, it is advantageous to get a vote of the full commission with a fuller record of the reasoning behind each Commissioner's vote. This may be done by discussing the merits of the finding presented to you in the staff report and why you may feel that they are adequate or inadequate, this way one might be best able to discern how the recommendation meets or does not meet the review standards set in code.

Att. SR 11-15, Proposed Ordinance 11-xx, Petition

There were no presentations scheduled.

REPORTS

A. Staff Report PL 11-114, City Planner's Report

City Planner Abboud reviewed his staff report.

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 11-15, Draft Ordinance 11-xx Amending the General Commercial One (GC1) District, HCC 21.24.030 to allow single family and duplex dwelling(s) as a Conditional Use

City Planner Abboud reviewed the staff report.

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

HIGHLAND/KRANICH MOVED TO ADOPT STAFF REPORT PL 11-15 AMENDING THE GC1 DISTRICT, HCC 21.24.030 TO ALLOW SINGLE FAMILY AND DUPLEX DWELLING(S) AS A CONDITIONAL USE WITH RECOMMENDATIONS AND FINDINGS.

Commissioner Highland expressed reservations about changing the zoning. The Commission gets told that we need to keep commercial available so it's available for the future. This gives some leeway on the conditional use but still allows some extraneous use in GC1. She questioned if there is a way to allow what is there already because they were annexed, and stop it there.

Commissioner Kranich noted that they are only adding two uses in the GC1 as conditional uses, but not changing any area of zoning.

Commissioner Highland reiterated that she has concerns about adding those uses. She added that there are public health safety and welfare issues when looking at safety issues with having children in commercial area.

VOTE: YES: BOS, DRUHOT, KRANICH
NO: HIGHLAND, VENUTI, DOLMA

Motion failed.

B. Staff Report PL 11-20, CUP 11-04, A Request for a Conditional Use Permit (CUP) at 880 East End Road for a two-story, approximately 8,000 square foot wellness clinic for the Seldovia Village Tribe Wellness Center. A CUP is required for HCC 21.16.03(h), More than one building containing a permitted principal use on a lot. HCC 21.16.030(d) Hospitals and medical clinics. HCC 21.016.040(e), No lot shall contain more than

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
MARCH 2, 2011

Session 11-03, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 7:01 p.m. on March 2, 2011 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS DOLMA, DRUHOT, HIGHLAND, KRANICH, MINSCH, VENUTI

ABSENT: COMMISSIONER BOS

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK JACOBSEN

APPROVAL OF AGENDA

Commissioner Highland requested that a Transportation Advisory Commission report be added under reports. There was no objection and the amended agenda was approved by consensus of the Commission.

PUBLIC COMMENT

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

Scott Connelly, local realtor, commented in support of the reconsideration of the amendment to the GC1 zoning district. He's not sure what the best solution is but believes there is room for improvement in that zoning area. He understands from the staff report there are 42 residential units and 9 mobile homes which represents a large financial investment for the folks who own those properties. He has personally been involved in transactions that failed to go through because of the issues the banks have with the zoning. He isn't a fan of encouraging residential use in an industrial area but thinks something that would allow the property owners to maintain their homes in a safe and insurable manner would be a compromise that would allow them to recoup their investment in their property.

Jason Hanenburger, city resident, commented that he owns a house on Meadow Drive. It is too small to accommodate his needs and since he can't expand it he is having to rent, and he can't sell it unless someone wants to do something different with it. He has a neighbor with a trailer who would like to build a small home and get rid of the trailer, but she can't. He hopes the commission will consider the change.

RECONSIDERATION

- A. Staff Report PL 11-15, Draft Ordinance 11-xx Amending the General Commercial One (GC1) District, HCC 21.24.030 to allow single family and duplex dwellings(s) as a Conditional Use.

KRANICH/VENUTI MOVED TO RECONSIDER THE ACTION ON PL STAFF REPORT PL 11-15, DRAFT ORDINANCE 11-XX AMENDING THE GENERAL COMMERCIAL ONE (GC1) DISTRICT, HCC 21.24.030 TO ALLOW SINGLE FAMILY AND DUPLEX DWELLING(S) AS A CONDITIONAL USE.

Commissioner Highland explained that she was advised by planning staff that reconsideration was going to be requested by a commissioner who voted no so they could do findings. City Planner Abboud commented that they felt there wasn't a strong enough discussion on record

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
MARCH 2, 2011

to document findings to forward to council since the only thing on record is safety issues for children in a commercial area.

Commissioner Highland noted that minutes reflect her concerns regarding a limited area of GC1 zoning as well. She questioned if there would have been another way to do findings rather than issuing reconsideration. She further commented that she had been thinking about it after the last meeting and wanted to have some more discussion regarding the issue. She questions the merit for allowing a CUP process because of the people who built there in good conscience for the long term and then the zoning changed through annexation.

VOTE: YES: MINSCH, HIGHLAND, DRUHOT, VENUTI, KRANICH
NO: DOLMA

Motion carried.

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.

1. Approval of the January 19, 2011 minutes
2. Time Extension Requests: Lee Cole 2008 Preliminary Plat Time Extension Request
3. Approval of City of Homer Projects under HCC 1.76.030 g
4. KPB Coastal Management Program Reports
5. Draft Decision and Findings for Staff Report PL 11-20 CUP 11-04 A Request for a Conditional Use Permit (CUP) at 880 East End Road for a two-story approximately 8,000 square foot wellness clinic for the Seldovia Village Tribe Wellness Center. A CUP is required for HCC 21.16.030(h), more than one building containing a permitted principal use on a lot.

The Consent Agenda was approved by consensus of the Commission.

PRESENTATIONS

There were no presentations scheduled.

REPORTS

- A. Staff Report PL 11-30, City Planner's Report

City Planner Abboud reviewed his staff report.

- B. TAC Report

Commissioner Highland reported that the committee watched a video by Gary Lauder called Taking Turns. It included statistics on traffic and suggests taking turns at intersections. The Public Works Director gave the committee an update that the City will be developing the trail from West Homer Elementary to the Forest Glen Subdivision and building a bridge over Woodard Creek at Soundview, also on Spit Trail improvements, and that the Beluga Trail improvements won't be happen this year. She said the committee had their annual review of

There was no further discussion on the main motion as amended.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PENDING BUSINESS

- A. Staff Report PL 11-15, Draft Ordinance 11-xx Amending the General Commercial One (GC1) District, HCC 21.24.030 to allow single family and duplex dwellings(s) as a Conditional Use.

The motion for reconsideration passed and the following motion is back on the floor for further consideration:

HIGHLAND/KRANICH MOVED TO ADOPT STAFF REPORT PL 11-15 AMENDING THE GC1 DISTRICT, HCC 21.24.030 TO ALLOW SINGLE FAMILY AND DUPLEX DWELLING(S) AS A CONDITIONAL USE WITH RECOMMENDATIONS AND FINDINGS.

The Commission had a lengthy discussion regarding this amendment and reviewed their zoning maps to consider how much GC1 property will be affected.

- While this may benefit residential properties in the East End area of the district we may not want to allow this use in all GC1 area because it also includes Baycrest and Ocean Drive.
- Homer code used to say that nonconformities could be expanded. In 2008 the zoning regulations about non-conformity were changed that allowed no replacement of existing buildings and that is the problem that is happening here.
- Making a zoning amendment to solve a particular problem may not be the best way to approach this.
- Code says if a non conforming use is damaged more than 50%, it can't be rebuilt, which indicates that we want the nonconformities to go away. It doesn't make sense to change the zoning and leave the nonconforming rules if the intent is that they can be rebuilt.
- If the intent is that nonconformities can be rebuilt, that is the piece of code to change. It isn't fair if these select people in this area can re-build but the others can't.
- The issue isn't only damaged properties. There are residential uses that are usable but can't be made larger to accommodate the families using them and a person can't remove a small mobile home and replace it with a house. These are issues a CUP could fix.
- There are residential type uses in the Ocean Drive area as well that will also be considered as nonconforming.
- There is a very small supply of GC1 zoning in the City of Homer and there is a perceived mind set in the community that may be that we won't get anymore GC1 or GC2.
- All this does is change nonconforming rules under the guise of zoning.
- Perhaps this issue can be resolved through the mixed use zoning that was called out in the Comprehensive Plan or by reconfiguring boundaries.

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
MARCH 2, 2011

- In other places when areas are rezoned properties in the area are given a specific time line when they have to come into compliance.
- Limit the number of CUP's with no new residential development allowed.

DOLMA/VENUTI CALLED FOR THE QUESTION.

There was brief discussion clarifying the result of a yes or no vote.

VOTE: YES: DOLMA
NO: HIGHLAND, DRUHOT, MINSCH, VENUTI, KRANICH

Motion failed.

Discussion continued bringing up similar points of whether amending the GC1 zoning is the most appropriate way to resolve the issues of existing nonconforming residential uses in the GC1 district. The Commissioner's also briefly reviewed questions raised in laydown items presented by Frank Griswold. It was noted that this will go to the City Council with the Commission's recommendations.

VOTE: YES: DRUHOT
NO: MINSCH, DOLMA, KRANICH, HIGHLAND, VENUTI

Motion failed.

The Commission took a break at 8:53 p.m. and the meeting resumed 8:58 p.m.

MINSCH/HIGHLAND MOVED THAT AMENDING GC1 ZONING TO ALLOW SINGLE FAMILY AND DUPLEX DWELLINGS IS NOT CONSISTENT WITH THE INTENT AND WORDING OF OTHER PROVISIONS OF TITLE 21.

There was brief discussion that this comes into play in several sections of title 21 including GC1 and the nonconforming regulations.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

DOLMA/HIGHLAND MOVED TO ADOPT A FINDING THAT GRANTING CUP STATUS WOULD INCREASE CONFLICTS WITH OTHER MORE FAVORED USES LIKE COMMERCIAL AND INDUSTRIAL.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

MINSCH/HIGHLAND MOVED TO ADOPT A FINDING THAT AMENDING GC1 ZONING WILL NOT BE REASONABLE TO IMPLEMENT OR ENFORCE. THE ISSUE IS NONCONFORMING CITY WIDE.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

HIGHLAND/DOLMA MOVED TO ADOPT A FINDING THAT ALLOWING SINGLE FAMILY RESIDENCES AND DUPLEX DWELLINGS AS A CONDITIONAL USE IN GC1 DOES NOT PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE FOR CHILDREN IN THE DISTRICT.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

DOLMA/HIGHLAND MOVED TO ADOPT A FINDING THAT GRANTING CUP'S FOR NONCONFORMING USES PERPETUATES THE USES INSTEAD OF DISCOURAGING THEM.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

HIGHLAND/DRUHOT MOVED TO ADOPT A FINDING THAT AMENDING THE GC1 DISTRICT WILL FURTHER LIMIT AVAILABLE LAND FOR COMMERCIAL ACTIVITIES.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

MINSCH/HIGHLAND MOVED TO ADOPT A FINDING THAT AMENDING THE GC1 DISTRICT TO ALLOW SINGLE FAMILY AND DUPLEX DWELLINGS DOES NOT SOLVE THE PROBLEM OF THE NONCONFORMING ISSUE IN HOMER.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

KRANICH/HIGHLAND MOVED TO ADOPT A FINDING THAT ZONING REGULATIONS THAT GROUP COMPATIBLE USES TEND TO REDUCE THE OCCURRENCE OF CONFLICT.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was discussion that we have found that residential and commercial uses are not compatible.

MINSCH/HIGHLAND MOVED TO ADOPT A FINDING THAT ALLOWING A CUP IS NOT INTENDED TO RESOLVE CONFLICT OF NONCONFORMING USES.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was agreement that the Commission would like to define the questions and discuss other options at a future worksession to find a way to resolve the issues with residential use in this district.

B. Staff Report PL 11-19, Draft Policies and Procedures

Chair Minsch commented that they discussed this at the worksession and requested staff bring it back at a later time.

HIGHLAND/DRUHOT MOVED TO POSTPONE THE DRAFT POLICIES AND PROCEDURES UNTIL BROUGHT BACK BY STAFF.

There was brief discussion to bring it to a worksession.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

A. Staff Report PL 11-26, Draft Ordinance 11-xx, East End Mixed Use

KRANICH/DRUHOT MOVED TO HAVE STAFF BRING THE EAST END MIXED USE DRAFT ORDINANCE BACK TO A FUTURE WORKSESSION.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 11-27, Draft Ordinance 11-xx Amending Homer City Code 21.61.040 Nonconforming uses; regarding the effective date of the restriction on enlarging, increasing or extending nonconforming uses

City Planner Abboud reviewed the staff report.

CITY OF HOMER
HOMER, ALASKA

Planning

ORDINANCE 10-58

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
REPEALING AND REENACTING HOMER CITY CODE CHAPTER 21.95,
LEGISLATIVE PROCEDURES AND AMENDMENTS, REGARDING THE
STANDARDS AND PROCEDURES FOR AMENDING TITLE 21 OF THE
HOMER CITY CODE AND AMENDING THE OFFICIAL ZONING MAP.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 21.95, Legislative Procedures and Amendments, is
repealed and reenacted to read as follows:

CHAPTER 21.95

LEGISLATIVE PROCEDURES AND AMENDMENTS

21.95.010	Initiating code amendment
21.95.020	Initiating zoning map amendment
21.95.030	Restriction on repeating failed amendment proposals
21.95.040	Planning Department review of code amendment
21.95.050	Planning Department review of zoning map amendment
21.95.060	Review by Planning Commission
21.95.070	Review by City Council

21.95.010 Initiating code amendment. An amendment to this title may be initiated by
any of the following:

- a. A member of the City Council;
- b. A member of the Planning Commission;
- c. The City Manager;
- d. The City Planner; or
- e. A petition bearing the signatures, and the printed names and addresses, of not less
than 50 qualified City voters.

21.95.020 Initiating zoning map amendment. An amendment to the official zoning map
may be initiated by any of the following:

- a. A member of the City Council;
- b. A member of the Planning Commission;
- c. The City Manager;
- d. The City Planner; or
- e. A petition of property owners meeting the following requirements:
 1. The proposed amendment would either:
 - i. Apply to an area not less than two acres, including half the width
of any abutting street or alley rights-of-way; or

48 ii. Reclassify the area to a zoning district that is contiguous to the area
49 or separated from the area only by a street or alley right-of-way.

50 2. The petition represents lots that include more than 50 percent of the area
51 (excluding rights-of-way) that is the subject of the proposed amendment. A lot is represented on
52 the petition only if the petition bears the signatures, and the printed names and addresses, of all
53 record owners of the lot.

54 3. The petition also shall include the following:

55 i. The following statement on each page of the petition: "Each person
56 signing this petition represents that the signer is a record owner of the lot whose description
57 accompanies the signature; that the signer is familiar with the proposed zoning map amendment
58 and the current zoning district of the lot; and that the signer supports the City Council's approval
59 of the amendment."

60 ii. The name of each record owner, the legal description and the
61 Borough tax parcel number of each lot that is the subject of the proposed amendment.

62 iii. A map showing the lots comprising the area that is the subject of
63 the proposed amendment, all lots contiguous to the boundary of that area, and the present zoning
64 and proposed zoning of each such lot.

65 iv. A statement of the justification for the proposed amendment.

66
67 21.95.030 Restriction on repeating failed amendment proposals. No proposal by
68 qualified voters to amend this title, or by property owners to amend the official zoning map, shall
69 be reviewed by the Planning Department, or submitted to the Planning Commission or the
70 Council, if it is substantially the same as any other amendment that the Council rejected within
71 the previous nine months.

72
73 21.95.040 Planning Department review of code amendment. The Planning Department
74 shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010
75 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it
76 finds that the amendment:

77 a. Is consistent with the comprehensive plan and will further specific goals and
78 objectives of the plan.

79 b. Will be reasonable to implement and enforce.

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

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

82
83 21.95.050 Planning Department review of zoning map amendment. The Planning
84 Department shall evaluate each amendment to the official zoning map that is initiated in
85 accordance with HCC 21.95.020 and qualified under HCC 21.95.030, and may recommend
86 approval of the amendment only if it finds that the amendment:

87 a. Is consistent with the comprehensive plan and will further specific goals and
88 objectives of the plan.

89 b. Applies a zoning district or districts that are better suited to the area that is the
90 subject of the amendment than the district or districts that the amendment would replace, because

either conditions have changed since the adoption of the current district or districts, or the current district or districts were not appropriate to the area initially.

c. Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development, on property within and in the vicinity of the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns

21.95.060 Review by Planning Commission. a. The Planning Commission shall review each proposal to amend this title or to amend the official zoning map before it is submitted to the City Council.

b. Within 30 days after determining that an amendment proposal is complete and complies with the requirements of this chapter, the Planning Department shall present the amendment to the Planning Commission with the Planning Department's comments and recommendations, accompanied by proposed findings consistent with those comments and recommendations.

c. The Planning Department shall schedule one or more public hearings before the Planning Commission on an amendment proposal, and provide public notice of each hearing in accordance with HCC Chapter 21.94.

d. After receiving public testimony on an amendment proposal and completing its review, the Planning Commission shall submit to the City Council its written recommendations regarding the amendment proposal along with the Planning Department's report on the proposal, all written comments on the proposal, and an excerpt from its minutes showing its consideration of the proposal and all public testimony on the proposal.

21.95.070 Review by City Council. After receiving the recommendations of the Planning Commission regarding an amendment proposal, the City Council shall consider the amendment proposal in accordance with the ordinance enactment procedures in the Homer City Code. The City Council may adopt the proposed amendment as submitted or with amendments, or reject the proposed amendment.

Section 2. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 24th day of January 2010.

CITY OF HOMER

James C. Hornaday
JAMES C. HORNADAY, MAYOR

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ATTEST:


JO JOHNSON, CMC, CITY CLERK

YES: 5

NO: 0

ABSTAIN: 0

ABSENT: 1

First Reading: 12/13/10

Public Hearing: 1/24/11

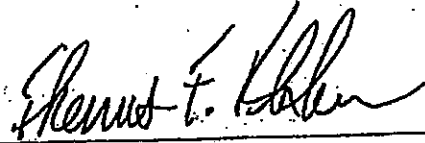
Second Reading: 1/24/11

Effective Date: 1/25/11

Reviewed and approved as to form:


Walt E. Wrede, City Manager

Date: 1/24/11


Thomas F. Klinkner, City Attorney

Date: 1-23-11

Rick Abboud

From: Frank Griswold [fsgriz@alaska.net]
Sent: Tuesday, February 15, 2011 11:05 AM
To: Department Planning
Cc: Rick Abboud; Jo Johnson
Subject: Staff Report PL 11-15 Re: Proposed Amendment to GC1

Dear Planning Commissioners,

I oppose the proposed amendment to GC1 for the following reasons:

1. There is no *public* need or justification for the proposed amendment.
2. While there are many areas in Homer that are suitable for single family dwellings and duplexes, there is a shortage of suitable space for commercial uses. If GC1 is infilled with residential uses there will obviously be no room for future commercial uses. Will commercial uses then be allowed in the residential zoning districts? Why not just rezone Homer into one big "mixed use" district and get it over with?
3. Facilitating favorable financing for nonconforming and/or illegal structures is a private fiscal issue. Fiscal zoning per se is not a legitimate zoning objective. Home financing may be a "thorny" issue but it is not a legitimate zoning issue.
4. Nonconforming status has not been established for all of the 52 residential uses within the GC1 districts. If the purpose of this amendment is to legalize illegal uses that would not be a legitimate purpose. If the purpose of this amendment is to turn nonconforming uses into permitted uses so that they can be reconstructed after being damaged by 50% or more, that is also not a legitimate purpose. Discontinuing nonconforming uses serves a public purpose but if the no-reconstruction clause for damaged nonconforming uses is deemed onerous, it could be rescinded.
5. Single family dwellings and duplexes do not comport with the purpose of the GC1 and the purpose of the GC1 should not be altered to accommodate the application.
6. Allowing single family dwellings and duplexes in GC1 creates conflicts with existing permitted and conditionally allowable commercial uses such as auto repair (including autobody/paint shops), drinking establishments, heavy equipment repair, boat repair (fiberglass fumes), welding shops, crematoriums, heliports, and shelters for the homeless (which are not allowed to even abut a residential zoning district).
7. The GC1 district includes a third permitted residential use which does not require a CUP i.e., Dormitory (HCC 21.24.020(jj)). For some unknown reason, GC1 does not include Hostel as a permitted or conditional use.
8. Resolving conflicts between residential uses and commercial/industrial uses in favor of commercial uses is *not* easy or reasonable to implement and/or enforce. Planning Staff fails to indicate how this will be done. What happens when somebody builds a dwelling and then a noxious commercial use moves in next door? Do the owners of the residence and their children have no recourse even if their health is put in jeopardy? Avoiding these conflicts in the first place would be far easier than resolving them later.
9. Single family dwellings and duplexes are not consistent with most of the commercial structures within GC1.

10. Mobile homes constitute single family dwellings so it would be discriminatory to exclude them if single family dwellings are allowed. How can mobile homes be allowed in the Central Business District, home to City Hall and the college, but prohibited in the General Commercial 1 district which hosts uses such as welding shops and autobody/paint shops?

11. Some fragment of the city's vague and all-accommodating comprehensive plan could be cited to justify virtually any zoning amendment to any district. The existing zoning classifications for GC1 have a presumption of validity and should not be changed to benefit private interests at the expense of the general public. Using the same criteria applied in Staff Report PL 11-15, another group of 50 petitioners could subsequently request that all residential uses be excluded from GC1. Instability and arbitrary decision-making are not conducive to a sound zoning policy.

Frank Griswold

MEMORANDUM 09-153

TO: HOMER CITY COUNCIL

FROM: HOLLY C. SUOZZO

SUBJECT: IDENTIFYING AND ADDRESSING CONFLICTS OF INTEREST

CLIENT: CITY OF HOMER

FILE NO.: 506742.1

DATE: NOVEMBER 13, 2009

I. Introduction

In many Alaskan communities, council members struggle to balance their roles as members of the community with their responsibilities as government officials. While it is often a council member's connection to his or her community that drives his or her decision to run for a seat on city council, this same connection can often lead to financial interests in matters under consideration by the council. Thus, most city council members are constantly struggling to determine when an interest is merely an unavoidable byproduct of being an engaged participant in the community and when an interest requires the interested member to abstain from participating in or voting upon a matter. The purpose of this memorandum is to assist Homer City Council members in making this determination.

II. When Must a City Council Member Declare a Conflict of Interest?

It is well established that a City Council member may not deliberate on or vote upon a matter in which that member has a "substantial financial interest." See HCC 1.18.030(b)(1); see also AS 29.20.010. While this is a straightforward principle in theory, determining when a "substantial financial interest" actually exists is often far more troublesome.

A "substantial financial interest" is defined in the Homer City Code as:

[A] financial interest that would result in a pecuniary gain or loss exceeding \$1000 in a single transaction or more than \$5000 in the aggregate in 12 consecutive months. HCC 1.18.020(o).

Under the Homer City Code, a financial interest includes financial interests of both a Council member and his or her immediate family. HCC 1.18.020(e)(1). The City Code specifically identifies certain situations that constitute a financial interest and situations that do not constitute such an interest. The following are specific examples of situations where a "financial interest" exists:

- a. the involvement in or ownership of a business by a Council member or a member of his or her immediate family,
- b. ownership of property or the existence of a relationship by a Council member or his or her immediate family that serves as a source of income or provides a financial benefit to that individual, and
- c. an affiliation by a Council member or a member of his or her immediate family with an organization in which the individual holds management position, serves as an officer, director, trustee, employee, or a similar position. See HCC 1.18.020(e)(1).

A "financial interest" does not include volunteering with a nonprofit organization or any financial interest that is generally held in common by all citizens or at least a large class of citizens. See HCC 1.18.020(e)(2).

Despite the Homer City Code's definition of what type of financial interest is "substantial," common law may require certain interests that fall outside the Homer City Code definition also to be considered "substantial." For example, in *Griswold v. City of Homer*, the Alaska Supreme Court found that a council member's ownership of property affected by an ordinance amending the permitted uses in a particular zoning district constituted a "substantial financial interest" in that ordinance requiring both disclosure by the member and abstention from voting on the ordinance. In that case, the council member voted and advocated for an amendment to the zoning ordinance that he believed would increase property values. While he did not expect his own property value to increase from the change, evidence was presented that suggested that the value of his property, which was in the business district that would be affected by the change, would in fact increase. As a result, the Alaska Supreme Court found that the council member's interest was "narrow and specific" and thus he had a substantial financial interest. *Griswold*, 925 P.2d 1015, 1026-1027 (Alaska 1996). Arguably, the finding of this case would not have changed even if the property was only worth \$900.00. In an attempt to avoid potential problems under common law, the Council should seek the advice of counsel whether a member may be considered to have a "narrow and specific" financial interest "in the immediate subject of a regulation." See *Carney v. State Board of Fisheries*, 785 P.2d 544, 548 (Alaska 1990).

Often an interest may be financial in nature but may not be "substantial" as defined under the Code or implied under common law. Anytime a Council member is

unsure of whether or not he or she has a substantial financial interest, that member should disclose the interest in question to the Council.

III. What is the Procedure for Declaring Potential Conflict of Interest?

City Council members who have or may have a substantial financial interest in an action must disclose the facts concerning that interest to Council before the Council takes any official action. Additionally, any Council member may raise questions concerning a financial interest of a fellow Council member. Where such questions are raised, the potentially interested Council member must disclose any relevant facts concerning the financial interest asserted. See HCC 1.18.045(a). Once a Council member raises an existing or potential substantial conflict of interest, the Mayor or the mayor pro tem in the Mayor's absence, will determine whether the interested member must be excused from participation in and vote upon a matter. If, however, the Council disagrees with the Mayor's decision, it may immediately override his decision. See HCC 1.18.045(b).

When a City Council member is excused from participation, he or she shall leave the official table and shall not vote, debate, testify, or otherwise take part in the official action. However, an excused Council member who is an applicant in a matter from which they are excused may testify on his or her own behalf from the public testimony area. HCC 1.18.045(e).

IV. Can I Be Required to Participate in a Matter in which I have a Substantial Financial Interest?

In certain situations, it may be necessary for a Council member to participate in a matter in which he or she has a substantial financial interest. In these situations the "Rule of Necessity" is applied. However, the City attorney should always be consulted before this rule is applied. Under the Rule of Necessity, a Council member with a substantial financial interest in a matter is permitted to participate where:

(1) by reason of being excused for conflicts of interest the number of Council members eligible to vote is reduced to less than the number required to approve the official action,

(2) no other City body has jurisdiction and authority to take the official action on the matter, and

(3) the official action cannot be set aside to a later date, within a reasonable time, when the Council could obtain the minimum number of members to take action who are not excused for conflicts of interest. HCC 1.18.045(f).

If the Council determines that the Rule of Necessity does apply, all members, except the applicant when the applicant is a Council member, shall participate in the official action. HCC 1.18.045(f).

V. Seeking an Advisory Opinion Regarding a Conflict of Interest

In many cases it may be difficult to figure out whether or not a Council member has a substantial financial interest or whether or not a Council member should be excused from participating in an action. In cases where the Council is unclear, it should request an advisory opinion from the City attorney on the specific issue under HCC 1.18.060. The request for the advisory opinion should clearly state that it is a request for an advisory opinion and the Council member should provide the attorney with as many details as possible in his or her request. HCC 1.18.060(a). Once issued, the advisory opinion will be binding on the City for the particular set of facts and instances of conduct for which the opinion was requested.

VI. Conclusion

While this memorandum will likely assist Council members in determining when a conflict exists, it will not eliminate the need for Council members to rely on their judgment when ultimately deciding if a conflict warrants disclosure. Council members should always err on the side of disclosure and should become familiar with the definitions of what constitutes a substantial financial interest warranting disclosure under state and local law. In so doing, Council members will make great strides in protecting their decisions from scrutiny under the law.

HCS

Attachment: HCC 1.18

cc via email: Walt Wrede

Frank Griswold
519 Klondike Ave.
Homer, Alaska 99603

February 15, 2011

Dear Planning Commissioners,

Please consider the following regarding Staff Report PL 11-19:

Review Policies for Conditional Use Permits

Review Standards

"The Commission has 45 days from the close of the public hearing to make a decision on a conditional use permit application. The applicant may agree, in writing, to the extension of the 45 day time period for Commission action."

What happens if the Commission does not decide the application within 45 days? Is the application approved or denied? If approved or denied due to an untimely decision, where are the requisite conditions and findings supporting the (non) decision? If failure to decide the application within 45 days results in an automatic approval, why would any applicant agree to an extension? If failure to decide it within 45 days results in an automatic denial, why would any applicant not agree to an extension?

Nonconformity Review Policies

Purpose

This section confuses the terms "nonconformity" and "nonconforming use." A nonconforming use is, by definition, a legal use. The purpose of the Commission's review is to determine whether a use, lot, or structure qualifies for nonconforming status. The purpose of the Commission's review is not to establish a reasonable schedule for termination of a nonconformity. The Planning Commission has no authority to terminate a (legal) nonconforming use even if it significantly impairs the public health, safety and general welfare. Even if the zoning map or text were amended, a (legal) nonconforming use could not be eliminated. Furthermore, the Planning Commission does not have the discretion to authorize the continuation of an illegal use for any period, including a nonconforming use that loses its nonconforming status and becomes an illegal use.

Notwithstanding HCC Ordinance 09-10(A), all applications for formal acceptance of nonconforming use should be reviewed by the Planning Commission and be

heard at a public hearing, **including** those involving areas annexed on March 20, 2002. Formally accepting any nonconforming use substantially affects the property rights of surrounding properties. Procedural due process demands that these surrounding property owners be notified and given an opportunity to be heard. Contrary to the implications within the Planning Commission's procedural manual, the provisions adopted under Ordinance 09-10(A) provide that certain applications be submitted to the City Planner but there is no provision of HCC that actually gives the City Planner the authority to unilaterally grant or deny such applications. Furthermore, virtually all nonconforming uses within the city, excluding those in the annexed areas, would involve structures that existed legally on or before September 27, 1982 and therefore be subject to HCC 21.61.050(b)(4). The "other nonconforming uses and structures," described in HCC 21.61.050 and allegedly subject to Commission review and public hearing, are virtually nonexistent. Expediency is no justification for violating due process. Ordinance 09-10(A) should be amended or rescinded.

The provision that "actual construction lawfully begun prior to the effective date of the zoning ordinance will be allowed to continue provided the work will be carried on diligently" is excessively vague, subjective, and arbitrary. It also conflicts with HCC 21.61.015 which states "'Use' means activity actually conducted on a lot or in a structure, and for which the lot or structure is actually occupied and maintained, regardless of intent." Accordingly, the "construction underway" provision should be deleted.

Nonconforming Uses of Land/Structures

The entire first paragraph of this section should be deleted. "Structures existing prior to September 28, 1982 or before March 20, 2002 for annexed areas" is not the correct criteria for establishing nonconforming uses of land/structures. That criteria is listed under sections 1-4 that follow.

"Nonconforming structures may be continued and/or expanded only if *it* does not increase *its* nonconformity" is grammatically flawed and better stated elsewhere. This sentence should be deleted.

"A reasonable schedule for the termination of a nonconforming land use/structure which specifically impairs the public health, safety and general welfare will be established by amendment to the zoning ordinance. (See Zoning Amendment procedure)." This paragraph has nothing to do with the Planning Commission's consideration of nonconforming uses and should be deleted. No provision of HCC authorizes the termination of a nonconforming use or any other legal use that "impairs" public health, safety and/or general welfare. The termination of illegal uses is irrelevant to this section.

Zoning Ordinance Amendments

There is no need to delete the existing review standards as they were put in place to evaluate whether all of the elements for rezoning prescribed by the Alaska Supreme Court are satisfied. (See attached e-mail from former City Attorney Gordon Tans to City Planner Zak Tucker dated February 25, 2003). Why would the Planning Commission *not* want to evaluate the public need and justification for a proposed rezone, or the effect on the public health, safety, and welfare, or the effect on the district and surrounding property, or the relationship to the Comprehensive Plan and the purpose of the zoning regulations? Is it now the Planning Commission's intention to recommend approval of arbitrary rezones, rezones without legitimate public purpose, and rezones that are not consistent with the Comprehensive Plan? Why delete the requirement that the Commission make findings to support its recommendation(s) to the City Council? This seems like a good way to articulate the basis for the Commission's recommendations and to help insure that they are not arbitrary.

The Comprehensive Plan contains many conflicting goals and objectives. It is not sufficient that a rezone amendment fulfill just one or two minor goals or objectives of the Comprehensive Plan while undermining or conflicting with other goals and objectives of the plan. Any proposed amendment that does not further the *overall* goals and objectives of the Comprehensive Plan should be denied.

According to a zoning authority cited by the Alaska Supreme Court, reclassifications of parcels under three acres are nearly always found invalid. So why does the City of Homer encourage rezones of 2 acres and even less? Professor Ziegler calls an amendment intended only to benefit the owner of the rezoned tract the "classic case" of spot zoning. (See *Griswold v. City of Homer*, 925 P.2d 1015 at 1022). The Alaska Supreme Court defined spot zoning at 1020, footnote 6: "spot zoning is simply the legal term of art for a zoning decision which affects a small parcel of land and which is found to be an arbitrary exercise of legislative power." The Alaska Supreme Court also quoted *Anderson* 5.15 at 370 as follows: "It is inherently difficult to relate a reclassification of a single lot to the comprehensive plan; it is less troublesome to demonstrate that a change which affects a larger area is in accordance with a plan to control development for the benefit of all." *Griswold v. City of Homer*, 925 P.2d 1015 at 1024. Former City Attorney Gordon Tans stated that the 1996 *Griswold* opinion (attached hereto) should be required reading by all commission members before they decide to grant or deny any rezoning application of any size. It should also be required reading before deciding to approve the proposed amendments to the Planning Commission's Policy and Procedures Manual.

Sincerely,



Beverly Guyton

From: Tans, Gordon-ANC [GTans@perkinscoie.com]
Sent: Tuesday, February 25, 2003 3:24 PM
To: Zak Tucker (E-mail)
Cc: Walt Wrede (E-mail)
Subject: contract rezoning application

Zak,
my recent review of the contract rezoning question caused me to look at the contract rezoning application. I think the application misses almost all of the important questions. It should be revised to require the applicant to give answers to the kinds of questions that I discussed in my recent letter. In particular, it should ask questions like these:

"How is this rezoning consistent with the purposes of the Homer comprehensive plan? In answering, provide references to specific provisions of the comprehensive plan."

"Describe the public purposes served by this rezoning."

"Describe the benefits and detriments of this proposed rezoning to (a) the community, (b) the neighboring landowners, and (c) the property owner (you.)"

Basically, my idea is this. The legal burden is on the landowner requesting the change to prove that all of the elements for rezoning, as described in *Griswold v. Homer* (the 1996 decision), are satisfied. He or she should tell the commission how the proposal meets the applicable tests.

The 1996 *Griswold* opinion should be required reading by all commission members before they decide to grant or deny the Hodnik or any other rezoning application of any size.

Gordon Tans
gtans@perkinscoie.com
Anchorage, Alaska

of the Court of Appeal is

RD, BAXTER,
IN and BROWN, JJ.,

NUMBER SYSTEM

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protected by copyright
under 17 U.S.C. §101 et seq.

GRISWOLD v. CITY OF HOMER

Cite us 925 P.2d 1015 (Alaska 1996)

Alaska 1015

Frank S. GRISWOLD, Appellant,

v.

CITY OF HOMER, Appellee.

No. S-6532.

Supreme Court of Alaska.

Oct. 25, 1996.

Property owner sued city, challenging amendment to city's zoning and planning code to allow motor vehicle sales and services in central business district. The Superior Court, Third Judicial District, Homer, Jonathan H. Link, J., ruled against owner on all issues and ordered owner to pay city's court costs and attorney fees. Owner appealed. The Supreme Court, Eastaugh, J., held that: (1) amendment was not improper spot zoning; but (2) conflicted city council member's vote to approve amendment necessitated remand to superior court; and (3) owner was public interest litigant who could not be assessed city's attorney fees and costs.

Affirmed in part, reversed and remanded in part.

Rabinowitz, J., filed opinion dissenting in part.

1. Zoning and Planning ⇨170

Amendment to city's zoning and planning code to allow motor vehicle sales and services in central business district was not improper spot zoning; ordinance was consistent with city's comprehensive plan, and possible detrimental effect on property values and esthetics was outweighed by benefits of encouraging filling in of vacant spaces in district, increasing convenience and accessibility for vehicle sales and service customers, and promoting orderly growth and development. Homer, AK, Ordinance 92-18.

2. Constitutional Law ⇨70.3(4)

Municipal Corporations ⇨63.10

It is role of elected representatives rather than courts to decide whether particular statute or ordinance is wise.

3. Appeal and Error ⇨842(2)

Supreme Court gives independent consideration to legal conclusions of superior court.

4. Appeal and Error ⇨1008.1(5)

Supreme Court will uphold superior court's findings of fact unless they are clearly erroneous.

5. Zoning and Planning ⇨608.1, 613

Supreme Court invalidates zoning decisions which are result of prejudice, arbitrary decision-making, or improper motives.

6. Constitutional Law ⇨278.2(1)

Legislative body's zoning decision violates substantive due process if it has no reasonable relationship to legitimate government purpose. U.S.C.A. Const. Amend. 14.

7. Zoning and Planning ⇨35, 162

Not all small-parcel zoning is illegal, but spot zoning is per se illegal; "spot zoning" is zoning decision which affects small parcel of land and which is found to be arbitrary exercise of legislative power.

See publication Words and Phrases for other judicial constructions and definitions.

8. Zoning and Planning ⇨162

In determining whether amendment to zoning ordinance constitutes spot zoning, court considers consistency of amendment with comprehensive plan, benefits and detriments to owners, adjacent landowners, and community, and size of area rezoned.

9. Zoning and Planning ⇨30, 35

Ordinance which complies with comprehensive plan may still constitute arbitrary exercise of city's zoning power, as required to support claim of improper "spot zoning," and nonconformance with comprehensive plan does not necessarily render zoning action illegal.

10. Zoning and Planning ⇨35

Consistency with comprehensive plan is one indication that zoning action challenged as "spot zoning" has rational basis and is not arbitrary exercise of city's zoning power.

11. Zoning and Planning ⇨35

Filling in vacant places, and increasing tax base and employment of community are not automatically legitimate zoning goals for purposes of deciding whether particular zoning action constitutes improper spot zoning.

12. Zoning and Planning ⇨35, 162

Small-parcel zoning designed merely to benefit one owner constitutes unwarranted discrimination and arbitrary decision-making, unless ordinance amendment is designed to achieve statutory objectives of city's own zoning scheme, even if purpose of change is to bring nonconforming use into conformance or allow it to expand.

13. Zoning and Planning ⇨162

Relationship between size of reclassification and finding of spot zoning is symptomatic rather than causal, and thus size of area rezoned should not be considered more significant than other factors in determining whether spot zoning has occurred.

14. Zoning and Planning ⇨35

Affected parcel cannot be too large per se to preclude finding of spot zoning, nor can it be so small that it mandates finding of spot zoning.

15. Municipal Corporations ⇨197

City council member had substantial financial interest in zoning reclassification which increased permissible uses of his property, and thus member should have refrained from voting. Homer, AK, City Code 1.24.040(g).

16. Municipal Corporations ⇨95

Focus of common-law conflict of interest analysis is on relationship between public official's financial interest and possible result of official's action, regardless of official's intent.

17. Municipal Corporations ⇨95

Common law of conflicts of interest, rather than Executive Branch Ethics Act, applies to municipal officers. AS 39.52.010-39.52.960.

18. Officers and Public Employees ⇨110

Integrity required of public officeholders demands that appearance of impropriety be avoided.

19. Municipal Corporations ⇨111(S)

In determining whether vote of conflicted city council member demands invalidation of ordinance, courts should keep in mind that two basic public policy interests served by impartial decision-making are accuracy of decisions and avoidance of appearance of impropriety.

20. Municipal Corporations ⇨111(S)

If city council member with disqualifying interest casts decisive vote, ordinance must be invalidated.

21. Municipal Corporations ⇨111(S)

If ordinance would have passed without vote of conflicted city council member, court should examine whether member disclosed interest or other council members were fully aware of it, extent of member's participation in decision, and magnitude of member's interest.

22. Municipal Corporations ⇨111(S)

If ordinance would have passed without vote of conflicted city council member, and member did not disclose his or her interest, ordinance is generally invalid, and can stand only if magnitude of member's interest, and extent of his or her participation, are minimal.

23. Municipal Corporations ⇨111(S)

If ordinance would have passed without vote of conflicted city council member, and member disclosed his or her interest, ordinance is valid unless member's interest and participation are so great as to create intolerable appearance of impropriety.

24. Municipal Corporations ⇨122.1(2)

Party challenging city ordinance bears burden of proving its invalidity.

25. Zoning and Planning ⇨749

Conflicted city council member's vote to approve amendment to city's zoning and planning code, to allow motor vehicle sales and services in central business district, necessitated remand to superior court, rather

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GRISWOLD v. CITY OF HOMER

Cite as 925 P.2d 1015 (Alaska 1996)

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than invalidation of amendment, to determine
 whether other members had actual knowl-
 edge of his interest in affected property, and
 the extent of member's participation in deci-
 sion.

26. Zoning and Planning 729

Property owner who challenged city
 council's amendment to city's zoning and
 planning code to allow motor vehicle sales
 and services in central business district was
 public interest litigant who could not be as-
 sessed city's attorney fees and costs; owner's
 lawsuit was designed to effectuate strong
 public policies, if owner succeeded, numerous
 people would have benefited from lawsuit,
 only private party could have been expected
 to bring action, and owner lacked sufficient
 economic incentive to bring lawsuit if it did
 not also involve issues of general importance.

Frank S. Griswold, Homer, pro se.

Gordon J. Tans, Perkins Coie, Anchorage.
 for Appellee.

Before MOORE, C.J., and RABINOWITZ,
 MATTHEWS, COMPTON and
 EASTAUGH, JJ.

EASTAUGH, Justice.

I. INTRODUCTION

In 1992 the Homer City Council adopted
 Ordinance 92-18 amending Homer's zoning
 and planning code to allow motor vehicle
 sales and services on thirteen lots in Homer's
 Central Business District. Frank Griswold
 claims Ordinance 92-18 is invalid because it
 constitutes spot zoning. We affirm the supe-
 rior court's rejection of that claim. Griswold
 also claims the Ordinance is invalid because a
 council member with a personal interest im-
 properly participated in its adoption. We
 hold that the council member should not have
 participated. We consequently remand so
 the superior court can determine whether

1. AS 29.40.030 defines a comprehensive plan as
 follows:

[A] compilation of policy statements, goals,
 standards, and maps for guiding the physical,
 social, and economic development, both pri-
 vate and public, of the first or second class
 borough, and may include, but is not limited
 to, the following:

that participation invalidates the Ordinance.
 Finally, we hold that Griswold is a public
 interest litigant who cannot be assessed the
 City's attorney's fees and court costs.

II. FACTS AND PROCEEDINGS

Alaska Statute 29.40.020 requires that each
 first class borough establish a planning com-
 mission which will prepare, submit, and im-
 plement a comprehensive plan.¹ This plan
 must be adopted before the local government
 can adopt a zoning ordinance. AS 29.40.020-
 .040. A borough assembly "[i]n accordance
 with a comprehensive plan adopted under AS
 29.40.030 and in order to implement the plan
 ... shall adopt or amend provisions govern-
 ing the use and occupancy of land." AS
 29.40.040. That statute requires the borough
 to implement the comprehensive plan by
 adopting provisions governing land use, in-
 cluding zoning regulations. *Id.* A borough
 may delegate this responsibility and the plan-
 ning power to a city within the borough, if
 the city consents. AS 29.40.010(b). The Ke-
 nai Peninsula Borough delegated to the City
 of Homer the zoning authority for areas
 within the City.

The City adopted a comprehensive land
 use plan in 1980 and revised it in 1989. The
 City Council enacted zoning ordinances to
 implement the plans. Motor vehicle sales
 and services were not a permissible use with-
 in the Central Business District (CBD).
 Several businesses provided automobile ser-
 vices in the CBD before the City adopted the
 zoning ordinances. Those businesses were
 "grandfathered" into the zoning district and
 allowed to continue to provide those services
 as nonconforming uses, so long as those uses
 did not extend beyond the original lot bound-
 aries and the property owners did not discon-
 tinue their nonconforming uses for more than
 one year.

- (1) statements of policies, goals, and stan-
 dards;
- (2) a land use plan;
- (3) a community facilities plan;
- (4) a transportation plan; and
- (5) recommendations for implementation of
 the comprehensive plan.

Guy Rosi Sr. owns a parcel (Lot 13) in the CBD.² Rosi Sr. has continuously operated an automobile repair service on Lot 13. His repair business remains a valid nonconforming use in the CBD. Rosi Sr. also operated an automobile dealership on Lot 13 until sometime prior to 1990, but lost the right to continue that nonconforming use on that lot by discontinuing the vehicle sales business for more than one year.

Guy Rosi Jr. owns Lot 12, which is adjacent to his father's lot. Lot 12 is also in the CBD; because it had never been used for automobile sales or services, these uses were not grandfathered for Lot 12.

In 1986 the City received complaints that Lot 12 was being used for vehicle sales in violation of the zoning ordinance. In May 1986 Rosi Jr. applied to the Homer Advisory Planning Commission for a conditional use permit for Lot 12. The commission denied the application. It found that public services and facilities were adequate to serve the proposed use. The commission also found that automobile sales were not consistent with the purpose of the CBD; were not in harmony with the Comprehensive Plan; would negatively impact neighborhood character; but might not negatively impact the value of adjoining property more than permitted uses.

Rosi Jr. then applied for a contract rezone under Homer City Code (HCC) 21.63.020(c). The City granted the application in 1986, rezoning Rosi Jr.'s lot to General Commercial 1(GC1) and restricting its use to vehicle sales. Griswold does not challenge the Lot 12 contract rezone in this litigation.

Rosi Sr.'s lot 13 was not affected by the 1986 contract rezone. In September 1990 Rosi Sr. requested that the CBD be rezoned to allow vehicle sales and related services. In August 1991 Rosi Sr., stating that he had not received any response to his earlier request, petitioned that Lot 13 be rezoned to allow vehicle sales and related services. During this period, there were numerous zoning proposals and public hearings regarding automobile-related services in the CBD, but some people spoke in favor of rezoning the area.

Although the Borough's tax assessment records indicate that Guy Rosi Sr. owns only part of Lot

In January 1992 a commission memorandum informed the City Manager that the commission had been wrestling with several possible amendments to the zoning code since 1990, and that "[c]entral to the issue is the Commission's desire to rezone the Guy Rosi property to allow for vehicle sales." The commission noted that a proposed ordinance would allow automobile-related services in the CBD only on Main Street from Pioneer Avenue to the Homer Bypass, excluding corner lots with frontage on Pioneer Avenue and the Homer Bypass Road. However, the commission staff recommended that the council pass an ordinance which would allow automobile-related services "everywhere in the Central Business District or nowhere." The memo stated that the City Attorney felt the proposed ordinance would be difficult to enforce and defend.

In April the City Council adopted Ordinance 92-13, which amended HCC 21.43.020 by adding the following section:

hh. Automobile and vehicle repair, vehicle maintenance, public garage, and motor vehicle sales, showrooms and sales lots, but only on Main Street from Pioneer Avenue to the Homer Bypass Road, excluding corner lots with frontage on Pioneer Avenue or the Homer Bypass Road, be allowed as a permitted use.

The Ordinance passed five-to-zero. One council member was absent. Brian Sweiven was one of the council members voting for the amendment. He owned one of the thirteen lots on which automobile sales and services were to be allowed under Ordinance 92-13. Sweiven both lived on his lot and operated an appliance repair business there. In 1994, stating he had a potential conflict of interest, he refrained from voting on Ordinance 94-13, which would have repealed subsection (hh). A week later he reversed that position and voted not to repeal subsection (hh).

[1] Frank Griswold, the plaintiff in this case, owns an automobile repair shop in the CBD. Its operation was grandfathered in

13, the parties and the trial court have referred to his parcel as "Lot 13." We do the same.

under the zoning code. He also lives in the CBD. Griswold's lot was not one of the thirteen lots directly affected by Ordinance 92-18. Griswold brought suit against the City, alleging under several theories that Ordinance 92-18 is an invalid exercise of the City's zoning power and that Sweiven's participation in the adoption of Ordinance 92-18 invalidates the Ordinance. Following a bench trial, the superior court found against Griswold on all issues. It later ordered him to pay a portion of the City's court costs and attorney's fees. Griswold appeals.

III. DISCUSSION

[2-4] We have repeatedly held that it is the role of elected representatives rather than the courts to decide whether a particular statute or ordinance is a wise one.² *Norene v. Municipality of Anchorage*, 704 P.2d 199, 202 (Alaska 1985); *Seward Chapel, Inc. v. City of Seward*, 633 P.2d 1293, 1299 (Alaska 1982). In *Concerned Citizens of S. Kenai Peninsula v. Kenai Peninsula Borough*, 527 P.2d 447, 452 (Alaska 1974), we stated:

A court's inquiry into arbitrariness begins with the presumption that the action of the legislature is proper. The party claiming a denial of substantive due process has the burden of demonstrating that no rational basis for the challenged legislation exists. This burden is a heavy one, for if any conceivable legitimate public policy for the enactment is apparent on its face or is offered by those defending the enactment, the opponents of the measure must disprove the factual basis for such a justification.

3. This appeal concerns the validity of an enactment of a legislative body, rather than a decision of a zoning board. See *Concerned Citizens of S. Kenai Peninsula v. Kenai Peninsula Borough*, 527 P.2d 447, 452 (Alaska 1974) (analyzing a Borough Assembly's ordinance as a legislative enactment). We are here reviewing a superior court judgment rejecting claims that a municipal ordinance is invalid. We give independent consideration to the legal conclusions of the superior court. *Beesley v. Van Doren*, 873 P.2d 1230, 1231 (Alaska 1994). We will uphold the superior court's findings of fact unless they are clearly erroneous. *In re R.K.*, 351 P.2d 62, 66 (Alaska 1963).

4. We have held that, although a planning commission is not required to make specific findings

(Footnote omitted.) See also 6 Eugene McQuillan, *Municipal Corporations* § 20.05, at 12 (3d ed. 1983) ("The validity of an ordinance will be upheld where there is room for a difference of opinion even though the correctness of the legislative judgment is doubtful.") (quoting *Western Springs v. Bernhagen*, 326 Ill. 100, 156 N.E. 753, 754 (1927)).

[5, 6] However, we will invalidate zoning decisions which are the result of prejudice, arbitrary decision-making, or improper motives. See *South Anchorage Concerned Coalition v. Coffey*, 862 P.2d 168, 174 (Alaska 1993) ("In reviewing zoning decisions, courts generally try to guard against prejudice, arbitrary decision-making, and improper motives.") (citing 3 Edward H. Ziegler Jr., *Rathkopf's The Law of Zoning and Planning* § 41.06, at 41-29, § 41.14(3)(b), at 41-93 (1992)). Similarly, a legislative body's zoning decision violates substantive due process if it has no reasonable relationship to a legitimate government purpose. *Concerned Citizens of S. Kenai Peninsula*, 527 P.2d at 452. Moreover, another court has noted, "The dividing line between ... mere difference in opinion and what is arbitrary is the line between zoning based on objective factual evidence and zoning without a rational basis." *Smith v. County of Washington*, 241 Or. 380, 406 P.2d 545, 548 (1965) (citations omitted).¹ In this case, Griswold argues that the City's Ordinance does not have a legitimate basis but rather is arbitrary spot zoning.³

We have not previously had the opportunity to consider whether a municipality's plan-

supporting its decisions, it must articulate reasons for its decisions sufficient to assist the parties preparing for review and to restrain agencies within the bounds of their jurisdiction. *South Anchorage Concerned Coalition v. Coffey*, 862 P.2d 168, 175 (Alaska 1993) (citing *City of Nome v. Catholic Bishop of N. Alaska*, 707 P.2d 570, 575 (Alaska 1985); and *Kenai Peninsula Borough v. Ryherd*, 628 P.2d 557, 562 (Alaska 1981)).

5. Griswold also argues that the Ordinance is invalid because it is inconsistent with the City's zoning code and comprehensive plan. We consider this argument in conjunction with our discussion of spot zoning.

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ning and zoning enactment is invalid because it constitutes "spot zoning." The City states that "this is not a case of 'spot zoning' at all" because the area in question remains zoned CBD. However, treatise discussions of spot zoning appear to make no distinction between cases where a zoning district has been reclassified and those where a new use without district reclassification is at issue. See, e.g., 1 Robert M. Anderson *American Law of Zoning* 3d § 5.12, at 358 (1986) ("The common [spot zoning] situation is one in which an amendment is initiated at the request of an owner or owners who seek to establish a use prohibited by the existing regulations."). See also, *Ballenger v. Door County*, 131 Wis.2d 422, 388 N.W.2d 624, 627 (App.1986) (applying spot zoning analysis in a case where the zoning district remained the same but the permitted uses within the district were expanded); *Concerned Citizens of S. Kenai Peninsula*, 527 P.2d at 452 (whether zoning decision violates substantive due process depends on whether it has a reasonable relationship to a legitimate public purpose).

A. Claim of Spot Zoning

[7] The "classic" definition of spot zoning is "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners..." Anderson, *supra*, § 5.12, at 359 (quoting *Jones v. Zoning Bd. of Adjustment of Long Beach*, 32 N.J.Super. 397, 108 A.2d 498 (1954)). Spot zoning "is the very antithesis of planned zoning." *Id.*⁶ Courts have developed numerous variations of this definition. *Id.* These variations have but minor differences and describe any zoning amendment

which "reclassifies a small parcel in a manner inconsistent with existing zoning patterns, for the benefit of the owner and to the detriment of the community, or without any substantial public purpose." Anderson, *supra*, § 5.12, at 362. Professor Ziegler states:

Faced with an allegation of spot zoning, courts determine first whether the rezoning is compatible with the comprehensive plan or, where no plan exists, with surrounding uses. Courts then examine the degree of public benefit gained and the characteristics of land, including parcel size and other factors indicating that any reclassification should have embraced a larger area containing the subject parcel rather than that parcel alone. No one particular characteristic associated with spot zoning, except a failure to comply with at least the spirit of a comprehensive plan, is necessarily fatal to the amendment. Spot zoning analysis depends primarily on the facts and circumstances of the particular case. Therefore the criteria are flexible and provide guidelines for judicial balancing of interests.

3 Edward H. Ziegler Jr., *Rathkoph's The Law of Zoning and Planning* § 28.01, at 28-3 (4th ed.1995).

[8] In accord with the guidance offered by Professor Ziegler, in determining whether Ordinance 92-18 constitutes spot zoning, we will consider (1) the consistency of the amendment with the comprehensive plan; (2) the benefits and detriments of the amendment to the owners, adjacent landowners, and community; and (3) the size of the area "rezoned."

Edward H. Ziegler Jr., *Rathkoph's The Law of Zoning and Planning* § 28.01 n. 2 (4th ed.1995) (compiling cases holding same); Anderson, *supra*, § 5.12, at 359 n. 46 (same).

Thus, spot zoning is simply the legal term of art for a zoning decision which affects a small parcel of land and which is found to be an arbitrary exercise of legislative power. Cf. *Concerned Citizens of S. Kenai Peninsula*, 527 P.2d at 452 ("[T]he constitutional guarantee of substantive due process assures only that a legislative body's decision is not arbitrary but instead based upon some rational policy...").

6. The City argues that spot zoning should not be considered per se illegal, but merely descriptive. Thus, whether spot zoning is valid or invalid would depend upon the facts of each case. See *Chrismon v. Guilford County*, 322 N.C. 611, 370 S.E.2d 579, 588 (1988); *Save Our Rural Env't v. Snohomish County*, 99 Wash.2d 363, 662 P.2d 816 (1983); *Tennisail v. Shonette*, 38 Md.App. 1, 379 A.2d 137 (1977). However, we will follow the vast majority of jurisdictions which hold that, while not all small-parcel zoning is illegal, spot zoning is per se illegal. See *Chrismon*, 370 S.E.2d at 588 (noting that majority of jurisdictions regard spot zoning as a legal term of art).

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1. *Consistency with the comprehensive plan*

[9,10] Just as an ordinance which com-
plies with a comprehensive plan may still
constitute an arbitrary exercise of a city's
zoning power, *Watson v. Town Council of*
Bernalillo, 111 N.M. 374, 805 P.2d 641, 645
(App.1991), nonconformance with a compre-
hensive plan does not necessarily render a
zoning action illegal. Anderson, *supra*,
§ 5.06, at 339-40. However, consistency
with a comprehensive plan is one indication
that the zoning action in question has a ra-
tional basis and is not an arbitrary exercise
of the City's zoning power.

Homer's comprehensive plan divides the
city into several zoning areas. By its own
terms, Homer's comprehensive plan is not
intended to set specific land use standards
and boundaries; specific standards and
boundaries are instead implemented through
the City's zoning ordinance. The plan states,
"The City shall encourage a mix of busi-
ness/commercial and public/governmental ac-
tivities in areas zoned or planned as central
business district." The plan states that the
CBD is "intended primarily for retail sales
and services occurring within enclosed struc-
tures." The plan's objectives for the CBD
are (1) to guide growth and development to
provide a centrally located business and com-
mercial area and focal point for the communi-
ty; (2) to encourage infilling of the area
already designated CBD before expanding
the area; (3) to promote a safe, attractive,
and easily accessible business and commer-
cial core for pedestrian and vehicular visitors
and residents; (4) to attract and accommo-
date a variety of uses to fill the business and
commercial needs of downtown Homer; and
(5) to tie into state and federal programs that
beautify the business and commercial core.

Griswold does not dispute that the CBD is
intended to allow commercial uses. He notes
however, that although auto-related services
are explicitly permitted in the General Com-
mercial 1 District under HCC 21.49.020(d),
the planning commission previously denied a
conditional use permit for auto-related ser-
vices on Main Street, specifically finding, *in-*
ter alia, that automobile sales were not con-
sistent with the purpose of the CBD and

were not in harmony with the comprehensive
plan. He also notes that the comprehensive
plan provides that the CBD was meant pri-
marily for retail sales and services occurring
within enclosed structures. Further, the fact
that the City began phasing out auto-related
services in the CBD when it adopted the
comprehensive plan, while simultaneously
specifically permitting these services in the
General Commercial I District, indicates to
Griswold that auto-related sales and services
were, at least at one time, considered incom-
patible with the CBD.

The superior court concluded that the Or-
dinance was consistent with the comprehen-
sive plan. In so concluding, it considered the
policy statement implementing the Ordi-
nance, and found that the Ordinance "encour-
ages private investment and infilling" and
"enhances convenient access to other parts of
the CBD which are designated for other
uses." It noted that Policy 4.1 provided:
"The City shall research the nature of land
uses and CBD land use needs and evaluate
the need for subzones in the CBD."

Griswold points to trial evidence that the
expansion of auto-related services in the
CBD does not further all the goals of the
comprehensive plan, but he fails to demon-
strate that the superior court's finding—that
the Ordinance is consistent with the plan—is
clearly erroneous. Although the evidence
presented by Griswold would permit a find-
ing that the City Council had believed in
1986 that auto-related uses were incompati-
ble with the CBD and the zoning ordinance
as it then read, that evidence does not com-
pel a finding that auto-related uses are in
fact incompatible with the CBD or compre-
hensive plan, or that the City Council's 1992
change of opinion is unsupportable and arbi-
trary.

The superior court did not clearly err in
making the findings discussed above. The
court permissibly relied on Policy 4.1, which
anticipates the type of action at issue here.
The comprehensive plan does not expressly
prohibit automobile sales or service establish-
ments in the CBD. As the City notes, motor
vehicle sales are most appropriately classi-
fied as a business and commercial use, for
which the CBD was intended under the plan.

Homer's city planner testified at trial that the Ordinance is in accordance with Homer's comprehensive plan. We conclude that the superior court did not err in holding that Ordinance 92-18 is consistent with the City's comprehensive plan.

2. *Effect of small-parcel zoning on owner and community*

Perhaps the most important factor in determining whether a small-parcel zoning amendment will be upheld is whether the amendment provides a benefit to the public, rather than primarily a benefit to a private owner. See Anderson, *supra*, §§ 5.13-5.14; Ziegler, *supra*, § 28.03, § 28.04, at 28-19 (calling an amendment intended only to benefit the owner of the rezoned tract the "classic case" of spot zoning). Courts generally do not assume that a zoning amendment is primarily for the benefit of a landowner merely because the amendment was adopted at the request of the landowner. Anderson, *supra*, § 5.13, at 368. If the owner's benefit is merely incidental to the general community's benefit, the amendment will be upheld. Ziegler, *supra*, § 28.04, at 28-19 to 28-20. The City argues that Ordinance 92-18 serves the interests of the general community rather than primarily the interests of the Rosis. We agree.

a. *Benefits and detriments to the community*

Griswold argues that there are many negative aspects of the City's decision to allow auto-related uses in the CBD. Griswold presented evidence that the neighborhood character would be harmed by the zoning amendment. He presented evidence that a newspaper article quoted Planning Commissioner Cushing as saying that public opinion was overwhelmingly against allowing auto-related services in the CBD and that many Homer citizens expressed the opinion that

their homes and businesses would be harmed by introducing auto-related services into the area. A real estate agent testified that property in the CBD has a higher value than property in the GC1 District.

Many jurisdictions, including this one, have held that interests such as the preservation of neighborhood character, traffic safety, and aesthetics are legitimate concerns. *Barber v. Municipality of Anchorage*, 776 P.2d 1035, 1037 (Alaska) (holding the government's interest in aesthetics is substantial and should be accorded respect), *cert. denied*, 493 U.S. 922, 110 S.Ct. 287, 107 L.Ed.2d 267 (1989); *Cadoux v. Planning and Zoning Comm'n of Weston*, 162 Conn. 425, 294 A.2d 582, 584 (holding increased traffic a valid reason to deny application for rezone), *cert. denied*, 408 U.S. 924, 92 S.Ct. 2496, 33 L.Ed.2d 335 (1972). Contrary to the implication of the City's argument,⁷ these are tangible harms. Moreover, the City itself appears to be concerned about the effects of auto-related services on property values and aesthetics, as evidenced by the council's findings supporting its confinement of the zoning change to Main Street,⁸ and the commission's earlier finding that use for automobile sales would negatively impact neighborhood character.

[11] However, despite this negative aspect of Ordinance 92-18, it appears that the Ordinance will result in genuine benefits for the City of Homer. The City notes that before adopting Ordinance 92-18, for a year and a half it deliberated proposals which would allow auto-related uses in the CBD and delineated the many benefits which it believed the Ordinance will confer upon the community. These benefits include encouraging filling in vacant places in the CBD; increasing the tax base and employment in the CBD; increasing convenience and accessibility for local and regional customers for vehicle repairs or purchases; and promoting orderly growth and development in the

certain negative impacts in more tourist-oriented areas. These negative impacts include traffic congestion, visual blight, detracting from the pleasing aesthetic nature of Pioneer Avenue, and conflict with the comprehensive plan's goal of promoting sidewalks, pocket parks, and pedestrian amenities in the CBD.

7. The City argues that Griswold could not show any "concrete detriment" but instead "could only argue that car lots were not pleasant to look at, they didn't alleviate traffic, and other similar arguments."

8. At trial the City's planner testified that the Ordinance was restricted to Main Street to avoid

Cite as 925 P.2d 1015 (Alaska 1996)

businesses would be auto-related services state agent testified D has a higher value 1 District.

cluding this one, have as the preservation of traffic safety, and concerns. *Barber v. City of Homer*, 776 P.2d 1035, the government's substantial and should be denied, 493 U.S. 1, L.Ed.2d 267 (1989);

Zoning Comm'n of Homer v. City of Homer, 294 A.2d 582, 584 is a valid reason to deny, cert. denied, 403 U.S. 33, L.Ed.2d 335 the implication of the are tangible harms.

It appears to be conflict of auto-related services and aesthetics, as the findings support the zoning change to commission's earlier automobile sales would neighborhood character.

the this negative aspect, it appears that the genuine benefits for the City notes that Ordinance 92-18, for a year of proposals which it uses in the CBD the benefits which it will confer upon the benefits include encouragement of businesses in the CBD; and employment in convenience and access for customers for uses; and promoting development in the

more tourist-oriented impacts include traffic congestion, detracting from the of Pioneer Avenue, and the comprehensive plan's goal of set parks, and pedestri-

CBD.⁹ Homer's city planner testified that the Ordinance provides a convenience to the public and guides growth and development to a centrally located area, while restricting such uses to areas away from tourists or to areas for visitors and pedestrians.

The superior court stated that Ordinance 92-18 advances legitimate legislative goals articulated in HCC 21.28.020 including but not limited to regulating and limiting the density of populations; conserving and stabilizing the value of properties; providing adequate open spaces for light and air; preventing undue concentration of population; lessening congestion on streets and highways; and promoting health, safety and general welfare. The court found "as a matter of fact and law that Ordinance No. 92-18 bears a substantial relationship between legitimate legislative goals and the means chosen to achieve those goals."

Griswold has demonstrated that there are some negative aspects of allowing auto-related uses in the CBD. Nonetheless, giving

9. Not all of the goals articulated by the City can be considered legitimate *per se*. For example, any zoning change which eases restrictions on property use could be said to further the goal of "filling in vacant places." Similarly, increasing the tax base and the employment of a community is not automatically a legitimate zoning goal. See *Concerned Citizens for McHenry, Inc. v. City of McHenry*, 76 Ill.App.3d 793, 32 Ill.Dec. 563, 563, 395 N.E.2d 944, 950 (1979) (an increase in the tax base of the community as the primary justification for a rezoning is "totally violative of all the basic principles of zoning"); *Oakwood at Madison, Inc. v. Township of Madison*, 117 N.J.Super. 11, 283 A.2d 353, 357 (1971) (finding that "fiscal zoning *per se* is irrelevant to the statutory purposes of zoning [although] 'alleviating tax burden is a permissible zoning purpose if done reasonably and in furtherance of a comprehensive plan' (citing *Gruber v. Mayor and Tp. Committee of Raritan Tp.*, 39 N.J. 1, 186 A.2d 489, 493 (1962))"; *Chrobuck v. Snohomish County*, 78 Wash.2d 858, 480 P.2d 489, 497 (1971) (allowing industrial development on only one site would be arbitrary spot zoning despite the potential tax revenue the oil refinery would produce). Thus, the goal of increasing the tax base and employment opportunities is usually legitimate only if the ordinance is otherwise reasonable and in accordance with the comprehensive plan.

Some courts have allowed inconsistent small or single parcel rezoning in order to raise tax revenues or stimulate needed industry if the public receives higher tax revenue or employment

proper deference to the City Council as legislative policymaker and to the superior court as finder of fact, we cannot conclude that these detriments so outweigh the benefits of Ordinance 92-18 that we must hold the Ordinance was arbitrarily and capriciously adopted.

b. Benefit to the landowner

[12] It appears that initially the City was primarily concerned with Rosi Sr.'s interests.¹⁰ Rosi Sr. initiated the inquiry into rezoning the CBD. Before the City amended the zoning code, the planning commission chair stated that "[c]entral to the issue is the Commission's desire to rezone the Guy Rosi property to allow for vehicle sales." In 1991 commissioners "voiced their dislike for spot zoning but felt it important to right a wrong [done to Mr. Rosi]." The City planning staff stated that "'spot zoning' is not good planning; however there are extenuating circumstances that support the proposed change in zone." The commission supported these con-

industries. *Ziegler, supra*, § 23.04, at 23-20. Generally, the facility being built must be indisputably needed, and the city must have secured assurance as to the existence and amount of increased employment and tax revenue. For example, in *Information Please Inc. v. County Comm'rs of Morgan County*, 42 Colo.App. 392, 600 P.2d 86 (1979), the county rezoned agricultural area to industrial to accommodate an electric utility after determining the plant would add \$24,000,000 to the tax base of the county, and provide approximately 250 jobs after it was completed. *Id.* 600 P.2d at 88. In *Watson v. Town Council of Bernalillo*, 111 N.M. 374, 805 P.2d 641, 647 (App.1991), the county made findings that the rezoning would employ eighty-seven people from the community and would produce tax revenues constituting twenty-five percent of the city's budget. In *Chrismon v. Guilford County*, 322 N.C. 611, 370 S.E.2d 579, 590 (1988), the court approved the rezoning of two contiguous tracts from agricultural to conditional use industrial district to facilitate expansion of an already operating grain elevator. The court stated that the "[e]vidence clearly shows that [the owner's] operation is beneficial to area farmers." *Id.* It also noted that spot zoning will be allowed even where the adjacent property owners object and the owner receives a greater benefit than others if there is a community-wide need for the rezoning. *Id.*

10. Currently, Rosi Jr.'s lot is not affected by Ordinance 92-13 since that lot has been contract rezoned to GCI.

clusions with the following findings of fact: (1) the property owner had owned and operated a business on the property since the early 1950's; (2) public testimony and response to staff were positive; (3) the City Attorney's response was positive; and (4) the business was an expensive business to establish and maintain. This desire to accommodate the needs of a businessman who had been in the community for decades is understandable. Nevertheless, small-parcel zoning designed merely to benefit one owner constitutes unwarranted discrimination and arbitrary decision-making, unless the ordinance amendment is designed to achieve the statutory objectives of the City's own zoning scheme, even where the purpose of the change is to bring a nonconforming use into conformance or allow it to expand. See *Speakman v. Mayor of N. Plainfield*, 8 N.J. 250, 84 A.2d 715, 718-19 (1951). Otherwise, the City would be forced either to discriminate arbitrarily among landowners seeking relaxed restrictions or to abandon the concept of planned zoning altogether. Thus, if assisting Guy Rosi Sr. was the primary purpose of the Ordinance, we would invalidate it even if it was not the product of discriminatory animus.

However, it appears that the City Council was ultimately motivated to pass the Ordinance because of the community benefits the council perceived rather than because of the benefit the Ordinance would confer upon Rosi Sr. The Ordinance restricted auto-related uses to one street not because its real intent was to benefit Rosi Sr.'s property, but, as Homer's city planner testified, because the City desired to minimize the negative impact of auto-related uses, especially the impact of such uses on more pedestrian and tourist-oriented areas such as Pioneer Avenue. See also *supra* note 7. Similarly, it appears that vacant lots located farther from Pioneer Avenue were excluded not because Rosi did not own these lots, but in an attempt to prevent urban sprawl by filling in vacant places in developed areas before expanding develop-

ment. These reasons are legitimate, nondiscriminatory justifications for enacting the Ordinance.

3. Size of "rezoned" area

Ordinance 92-18 directly affects 7.29 acres.¹¹ The size of the area reclassified has been called "more significant [than all other factors] in determining the presence of spot zoning." Anderson, *supra*, § 5.15, at 373. The rationale for that statement is that "[i]t is inherently difficult to relate a reclassification of a single lot to the comprehensive plan; it is less troublesome to demonstrate that a change which affects a larger area is in accordance with a plan to control development for the benefit of all." *Id.* at 379.

[13, 14] We believe that the relationship between the size of reclassification and a finding of spot zoning is properly seen as symptomatic rather than causal, and thus that the size of the area rezoned should not be considered more significant than other factors in determining whether spot zoning has occurred. A parcel cannot be too large per se to preclude a finding of spot zoning, nor can it be so small that it mandates a finding of spot zoning. Although Anderson notes that reclassifications of parcels under three acres are nearly always found invalid, while reclassifications of parcels over thirteen acres are nearly always found valid, *id.*, as Ziegler notes, the relative size of the parcel is invariably considered by courts. Ziegler, *supra*, § 23.04, at 28-14. One court found spot zoning where the reclassified parcel was 635 acres in an affected area of 7,680 acres. *Chrobuck v. Snohomish County*, 73 Wash.2d 858, 480 P.2d 489, 497 (1971).

Nor does the reclassification of more than one parcel negate the possibility of finding spot zoning. Ziegler, *supra*, § 23.04, at 28-15. In this case, there was some evidence that the reclassified area may have been expanded to avoid a charge of spot zoning. Other courts have invalidated zoning amendments after finding that a multiple-parcel

11. There may be an immaterial discrepancy about the size of the reclassified area. There was testimony Ordinance 92-18 affected 7.29 acres, but the trial court's memorandum decision stated the affected lots contained about 7.44 acres.

That decision did not state that the exact size of the parcel was significant to its determination that the amendment does not constitute illegal spot zoning.

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GRISWOLD v. CITY OF HOMER

Cite us 923 P.2d 1015 (Alaska 1996)

Alaska 1025

reclassification was a subterfuge to obscure the actual purpose of special treatment for a particular landowner. *Id.* See *Atherton v. Selectmen of Bourne*, 337 Mass. 250, 149 N.E.2d 232, 235 (1958) (holding that the amendment is "no less 'spot zoning' by the inclusion of the additional six lots than it would be without them" where proponents of a zoning change apparently anticipated a charge of spot zoning and enlarged the area to include the three lots on either side of the lot in question).

Homer's CBD is over 400 acres; the reclassified area is 7.29 acres. The CBD appears to contain approximately 500 lots; the reclassified area contains 13 lots. A comparison of the size of the area rezoned and the size of the entire CBD is not in itself sufficient to persuade us that the City's decision was the product of prejudice, arbitrary decision-making, or improper motives. *South Anchorage Concerned Coalition v. Coffey*, 862 P.2d 168, 174 (Alaska 1993).

Further, it is not necessarily appropriate to compare the area of the affected lots with that of the entire CBD. The comprehensive plan recognized the possibility of subzones. The City considered significant portions of the CBD to be inappropriate for automobile sales and services, particularly Pioneer Avenue and the Bypass. Subtracting those areas from the entire CBD, the reclassified area on Main Street is a relatively larger part of the remaining CBD.

Thus, having considered the relative size of the rezoned area in determining whether Ordinance 92-18 constituted spot zoning, we hold that the size of the area rezoned does not require a finding of spot zoning given other factors supporting a contrary conclusion. We conclude that the superior court did not err in finding that Ordinance 92-18 does not constitute spot zoning.

B. Claim of Conflict of Interest

[15] Homer City Council member Brian Sweiven owned one of the thirteen lots in the

12. In addition, Homer's City Code mandates that a city official "disclose any financial interest in any matter before the board or commission before debating or voting upon the matter" and prohibits the official from participating in the

reclassified area. He was one of nine owners directly affected by Ordinance 92-18. It appears that it was Sweiven who first recommended to the commission that the rezone apply only to Main Street. An article in the Homer News was titled "Sweiven proposes commercial zoning for downtown Homer." The article refers to the idea of rezoning Main Street as "Sweiven's proposal." Griswold alleges that Sweiven had a disqualifying conflict of interest under Homer municipal law and that his participation in the adoption of Ordinance 92-18 therefore invalidates the Ordinance, even though Sweiven's vote was not necessary for passage. The superior court found that Sweiven did not have a disqualifying conflict of interest and that even if he had, his participation in the deliberations and vote would not invalidate Ordinance 92-18.

1. Was there a conflict of interest?

[16, 17] Homer City Code 1.24.040(g) states:

A member of the Council shall declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter. The Mayor or other presiding officer shall rule on the request; however, the decision may be overridden by the majority vote of the Council. Should a Council member fail to declare a substantial financial interest, the Council may move to disqualify that member from voting by a majority vote of the body. A Council member with a conflict of interest regardless of whether excused from voting, shall not be allowed to participate in discussion about the matter. [12]

The code defines "substantial financial interest" as

1. An interest that will result in immediate financial gain; or
2. An interest that will result in financial gain which will occur in the reasonably foreseeable future.

debate or vote unless the board or commission determines that a financial interest is not substantial as defined in HCC 1.12.010. HCC 1.12.070 (emphasis added).

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HCC 1.12.010(a). Under common law, "the focus ... [is] on the relationship between the public official's financial interest and the possible result of the official's action, regardless of the official's intent." *Carney v. State, Bd. of Fisheries*, 785 P.2d 544, 548 (Alaska 1990) (citing *Marsh v. Town of Hanover*, 113 N.H. 667, 313 A.2d 411, 414-15 (1973)).¹³ The plain language of HCC 1.24.040(g) appears to coincide with this principle.

The City Council did not address Sweiven's alleged conflict of interest until after the Ordinance had been passed. After the council passed the Ordinance, the City Attorney advised the council to address the matter at its next meeting by having Sweiven declare the facts concerning his ownership of the land and ask the council to determine whether his participation in the matter constituted a conflict of interest under the City Code, and to have the Mayor then rule on this question. The City Attorney stated that if the City were to determine that Sweiven had a disqualifying conflict of interest, it should declare the Ordinance void. The City Attorney also stated that, in his opinion, Sweiven's ownership did not constitute a disqualifying conflict of interest.

The superior court found that

[t]here has been no showing that passage of the ordinance will result in a financial gain to Council member Sweiven, now or in the future. In fact, it may act as a detriment. Council member Sweiven's interest in Ordinance No. 92-18 is simply too remote and/or speculative to require his disqualification as a legislative official.

This finding is clearly erroneous. The court further stated,

Plaintiff correctly surmises that Council Member Sweiven's purpose and intent at the time he promoted and voted for the ordinance are of crucial importance in determining whether or not he had a conflict of interest.

13. At first glance it may appear that the Executive Branch Ethics Act, AS 39.52.010-.960, which explicitly supersedes the common law on conflicts of interest, see AS 39.52.910, requires intent on the part of public officials subject to that Act. See AS 39.52.120(b)(4). However, that

This holding incorrectly states the law, because the proper focus is on the relationship between the official's financial interest and the result of the official's action, "regardless of the official's intent." *Carney*, 785 P.2d at 548.

Sweiven had a "substantial financial interest" within the meaning of HCC 1.12.010(a)(2) in a reclassification, which would increase the permissible uses of his property. Indeed, it seems inconsistent for the City to argue both that the Ordinance will benefit the City by increasing the tax base and property values, and that it will not benefit Sweiven's lot in a similar fashion.

The City nevertheless asserts that Sweiven's interest in the passage of Ordinance 92-18 is too remote and speculative to constitute a disqualifying interest, and argues that Sweiven's property is affected the same way as other citizens' property. The City attempts to distinguish *Carney* in which we held that fishermen who sat on the Board of Fisheries could vote on matters affecting the fishing industry as a whole but were disqualified from voting on regulations which affected the area in which they actively fished. We reasoned in *Carney* that the members should have abstained from decision-making in areas in which they had a narrow and specific interest. *Id.* at 545. The City argues that Sweiven did not have a narrow and specific interest because "Mr. Sweiven's operations (his home and appliance repair business) are not affected at all by Ordinance 92-18 (automobile sales and services)."

Ordinance 92-18 does not directly affect all of Homer, or even a large part of the City or an entire class of its citizens. Sweiven voted on an amendment which directly affects only thirteen lots, including his own, out of the 500-some lots in the CBD. According to the Alaska Department of Law, the common law requires that a legislator refrain from voting on a bill which will inure to the legislator's financial benefit if the legislator's interest "is peculiarly personal, such as when a bill bene-

Act does not apply to municipal officials. *Gates v. City of Tenaakee Springs*, 822 P.2d 453, 462 (Alaska 1992). Thus, the common law of conflicts of interest continues to apply to municipal officers. *Carney*, 785 P.2d at 547-48.

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GRISWOLD v. CITY OF HOMER

Cite as 925 P.2d 1015 (Alaska 1996)

Alaska 1027

fits only a tiny class of which the legislator is
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Furthermore, it is said in the context of
zoning:

Most of the cases [of disqualifying conflict
of interest] have involved a charge of a
more-or-less direct financial interest, and it
is clear that such an interest is a proper
ground of disqualification, as where the
officer himself holds property which is di-
rectly involved in or affected by the pro-
ceeding.

....

The clearest situation in which disqualify-
ing bias or prejudice is shown is that
where the zoning officer himself owns
property the value of which will be directly
promoted or reduced by the decision to be
made and it is not surprising that upon a
showing of such interest the courts have
usually held the officer disqualified.

W.E. Shipley, Annotation, *Disqualification
for Bias or Interest of Administrative Officer
Sitting in Zoning Proceeding*, 10 A.L.R.3d
694, 697 (1966). Sweiven himself apparently
believed that the Ordinance would increase
the value of his property. In recommending
the limited rezone to the planning commis-
sion, he stated that "it would increase the tax
base and property values" of the area. The
record reflects that when Sweiven was advo-
cating rezoning the entire CBD, he was quot-
ed in the Homer News as stating: "Even my
own business. I can't sell my business, but I
can sell my building, and someone who wants
to put a VW repair shop there—he can't....
It's not just me. This gives everybody in
town a lot more options as far as selling their
business." Finally, Sweiven initially re-
frained from voting on Ordinance 94-13,
which would have repealed Ordinance 92-18,
on the ground that he had a potential conflict
of interest. It consequently appears that
Sweiven had a "substantial financial interest"
as that term is defined in HCC 1.12.010(a).

The superior court's finding that Sweiven
did not have a disqualifying conflict of inter-
est is clearly erroneous.

2. What was the effect of the conflict of interest?

There are six voting members on the Ho-
mer City Council. Five voted for Ordinance
92-18 on its first reading. One was absent.
Four weeks later, it passed its second and
final reading, again by a vote of five in favor
and one absent. Thus, without counting
Sweiven's vote, Ordinance 92-18 would have
passed. The superior court held that even if
Sweiven had a disqualifying conflict of inter-
est, his participation and voting would not
invalidate the result. In support it cited
Waikiki Resort Hotel v. City of Honolulu, 63
Haw. 222, 624 P.2d 1353, 1370-71 (1981).

Waikiki followed the rule, also articulated
in several other jurisdictions, that where the
required majority exists without the vote of
the disqualified member, the member's par-
ticipation in deliberation and voting will not
invalidate the result. 624 P.2d at 1371 (citing
Singewald v. Minneapolis Gas Co., 274
Minn. 556, 142 N.W.2d 739 (1966); *Anderson
v. City of Parsons*, 209 Kan. 337, 496 P.2d
1333 (1972); *Eways v. Reading Parking
Auth.*, 385 Pa. 592, 124 A.2d 92 (1956)). The
Waikiki court also cited *Marshall v. Ellwood
City Borough*, 189 Pa. 348, 41 A. 994 (1899),
where the court reasoned that because the
other four members voted in favor of the
disputed ordinance, the invalid vote of one
city councilman had no legal efficacy; thus,
the court would not invalidate the ordinance.
Waikiki, 624 P.2d at 1371.

Waikiki cited decisions from three other
jurisdictions holding that a vote cast by a
disqualified member vitiates the decision in
which the member participated, even if the
vote does not change the outcome of the
decision. 624 P.2d at 1370 (citing *Piggott v.
Borough of Hopewell*, 22 N.J. Super. 106, 91
A.2d 667 (1952); *Baker v. Marley*, 8 N.Y.2d
365, 208 N.Y.S.2d 449, 170 N.E.2d 900 (1960);
Buell v. City of Bremerton, 80 Wash.2d 518,
495 P.2d 1353 (1972)). In *Buell*, the court
stated:

The self-interest of one member of the
planning commission infects the action of
the other members of the commission re-
gardless of their disinterestedness. The
recommendation of the planning commis-
sion to the city council could not be as-

sumed to be without impact on the council. More importantly, it would not appear to the affected public that it was without impact, and [the disqualified member's] actual financial gain is sufficient to invalidate the entire proceeding.

495 P.2d at 1362-63 (citations omitted).

These lines of authorities offer a choice between vote-counting (*Waikiki*) and automatic invalidation (*Buell*). We have not had occasion to consider this exact issue. In *Carney*, we found that four of seven fisheries board members had a disqualifying conflict. We then held the board's regulation invalid: "Because a majority of the votes cast to pass the regulation are invalid, so is the regulation." 785 P.2d at 549. *Carney* did not raise the issue now before us because there the measure would have been invalidated under either doctrine.

[18] We decline to follow the vote-counting approach adopted in *Waikiki*, notwithstanding its appealing ease of application. A council member's role in the adoption or rejection of an ordinance cannot necessarily be measured solely by that member's vote. A conflicted member's participation in discussion and debate culminating in the final vote may influence the votes of the member's colleagues. Moreover, the integrity required of public officeholders demands that the appearance of impropriety be avoided; the approach adopted in *Waikiki* will not always do so. See *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469, 477 (Alaska 1977) (holding financial disclosure laws preserve the integrity and fairness of the political process both in fact and appearance); *Warwick v. State ex rel. Chance*, 548 P.2d 384, 388 (Alaska 1976) ("[I]t is important that the legislature not only avoid impropriety, but also the appearance of impropriety."). Cf. AS 39.50.010(b)(1) (public office is a public trust which should be free from the danger of conflict of interest). The superior court erred in holding that Ordinance 92-18 is

valid simply because Sweiven did not cast the decisive vote in its adoption.

We also decline, however, to adopt the rule of automatic invalidation endorsed in cases such as *Buell*, 495 P.2d at 1362-63. The vote and participation of a conflicted member will not invariably alter the votes of other members or affect the merits of the council's decision. This is especially true if the conflict is disclosed or well-known, allowing other members to assess the merits of the conflicted member's comments in light of his or her interest. Automatic invalidation could needlessly overturn well-considered measures which would have been adopted even if the disqualified member had refrained from participating. Automatic invalidation has the potential for thwarting legislative enactments which are not in fact the result of improper influence.

The dissenting opinion cites HCC 1.12.030 as justification for its conclusion that participation by a disqualified member requires invalidation of the council's action.¹⁴

HCC 1.12.030 and 1.24.040(g), however, determine whether a member may vote or participate. They deal with disqualification, and do not address the consequences of participation by a conflicted member. The drafters of the code must have contemplated that violations might occur notwithstanding the prohibition. They nonetheless specified no remedy. Had they intended that particular consequences would follow from violation of the prohibition, such as the clear-cut remedies of automatic invalidation or vote-counting, they could have easily so provided. Their failure to specify a remedy for violation implies that the drafters intended that the courts fashion the remedy.

[19] In determining whether the vote of a conflicted member demands invalidation of an ordinance, courts should keep in mind the two basic public policy interests served by

14. The portion of HCC 1.12.030 cited by the dissent states:

A City Councilmember or Mayor with a conflict of interest under section 1.12.020 shall so declare to the body as a whole and ask to be excused from voting on the matter. However, a City Councilmember or Mayor with a conflict

of interest, regardless of whether excused from voting, shall not be allowed to participate in discussion about the matter. (Ord. 92-49(A) § 4, 1992; Ord. 86-22(S) § 1(part), 1986).

This language is nearly identical to the similar prohibition in HCC 1.24.040(g), but also applies to the mayor.

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sions, and the avoidance of the appearance of
impropriety. See generally Mark W. Cordes,
*Policing Bias and Conflicts of Interest in
Zoning Decisionmaking*, 65 N.D. L.Rev. 161
(1989).

[20, 21] Guided by these basic policy con-
cerns, we conclude that the following analysis
should be applied in determining the effect of
a conflicted vote. Initially the court must
determine whether a member with a disquali-
fying interest cast the decisive vote. If so,
the ordinance must be invalidated. *Carney*,
785 P.2d at 549. If the ordinance would have
passed without the vote of the conflicted
member, the court should examine the fol-
lowing three factors: (1) whether the mem-
ber disclosed the interest or the other council
members were fully aware of it; (2) the
extent of the member's participation in the
decision; and (3) the magnitude of the mem-
ber's interest. The first two factors squarely
bear on the accuracy of the council's decision.
All three factors directly relate to any ap-
pearance of impropriety.

[22-24] If the interest is undisclosed, the
ordinance will generally be invalid; it can
stand only if the magnitude of the member's
interest, and the extent of his or her partic-
ipation, are minimal. If the interest is dis-
closed, the ordinance will be valid unless the
member's interest and participation are so
great as to create an intolerable appearance
of impropriety. The party challenging the
ordinance bears the burden of proving its
invalidity. We recognize that this analysis is
more difficult to apply than the vote-counting
and automatic invalidation rules. Simple to
apply, those rules are unacceptably rigid.

[25] The factual record before us is not
so clear that we can decide as a matter of law
whether invalidation is appropriate. The
record does not reveal whether the other
council members had actual knowledge of
Sweiven's interest. While Sweiven's interest
in his lot, where he lived and worked, was
open and obvious, this is a matter of potential
factual dispute to be explored on remand.
Likewise, we cannot weigh the extent of
Sweiven's participation or say whether it may
have affected the outcome of the measure.

Nor does the record establish whether
Sweiven was likely in the foreseeable future
to realize any significant appreciation from
the reclassification by selling or servicing
motor vehicles or by selling his lot to some-
one who intended to do so. We therefore
remand so that the superior court, applying
the analysis discussed above, can determine
whether Ordinance 92-18 must be invalidat-
ed.

C. Public Interest Litigant Status

[26] The superior court found that Gris-
wold was not a public interest litigant. That
finding was clearly erroneous because Gris-
wold met all four criteria of a public interest
litigant in this case: (1) his lawsuit was de-
signed to effectuate strong public policies;
(2) if Griswold succeeded, numerous people
would have benefited from the lawsuit; (3)
only a private party could be expected to
bring the action; and (4) Griswold lacked
sufficient economic incentive to bring the
lawsuit if it did not also involve issues of
general importance. See *Oceanview Home-
owners Ass'n. Inc. v. Quadrant Constr. and
Eng'g*, 680 P.2d 793, 799 (Alaska 1984) (citing
Kenai Lumber Co. v. LeResche, 646 P.2d 215,
222-23 (Alaska 1982)).

In *Oceanview*, the plaintiff was a home-
owners' association which objected to a Zon-
ing Board of Appeals decision to set aside
orders issued by the Zoning Enforcement
Office of the Anchorage Department of Pub-
lic Works. These orders restricted improve-
ments to and the use of a private airstrip
located in a residential area. 680 P.2d at
795. We held that the homeowners' associa-
tion was a public interest litigant. *Id.* at 799.
We found that "Oceanview's appeal was de-
signed to vindicate a strong public policy in
effectuating zoning ordinances, that numer-
ous people in the area would have benefited
had it succeeded, and that only a private
party could have been expected to bring the
appeal." *Id.*

The superior court stated that "it is hard
to see how declaring a valid legislative enact-
ment 'illegal' would be of benefit to anyone."
That statement misapprehends the meaning
of the public interest litigant criteria and has
no application here. Griswold's appeal was

designed to vindicate the strong public policy of ensuring that zoning ordinances are not arbitrary or capricious. This public policy is quite similar to, and at least as important as, ensuring that zoning ordinances are properly enforced. The importance of this issue to the general public is evidenced by the considerable amount of public comment regarding the passage of the Ordinance, prompting one planning commissioner to state, "[t]he car lot deal drew as much public comment as anything we (planners) have had but the sign ordinance." Likewise, just as the *Oceanview* suit benefited at least the community of homeowners, Griswold's suit was intended to benefit the entire community of Homer, especially those who live, shop, and operate small businesses in the CBD, by challenging the City's alleged arbitrary deviation from its zoning plan. It is also true in this case, as in *Oceanview*, that only private citizens can be expected to bring suit against a municipality for a zoning violation of this nature, not because the issue is not one of general importance, as the superior court stated, but because the defendant in this case is the public entity which would normally be enforcing Homer's zoning code.

Only the fourth component of the public interest litigant test appears even arguable. That criterion requires that the public interest litigant not have "sufficient economic incentive to bring the lawsuit even if it involved only narrow issues lacking general importance." Griswold lives in the CBD and owns an automobile repair shop on a lot located in the CBD but not included in the reclassified area. He thus continues to be restricted by his "grandfather" status in the operation of his business, and may lose his rights if he ceases operation for more than one year. The superior court agreed with Griswold that "any economic advantage he might have gained, if successful, was slight." The court nevertheless found that this fact "does not obviate the fact that one of [Griswold's] primary motives in pursuing this litigation was to achieve this goal." Thus, the court found that even a "slight" economic gain can be sufficient to constitute a plaintiff's primary motivation in bringing a lawsuit. Neither case law nor the record in this case supports the court's finding.

In *Oceanview* we found that the homeowners' association which claimed that the "immediate effect" of the [adverse zoning board] decision is to deny or diminish the value of real property owned or leased by appellant" was nevertheless a public interest litigant, citing *Oceanview's* "consistent emphasis on health and safety to the virtual exclusion of economic concerns." 680 P.2d at 799 n. 3. Likewise, in this case, Griswold's emphasis was always on the harm to the community, the importance of public accountability, and fairness in municipal government. Griswold stated in a sworn affidavit that he did not have any expectation of financial gain as a result of filing the lawsuit. He wrote a letter to the Homer Advisory Planning Commission stating that he opposed rezoning any areas of the CBD to GC1. These facts are not contested. Moreover, it appears that Griswold only discussed the exclusion of his own lot to illustrate the equal protection problems and arbitrariness inherent to spot zoning cases, and to demonstrate his standing, disputed by the City early in the suit, to bring this lawsuit. See *id.* (stating that appellant's claim of standing due to immediate economic harm is "not synonymous with 'economic incentive'"). The court's emphasis on Griswold's "political motivation" also conflicts with its finding that the hope of slight economic gain was Griswold's primary motivation.

Griswold satisfies Alaska's four-factor public interest litigant test. We consequently hold that he is a public interest litigant.

IV. CONCLUSION

We hold that Ordinance 92-18 does not constitute spot zoning, and consequently AFFIRM that aspect of the judgment below. We hold, however, that council member Sweiven had a conflict of interest which should have disqualified him from participating in consideration of the Ordinance. We consequently REVERSE the court's finding that there was no conflict of interest and REMAND so the superior court can determine whether the Ordinance must be invalidated. We also REVERSE that portion of

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GRISWOLD v. CITY OF HOMER

Cite as 925 P.2d 1015 (Alaska 1996)

Alaska 1031

the judgment imposing costs and fees on Griswold.

RABINOWITZ, Justice, dissenting in part.

I believe it is of particular significance that Sweiven participated in the discussion of and voted for Ordinance 92-18. As the court observes, this ordinance does not directly affect all of Homer, or even a large segment of the City or an entire class of its citizens. More particularly, the ordinance directly affects only thirteen lots, including Sweiven's own, out of approximately 500 lots located within the Central Business District. The record further reveals Sweiven's belief that Ordinance 92-18 would increase the value of his property. Indeed Sweiven explicitly stated that "[the proposal] would increase the tax base and property values" of the area when recommending the Limited Rezone to the planning commission.¹

Based on the foregoing, the court correctly concludes that "Sweiven had a 'substantial financial interest' within the meaning of HCC 1.12.010(a)(2) in a reclassification which would increase the permissible uses of his property.... The superior court's finding that Sweiven did not have a disqualifying conflict of interest is clearly erroneous." Op. at 25, 28.

My disagreement with the court's opinion goes to its discussion of the effect of Sweiven's conflict of interest and the appropriate

1. The court notes:

The record reflects that when Sweiven was advocating rezoning the entire CBD, he was quoted in the Homer News as stating: "Even my own business. I can't sell my business, but I can sell my building, and someone who wants to put a VW repair shop there—he can't.... It's not just me. This gives everybody in town a lot more options as far as selling their business." Finally, Sweiven refrained from voting on Ordinance 94-13, which would have repealed Ordinance 92-18, on the ground that he had a potential conflict of interest.

Op. at 27.

2. At all times relevant to the case at bar, HCC 1.12.010(a) defined "substantial financial interest" as follows:

1. An interest that will result in immediate financial gain; or
2. An interest that will result in financial gain which will occur in the reasonably foreseeable future.

remedy given the factual context of this case. Central to my differing analysis are the provisions of the Homer City ordinances which address the subject of conflict of interest. In my view, the court's analysis ignores that part of the Homer Municipal Code 1.12.030, which states:

A City Councilmember or Mayor with a conflict of interest under section 1.12.020 shall so declare to the body as a whole and ask to be excused from voting on the matter. However, a City Councilmember or Mayor with a conflict of interest, regardless of whether excused from voting, shall not be allowed to participate in discussion about the matter. (Ord.92-49(A) § 4, 1992; Ord. 86-22(S) § 1(part), 1986).²

The City of Homer, as expressed in section 1.12.030 of its Code, has adopted a policy which flatly contradicts the court's statement that

[t]he vote and participation of a conflicted member will not invariably alter the votes of other members or affect the merits of the council's decision. This is especially true if the conflict is disclosed or well known, allowing other members to assess the merits of the conflicted member's comments in light of his or her interest.

Regardless of the wisdom of the City of Homer's legislative enactment barring con-

(HCC 1.12.010 has subsequently been amended.)

HCC 1.12.020 provides:

A City Councilmember or Mayor with a substantial financial interest in an official action to be taken by the Council has a conflict of interest. (Ord.92-49(A) § 3, 1992; Ord. 86-22(S) § 1(part), 1986).

3. HCC 1.12.040 provides:

The Mayor or, in his absence, the Mayor Pro-Tem or other presiding officer, shall rule on a request by a City Councilmember to be excused from voting on a matter because of a declared conflict of interest. The Mayor Pro-Tem or other presiding officer shall rule on a request by the Mayor to be excused from participating in a matter because of a declared conflict of interest. (Ord.92-49(A) § 5, 1992; Ord. 86-22(S) § 1(part), 1986).

HCC 1.12.050 further provides:

A decision of the Mayor or other presiding officer under Section 1.12.040 may be overridden by a majority vote of the City Council. (Ord.86-22(S) § 1(part), 1986).

flicted council members' participation in decisions,⁴ the fact remains that the City of Homer has expressly adopted a rule specifically prohibiting conflicted council members from taking part in discussion or voting on the matter of interest. In fact, the prohibition on discussion is more stringent than the rule on voting—even when the "Mayor or other presiding officer" decides that the member need not be excused from voting, and even when the council chooses not to override that decision by a simple majority vote, the member is nonetheless forbidden to participate in the discussion.

The rule adopted by the court pays no heed to this participation ban contained in the City of Homer's municipal code. The portions of the court's rule which conflict with the express non-participation policy of HCC 1.12.030 are the following:

If the interest is undisclosed, the ordinance will generally be invalid; *it can stand only if the magnitude of the member's interest, and the extent of his or her participation, are minimal.* If the interest is disclosed, the ordinance will be valid unless the *member's interest and participation are so great as to create an intolerable appearance of impropriety.*

(Emphasis added.) In short, the court's rule would permit a conflicted council member to participate in the discussion of a matter before the body responsible for official action in cases where the conflicting interest has been

disclosed, or where the conflicting interest is undisclosed and the conflicted member's participation does not create an intolerable appearance of impropriety.

Although the court's formulation might well be adopted as a general rule, I think it inappropriate to do so in the face of an ordinance completely prohibiting participation by any city council member with a substantial conflicting interest in the subject matter of a proposed ordinance. In this regard, it is noteworthy that HCC 1.12.030 is not couched in terms of *de minimis* levels of participation. On the contrary, it imposes a complete ban on the conflicted member's participation.

Given the participation ban imposed by HCC 1.12.030, Sweiven's conflict generating significant financial interest, and Sweiven's participation in the discussion of Ordinance 92-18, I conclude that the appropriate remedy is invalidation of the ordinance.

As the court recognizes, a council member's role in the adoption or rejection of an ordinance cannot necessarily be measured solely by that member's vote. A conflicted member's participation in discussion and debate culminating in the final vote may influence the votes of the member's colleagues. The court also appropriately recognizes that the integrity required of public office holders demands that even the appearance of impropriety be avoided.⁵

many instances it will only be partially effective. The inconvenience of adjusting to the disqualification of a decisionmaker is not so great as to justify the threat to accuracy and legitimacy posed by the requirement of mere disclosure.

Beyond determining what effect a conflict of interest should have on a particular decisionmaker is what judicial remedies should be available when a zoning decision in fact involved an improper conflict of interest. In those instances in which the biased decisionmaker casts a dispositive vote, courts have consistently invalidated the decision. This seems appropriate in that both accuracy and legitimacy concerns are clearly threatened when a decision appears to turn on the vote of a self-interested decisionmaker.

A more difficult issue is whether the participation of a conflicting member whose vote was not determinative to a decision should also result in invalidation. This might occur in two general situations. First is where the

4. This court has consistently held that it is not our function to question the wisdom of legislation. *University of Alaska v. Geistauts*, 666 P.2d 424, 428 (Alaska 1983); *Alaska Interstate v. Houston*, 586 P.2d 618, 621 (Alaska 1978).

5. See generally Mark W. Cordes, *Policing Bias and Conflict of Interest in Zoning Decisionmaking*, 65 N.D. L.Rev. 161 (1989). Here the author writes in part:

The second and more common provision is to prohibit participation when a conflict of interest exists. The rationales behind this are obvious. Although disclosure has some restraining effect, a significant conflict might still affect the substantive outcome of a decision. More importantly, perceptions of fairness and legitimacy are only partly addressed by disclosure.

For these reasons disqualification rather than disclosure is the preferable approach. Although in some instances disclosure might adequately address the need for impartiality, in

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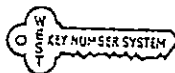
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MADDOX v. RIVER & SEA MARINE, INC.

Cite as 925 P.2d 1033 (Alaska 1996)

Alaska 1033

Guided by these principles and the City of Homer's explicit ban on a conflicted member's participation, I respectfully dissent from the court's remedy. Rather than remand this issue, I would hold Ordinance 92-18 invalid because of council member Sweiven's participation.⁵



Jerry MADDUX, Appellant,

v.

RIVER & SEA MARINE, INC., Appellee.

No. S-6582.

Supreme Court of Alaska.

Nov. 8, 1996.

Buyer of used boat and trailer brought negligence action against seller to recover for injuries sustained when attempting to detach boat and trailer from vehicle, with buyer alleging that seller had duty to warn of dangerous condition created by allegedly mismatched boat and trailer. The Superior Court, Third Judicial District, Kenai, Charles K. Cranston, J., granted summary judgment

tainted vote was numerically unnecessary for the decision. Courts have evenly split on this issue, with a slight majority favoring invalidation. Courts refusing to invalidate such decisions have primarily reasoned that even without the tainted vote the decision would have occurred anyway and therefore invalidation is improper. In this sense the threat to accuracy and legitimacy concerns is arguably *de minimis* when the particular vote is apparently not crucial to a decision. In particular, legitimacy concerns are less threatened when a decision appears inevitable. As a result, the administrative burden of invalidating and remanding a decision outweighs any threat to substantive results and perceptions of fairness.

Despite these distinctions, several strong reasons exist for invalidating decisions even when a tainted decisionmaker's vote was numerically unnecessary for the decision. First, courts invalidating such decisions have noted that collegial decisionmaking ideally involves the exchange of ideas and views, often with the

to seller, and buyer appealed. The Supreme Court, Carpeneti, J. pro tem., held that material facts issues existed as to foreseeability and causation, as well as to seller's open and obvious danger defense.

Reversed and remanded.

Eastough, J., dissented and filed opinion.

1. Judgment ⇐131(33)

As a general rule, issues of negligence are not susceptible to summary judgment due to the highly circumstantial judgments required in their determination, but should be resolved by trial in the ordinary manner.

2. Negligence ⇐2

Concept of "duty" in negligence encompasses a broad range of policy considerations underlying the determination when, and to what extent, an individual should bear the costs of a given activity.

3. Products Liability ⇐23.1

Seller must shoulder some responsibility for the costs imposed by defective or dangerous products.

4. Negligence ⇐10

Ambit of one's duty does not extend beyond foreseeable consequences.

intent of persuading toward a particular position. The actual contribution of any particular decisionmaker cannot be measured with precision, but frequently extends significantly beyond the actual vote cast. For this reason, a significant threat to accuracy can exist even when a particular vote was numerically unnecessary for the decision.

For similar reasons legitimacy concerns also exist even when a vote is numerically unnecessary. Although legitimacy concerns are less substantial in such circumstances, the perception of collegial decisionmaking and the potential influence of a tainted decisionmaker on others would violate "appearance of fairness" standards. Thus, for both accuracy and legitimacy reasons the better view is that even when a vote is numerically unnecessary for a decision courts should still invalidate it.

Id. at 214-216 (footnotes omitted).

6. I note my agreement with the court's other holdings.

Rick Abboud

From: Frank Griswold [fsgriz@alaska.net]
Sent: Thursday, February 17, 2011 1:15 PM
To: Rick Abboud
Cc: Department Planning; Jo Johnson
Subject: Proposed GC1 rezone

Mr. Abboud,

1. Why did Dotti Harness, who has no formal training in planning or zoning, prepare Staff Report PL 11-15? Why didn't you prepare it? Who performs the duties of code enforcement officer while Ms. Harness fabricates staff reports?
2. What are the overall objectives of the Comprehensive Plan regarding nonconforming uses, lots, and structures i.e., does the Comprehensive Plan encourage their perpetuation or their discontinuation? Where does the comp plan encourage providing favorable financing for nonconforming uses? If the comp plan encourages the perpetuation of nonconforming uses and/or the facilitation of favorable financing for them, why does HCC mandate that nonconforming uses cannot be rebuilt once they are over 50% destroyed?
3. If the purpose of the GC1 district is to resolve conflicts between residential uses and commercial/industrial uses in favor of the commercial/industrial uses, how does allowing more residential uses in GC1 comport with this purpose? Wouldn't allowing single family dwellings and duplexes in GC1 *create* conflicts with commercial/industrial uses and wouldn't *prohibiting* residential uses in GC1 resolve conflicts in favor of commercial/industrial uses?
4. Once single family dwelling and duplex were listed as a conditional uses in the GC1, how could these uses meet the requirements of HCC 21.71.030(b) which mandates that proposed conditional uses be compatible with the purpose of the district? Do you intend to further amend Ordinance 11-XX to say that the purpose of the GC1 district is to create conflicts between residential and commercial/industrial uses?
5. Staff Report PL 11-15 states that when a property owner seeks to sell or refinance their existing home, the bank and appraiser asks "If destroyed, can the home be rebuilt?" What bank and/or appraiser said this? Which of the owners of the 52 residential dwellings mentioned in the staff report are actually trying to sell or refinance their homes? Are mobile homes financeable under any circumstances? Why are the 9 mobile homes included in the "nearly 20% of properties that cannot be financed" if mobile homes are not included in the proposed rezone and could not be financed even if they were?
6. Why is insuring an unfinanced structure a "thorny" issue and why is this a zoning issue?
7. In the near term, who stands to benefit financially from the proposed amendment(s) to GC1 and in what way? Are you aware of any hidden agenda not revealed in Staff Report PL 11-15?

Frank

Shelly Rosencrans

From: Frank Griswold [fsgriz@alaska.net]
Sent: Wednesday, March 02, 2011 11:23 AM
To: Rick Abboud
Cc: Department Planning; Jo Johnson
Subject: Ordinance 10-58/Citizen-Initiated Zoning Petitions

Mr. Abboud,

Why are (50) registered voters allowed to petition for a zoning code text amendment in a zoning district in which they do not own property but not allowed to petition for a zoning *map* amendment in a zoning district in which they do not own property?

Why does a citizen-initiated zoning map amendment require that the petition represent over 50% of the area that is the subject of the proposed amendment while a citizen-initiated zoning code text amendment requires no property owner consent whatsoever?

Why can Homer citizens petition for a zoning code text amendment in a zoning district in which they do not own real property but be denied standing to appeal such an amendment because they do not own real property within that district?

Why would an application and a \$500 fee be required for a zoning map amendment but not for a zoning code text amendment? Wouldn't you agree that a zoning code text amendment, or a series of them, could have a greater impact on the nature of a zoning district than a zoning map amendment? Doesn't the city incur substantial costs processing applications for zoning code text amendments and codifying approved amendments? Don't these costs often exceed the costs incurred processing a conditional use permit? (CUP requires a \$500 application fee).

Why does a zoning map amendment require a statement of justification (HCC 21.95.020(e)(3)(iv)) while a zoning code text amendment does not?

Is it the policy of the city to encourage zoning code text amendments and/or discourage zoning map amendments and if so, what is the basis for this policy?

Frank

Rick Abboud

From: Frank Griswold [fsgriz@alaska.net]
Sent: Tuesday, March 01, 2011 12:58 PM
To: Rick Abboud
Cc: Department Planning; Jo Johnson
Subject: Re: Proposed GC1 rezone

Mr. Abboud,

The City of Homer claimed Ordinance 92-18 was not a spot rezone because the area in question remained zoned CBD. The Alaska Supreme Court disagreed, stating as follows in *Griswold v. City of Homer*, 925, 1015 at 1020:

"However, treatise discussions of spot zoning appear to make no distinction between cases where a zoning district has been reclassified and those where a new use without district reclassification is at issue. *See, e.g.*, 1 Robert M. Anderson *American Law of Zoning* 3d Sect. 5.12, at 358 (1986) ("The common [spot zoning] situation is one in which an amendment is initiated at the request of an owner or owners who seek to establish a use prohibited by the existing regulations."). *See also, Ballenger v. Door County*, 131 Wis.2d 422, 388 N.W.2d 624, 627 (App.1986) (applying spot zoning analysis in a case where the zoning district remained the same but the permitted uses within the district were expanded); *Concerned Citizens of S. Kenai Peninsula*, 527 P.2d at 452 (whether zoning decision violates substantive due process depends on whether it has a reasonable relationship to a legitimate public purpose)."

Since the proposed amendment to GC1 does constitute a rezone, the \$500 rezone application fee applies. Because the application fee was not paid at the time of the application, the Planning Department and Planning Commission had no authority to consider the application and the entire matter is moot.

Staff Report PL 11-15 was neither balanced nor objective. There were very good reasons related to the *public* health and welfare for prohibiting single family dwellings and duplexes in GC1 in the first place. That legislation has a presumption of validity. The proposed amendment has no reasonable relationship to any legitimate *public* purpose and, if enacted, would constitute a violation of substantive due process.

It was prejudicial, presumptuous, and otherwise inappropriate for the Planning Department to prepare a draft ordinance prior to the Commission's decision. No draft ordinance should be prepared unless/until the Planning Commission approves an application.

The Planning Commission should be advised whether it is required to make formal findings and whether these findings can be made in executive session. If formal findings are made by the Planning Commission, it should be the duty of paid staff to prepare them in written form for presentation to the City Council. Volunteer commissioners should not be further burdened with this responsibility.

Because of the myriad legal issues involved and the potential precedent(s) set by this proposal, the Planning Commission should be provided with legal counsel at tomorrow's meeting. Please provide this email to the Planning Commission along with all of my previous emails regarding this matter.

Frank

On Mar 1, 2011, at 11:55 AM, Rick Abboud wrote:

Mr. Griswold,

I do not consider a petition for text amendment a rezone and no fee was charged or collected. The procedure for review shall be in accordance with HCC 21.95.060, as enacted by Ord. 10-58.

Regards,

Rick Abboud
City Planner
City of Homer
491 E. Pioneer Ave.
Homer, AK 99603-7624
(907)235-3106

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

From: Frank Griswold [<mailto:fsgriz@alaska.net>]
Sent: Monday, February 28, 2011 1:33 PM
To: Rick Abboud
Cc: Department Planning
Subject: Proposed GC1 rezone

Mr. Abboud,

I understand a motion for reconsideration has been made concerning the proposed GC1 rezone. For the March 2 meeting, please provide the Planning Commission with all of my correspondence to you relative to this matter (including this one) and your responses.

Was the \$500 rezone fee paid and if so, when and by whom?

Is the HAPC required to make formal findings to support its decision or is it sufficient that it submit to the City Council its written recommendations, the Planning Department's report, all written comments on the proposal (including mine), and relevant excerpts from the minutes as mandated by newly enacted HCC 21.95.060(d)?

Frank

Shelly Rosencrans

From: Frank Griswold [fsgriz@alaska.net]
Sent: Sunday, February 27, 2011 12:04 PM
To: Department Planning
Subject: Staff Report PL 11-19, Draft Policies and Procedures

Dear Planning Commissioners,

The Policies and Procedures Manual currently encourages the HAPC to maintain a balanced perspective when reviewing the comprehensive plan with regard to proposed zoning amendments. This is still good policy and should be strengthened, not deleted. Former City Attorney Gordon Tans stated as follows on January 6, 2006 (regarding singling out specific goals or objectives of the comprehensive plan when imposing conditions for conditional use permits):

"The commission must also keep in mind that the comprehensive plan is a very general statement of multiple goals and objectives. A careful reading of the Homer comprehensive plan will reveal many goals and objectives that seem to be in conflict with other goals and objectives. What seems inconsistent with a goal or objective on one page of the plan may be quite consistent with a different goal or objective on another page of the plan. Thus, consistency and harmony with the comprehensive plan should not be interpreted to mean literal consistency with *every* goal and objective of the plan. One should maintain a balanced perspective when reviewing the comprehensive plan. The commission should be both reasonable and rational in its imposition of conditions deemed necessary for consistency and harmony with the comprehensive plan."

There were also good reasons for other policies/procedures now proposed for deletion. Please consider the information regarding controlling case law that I provided to the commission previously as a lay-down. Hopefully it will be included in your packet as I requested.

Frank Griswold

CITY MANAGER'S REPORT

MANAGERS REPORT

May 9, 2011

TO: MAYOR HORNADAY / HOMER CITY COUNCIL

FROM: WALT WREDE *W. Wrede*

UPDATES / FOLLOW-UP

1. Dredge Materials: We got off to a rocky start with the dredging projects this year. We were scheduled to have the harbor entrance and parts of the main fairway dredged this spring. The contractor arrived late which placed us under a time constraint since all work had to be completed by April 30. Last Wednesday, the contractor overfilled the dewatering pond on Lot 49 and flooded the end of the Spit with silt and seawater. The businesses out there were not impressed and it was a pretty bad week overall in terms of PR. The contractor paid to clean-up the mess on private property and the Corps of Engineers closed the project down. So, the end result is that the rest of the dredging will have to take place in the fall. Also, we agreed to allow the remaining materials on Lot 49 to stay there until the fall dredging and then all of the materials can be transported at once to the storage site. This will save the Corps a great deal of money but it will also mean that the materials is there all summer; pretty unsightly from a tourism perspective. The pipeline and the big mound on the road will be removed. There is another special project in July that will remove about 10,000 yards of material from under the Pioneer Dock. This is an experiment to see if creating a sink to capture materials before they are transported to the Hickory berth will lower the cost of operations for maintaining that berth. This dredging can be done from the beach at a much lower cost. An excavator will load this material directly on to trucks for transport away from the sight. But again, while necessary, the timing is not the best from a tourism perspective. All of this reminds us again about the need for a long term dredging plan.
2. Old Water Treatment Plant: This demolition project is basically complete. The next step for us is to bring the Council a proposal for establishing a satellite fire station there.
3. Parks News: The City staff is working with volunteer groups to find ways to get them involved and take advantage of their energy and desire to improve the parks. As you know, at the last meeting the Council accepted a donation for playground equipment at Bayview Park. This week, the staff had a meeting on-site at the Karen Hornaday playground with parents who wish to help design the playground and raise money for improvements. We are presently working on an MOU with Jack Gist Park advocates and have had discussions with others about volunteer opportunities in all of the parks. This week the staff drafted a resolution and some policies and procedures to implement an Adopt-A-Park Program. This will be reviewed by the Parks and Recreation Commission at its next meeting and presented to the Council for approval on May 23. The main driver behind this effort is the Rotary Club's desire to adopt Ben Walters Park and invest in

improvements there. I believe all of these efforts should be encouraged and could not come at a better time.

4. New Personnel: I would like to formally introduce the newest members of the management team. At the last meeting, many of you met Andrea Petersen for the first time. Andrea is the new Personnel Director and will be assuming the duties formerly handled by Sheri Hobbs. Andrea spent the past three years working in the HR Department for South Peninsula Hospital. Her experience, training, and certifications make her uniquely qualified for the job. Andrea began work on April 4th and benefitted from almost an entire month of orientation while Sheri was still here. Sheri also served as the Airport Terminal Manager and supervised the Community Recreation Program. I have moved those duties elsewhere so that Andrea can focus her full attention on HR duties. The Library Director position has been accepted by Ann Dixon. Anne spent three days orienting with Helen Hill before she left and will officially start work at the end of May. Ann has a wide variety of library experience and the desired education and certifications. She comes to us from Willow Alaska where she has lived for many years. She has been director of the Willow Public Library and is presently the librarian for the Willow Public School. Anne is also a well known author of children's books. Please welcome these new employees when you get the chance.
5. Redistricting: The Mayor and I attended the public hearing held by the Redistricting Board in Homer on May 3. Copies of the proposed House and Senate districts will be available at the meeting. Written testimony and comments will be accepted until early June, at which time the Board must adopt its final plan. There are two options put forward by the Board and several by other organizations. Both Board options have Homer in an identical House District. Basically the House District no longer includes Seward and it goes up along Cook Inlet toward Kenai. At least one of the proposals put forward by other entities has Homer and Seward in the same House District. There are two options regarding the Senate district put forward by the Board. One has Homer grouped with Kodiak and Seward, much as we are now. The other has Homer in a Senate district with the Kenai area.
6. Bridge Creek Fire Mitigation Project: The Fire Mitigation Project has basically wrapped up for the season because of the rapidly diminishing snow and warm temperatures. I think the contractor did a very job with the mechanical work. He may have to come back next winter to finish his work and clean-up a few things. There will likely be some hand crews at work this summer cutting dead trees in sensitive and buffer areas. A tree stock assessment will also be conducted to see if replanting would be beneficial. The head of the Borough Spruce Bark Beetle Program, Duane Bannock, will be here to give you a report at the next meeting.
7. Request for Proposals / Leased Land on Spit: An RFP has been prepared and is about to be publicized. The RFP invites proposals to lease City land on all lots approved for lease by the Council in the Land Allocation Plan. The Lease Committee will be reviewing the proposals and making recommendations to Council in early June.
8. Proposal Deadline / Old Middle School: The deadline for proposals is Friday, May 6. By meeting time, I should be able to tell you if we received any. At the

time this report was written, there were only two parties on the plan holders list. The Lease Committee has scheduled a special meeting for May 17 to review the proposals. The Lease Committee will be supplemented by available members of the Economic Development Commission since it is likely that body will not have a quorum.

9. Land Sales: Appraisals have been commissioned for the lots designated for sale in the Land Allocation Plan. As soon as we have the appraisals, we will take the steps necessary to put those parcels up for sale.
10. TORA Agreement: We are back on track with the proposed Transfer of Responsibility Agreement (TORA) with ADOT/PF. You will recall that this is the agreement that transfers responsibility for parking, pedestrian amenities, and seasonal speed limits to the City. We have one or two additional things to work out and we expect to bring you a resolution at the next meeting.

ATTACHMENTS

1. May Employee Anniversaries
2. March Department Statistical Reports
3. Memorandum from Port and Harbor Director, Re: Change Order to the Fish Dock Crane Card Access System Upgrade Project



City of Homer

Memorandum

To: Mayor Hornaday and Homer City Council
From: Walt Wrede, City Manager *W.W.W.*
Date: May 3, 2011
Re: May Employee Anniversaries

I want to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer over the years. Each of these employees will have an anniversary this month.

Kathy George, Library	17 Years
Jo Earls, Finance	12 Years
Anne Marie Holen, Administration	9 Years
Mark Whaley, Port and Harbor	6 Years
Pike Ainsworth, Public Works	3 Years
Don Huffnagle, Port and Harbor	3 Years
Terry Felde, Administration	2 Years

I would also like to thank Jolee Ellis, part-time Library Tech, for her 9 years of service and dedication to the City. Jolee will be retiring at the end of May.

City of Homer



Memorandum

To: Mayor and Council
From: Terry Felde
Date: May 3, 2011
Re: Department Statistics

STATISTICAL REPORTS FOR March, 2011.

- Clerks
- Police
- Animal Shelter
- Fire
- Port & Harbor
- Public Works
- Library

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

Phone: 907-235-8121 ext 2222
Fax: 907-235-3148
E-mail: tfelde@ci.homer.ak.us

March 2011 Clerk Statistics

Monthly Statistics	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
City Council													
City Council Meetings	8	6	9										
Overtime - hours	12	8.5	17										23
Agendas Prepared	12	12	20										37.5
# of Pages in Packet	958	552	608										44
# of Packets Distributed	54	54	54										2118
# of Tentative Agendas Distributed	18	18	18										162
# of Action Agendas Distributed	38	38	38										54
Minutes	5	3	5										114
# of Minutes Distributed	95	57	95										13
													247
Commissions/Boards/Committees etc.													
Planning Commission Meeting	2	1	2										
Overtime - hours	4.5	2	4										5
# of Packets Distributed	6	6	6										10.5
# of Agendas Distributed	26	26	26										18
Minutes	2	1	2										78
# of Minutes Distributed	26	13	26										5
													65
Economic Development Commission Meeting													
Overtime - hours	1	0	0										1
# of Pages in Packet	1.5	0	0										1.5
# of Packets Distributed	100	0	0										100
# of Agendas Distributed	13	0	0										13
Minutes	14	0	0										14
# of Minutes Distributed	1	0	0										1
	14	0	0										14
Port and Harbor Commission Meeting													
Overtime - hours	1	1	1										3
# of Pages in Packet	2.5	2	1										5.5
# of Packets Distributed	74	199	46										319
# of Agendas Distributed	10	10	10										30
Minutes	14	14	14										42
# of Minutes Distributed	1	1	1										3
	14	14	14										42
Parks and Recreation Commission Meeting													
Overtime - hours	1	1	1										3
# of Pages in Packet	0.5	3.25	3.25										7
# of Packets Distributed	104	28	276										408
# of Agendas Distributed	14	14	14										42
	14	14	14										42

-382-

2

March 2011 Clerk Statistics

[illegible]

-384-

4

March 2011 Clerk Statistics

[illegible]



CITY OF HOMER

POLICE DEPARTMENT

4060 HEATH STREET HOMER, AK 99603-7609

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-3151

MEMORANDUM

DATE: April 21, 2011
TO: City Manager Wrede
FROM: Chief Mark Robl *[Signature]*
SUBJECT: Monthly Report, March 2011

Police Department

Activity levels were about average for the month of March. We responded to 336 incidents, made 30 arrests and issued 31 citations. No significant events were reported. The monthly statistical report is attached for your review.

A large earthquake in Japan triggered a Pacific Basin wide tsunami watch. Warning sirens sounded in Homer and throughout the state. This served as a "real world" test of the system and highlighted some areas that need improvement.

Cory Rupe returned to work with us in patrol. He went directly onto the patrol schedule and is already working hard for us. It is simply great to have an experienced officer with local knowledge come back. Officer Smith should be back to work around the first May. We will be fully staffed or the summer.

Officer Baxter attended an interview and interrogation course. Officer Browning attended an advanced defensive tactics training course. Officer Knott and Sgt Shealy attended a drug interdiction course.

We have been working through the Dispatcher hiring process and have identified a top applicant. We are conducting her background investigation.

Homer Jail

The Jail was moderately busy last month. No significant events occurred. Our hiring process for a replacement Jail Officer is continuing. We are testing our top applicant. The monthly jail statistical report is attached for your review.

Animal Shelter

I am unaware of any significant events occurring at the shelter last month. The shelter manager's monthly report is attached for your review.



CITY OF HOMER

POLICE DEPARTMENT

4060 HEATH STREET HOMER, AK 99603-7609

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-3151

Following is a summary of reported activity for the Homer Police Department:

	MARCH	2011
Incidents		336
Arrests		30
Citations		31
Jail Bookings		36
Jail Days Served		49
Prisoners Transported to other DOC Facility		6

Mark H. Robl, Chief of Police

Monthly Incident Summary

Abandoned Vehicle	2	Pass School Bus w/Red Lights	1
Agency Assist Inside Alaska (other than AST)	28	Patrol Request	4
Agency Assist/AST	4	Protective Custody/Alcohol	2
Animal Related Offense/Complaint	4	Provide Transport	1
Assault (Fourth Degree)	1	Public Appearance	1
Assault/Family/Strongarm	1	Public Assist	8
Assault/Non-Family/Other Weapon	1	Public Assist (counter traffic)	5
Assist Fire Department	5	REDDI (Report Every Drunk Driver Immediately)	9
Burglary Attempt	2	Runaway Juvenile	1
Burglary/Force/Non-Residence	2	Security Checks - All Others	11
Burglary/Force/Residence	2	Security Checks - Bars	3
Burglary/No Force/Residence	1	Sex Offender Registration	1
City Ordinance (all others)	2	Sexual Assault/Adult	1
Civil Problem/Assist/Standby	9	Subpoena/Summons Service	1
Commercial Vehicle Inspection	1	Suspicious Circumstances	29
Consume/Possess Alcohol/18-21-Repeat Offender	1	Suspicious Vehicle	3
Criminal/Malic Mischief/Business	4	Taxicab Inspection/Fixit Tickets	13
Criminal/Malic Mischief/Personal	7	Theft (all others)	1
Death Invest/Unattended Death	3	Theft from Vehicle	2
Disturbance - Other	9	Theft from Yard	3
Domestic Dispute	5	Theft of Bicycle	1
Driving While Intoxicated-Alcohol	3	Theft of Vehicle	1
Drove w/o License	2	Threats	2
Drug Information	3	Traffic (Criminal-all others)	1
Drug Investigation	2	Traffic (Non-Criminal-all others)	8
DV Writ Service	4	Traffic Hazard	2
DWLS/R/C	1	Traffic Warning	55
False Alarm	2	Trespass	1
Found Property	2	TRO Violation	2
Fraudulent Use of an Access Device	4	VID	3
Fraud (other than Bad Checks)	1	Violation of Conditional Release	1
Fugitive from Justice	2	Warrant Arrest (FTA)	1
Harassment	7	Welfare Check	16
Hit&Run/Leave Scene of Accident	1		
Impound (all)	1		
Information/Other	2		
Intoxicated Pedestrian	1		
Liquor Law Violations	1		
Lost Property	1		
Minor Consume or Possess	1		
Motorist Assist	1		
MVA - Damage	6		

Monthly Arrests Summary

Assault (Fourth Degree)	1
Burglary/Force/Residence	1
Consume/Possess Alcohol/18-21	3
Consume/Possess Alcohol/18-21-Repeat Offender	1
Driving While Intoxicated-Alcohol	3
Drove w/o License	2
DWLS/R/C	2
Fail to Provide Proof of MV Insurance	1
MCA/Operate Vehicle	1
Minor Consume or Possess	2
Possess/Use MJ (MICS VI)	3
Probation Violation	1
Protective Custody/Alcohol	2
Refuse Chemical Test (BA or PBT)	1
Traffic (Criminal-all others)	1
Trespass	1
Warrant Arrest (FTA)	4

Monthly Citation Summary

Total Count for Ticket Type A 2

Total Count for Ticket Type E 2

Total Count for Ticket Type P 11

Total Count for Ticket Type T 16

Type A = Animal Cite

Type P = Parking Cite

Type E = Equipment/Tobacco Cite

Type T = Moving/City Ordinance Cite

Type S = Court Summons

Friday, April 08, 2011

TOTAL CITATIONS FOR MONTH: 31

Type A = Animal Cite

Type P = Parking Cite

Type E = Equipment/Tobacco Cite

Type T = Moving/City Ordinance Cite

Type S = Court Summons

Friday, April 08, 2011

LT. DWIGHT KING
DEPARTMENT OF CORRECTIONS
4500 DIPLOMACY DRIVE #109
ANCHORAGE, AK 99508

MONTHLY CONTRACT JAIL REPORT CERTIFICATION

Month March, 20 11

Facility Reporting: Homer Community Jail

Total Number of Prisoners: 36

Total Number of Man-Days Served: 49.0


** Number of Prisoner Transports to another DOC Facility: 4

** Number of Prisoners Transported to another DOC Facility: 6

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE
ACCOUNTING OF THE SERVICES RENDERED.**

Certifying Officer: R. BITTA
(Printed Name)

Title: CJO


(Signature)

** Indicates transports made by Homer Community Jail Staff

NOTE: This form must accompany the Monthly Booking Report.



CITY OF HOMER

POLICE DEPARTMENT

4060 HEATH STREET HOMER, AK 99603-7609

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-3151

MONTH END ACTIVITY REPORT - ANIMAL SHELTER

TO: Chief Mark Robl *MM*
FROM: Coastal Animal Care
REPORTING PERIOD: MAR 2011

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTALS
BOARDERS	0	2	0										2
CITATIONS ISSUED	0	0	2										2
COMPLAINTS	14	15	26										55
EUTHANIZED	7	9	7										23
IMPOUNDS	3	5	3										11
REPORTED BITES	0	0	0										0
REPORTED LOST	25	32	37										94
ROAD KILLED	0	1	2										3
TURN INS from inside city													
STRAYS	10	7	8										25
OWNER TURN IN	4	15	11										30
RETURN TO OWNER	3	7	5										15
ADOPTED	5	4	9										18
TURN INS from outside city													
STRAYS	0	5	0										5
OWNER TURN IN	5	0	5										10
RETURN TO OWNER	0	2	2										4
ADOPTED	9	18	7										34
QUARANTINE	0	0	0										0
MISC SVC (Non-City Res)	18	12	9										39
OTHER (explain)	0	10	2										12
TOTAL INCIDENTS	103	144	135										382

need a home field trips

Homer Volunteer Fire Department

604 east pioneer avenue
homer, alaska 99603
907/235-3155
fax 907/235-3157
fire@ci.homer.ak.us

TO: Walt Wrede, City Manager
FROM: Robert Painter, Fire Chief
DATE: April 20, 2011
SUBJ: March Activity Report

EMERGENCY SERVICE ACTIVITY

Emergency Calls	'06	'07	'08	'09	'10	'11
Fire	10	9	8	6	5	7
EMS	35	41	55	54	38	29
Total Responses	45	50	63	60	43	36

Calls To Date

	'98	'99	'00	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11
Fire	23	23	32	48	27	46	25	41	21	20	24	23	13	11
EMS	101	108	95	103	92	126	115	122	101	132	158	140	94	96
Total	124	131	127	151	119	172	140	163	122	152	182	163	107	107

	2006	2007	2008	2009	2010	2011
Community Loss	\$238K	\$244K	\$390K	\$68K	\$42K	\$2,034K
Property Saved	\$544K	\$1,022K	\$1,546K	\$186K	\$155K	\$1,790K

MEMBER EFFORT in hours (Month/Year to Date)

	'07	'08	'09	'10	'11
	Mon/YTD	Mon/YTD	Mon/YTD	Mon/YTD	Mon/YTD
Alarm	490/1,206	659/1,862	531/1,993	228/610	379/758
Training	113/413	557/1,403	247/813	318/1,110	237/1,005
Prevention	30/32	47/46	3/15	15/19	19/33
Other	78/200	45/215	46/229	68/157	68/236
Total:	711/1,850	1,258/3,326	826/2,049	628/1,896	703/2,031

GENERAL COMMENTS

Perhaps the 2nd largest fire loss for the City of Homer occurred this month with the large fire at Northern Enterprise Boatyard (the largest being the Icicle Seafood fire in 1998). Several vessels were lost as well as most of the large shop building in which they were being worked on. While not having a nearby fire hydrant played a role in the initial fire suppression the department was still able to save three boats along with the belongs of a shop full of equipment and gear. HVFD had 22 personnel on scene and KESA, under mutual aid, provided another 16. Three firefighters responded from Anchor Point Fire Department and a Nimiichik volunteer showed up on scene and helped out with firefighter rehabilitation and changing SCBA (airpack) bottles. Water was supplied by HVFD (2 tanker/pumpers) and KESA's 2 tankers as well as Quick Draw water (2 tankers) and the boatyard's own water tanker. The nearest hydrant was a little over 1/2 mile from the fire making tanker turn-around time relatively short.

"The team that cares."

**HOMER VOLUNTEER FIRE DEPARTMENT
MONTHLY ACTIVITY REPORT
For Month of MARCH 2011**

Type of Alarm & Location

Location Service/Alarm Type	Homer		Kachemak City		K.E.S.A.		Other	
	M	YTD	M	YTD	M	YTD	M	YTD
Emergency Medical	29	95	0	1	0	0	0	0
Fire, Structural	3	6		0		0		0
Fire, Wildlands		0		0		0		0
Fire, Vehicle	1	1		0		0		0
Rescue Services		0		0		0		0
Public Assist	3	4		0		0		0
Total Fire	7	11	0	0	0	0	0	0
Combined Fire/EMS	36	106	0	1	0	0	0	0

Fire Loss/Save by Location

Location	Fire Loss		Fire Save	
	Month	Year-to-Date	Month	Year-to-Date
Homer	\$2,000,000	\$2,034,000	\$1,750,000	\$1,790,000
Kachemak City	0	0	0	0
K.E.S.A.	0	0	0	0
Other	0	0	0	0
Totals:	\$2,000,000	\$2,034,000	\$1,750,000	\$1,790,000

Department Training and Other Activities Conducted

Activity/Class	Date	Members	Member Hours	Total Hours
EMS Tuesday Training	3/1	26	2.5	65.0
FIRE Tuesday Training	3/8	14	2.5	35.0
Train-the-Trainer @ Spit	3/12	17	6.0	102.0
FIRE Tuesday Training	3/22	22	1.5	33.0
HIPAA Refresher	3/26	2	1.0	2.0
Shift Change/Rig Checks	March	14	4.0	56.0
Dept. Services	March	3	4.0	12.0

Public Education/Prevention Activities

Activity	Date	Attendees	Members Assisting	Member Hours	Total Hours
CPR for HPD Staff	3/9 & 17	19	2	9.0	18.0
K.P.C. Career Day	3/24	12	1	1.0	1.0

Total Manhours of Combined Activities and Alarms

Activity	EMS Service	Fire Service	Combined Monthly	Combined Year-to-Date
Alarms	108.6	270.7	379.3	758.3
Training	66.0	171.0	237.0	1,004.5
Prevention			19.0	32.5
Other			68.0	236.0
Total Hours	174.6	441.7	703.3	2,031.3



City of Homer

Port / Harbor

4350 Homer Spit Road
Homer, Alaska 99603-8005

Telephone (907) 235-3160
Fax (907) 235-3152
E-mail Port@ci.homer.ak.us
Web Site <http://port.ci.homer.ak.us>

TO: Walt Wrede, City Manager

FROM: Bryan Hawkins, Port Director/Harbormaster

DATE: March 31, 2011

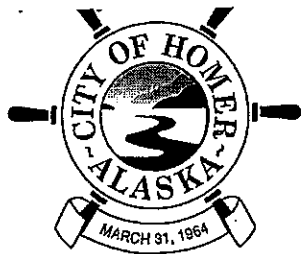
RE: Month End Report to City Manager for March 2011

Enclosed are the monthly statistical and performance report for February 2011, the March Staff Report, the two accumulative reports on the docks, and the ice/crane report through March 27, 2011.

Port & Harbor Monthly Statistical & Performance Report

For the Month of: **February 2011**

<u>Moorage Sales</u>			<u>Stall Wait List</u>		
	<u>2011</u>	<u>2010</u>	No. on list at Month's End	<u>2011</u>	<u>2010</u>
Daily Transient	0	4	18' Stall	1	1
Monthly Transient	10	15	20' Stall	0	2
Semi-Annual Transient	0	0	24' Stall	11	27
Annual Transient	2	4	32' Stall	36	31
Annual Reserved	0	0	40' Stall	28	34
			50' Stall	14	20
			75' Stall	6	7
			Total:	96	122
<u>Grid Usage</u>			<u>Docking & Beach/Barge Use</u>		
1 Unit = 1 Grid Tide Use	<u>2011</u>	<u>2010</u>	1 Unit = 1 or 1/2 Day Use	<u>2011</u>	<u>2010</u>
Wood Grid	2	7	Deep Water Dock	5	13
Steel Grid	2	5	Pioneer Dock	5	3
			Beach Landings	0	0
			Barge Ramp	1	0
<u>Services & Incidents</u>			<u>Crane Hours</u>		
	<u>2011</u>	<u>2010</u>		<u>2011</u>	<u>2010</u>
Vessels Towed	2	0		86.7	92.3
Vessels Moved	3	1			
Vessels Pumped	4	5			
Vessels Sunk	1	0			
Vessel Accidents	0	0			
Vessel Impounds	0	0			
Equipment Impounds	0	0			
Vehicle Impounds	0	0			
Property Damage	0	0			
Pollution Incident	2	2			
Fires Reported/Assists	0	0			
EMT Assists	3	0			
Police Assists	0	1			
Public Assists	17	2			
Thefts Reported	0	0			
			<u>Ice Sales</u>		
				<u>2011</u>	<u>2010</u>
			For the Month of February	*	*
			*Shut Down for Maintenance		
			Year to Date Total	0	0
			<u>Difference between</u>		
			<u>2010 YTD and 2011 YTD:</u>	<u>0 tons</u>	



City of Homer

Port / Harbor

4350 Homer Spit Road
Homer, Alaska 99603-8005

Telephone (907) 235-3160
Fax (907) 235-3152
E-mail Port@ci.homer.ak.us
Web Site <http://port.ci.homer.ak.us>

PORT & HARBOR STAFF REPORT

By Bryan Hawkins, Port Director/Harbormaster
Prepared for the March 23, 2011 Port & Harbor Commission Meeting

March 16, 2011

1. Administration

Staff met with:

PN&D Engineering & Carey Meyer – Harbor Facility Improvements
Siemens – Teleconference regarding Energy Audit
City Manager & Carey Meyer – Siemens Energy Audit
Harbor Staff – Scheduled FSP Drill
District 17 USCG – Mass Rescue Operations Meeting
Brenda Dale, Snug Harbor & City Manager – New Snug Harbor Lease
ADOT – Meeting in Anchorage regarding East Harbor Technical Report
Kimberly Nielsen, URS Engineering – Harbor Facility Improvements

Dana Harrington has been hired as our new Administrative Clerk. She previously worked in the Harbormaster's Office for two and a half years as Administrative Secretary.

2. Operations

The small boat harbor experienced a significant increase in activity as March transitioned from winter to spring. Most notable are the departure of the Sitka herring fleet and the mobilization of the local halibut vessels. The Cook Inlet state waters P-cod fishery has been robust with many vessels delivering fully loaded. The harbor received its first influx of recreational sport fishing vessels arriving in anticipation of the Winter King Salmon Derby scheduled for Saturday, March 19th. Several local landing crafts and research vessels have mobilized and are participating in a Cook Inlet oil field exploration contract conducted by Fairweather Marine.

- Improvements to the harbor tug's hydraulics, fire fighting pump, and man overboard retrieval system were completed on March 7th.
- 12 new harbor dock carts, constructed by the Port Maintenance crew, have been placed on the float system for public use.
- Job postings for the six harbor assistant positions have been advertised.
- Harbor officers assisted a salvage crew raise and remove a sunken 40' charter vessel from the small boat harbor on February 18th.
- Operations staff assisted a man suffering from a broken collar bone, free him from an entangled dog sled team, and transported him to the hospital.
- Crowley Maritime's Tug Sea Prince and Barge 360 utilized the Deep Water Dock for four days of repairs.
- Operations staff responded to a 5 gallon diesel spill on B float on March 11th.
- Approximately 60 vessels continue to participate in the winter metered power program. This program will be ending April 15th.

3. Other

- Stall Wait List renewals have been sent to current applicants on the list. Deadline for renewal is May 2, 2011.
- The Ice Plant had a smooth start-up and was open for business March 10th in time for the beginning of halibut season.
- The RFP for the Crane Card Access System Upgrade was awarded to ATS Alaska of Anchorage, Alaska.

Date From	Date To	Crane Hours (Weekly)	Crane YTD	Tons of Ice (Weekly)	YTD Ice
1/3/2011	1/9/2011	6.7	6.7	0 shut down for maintenance	
1/10/2011	1/16/2011	23.5	30.2	0 shut down for maintenance	
1/17/2011	1/23/2011	18.3	48.5	0 shut down for maintenance	
1/24/2011	1/30/2011	18	66.5	0 shut down for maintenance	
1/31/2011	2/6/2011	10.7	77.2	0 shut down for maintenance	
2/7/2011	2/13/2011	19.1	96.3	0 shut down for maintenance	
2/14/2011	2/20/2011	26.8	123.1	0 shut down for maintenance	
2/21/2011	2/27/2011	30.1	153.2	0 shut down for maintenance	
2/28/2011	3/6/2011	58.3	211.5	0 shut down for maintenance	
3/7/2011	3/13/2011	76.3	287.8	57	57
3/14/2011	3/20/2011	79.1	366.9	46	103
3/21/2011	3/27/2011	38	404.9	44	147
3/28/2011	4/3/2011				
4/4/2011	4/10/2011				
4/11/2011	4/17/2011				
4/18/2011	4/24/2011				
4/25/2011	5/1/2011				
5/2/2011	5/8/2011				
5/9/2011	5/15/2011				
5/16/2011	5/22/2011				
5/23/2011	5/29/2011				
5/30/2011	6/5/2011				
6/6/2011	6/12/2011				
6/13/2011	6/19/2011				
6/20/2011	6/26/2011				
6/27/2011	7/3/2011				
7/4/2011	7/10/2011				
7/11/2011	7/17/2011				
7/18/2011	7/24/2011				
7/25/2011	7/31/2011				
8/1/2011	8/7/2011				
8/8/2011	8/14/2011				
8/15/2011	8/21/2011				
8/22/2011	8/28/2011				
8/29/2011	9/4/2011				
9/5/2011	9/11/2011				
9/12/2011	9/18/2011				
9/19/2011	9/25/2011				
9/26/2011	10/2/2011				
10/3/2011	10/9/2011				
10/10/2011	10/16/2011				
10/17/2011	10/23/2011				
10/24/2011	10/30/2011				
10/31/2011	11/6/2011				
11/7/2011	11/13/2011				
11/14/2011	11/20/2011				
11/21/2011	11/27/2011				
11/28/2011	12/4/2011			shut down for maintenance	
12/5/2011	12/11/2011			shut down for maintenance	
12/12/2011	12/18/2011			shut down for maintenance	
12/19/2011	12/25/2011			shut down for maintenance	
12/26/2011	1/1/2012			shut down for maintenance	

**City of Homer - Public Works Department
Monthly Statistics - 2011**

Type Work	January	February	March	April	May	June
Scheduled	Labor Hrs. 1959	Labor Hrs. 442	Labor Hrs. 376	Labor Hrs. 1167	Labor Hrs. 411	Labor Hrs. 411
Repairs	364	111	448	84	563	94
Contract (billings)	9.5	18	1.5	15	5	14
Admin	0	9	131.5	9	163	7
PW Totals	2232	580	2533	444	1838	526
Current Backlog	0	34		43		35

Type Work	July	August	September	October	November	December
Scheduled	LBR HRS #WOS	LBR HRS #WOS	LBR HRS #WOS	Labor Hrs. #WO's	Labor Hrs. #WO's	Labor Hrs. #WO's
Repairs						
Contract (billings)						
Admin						
PW Totals	0	0	0	0	0	0
Current Backlog						

Previous Year's Totals (12 months)

1999	1998	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Labor Hrs	19,547	21,764	31,834	31,529	34,805	35,115	33,566	38,526	33,222	35,164	30,943	34,160.00	6,663
Wk Orders	3,024	3,158	5,015	5,543	6,438	6,573	6,768	6,852	6,761	6,553	5,785	7,372.00	1,590
Backlog	177	137	146	278	238	183	255	196	182	111	80	48	0

2010	2011
Labor Hrs	6,663
Wk Orders	1,590
Current Backlog	35

Public Works Labor Hours by Department

HERC	Atport	City Hall	Police Dept	Fire Dept	Public Util	Public Works	Used Other	Parks	PW Maint	Art Shelter	CS Hall	Perforator	Poke Dept	Pkg Dept	PW Equip	Totals
January	52.5	154	26	9	37	171	98	161	1173	14	0	55	24	25	103	2,219
February	62	140	41	10	3	55	66	273	115	1218	19	35	32	3	71	2,413
March	48.5	95	35	18	4	27	138	76	21	146	1016	15.5	2	29.5	81.3	1,901
April																0
May																0
June																0
July																0
August																0
September																0
October																0
November																0
December																0
Total	163	389	102	38	28	118	582	240	445	3,407	49	238	58	57	254	6,533

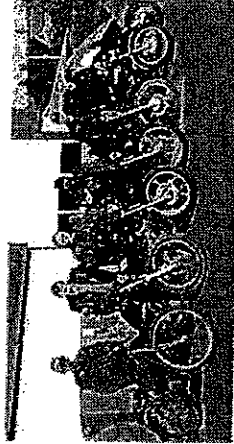
Utility Locates Hrs	January	February	March	April	May	June	July	August	September	October	November	December	Total Hrs
	1	2											3

Total Facilities Man Hours = 5,317 (to date)
 Total Parks Maint Hours = 369 (to date)
 Total Harbor Maint Hours = 822 (to date)
 Total Vehicle Maint Hours = 607 (to date)

Notes

1. Assumed maintenance of Port Facilities 09/1999
2. Assumed maintenance of Airport Facility 7/1/00
3. Assumed maintenance of Homer Educational/Recreation Center (HERC) 7/1/00
4. Monthly hours may vary due to employee vacation time(s) and ongoing work in progress.
5. Did not break out Capital Projects - accurate information would come from time sheets.
6. Agreement between City of Homer and Kachemak Emergency Services ended 2009

Total Hours - Vehicle & Equip. Maint. 607 (to date)

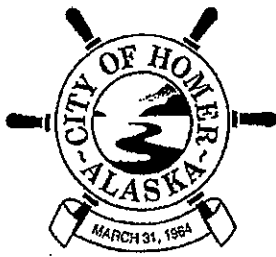


SPRING IS IN THE AIR!

Homer Public Library Statistical Summary for 2011

Today's Date:
11-Apr-11

	Jan 11	Feb 11	Mar 11	Apr 11	May 11	Jun 11	Jul 11	Aug 11	Sep 11	Oct 11	Nov 11	Dec 11	Y.T.D. TOTALS
ALL INFORMATION	7320	6437	10289										24046
Non-fiction	71	56	79										206
Children's	89	62	105										256
Adult Non-fiction	175	200	206										581
Adult Fiction	460	493	507										1460
Children's Fiction	20	15	17										52
Adult Non-fiction	9226	9247	10894										29967
Adult Fiction	186	191	238										615
Children's Fiction	8	11	0										19
Adult Non-fiction	3331	3303	3992										10626
Adult Fiction	90	97	99										286
Children's Fiction	28	27	34										89
Adult Non-fiction	25	34	39										98
Adult Fiction	3	0	0										3
Children's Fiction	108	86	75										269
Adult Non-fiction	205.75	170.5	165										541.25
Adult Fiction	174	84	212										470
Children's Fiction	0	2	13										15
Adult Non-fiction	20	12	39										71
Adult Fiction	0	1	0										1
Children's Fiction	0	0	0										0
Adult Non-fiction	98	171	305										574
Adult Fiction	4	0	30										34
Children's Fiction	0	21	9										30
Adult Non-fiction	0	1	0										1
Adult Fiction	0	0	0										0
Children's Fiction	1541.50	1600.60	2159.10										5301.20
Adult Non-fiction	0.00	0.00	0.00										0.00
Adult Fiction	0.00	0.00	0.00										0.00
Children's Fiction	0.00	0.00	0.00										0.00
TOTALS	1,541.50	1,600.60	2,159.10	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$5,301.20



City of Homer

Port / Harbor

4350 Homer Spit Road
Homer, Alaska 99603-8005

Telephone (907) 235-3160
Fax (907) 235-3152
E-mail port@ci.homer.ak.us
Web Site <http://port.ci.homer.ak.us>

MEMORANDUM

TO: HOMER CITY COUNCIL & WALT WREDE, CITY MANAGER

FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER *BH*

SUBJECT: CHANGE ORDER TO THE FISH DOCK CRANE CARD ACCESS SYSTEM UPGRADE PROJECT

DATE: APRIL 26, 2011

ATS Alaska and Alaska Industrial Electric have begun work on the Fish Dock Crane Card Access System Upgrade project.

It has come to our attention that the 'Scope of Work' section for this RFP was written incorrectly. Originally the written plan was to provide outlets to the areas close to the cranes, but this was found not feasible (not allowed in code), an oversight on my part.

This Change Order will accomplish two things: (1) replace and upgrade existing electrical service and (2) replace damaged overhead conduit. This sole source expenditure is justified due to the fact that the RFP process was used for the crane card upgrade contract and this conduit/electrical replacement will enable us to accomplish our goals to that end. Total cost of this Change Order is \$5,842.00.

Recommendation

Approve this Change Order to the Crane Card Access System Upgrade RFP in the amount of \$5,842.00 for the Fish Dock Electrical Conduit Overhaul.

Fiscal Note

Staff budgeted \$10,000.00 for this project in the 2011 budget under account number 456-380-5208, Fish Dock Electrical Conduit Overhaul.

Attached: 2011 Budget Project Accounts

**CITY OF HOMER
2011 OPERATING BUDGET**

Port & Harbor Reserves
456 - 380

Acct #		2008 Actual	2009 Actual	2010 Budget	2011 Budget
	Beginning Balance	1,108,709	1,219,265	1,383,836	1,388,200
4992	Annual Transfer	324,530	324,530	324,530	470,000
	Transfer from G/F for Ben Walters Dock	60,000			
4801	Interest Income	20,541	11,050	35,752	
4610	Plans & Specs		320		
5990	Energy Fund trsf			(48,620)	
	Expenditures	(294,515)	(171,329)	(37,294)	
	Subtotal	1,219,265	1,383,836	1,658,204	1,858,200
	Encumbered			(270,004)	(160,000)
	Ending Balance	1,219,265	1,383,836	1,388,200	1,698,200

Expenditure Detail		2008		2009		2010		2011	
	Ord #	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual
High Mast Light			636						
US Army COE Dredge Dewatering		56,000							
Overslope Design Work		10,000							
Repair 3 Vehicles		12,000							
Replace 1977 Loader (Lease)		40,140	2,253	37,387	10,440		9,720		
Harbor Boardwalk Repair		10,000							
Wood Grd Repairs		9,982							
CC Float Finger Hinges		2,100							
Fish Outfall Pump Station Ctrl Panel		48,200	50,932						
Electricity Extension for CC Float		46,989							
385 Parking Improvements		200,000	3,000		14,185				
Rake Drive Unit		25,000	20,000						
East Boat Feasibility Study		143,000	136,125	107,500					
Dredge Spoil Loading & Trucking		65,000	10,000	10,000					
Service Van Winder		6,550	12,777						
Harbor Tug Refit	Ord 09-26			17,957	24,086				
Light Pole & Launch & Ramp				7,000					
Forks for Loader				5,950	6,200				
126 Ben Walters Dock Replacement	Ord 08-27	60,000	53,757		2,262				
DVD Repairs	Ord 09-12			116,075	91,640		10,075		
Interlink Buys	Ord 09-26			10,000	13,008				
Fish Dock Access Improvements						40,000			
SeaCom Fish Dock Billing System						60,000			
done Rake Drive/Ice Bin Door Rebuild						17,000			
Potable Water To Floats						40,000	8,496		
Ice Production Water Line Heat Exchanger						7,000			
Harbor Tug Safety Equip Upgde								15,000	
Fish Dk Crane Rebuild								50,000	
Fish Dk Electrical Conduit overhaul								10,000	
Fish Dk Ice Deliv Syst Rebuild								20,000	
Replace Wiggins Forklift								65,000	
		734,961	294,515	312,369	171,330	154,000	37,294	160,000	-

This data is provided for information only, details can be found in the "Projects" tab of the budget.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM - REPORT

TO: MAYOR HORNADAY AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK
DATE: MAY 4, 2011
SUBJECT: CURRENT BID(S) AND REQUEST FOR PROPOSALS

Request for Proposals To Lease Space In The Homer Education And Recreation Center (HERC) Currently Occupied By Kenai Peninsula College/West Homer Campus And The Boys & Girls Club. The City of Homer, Alaska is soliciting proposals and statements of interest and qualifications from government agencies, the private sector, and/or not-for-profit organizations to lease space in the Homer Education and Recreation Center (HERC), also known as the Old Intermediate School, located in Homer Alaska at 450 Sterling Highway. Proposals will be accepted for all or a portion of the available property. They will be received in the City Clerks office until 4 p.m. May 6, 2011

Sealed bids for the construction of Soundview Avenue/Woodard Creek Culvert Replacement project will be received at the office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until 2:00 PM, Thursday, May 5, 2011, at which time they will be publicly opened and read.

Sealed bids for the construction of Kachemak Drive Water/Sewer Improvements (Phase Two) project will be received at the office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until 2:00 p.m., Tuesday, May 17, 2011, at which time they will be publicly opened and read.

Sealed bids for the CITY OF HOMER PUBLIC WORKS GRAVEL SUPPLY will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska 99603 until 2:00 p.m., Thursday, May 05, 2011, at which time they will be publicly opened and read for: 2011, 2012, 2013 Public Works Gravel Supply Project.

CITY ATTORNEY REPORT

COMMITTEE REPORT(S)

PENDING BUSINESS

NEW BUSINESS

RESOLUTION(S)



KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669-7520

Toll-free within the Borough: 1-800-478-4441

PHONE: (907) 262-4441 • FAX: (907) 262-1892

www.borough.kenai.ak.us

DAVID R. CAREY
BOROUGH MAYOR

Mr. Walt Wrede, City Manager
City of Homer
491 East Pioneer Ave
Homer, AK 99603

April 8, 2011

Dear Mr. Wrede,

I write to you on behalf of Mayor Carey, asking for your participation in a future group known as the **"Kenai Peninsula Borough Health Insurance Working Group."**

This group is being created in response to a request from KPB Assemblyman Bill Smith of Homer to President Gary Knopp to Mayor Carey.

The Working Group will discuss employee health insurance plans currently used by local city governments, hospitals and the Kenai Peninsula Borough and School District.

With your help, the Group hopes to explore the many facets of these plans in an effort to find a more economical health insurance plan for all parties involved.

Your participation will be greatly appreciated.

The details for the group's first meeting will be determined in the near future and I will forward them to you as soon as possible.

Please contact Mayor Carey at 714-2150 or dcarey@borough.kenai.ak.us if you have any questions or concerns.

Thank you,

Amy Manuel
Special Assistant to Mayor Carey

Cc: Mark Dixon, Kenai Peninsula Borough
Julie Cisco, Kenai Peninsula Borough
Craig Chapman, Kenai Peninsula Borough
Dr. Steve Atwater, KPB School District
Tim Peterson, KPB School District
Ryan Smith, Central Peninsula Hospital
Bob Letson, South Peninsula Hospital
Larry Semmens, City of Soldotna
Phillip Oates, City of Seward
Rick Koch, City of Kenai

CITY OF HOMER
HOMER, ALASKA

City Manager

RESOLUTION 11-047

A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA, APPROVING CITY PARTICIPATION IN A KENAI
PENINSULA BOROUGH PROJECT TO ADDRESS THE
FEDERAL COMMUNICATIONS COMMISSION NARROW
BAND MANDATE.

WHEREAS, The Federal Communications Commission (FCC) has mandated that all
transmitters and radio licenses must be converted to operate on a 12.5 megahertz frequency by
January 1, 2013; commonly known as narrow banding; and

WHEREAS, This requirement will be a challenge for all first responders and public
safety agencies in the Borough in both the scope of the required changes and the coordination of
those changes; and

WHEREAS, Inter-operability, the ability for all public safety agencies, federal, state, and
local, to communicate seamlessly and on the same frequency is a major concern and has direct
implications for the Homer Police, Fire, Public Works, and Port and Harbor Departments; and

WHEREAS, The Kenai Peninsula Borough proposes to use unallocated grant funds from
the Cad Project to take the lead in coordinating the effort to convert radios to narrow band and
facilitate the necessary FCC license modifications; and

WHEREAS, The specific project scope of work and desired outcomes are contained in
the Request for Proposals and the letter from Mayor Carey to the City dated March 28, 2011 in
which he invites the City to participate.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves
City participation in the Borough project to address the FCC narrow band mandate.

PASSED AND ADOPTED by the Homer City Council this 9th day of May, 2011.

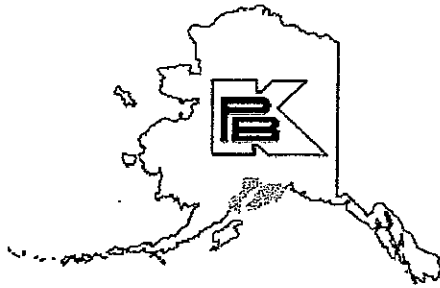
CITY OF HOMER

ATTEST:

JAMES C. HORNADAY, MAYOR

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: N/A



KENAI PENINSULA BOROUGH

144 North Binkley St., Soldotna, Alaska 99669-7520

Toll-Free within the Borough 1-800-478-4441

Phone 907-714-2150 • Fax 907-714-2377

www.borough.kenai.ak.us

**DAVID R. CAREY
BOROUGH MAYOR**

March 28, 2011

Mr. Walt Wrede, City Manager
City of Homer
491 E. Pioneer Ave
Homer, AK 99603

Re: Federal Communications Commission Narrow-band Mandate

Dear Mr. Wrede,

As you know, the Federal Communications Commission has mandated that all transmitters and radio licenses must be converted to operate on a 12.5 megahertz frequency by January 1, 2013. This is commonly known as narrow-banding.

This requirement will challenge our first responders and associated public safety agencies in both the scope of the required changes and the coordination of those changes. If one agency converts their radios to comply with the narrow-band mandate, they cannot communicate with another agency that has not converted their radios to operate on narrow-band. Please note that this does not affect the Alaska Land Mobile Radio (ALMR) system because that system already complies with the narrow-band mandate.

As a phased approach, the Kenai Peninsula Borough is willing to take the initial lead in coordinating an effort to gather information required to convert public safety radios and radio licenses to narrow-banding requirements. The Kenai Peninsula Borough proposes to use unallocated grant funds from the CAD Project, which can be used to help fund this initial portion of the project. Unfortunately, these grant funds must be expended by September 15, 2011.

Working with your first responders and others, the objectives of the initial phase have been developed and a radio inventory established. This will allow the borough to send out a request for proposals (RFP) to have a contractor provide a cost analysis to:

- facilitate the modifications on radio licenses to meet FCC mandates, for each respective City or Service Area;
- identify those radios that are not capable of being converted to narrow-band;
- work with your first responders and others to craft a frequency list, specific to that department, that need to be programmed into the department's radios;
- facilitate agreements between radio license holders and other agencies to allow the other agencies to include the license holders frequency(ies) in their radio;

- develop a coordinated schedule for radio reprogramming to reduce communication losses or duplicative efforts;
- develop recommendations for reinstituting a borough-wide repeater system to be used as a back-up to the ALMR system and as a tactical frequency; and
- provide training and needed software and equipment to allow departments to program their own radios in the future.

The Kenai Peninsula Borough intends to use the available grant funds to pay for radio inventory review, possible license modifications, establishment of radio license holder agreements, reprogramming schedule development, possible reprogramming of radios and training. The cities are invited to participate in this effort with some expenses being paid for by the borough, as allowed by available grant funds.

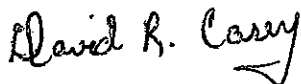
Should there be additional grant funds in excess of that needed for the stated items in the previous paragraph, the Borough, through a working group, intends to expend those funds purchasing radio equipment to replace units that cannot be made narrow-band compliant. An established priority will be given to borough departments, followed by smaller non-profit agencies that cannot provide funds for their needs.

Several City agencies and some fire service areas have already budgeted funds to comply with narrow-banding. The borough's grant funds will not be affected by the city's budgetary efforts, but should enhance efforts in identifying the needs, so that this transmission can ensure a smooth transition for all Cities and Services to make the change at the same time.

We hope that your city will partner with us to accomplish this complicated but vitally important project. Our Office of Emergency Management Director, Eric Mohrmann, is the main contact for the borough on this project. Should you have any questions, please feel free to contact Eric Mohrmann at (907) 262-2097.

Thank you for your time and consideration of the narrow-band project. We look forward to hearing from you as soon as possible regarding this intended action. We are sending out the RFP for immediately, and will report those findings back to you and your organization as the information becomes available.

Sincerely,



David R. Carey
Mayor

EM:slw

Enclosure: Narrowbanding Request For Proposal

REQUEST FOR PROPOSAL



KENAI PENINSULA BOROUGH OFFICE OF EMERGENCY MANAGEMENT

RFP #11-013

Public Safety Radio Narrow-Banding Project

Release Date: April 1, 2011

Pre-Proposal Conference Date: April 7, 2011

Due Date: April 20, 2011, no later than 4:00 PM



KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669-7520

Toll-free within the Borough: 1-800-478-4441

PHONE: (907) 262-4441

www.borough.kenai.ak.us

**DAVID R. CAREY
BOROUGH MAYOR**

REQUEST FOR PROPOSAL

Public Safety Radio Narrow-Banding Project

The Kenai Peninsula Borough, Office of Emergency Management, hereby invites qualified firms to submit proposals to provide services for public safety radio narrow-banding project.

Proposal packets may be obtained beginning April 1, 2011 at the Office of Emergency Management, 253 Wilson Lane, Soldotna, Alaska 99669, phone (907) 262-4910. Proposal documents may also be downloaded from the web at:

<http://purchasing.borough.kenai.ak.us/Opportunities.aspx>

Five (5) complete sets of the proposal package are to be submitted to the Kenai Peninsula Borough, Purchasing and Contracting Department, 144 North Binkley Street, Soldotna, Alaska 99669. These forms must be enclosed in a sealed envelope with the proposer's name on the outside and clearly marked:

PROPOSAL: Public Safety Radio Narrow-Banding Project

DUE DATE: April 20, 2011, no later than 4:00 PM

Kenai Peninsula Borough

Publish: Peninsula Clarion – April 5, 2011

REQUEST FOR PROPOSAL

1.0 GENERAL INFORMATION

1.1 Purpose

The Federal Communications Commission (FCC) has mandated that all radio license holders comply with a reduction in their frequency band-width to 12.5 MHz by January 1, 2013. The public safety agencies within the Kenai Peninsula Borough use a mixture of Alaska Land Mobile Radio (ALMR) and legacy analog/digital frequencies to communicate. The ALMR system currently meets the narrow band requirements but the legacy radio frequencies do not.

It is the Kenai Peninsula Borough's intent to bring the legacy radios and licenses into compliance with FCC mandate by September 15, 2011. The potential contractor must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal-funded awards, including a Dun and Bradstreet Data Universal Numbering System (DUNS) number (<http://www.dnb.com>). The funds provided for this project is a federal award, by which the potential contractor shall adhere to standard terms and conditions and regulatory policies set forth by the U.S. Department of Education, "State Fiscal Stabilization Fund: Community Economic Stimulus Program" - Catalogue of Federal Domestic Assistance (CFDA) 84.397 and the American Recovery and Reinvestment Act of 2009 (ARRA).

The conversion of the legacy radio frequencies to narrow-band compliance must be closely coordinated with all agencies in order to minimize communications disruptions between agencies and dispatch centers. The successful proposer for this project will evaluate radio inventories supplied for each agency listed below and complete the listed **Objectives** that constitute the project scope of work. The agencies consist of:

- * Soldotna Public Safety Communications Center
- * Kenai Peninsula Borough Office of Emergency Management
- * Central Emergency Services
- * Nikiski Fire Service Area
- City of Seward Police and Fire Departments (inclusive of Seward PSAP)
- City of Kenai Police and Fire Departments (inclusive of Kenai PSAP)
- City of Soldotna Police Department
- City of Homer Police and Fire Departments (PSAP)
- Seward Volunteer Ambulance Corps
- * Lowell Point Volunteer Fire Department
- * Bear Creek Volunteer Fire Department
- Moose Pass Volunteer Fire Department
- Hope/Sunrise Volunteer Fire Department
- Cooper Landing Volunteer Fire and EMS Service
- Ninilchik Volunteer Fire/EMS Department
- * Anchor Point Volunteer Fire and EMS Department
- * Kachemak Emergency Fire Service Area
- Port Graham Volunteer Fire Department
- Nanwalek Volunteer Fire Department
- * South Peninsula Hospital, Homer
- * Central Peninsula General Hospital, Soldotna
- Providence Seward Medical Center
- City of Seldovia Police and Volunteer Fire/Rescue Departments

* Note: Borough Agencies will receive funding priority.

1.2 Background

Some cities and service areas have already embarked upon a compliance plan. This project is intended to coordinate those efforts with the other public safety agencies located within the borough. Separate funding streams and projects for purchase of equipment, license revision and other aspects of this project may occur simultaneously with this project. The coordination of these efforts is of particular importance.

1.3 Questions

Any questions regarding this proposal are to be submitted **in writing** to the Purchasing and Contracting Officer by no later than 5:00 PM local time on April 11, 2011. Questions may be faxed to 907-714-2373 or emailed to purchasing@borough.kenai.ak.us. The subject line of the email must read: "Questions: Public Safety Radio Narrow-Banding Project".

Verbal requests for information will not be accepted. Questions or requests for clarification directed to any employee or elected official of the Borough other than the Purchasing Officer may be grounds for disqualification from the process. All questions will be compiled, answered and distributed to all prospective proposers.

1.4 Preparation Costs

The Borough shall not be responsible for proposal preparation cost, nor for cost including attorney fees associated with any (administrative, judicial or otherwise) challenge to the determination of the highest ranked proposer and/or award of contract and/or rejection of proposal. By submitting a proposal, each proposer agrees to be bound in this respect and waives all claims to such costs and fees.

1.5 Deliverable Conditions

All documents for this project, including specifications, shall be in a format and on media approved by the borough using the latest Microsoft Office Products. Upon completion, Owner shall be furnished with CD-Rom format of all documents.

1.6 Additional Services

Additional Services shall consist of providing any other services not included in the Consultant's basic services and will be authorized by a change order signed by both parties and compensated at the rate listed in the Consultant's Fee Schedule for Additional Services.

1.7 Timeline

Advertise for Proposals	April 5, 2011
Pre-Proposal Meeting	March 31, 2011
Final Questions Due	April 11, 2011
Proposals Due at KPB Purchasing Department.....	April 20, 2011
Proposal Evaluation.....	April 27, 2011
Intent to Award	May 4, 2011
Mayor Award	May 18, 2011
Project start	May 23, 2011
Complete Objectives # 2 & 5	June 13, 2011
Complete Objective # 3	July 1, 2011
Complete Objectives #1, 4 & 8	August 30, 2011
Complete Objectives # 6 & 7	September 15, 2011

2.0 RULES GOVERNING COMPETITION

2.1 Examination of Proposals

Proposers should carefully examine the entire RFP and any addenda thereto, and all related materials and data referenced in the RFP. Proposers should become fully aware of the nature of the work and the conditions likely to be encountered in performing the work.

2.2 Proposal Acceptance Period

Award of this proposal is anticipated to be announced within thirty (30) calendar days, although all offers must be complete and irrevocable for ninety (90) days following the submission date.

2.3 Confidential/Proprietary Information

After award of the contract, proposals shall become public information except for proprietary information. If a proposer wishes individual pages, which contain actual business, proprietary information held confidential, each page must be marked and an explanation furnished of its proprietary nature. In addition to marking individual pages, the Proposal's Cover will also be annotated with the words "THIS PROPOSAL CONTAINS PROPRIETARY INFORMATION". "Confidential and Proprietary" information is not meant to include any information which, at the time of disclosure, is generally known by the public and/or competitors.

2.4 Proposal Format

Proposals are to be prepared in such a way as to provide a straight forward, concise delineation of the proposers' capabilities to satisfy the requirements of this RFP. Emphasis should be concentrated on:

- (1) conformance to the RFP instructions;
- (2) responsiveness to the RFP requirements;
- (3) completeness and clarity of content.

2.5 Signature Requirements

All proposals must be signed. A proposal may be signed by: an officer or other agent of a corporate vendor, if authorized to sign contracts on its behalf; a member of a partnership; an owner of a privately-owned vendor; or other agent if properly authorized by a power of attorney or equivalent document. The name and title of the individual(s) signing the proposal must be clearly shown immediately below the signature.

2.6 Proposal Submission

Five (5) copies of the complete proposal package are to be submitted no later than 4:00 p.m. local time on April 25, 2011, to the Purchasing and Contracting Office, 144 N. Binkley Street, Soldotna, Alaska 99669, with one copy of the Cost Proposal in a separate sealed envelope. Proposals shall be completely sealed in an envelope clearly marked with the company name. The Borough reserves the right to establish any and all elements or terms of this proposal. All proposals submitted shall be binding upon the contractor if accepted by the Borough.

Please note that overnight delivery from the lower 48 states is generally not available. Proposers should anticipate a minimum of two to three days delivery time for express, priority or expedited delivery services.

2.7 Tax Compliance

Kenai Peninsula Borough Code requires that businesses or individuals contracting to do business with the Borough be in compliance with Borough tax provisions. No contract will be awarded to any individual or business found to be in violation of the Borough Code of Ordinances in several areas of taxation.

2.8 Alaska Business License

Section 43.70.020 of the Alaska State Statutes requires that all businesses, wishing to engage in business in Alaska, obtain a license. Prior to award of any contract or bid, the successful proposer/bidder will be required to provide the Borough with copy of a current Alaska Business License.

2.9 News Releases

News releases pertaining to the award resulting from the RFPs shall not be made without prior written approval of the Borough's Purchasing and Contracting Officer.

2.10 Disposition of Proposals

All materials submitted in response to this RFP will become the property of the Kenai Peninsula Borough. One copy shall be retained for the official files of the Purchasing Office and will become public record after award of the Contract.

2.10 Oral Change/Interpretation

No oral change or interpretation of any provision contained in this RFP is valid whether issued at a pre-proposal conference or otherwise. Written addenda will be issued when changes, clarifications, or amendments to proposal documents are deemed necessary by the Borough.

Proposer shall acknowledge receipt of each addendum in the space provided on the Cost Proposal Form. Only a proposal acknowledging receipt of all addenda may be considered responsive, unless the addendum, in the opinion of the mayor or the agency head, would have no material effect on the terms of the proposal.

2.12 Modifications of Proposals

Modifications will be accepted by the borough, and binding upon the responding firm, where the modification:

- Is received by the borough at the place designated for submission of RFP responses prior to the deadline.
- Is sealed in an envelope clearly stating Kenai Peninsula Borough Public Safety Radio Narrow-Banding Project RFP Modification" and the name of the responding firm.
- Is signed by the same individual who signed the original submittal.

The modification document shall include a photocopy of each page of the original submittal which the responding firm seeks to modify, with the modification and the respondent's signature clearly set out in ink on each page. Facsimile modification documents will be accepted within a sealed envelope provided that the Proposer's signature is clearly legible.

Should there be more than one submittal modification from a responding firm, the last modification received prior to the deadline shall be opened and applied to the submittal. All earlier modifications shall be returned to the responding firm unopened.

Any modification, which fails to meet any requirement of this section, shall be rejected and the submittal shall be considered as if no modification had been attempted.

2.13 Late Submissions

PROPOSALS NOT RECEIVED PRIOR TO THE DATE AND TIME SPECIFIED IN THE COVER LETTER WILL NOT BE CONSIDERED AND WILL BE RETURNED UNOPENED AFTER RECOMMENDATION OF AWARD.

2.14 Withdrawal Of Proposals

At any time prior to scheduled closing time for receipt of RFP submittals, any responding firm may withdraw their submittal, either personally or by written request. However, a proposal may not be withdrawn after opening without the written consent of the borough.

2.15 Acceptance – Rejection Of Proposals

The borough may reject any or all proposals if the mayor determines that it is in the best interest of the borough and may waive irregularities, other than the requirements for timeliness and manual signature, if the irregularities do not affect the competitive advantage of any proposer.

If any proposer has interest in more than one proposal, all proposals in which such proposer has interest shall be rejected.

2.16 Choice of Law and Jurisdiction

The laws of the State of Alaska shall govern this RFP, and any legal action brought thereon shall be filed in the Third Judicial District at Kenai, Alaska.

2.17 Conflicts of Interests

No member of the governing body of the Kenai Peninsula Borough or other officer, employee or agent of the Borough who exercises any functions or responsibilities in connection with the carrying out of the project shall have any personal interests, direct or indirect, in any ensuing contract as a result of this Invitation to Bid, **without first disclosing his/her potential conflict, by submitting a letter to the Borough Clerk's Office establishing their "intent to do business with the Borough" (KPB 2.58.050).** The contractor for itself and its principal employees, officers, agents, directors or shareholders covenants that neither the contractor nor any of the listed classes of individuals has nor shall acquire any interest, direct or indirect, in the project, direct or indirect, to which the contract pertains which would conflict in any manner or degree with the performance of its work hereunder. The selected bidder further covenants that in its performance of the contract no person having such interest shall be employed, **without first disclosing his/her potential conflict.**

3.0 SCOPE OF WORK

The project objectives of this proposal are to develop and implement a working plan that will address the required FCC license modifications for each agency, narrow band and ALMR programming, and borough-wide communications interoperability. The objectives consist of:

1. Review and process the public safety agencies FCC radio licenses and file the appropriate forms to convert their licenses to include both wide-band and narrow-band frequencies with an effective date of September 15, 2012. Provisions that allow licenses to transition to narrow band only effective January 1, 2013, must be included. Any fees charged by the Federal Communications Commission for processing the license modifications will be paid by contractor as part of this proposal. The contractor will provide a list of anticipated fees required to process the license modifications. **Completion date: on or before August 30, 2011.**

2. Identify from the inventories provided by the borough, those existing radios, pagers, repeaters and base stations that can and cannot be converted to narrow-band frequencies to ensure FCC Phase 1 narrow banding compliance and APCO P25 Radio Interoperability compliance. The inventories are the good faith effort by the borough to include all radios to be included in this project and will include radios from each of the four public safety-answering points and all agencies. If the consultant identifies a need for additional information, they will make such requests through the Office of Emergency Management (OEM). The contractor will provide a per/unit cost for programming additional radios to cover the possibility that additional radios may be discovered during the planning phase of this project. Serial numbers and flashcodes have been redacted from the inventories for security purposes. They will be available to the successful vendor. The consultant will provide an executive summary to the borough. **Completion date: on or before June 13, 2011.**
3. Working with the public safety agencies listed in section #1.1, develop a desired frequency list for each agency, inclusive of ALMR. Frequency designations should be standardized for all public safety frequencies used in the borough. (e.g. frequency 154.085 will be labeled KPB OEM in all radios.) Standardization of frequency lists, as much is operationally possible, is desired.
4. Letters of authorization, allowing agencies to install a license holder's frequency in their radio(s), including a count of such radios, will be completed as required by FCC regulations. (Possibly a Borough Wide Public Safety communications Agreement). **Completion date: on or before August 30, 2011**
5. Review the existing borough wide-band analog radio repeater system (OEM 154.085-155.085) and develop an equipment replacement/enhancement plan with a cost estimate to restore the system for use as a tactical repeater system and back up for the ALMR system. The repeater system coverage area should be similar to that provided by the current system at the time it was fully operational; however the proposal should also include any recommended enhancements to areas of deficient coverage. **Completion date: on or before June 13, 2011**
6. Develop and execute a plan for a coordinated, short time frame reprogramming of all identified radios to narrow-band that minimizes disruption of communications. Where required, alternative communications system, such as ALMR, needs to be identified to prevent communications failure. Maintain the ability for public safety agencies to communicate without interruption. **Completion date: on or before September 15, 2011**
7. Provide one set of programming software and required connection cables to allow each agency to conduct future programming of their radios. **Completion date: on or before September 15, 2011**
8. Provide training on the programming process to one representative of each agency. A total of three classes, each not to exceed four-hours in length, must be provided. The class locations will be in Seward, Homer and Soldotna. Facilities will be provided by the Kenai Peninsula Borough and/or other agencies. At least one class must be offer through a web-based application for outlying agencies. The agency representative will assist the contractor with reprogramming of that agency's radios as part of the training opportunity. **Completion date: on or before August 30, 2011**

4.0 PROPOSAL AND SUBMISSION REQUIREMENTS

To achieve a uniform review process and obtain the maximum degree of comparability, it is required that the proposals be organized in the manner specified below.

4.1 Letter of Transmittal

- Briefly state your firm's understanding of the services to be performed and make a positive commitment to provide the services as specified.

- List name(s) of the person(s) who are authorized to make representations for your firm, their titles, address, and telephone numbers.
- The letter must be signed by a corporate officer or other individual who has the authority to bind the firm.

4.2 Experience/Qualification

- Detail the firm's experience in the same or similar areas of analog/digital radio and repeater system design and installation.
- Detail the firm's financial stability, longevity and ability to provide long-term follow-up services.
- Provide at least three (3) references for which your firm has provided the same or similar services. Include a point of contact, telephone number, e-mail address, and a brief description of the services provided.

4.3 Key Project Staff and Sub-consultants

- Identify key project staff and sub-consultants expected to provide services on behalf of the firm. Resumes should be included for each of the individuals and sub-consultants referenced.
- Provide detailed information on the qualifications and experience of the Project Engineer as it relates to the required services. Include project reference contact name(s) and telephone number(s).

4.4 Available Resources/Contractor Location

- Provide information on resources available to your firm, which indicates that you have access to the services necessary to perform the work.
- Describe the firm's ability to provide on-site radio communication technicians on the Kenai Peninsula within twenty-four (24) hours of notification.

4.5 Project Methodology and Approach

- Provide detailed information on the firm's methodology in meeting the scope of work requirements identified in Section 3.0. Describe overall approach to include any special considerations, which may be envisioned.
- Detail the firm's ability to complete the project no later than September 15, 2011.

4.6 Cost

Provide a lump sum cost for all services required in Section 3.0 (Scope of Work).

The cost proposal portion of the submission should be submitted in a separate sealed envelope included in the sealed envelope containing the entire proposal. Provide a lump sum cost for all services required in Section 3.0 (Scope of Work). Also provide additional fee schedule(s) that will be used for out of scope work.

The cost proposal will be opened and the cost score calculated after the scores of the other evaluation criteria have been calculated.

5.0 EVALUATION CRITERIA AND PROCESS

A committee of individuals representing the Kenai Peninsula Borough will perform evaluation of the proposal. The committee will rank the proposal as submitted. The Kenai Peninsula Borough reserves the right to award a contract solely on the written proposal.

The Borough also reserves the right to request oral interviews with the highest ranked firms (short list). The purpose of the interviews with the highest ranked firms is to allow expansion upon, and possible refinement of the written responses. If interviews are conducted, a maximum of three (3) firms will be short-listed. A second score sheet will be used to score those firms interviewed. The final recommendation for selection will be based on the total of all evaluators scores achieved on the second rating. The same categories and point ranges will be used during the second evaluation as for the first.

The evaluation committee will forward a recommendation for contract award based on points awarded. The firm, whose proposal is ranked highest, may be invited to enter into final negotiations with the Borough for the purposes of contract award.

5.1 Criteria

The criteria to consider during evaluations, and the associated point values, are as follows:

1.	Experience/Qualifications	15 points
2.	Key Staff/Sub-consultants	25 points
3.	Available Resources/Contractor Location	10 points
4.	Project Methodology and Approach	20 points
5.	Cost	<u>30 points</u>

Total Points Available 100 points

5.2 Qualitative Rating Factor

Firms will be ranked using the following qualitative rating factors, excluding cost, for each RFP criteria-.

1.0	Outstanding
.8	Excellent
.6	Good
.4	Fair
.2	Poor
0	Unsatisfactory

The rating factor for each criteria category will be multiplied against the points available to determine the total points for that category.

6.0 SELECTION PROCESS

The Proposer with the highest total evaluation points may be invited to enter into contract negotiations with the Kenai Peninsula Borough. If an agreement cannot be reached with the highest ranked Proposer, the Borough shall notify the proposer and terminate the negotiations. If proposals are submitted by one or more other proponents determined to be qualified, negotiations may then be conducted with such other proposers in the order of their respective rankings. This process may continue until successful negotiations are achieved. The Kenai Peninsula Borough reserves the right to reject any and all proposals submitted.

7.0 APPEAL PROCESS

A proposer adversely affected by the provisions of Chapter 5.28 of the KPB Code, or regulations promulgated there under, or by any acts of the borough in connection with the award of this contract may file a bid protest personally received at the office of the borough purchasing officer within 3 business days after the notice of intent to award is provided. This appeal must comply with the requirements of KPB 5.28.320 of the borough code and may be hand delivered, delivered by mail, or by facsimile at 907-714-2373. A fee of \$300 shall be paid to the borough and must be received by the deadline for filing the written appeal. This fee shall be refundable if the appellant prevails in the appeal to the mayor or assembly.

8.0 SAMPLE CONTRACT OR MINIMUM MANDATORY CONTRACT PROVISIONS

In addition to carefully reading all of the information in the RFP, all Proposers must carefully read and review the attached sample contract. The successful Proposer shall be required to enter into a Contract with the Kenai Peninsula Borough, which will be substantially similar to the sample.

Therefore, the Proposer must identify any proposed changes to the sample Contract consistent with Section 1.4 of this RFP.

IF NO CHANGES ARE MADE, THE PROPOSER SHALL BE DEEMED TO HAVE ACCEPTED THE SAMPLE CONTRACT. IF THE RESPONDENT MAKES CHANGES, SUCH CHANGES WILL BE CONSIDERED IN ANY NEGOTIATIONS WITH THE BOROUGH. CHANGES MADE TO THE SAMPLE CONTRACT SHALL NOT BE CONSIDERED DURING PROPOSAL EVALUATIONS.

KENAI PENINSULA BOROUGH
Public Safety Radio Narrow-Banding Project

COST PROPOSAL

In submitting this proposal, we certify that we have examined the specifications documents, have received Addenda Nos. _____, and have included their provisions in our proposal. If awarded a contract under this proposal, we hereby agree to the terms set forth in the specifications documents and all addenda identified on this proposal.

TOTAL LUMP SUM:

\$ _____
Numerical amount

Dollars

Written Amount

Firm Name _____

Address _____

City _____

State _____

Zip _____

Telephone _____

Fax _____

E-mail address: _____

Representative _____

Title _____

Signature _____

Date _____

Cost Proposal is to be submitted in a separate sealed envelope

Provide a fee schedule for all out of scope work.



Kenai Peninsula Borough

144 N. Binkley
Soldotna, Alaska 99669-7599

BUSINESS: (907) 714-2197 or (907) 714-2175
FAX: (907) 714-2376

TAX COMPLIANCE CERTIFICATION

FILL IN ALL INFORMATION REQUESTED, SIGN AND DATE, AND SUBMIT WITH BID OR PROPOSAL

Reason for Certificate: _____ For (Dept.): _____
Date Rec'd by Finance: _____ Business Name: _____
Owner Name(s): _____
Business Mailing Address: _____
Telephone: _____ Fax: _____
E-mail: _____
a. Individual _____
b. Corporation _____
c. Partnership _____
d. Other _____

As a business or individual, have you ever conducted business or owned real or personal property within the Kenai Peninsula Borough? Yes _____ No _____ (If yes, please supply the following account numbers and sign below. If no, please sign below.)
Kenai Peninsula Borough Code of Ordinances, Chapter 5.28.140, requires that businesses/individuals contracting to do business with the Kenai Peninsula Borough be in compliance with Borough tax provisions. No contract will be awarded to any individual or business who is found to be in violation of the Borough Code of Ordinances in the several areas of taxation.

REAL/PERSONAL/BUSINESS PROPERTY ACCOUNTS

Number	Account Name
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

TAX ACCOUNTS/STATUS

(TO BE COMPLETED BY BOROUGH PERSONNEL)
YEAR LAST PAID BALANCE DUE

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Kenai Peninsula Borough Finance Dept (Signature Required)

Date IN COMPLIANCE
YES ☐ NO ☐

SALES TAX ACCOUNTS

Number	Account Name
_____	_____
_____	_____
_____	_____
_____	_____

TAX ACCOUNTS/STATUS

(TO BE COMPLETED BY BOROUGH PERSONNEL)
FILED THRU M/F's BALANCE DUE


_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Kenai Peninsula Borough Sales Tax (Signature Required)

Date IN COMPLIANCE
YES ☐ NO ☐

I, _____, the _____, hereby certify that, to the best of my knowledge, the above
(Name of Applicant) (Title)
information is correct as of _____
(Date) _____
(Signature of Applicant - Required)

*** IF ANY BUSINESS IS CONDUCTED OR IS AWARDED A BID WITHIN THE KENAI PENINSULA BOROUGH YOU MUST BE REGISTERED TO COLLECT SALES TAX. THE SALES TAX DEPARTMENT CAN BE REACHED AT (907) 714-2175.

Contractor's/Consultant's Printed Name: _____ Contractor's/Consultant's Fed. Tax ID #: _____ Job/Service Provided: _____	 <p>PROPOSAL TO CONTRACT FOR SERVICES KENAI PENINSULA BOROUGH THIS PROPOSAL BECOMES A CONTRACT WHEN ACCEPTED AND SIGNED BY THE MAYOR OR HIS DESIGNATED OFFICIAL</p>	PURCHASING DEPARTMENT 144 North Binkley Street Soldotna, AK 99669 907-262-4441
---	---	---

CONTRACTOR/CONSULTANT WILL PROVIDE THE KENAI PENINSULA BOROUGH THE FOLLOWING SERVICE(S)

Sample

ACCOUNT DISTRIBUTION: _____ DEPARTMENT/SERVICE AREA: _____

Contractor's/Consultant's compensation will be:

Not to exceed \$

Insurance, if required: Auto \$ 1,000,000.00

CGL \$ 1,000,000.00

E & O \$ 0.00

Time schedule for performance will be

The following attachments are incorporated herein by reference:

BY SIGNING BELOW, THE CONTRACTOR/CONSULTANT HEREBY AFFIRMS THAT HE OR SHE HAS READ AND ACCEPTS ALL TERMS AND CONDITIONS OF THIS CONTRACT INCLUDING THE PROVISIONS CONTAINED ON THE REVERSE OF THIS FORM

CONTRACTOR/CONSULTANT SIGNATURE **X** _____ DATE _____

RECOMMENDED BY:

APPROVED AS TO FORM:

DEPARTMENT DIRECTOR OR DESIGNEE _____ DATE _____

MARK FOWLER
PURCHASING & CONTRACTING

DATE

MAYOR OR DESIGNATED OFFICIAL

DATE

ACCEPTANCE BY KENAI PENINSULA BOROUGH:
PURCHASE ORDER NO. _____

CONTRACTOR/CONSULTANT ADDRESS & PHONE NUMBER:

GENERAL CONDITIONS

Section 1. Execution of This Contract. This contract is not valid until properly signed by the parties.

Section 2. Independent Contractor/Consultant. The Contractor/Consultant shall provide services as an independent contractor/consultant to the borough. Except as this contract provides otherwise, the borough shall not supervise or direct the Contractor/Consultant. The borough may administer this contract and monitor the Contractor's/Consultant's performance.

Section 3. Compliance With Laws. The Contractor/Consultant shall comply with all statutes, ordinances, and regulations governing its performance, post all required notices, and obtain all permits, licenses, and other entitlements necessary to its performance. The Contractor/Consultant shall pay all taxes related to its performance and shall be current on all borough taxes at the time of entering this contract. The Contractor/Consultant shall acquire and maintain in good standing all permits, licenses; and other entitlements necessary to the legal performance of this contract.

Section 4. Equal Employment Opportunity.

- A. The Contractor/Consultant will not discriminate against any applicant for employment because of race, color, religion, national origin, ancestry, age, sex, marital status, or mental or physical handicap. The Contractor/Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to the characteristics listed above. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor/Consultant will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. The Contractor/Consultant shall state in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, marital status, or physical or mental handicap.
- C. The Contractor/Consultant shall include the provisions of subsections A and B of this section in every subcontract or purchase order under this contract, so as to be binding upon every subcontractor or vendor of the Contractor/Consultant under this contract.

Section 5. Insurance. During the term of this contract the Contractor/Consultant shall maintain a policy of workers' compensation and employers' liability insurance as required by law. Contractor/Consultant shall also be required to carry additional insurance if so indicated on this form. Any such insurance shall be primary and exclusive of borough insurance, if liability insurance is required, the borough and school district, as applicable, shall be named as an additional insured on such policy with respect to the performance or failure to perform under this contract.

Section 6. Assignments. Unless the borough provides otherwise in writing, any assignment by the Contractor/Consultant of its interest in any part of this contract or any delegation of its duties shall be void, and permit the borough to terminate this contract without liability for work performed.

Section 7. Ownership, Publication, Reproduction, and Use of Material. Unless the borough provides otherwise in writing, all data, documents, and materials that the Contractor/Consultant produces shall be property of the borough, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents, or other materials. This exclusive right does not apply to any materials presently in the public domain or not subject to copyright.

Section 8. Indemnity. Consultant shall indemnify, defend and hold the Borough, its elected and appointed officers, Consultants, agents and employees who are directly responsible to the Borough (collectively "the Borough") harmless from and against any and all claims, demands, suits or liability of any nature, kind or character whatsoever under this Agreement, including costs, expenses and attorneys fees, resulting from negligent acts, errors, or omissions of the Consultant or Consultant's officers, agents, employees, partners, Consultants, and sub-consultants who are directly responsible to the Consultant, (collectively "Consultant"). Consultant is not required to indemnify, defend, or hold harmless the Borough for a claim of, or liability for, independent negligent acts, errors, and omissions of the Borough. If there is a claim of, or liability for, a joint negligent act, error or omission of Consultant and the Borough, the indemnification, defense and hold harmless obligation of this Agreement shall be apportioned on a comparative fault basis. For purposes of this Agreement "independent negligent acts, errors, and omissions" means negligence other than in the Borough's selection, administration, monitoring, or controlling of Consultant, or in approving or accepting Consultant's work.

Section 9. Termination.

This contract may be terminated:

- A. For cause immediately;

B. By the borough for its convenience upon fifteen (15) days' written notice to the Contractor/Consultant.

Upon termination and the Contractor's/Consultant's furnishing to the borough all finished and unfinished data, documents or other materials prepared under the contract, the borough shall pay the Contractor/Consultant for all satisfactory work performed before termination.

Section 10. Nonwaiver. Either party failing to enforce a provision of this contract does not waive the provision or affect the validity of the contract or a party's right to enforce any provision of the contract.

Section 11. Jurisdiction and Choice of Law. Any civil action arising from this contract shall be brought in the trial courts for the Third Judicial District of the State of Alaska at Kenai. The laws of the State of Alaska govern this contract.

Section 12. Contract Interpretation. In interpreting this contract the following documents are incorporated herein by reference and shall be given the following order of precedence:

- A. The General Conditions;
- B. Provisions on the other side of this form;
- C. The Contractor's/Consultant's written proposal as accepted by the borough;
- D. The borough's written request for proposals or invitation to bid.
- E. Any other document incorporated by reference.

Section 13. Integration. This document and all documents incorporated in it by reference are the entire agreement of the parties and supersede all previous communications, representations or agreements regarding this subject, whether oral or written, between the parties.

This form has been approved by Legal as to form and legal sufficiency.

2011 ANNUAL OPERATING PLAN

Agencies Involved:

- A. State of Alaska, Department of Natural Resources, Division of Forestry, Kenai-Kodiak Area Office herein referred to as "State."
- B. Homer Fire Department herein referred to "Cooperator."

This Annual Operating Plan Establishes The Policy And Procedures For The Following:

- A. Definition of Cooperator Response Areas.
- B. Inventory of Firefighting Resources.
- C. Apparatus and Personnel Conditions of Hire, Payment Rates & Billing Procedures.
- D. Coordination of Prevention, Investigation and Public Education efforts.
- E. Operational Procedures within the Primary Response Area.
- F. Personnel Qualification Requirements.
- G. Training.
- H. Radio Frequencies.
- I. Cooperator Specific Subjects and Issues
- J. Effective Date and Termination
- K. Compliance Failure
- L. Notice
- M. Severability
- N. Attachments

- A-1 Cooperator Response Area Map
- A-2 Cooperator Command Contact List
- B-1 Kenai Kodiak Area Vehicle List
- B-2 Kenai Kodiak Area Personnel Roster and Command Contacts
- C-1 State of Alaska, Div. of Forestry, Cooperator Conditions of Hire, 2011
- C-2 Cooperator Equipment Availability and Rate List
- C-3 Cooperator Personnel Roster and Pay Rates
- C-5 Cooperator Standardized Invoice
- C-6 Cooperator Standardized Itemization of Equipment Billing
- C-7 Cooperator Standardized Itemization of Personnel Billing
- C-8 Memorandum From Kurth, Chief Fire and Aviation
- C-9 Property Loss/Damage Report
- D-1 State Radio Frequency List
- D-2 Cooperator Radio Frequency List

A. Definition of Cooperator Response Areas

1. **Primary Response Area**—includes the Cooperator Service Area, areas of mutual aid response, or the Area's geographic area within which the Cooperator agrees to promptly respond and act to suppress any wildland fire. Responses within these area are compensated *after a minimum of four hours (or higher) as agreed to in this Annual Operating Plan*. After the minimum response time is met, compensation may go back to the original dispatch time. See appendix C-8, Primary Response area.

Discretionary Response—A response outside the Primary Response Area within which the Cooperator may choose to respond and assist the State to suppress a wildland fire. All Cooperator employees and members will be NWCG certified at a minimum of Wildland Firefighter 2, which includes an annual Fireline Refresher Training and work capacity test, when responding outside the Response Area. See appendix C-8, Discretionary Response.

2. **Activation Procedures for the Discretionary or Primary Response Areas**
The State shall contact the Fire Chief, or designee, for the availability of equipment and personnel to assist on a wildland fire incident. If the Fire department is requested it should go through the 911 trooper dispatch. Upon acceptance it becomes a binding contract between Forestry and the Cooperator.

The Cooperator agrees to notify the State when responding to a wildland fire outside of their Primary Response Area at the request of another Fire Department.

3. **Command of Incident**
There is a presumption of Unified Command, by mutual consent pursuant to this Agreement, for the management of wildland fire incidents. The first responder on-scene shall assume functional command of the incident until the arrival of the other responder, after which a Unified Command will normally be established.

The Cooperator or State may, by mutual agreement, solely assume command of the incident, and shall be in command of personnel, fire apparatus and all other aspects of the fire suppression effort for the duration of the incident or until such resources are released.

B. Inventory of Firefighting Resources

State Resources:

Kenai Kodiak Area Vehicle List – Attachment B-1

Kenai Kodiak Area Personnel Roster and Command Contacts – Attachment B-2

Cooperator Resources:

Cooperator Command Contact List – Attachment A-2

Cooperator Equipment Availability and Rate List – Attachment C-2

Cooperator Personnel Roster and Pay Rates – Attachment C-3

C. Apparatus and Personnel Conditions of Hire, Payment Rates & Billing Procedures**1. General Provisions**

The Cooperator will request reimbursement for wildland fire response within the defined Primary and Discretionary response areas in accordance with the guidelines established in

this Annual Operating Plan (AOP) and following the Cooperator Fire Protection Agreement dated 2011.

The Cooperator may be reimbursed for performance under this Cooperative Fire Protection Agreement. The methods of reimbursement are: **Cooperator Reimbursement**, where actual costs of personnel and apparatus are reimbursed to the Cooperator; and **Direct Payment**, where Cooperator personnel, as mutually agreed to by both the Cooperator and the State, are hired as Emergency Firefighters (EFF) by the State and paid directly, and apparatus is rented and paid directly to the Cooperator. In order to use the Cooperator Reimbursement method the Cooperator must meet the eligibility requirements as defined in Chapter 7 of the Alaska Incident Business Management Handbook and define the pay scale of each of their employees in their AOP. Billing addresses and contacts will be provided in the AOP.

The Cooperator and State will agree upon, and establish rates of compensation, for equipment using as a guide Attachment C-1, the current "SFD Rental of Fire Apparatus Conditions of Hire 2011". Except for special circumstances as agreed upon by the Cooperator and the State, these established rates will not be exceeded. The Cooperator will submit an itemized list of available equipment including the national typing, description, and unit identifier, with respective, agreed upon, daily and hourly rates which will be included as Attachment C-2, "Cooperator Equipment Availability and Rate List." Cooperator request for reimbursement of equipment use is limited to the equipment as listed.

The Cooperator will provide a list itemizing personnel positions and NWCG qualifications, agreed upon rates of pay which will be included as Attachment C-3, "Cooperator Personnel Roster and Pay Rates".

Cooperator employees may remain employees of the Cooperator, or may become employees of the State through the Emergency Firefighter program, with the attendant pay and benefits, depending on which payment method the Cooperator chooses.

2. **Billing**

A. Cooperator Reimbursement. In order to use the Cooperator Reimbursement method, the Cooperator must meet the eligibility requirements as defined in the 2011 Cooperator Conditions of Hire and define the pay scale of each of their employees in their AOP. The Cooperator shall be responsible for payment of salary to Cooperator's personnel, including all lawful deductions, taxes, and insurance. The incident will post all equipment time on Emergency Equipment Use Invoices and personnel time on OF-288s that will be used as backup for the Cooperator invoice presented to the State for reimbursement.

The Cooperator will bill the State for equipment and personnel using rates as listed in Attachment C-2, C-3. Billing will be submitted using the standard itemization and invoice forms provided by the State which will be included as Attachments C-5, C-6, and C-7. An

electronic format of these forms is available from the State upon request. The Cooperator will submit a completed copy of the billing forms with an Incident Report within thirty (30) days of the fire being declared out.

The Cooperator will identify whether it is a tax supported department which will be marked in the boxes at the top of attachments C-6 and C-7. A tax supported Cooperator, when responding within the Primary Response Area, will begin its billing time 4 hours after the initial time that it is dispatched on the first day (initial attack day) of an incident.

If the first day of dispatch for the Cooperator is after the first day of incident (initial attack day), billing begins at time of dispatch. Tax supported and non-tax supported Cooperators will begin their billing time from the initial time of dispatch to an incident.

Cooperator agrees to bill for all resources under their operational control as listed in Attachments C-2 and C-3. This includes equipment that is available when the Cooperator is contracting services with another department. The Cooperator agrees to list their equipment, along with the other department's, on Attachment C-2.

When a medic unit/ambulance is used to transport injured State personnel, the equipment rates and the transport rates, based upon the type of medical care provided, will be billed as listed in Attachment C-2. Billing time begins at the time of dispatch to the incident.

For equipment billing, on the first and last shift of hire, the Cooperator will be paid at the hourly rate for every continuous hour on-shift, provided the apparatus is operable and available. For shifts between the first and last, the Cooperator will be paid at the shift rate. Time that an apparatus is inoperable and unavailable will be considered downtime and payment will not accrue except as provided in the "SFD Rental of Fire Apparatus Conditions, Types and Rates", Attachment C-1.

Billing for equipment should be commensurate with incident use. For example, engines used for personnel transport will be billed as a utility transport vehicle rather than an engine.

The Cooperator may bill the State for travel time to and from an incident. The Cooperator may also bill the State for subsistence (meals, lodging) for personnel responding to an incident outside of the Primary Response Area unless otherwise provided by the State.

Equipment and personnel time spent refurbishing will be billed for hours that do not exceed the reasonable and customary time for returning equipment to "in service" condition.

Personnel will be paid on an hourly basis, rounded to the quarter hour, at the rates listed in Attachment C-3, based on the operational period as determined by the Incident Commander, unless superseded by the Borough Collective Bargaining Agreement. The Incident Commander will provide written justification to the State and Cooperator when a shift exceeds 16 hours. When applicable, the Cooperator will submit a copy of the Incident

Commander justification with their billing. Personnel may be on a shorter or longer shift than the equipment to which they are assigned.

The Cooperator shall be responsible for payment of all expenses related to operation of the apparatus. Upon receipt of an itemized bill the State shall reimburse the Cooperator, within 30 days, for actual costs of personnel, apparatus, and other reasonable and necessary expenses as allowed that are directly related to wildland fire suppression. Rates of reimbursement for personnel shall be documented in the AOP. Cooperator apparatus reimbursement rates shall not exceed the rates listed in the most recent Cooperator Conditions of Hire. Forestry will not pay administrative fees in excess of 13.5%, nor pay for backfill positions unless required by municipal ordinance or union contract.

3. **B. Direct Payment.** The State shall be responsible for payment of salary directly to Cooperator's personnel hired as EFF, including all lawful deduction, taxes, and insurance. Rates of pay and levels of classification shall be documented in the AOP.

The State shall be responsible for payment to the Cooperator for apparatus rental. Cooperator apparatus rental rates shall not exceed the rates listed in the most recent Cooperator Conditions of Hire.

The State's direct payment of Cooperator personnel or apparatus does not effect the presumption of Unified Command necessary under this Agreement.

Notice of employment as EFF, and hiring of apparatus, will be effected by completion of appropriate hiring documents, or, if the emergency situation demands, notification to the responsible State Dispatch office that Cooperator employment and/or hiring has occurred. In the latter case, official documentation will be completed as soon as practical.

Emergency Firefighter (EFF)

At the discretion of the Cooperator in agreement with the State, Cooperator personnel may be hired by the State as Emergency Firefighters (EFF) and will become State employees. EFF employees will be compensated at the current EFF rates found in the current *State of Alaska Incident Business Management Handbook*, chapter 7. The Cooperator will not bill the State for Cooperator personnel once they are released to work for the State as EFF.

State EFF personnel must complete an EFF hire packet and obtain a resource order in order to be properly reimbursed for their time on an incident. State EFF personnel are responsible for verifying that their hours worked are documented by an appropriate supervisor on a Crew Time Report (CTR) keeping the yellow copy for their records. The supervisor will submit the CTR to the State Finance/Administration Unit.

4. The Cooperator will complete a Property Loss/Damage Report (attachment C-9), explained in attachment C-1 (State of Alaska-Department of Natural Resources-Division of Forestry Cooperator Rental of Fire Apparatus Terms of Hire, Typing and Rates) section 12,

documenting lost, stolen or damaged equipment and will submit it under separate cover to the State. Incomplete, or unsupported, claims will be returned to the Cooperator for further information and/or documentation. The State's liability is limited to the lesser of the actual repair costs or market value. The State is not responsible for the costs of loss or physical damage to cooperators equipment due to negligence on the part of the cooperators' personnel, for indirect damages such as loss of use or lost profits, or for "normal" wear and tear.

D. Coordination of Prevention, Investigation and Public Education Efforts

1. Prevention Materials.

The State will provide the Cooperator with wildland fire prevention material to the extent possible. The Cooperator will submit a request for materials to the State prior to August 15 of the current year.

2. The State and the Cooperator will coordinate as follows:

- a. Meet prior to the normal burn season of each year to coordinate prevention and public education programs.
- b. Provide wildland fire investigation services and enforcement actions mutually upon request.
- c. Share the State Open Burning Permit and Public Education program.

3. Extreme Fire Danger.

The State will notify the Cooperator when it has been determined that extreme fire danger conditions exist.

4. Burn Closures/Bans and Burning Suspensions

Both the State and the Cooperator shall have the authority to suspend or ban open burning within the Primary Response Area upon notification of the other party. All burn permit suspensions shall be routed through the State. The State may issue a Burn Closure as identified in statutes. The Cooperator may ban burning in accordance with the provisions of the Fire Code.

5. Burn Permits

The Cooperator will issue burn permits within the Primary Response Area where applicable, take burn permit applications at the fire station during regular business hours, and perform site inspections when necessary.

E. Operational Procedures within the Primary Response Area

1. Wildland Fire Reporting

Fires will normally be reported to the Cooperator through 911 Dispatch. Emergency 911 Dispatch will initiate a response by the Cooperator and shall notify the State when the fire is in the Primary Response Area. If the fire call is received by the State, the State may initiate a response and shall dispatch the Cooperator through 911 Dispatch.

2. **Wildland Fire Response and Notification Procedures**

The State and the Cooperator will both respond promptly under their own agency standard operating procedures for all calls in the Primary Response Area. There is a presumption of Unified Command for the management of wildland fire incidents. The first responding agency on-scene shall assume functional command of the incident until the arrival of the other responder, after which a Unified Command will normally be established. If only one agency is required on scene, the first responding agency shall have command of the incident and may release the other agency. The first agency on scene will provide an initial report to their respective dispatch office and the incoming agency resources.

The Cooperator, or the State, may, by mutual agreement, solely assume command of the incident, and shall be in command of personnel, fire equipment and all other aspects of the fire suppression effort for the duration of the incident or until such resources are released. The Cooperator, or the State Officer, may refuse to commit their personnel and resources to an unsafe situation, after notification of their concern to the Incident Commander.

The Cooperator may request that the State assume command of any wildland fire within the Primary Response Area at any time.

The State shall provide wildland fire suppression assistance to protect life and property without cost to the Cooperator within the Primary Response Area.

3. **Wildland Fire Reports and Other Documentation**

Upon request, the Cooperator, or the State, shall furnish a written fire report to the other party for each wildland fire to which the other party did not respond. This report shall contain the information required by the reporting requirements of the other agency and be submitted within fifteen (15) days after the incident is out. The State will allow the submission of the ANFIRS report, via FAX to 260-4236, to fulfill this requirement. The ANFIRS reports should include all available information, a narrative, and a GPS reading to assist the State in identification of the property on a USGS topo quad map.

F. **Personnel Qualification Requirements:**

Cooperator firefighting personnel responding to wildland fires not involving Unified Command or structures fires, will have successfully completed at least the S-130/190 National Basic Wildland Firefighter or equivalent training.

All Cooperator employees and members will be NWCG certified at a minimum of Wildland Firefighter 2, which includes an annual Fireline Refresher Training and Work Capacity Test, when responding outside the Response Area. All personnel hired as EFF by Forestry must meet established NWCG physical fitness and training standards for the position hired. The State will provide wildfire training and prevention material to the Cooperator upon request.

G. **Training**

The intention of the State is all responders to wildfires are certified at a minimum of a National Wildfire Coordinating Group (NWCG) Wildland Firefighter 2. The State will make wildland fire training available to the Cooperator on an annual basis based on

the priorities established in the AOP. The Cooperator may utilize any combination of the following for the training of their personnel:

- on-line (I-100, I-200, S-130, S-190, IS700, IS800)
- crosswalk (provided they have an accrediting training program through the Alaska Fire Standards Council)
- DOF sponsored wildland fire training courses
- Cooperator personnel who are operating apparatus are encouraged to complete the ENOP Task Book.

1. The State will continue to work toward a program to certify Cooperators as qualified instructors for wildland fire courses.
2. The State will offer Cooperator personnel upper level wildland fire management courses in order to have adequate resources to call upon, if the cooperator notifies the State with a list of nominees.
3. The Cooperator and the State agree that, periodically, it may conduct joint drills or exercises of response plans for either agency. The Cooperator and the State agree that they will assume workers compensation liability for their own personnel during such drills
4. The State and the Cooperator should familiarize their personnel in the operation of each other's equipment as part of annual training.

H. Radio Frequencies:

The State and Cooperator agree to exchange radio frequency lists prior to the start of the fire season each year. See Attachment D-1 "State Radio Frequency List" and D-2 "Cooperator Radio Frequency List."

I. Cooperator Specific Subjects and Issues

1. Personnel Pay Rates and Compensation:

Cooperator's paid personnel shall remain employees of the Cooperator while paid as a Borough employee. On-call personnel may be hired by the State as EFF in accordance with Section C of this AOP. In addition, should the Cooperator incur recall costs to replace assigned personnel, the recall costs are a reimbursable expense related to this AOP and the Cooperative Agreement. (Example: Regular pay would be normal, but hiring replacement(s) at time and ½ would have an elevated cost of replacement. The overtime component would be a billable cost.) Compensation to employees pursuant to the Borough Collective Bargaining Agreement is also a reimbursable expense.

2. Station Use Agreement:

Occasionally, the Cooperator may have fire station space available for free use by the State in the event that additional State resources are needed for firefighting purposes on the Kenai Peninsula. Execution of this AOP by the State and Cooperator constitutes agreement to the terms in a "Station Use Agreement" for the use of any such available space.

3. Operational Procedures:

The Operational Procedures outlined in Section E of this AOP are in effect. The

Cooperator and the State agree that the Cooperator may request that the State take over any wildland fire inside the Primary Response Area at any time with appropriate notice to the State. At that point, the State may elect to hire Cooperator equipment and personnel in accordance with this AOP, Section C, and paragraph 1 on page 2.

4. Borough Resources:

The State and the Cooperator agree that it is in the best interest of both parties that billing be consolidated whenever possible. The Cooperator will attempt to incorporate reimbursable expenses of the Kenai Peninsula Borough whenever reimbursable services, supplies or equipment are ordered by the State and supplied by the Cooperator. Examples of reimbursable expenses in this context include: GIS mapping services; Borough employees; food services obtained from Emergency Management; and use of Borough facilities and vehicles.

J. Effective Date and Termination

This AOP shall be effective upon execution by both parties and shall continue in effect until a new one is signed, unless terminated. Preparation, review, and/or modification of this AOP, shall normally be completed prior to March 15 of each year. In the event a new AOP is not executed on or before March 15 of the following year, this agreement shall continue in effect as written or modified until terminated or replaced by a new AOP. Either party may terminate this AOP, without cause, thirty (30) days after written notice of intent to terminate has been served.

K. Compliance Failure

Failure of the Cooperator or the State to insist upon the strict compliance of any of the terms in this AOP shall not constitute a waiver by either of the parties of its rights with respect to performance rendered thereafter or to insist upon full and strict compliance of the exact terms of this AOP.

L. Notice

All legal notices relating to this AOP, including change of address shall be mailed to the State and Cooperator at the following addresses:

State:

State of Alaska, Division of Forestry
Kenai-Kodiak Area Office
42499 Sterling Hwy
Soldotna, AK 99669
(907) 260-4200

Cooperator

Fire Chief

M. Severability

In the event a provision of this AOP is found to be unenforceable or void for any reason, it shall be considered as severed from this agreement, and the remaining portions shall stand as if that portion had never been included. In the event the unenforceable or void provision is legally essential to

2/11

the continuing existence of the agreement, the parties shall attempt to substitute a reasonable replacement provision.

Cooperator

State of Alaska Division of Forestry

By: _____
Mayor

By: _____
Area Forester

Date: _____

Date: _____

Attest

By: _____
Clerk

Date: _____

Fire Department

By: Robert L. Panto
Fire Chief

Date: 4-25-11

Homer
Volunteer
Fire
Department

604 east pioneer avenue
homer, alaska 99603
907/235-3155
fax 907/235-3157
fire@ci.homer.ak.us

Memo

11-067

To: (Walt Wrede, City Manager

From: Bob Painter, Fire Chief

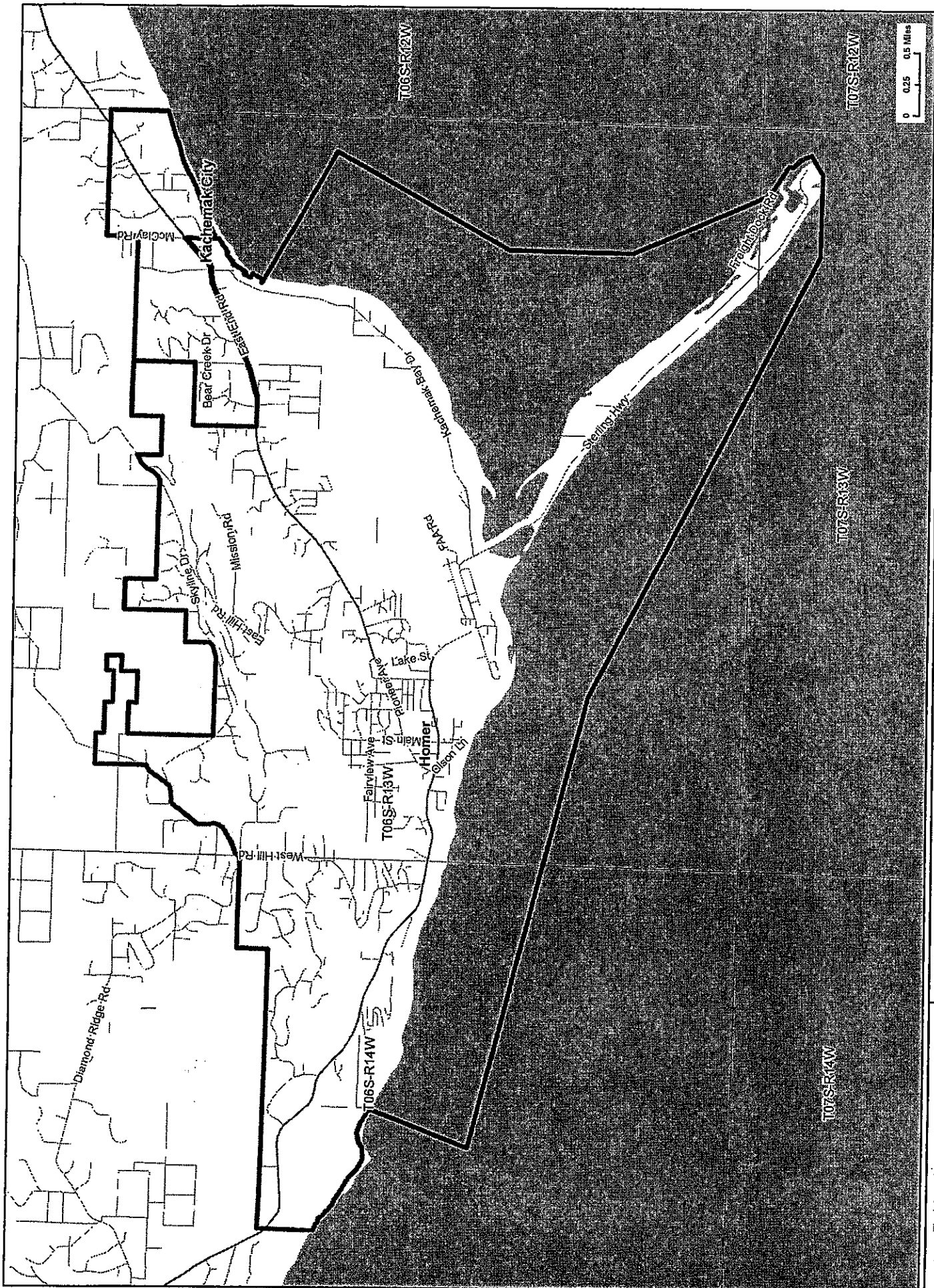
CC:

Date: April 28, 2011

Re: Annual Operating Plan, Division of Forestry

It is once again time to renew our Annual Operating Plan with the State Division of Forestry. The primary change this year include (as required by the Division): changing the time that we would be required to be at a wildland fire prior to being permitted to bill the State going from 2 hours to 4 hours. This change, according to the State, would bring the Kenai Peninsula in line with the rest of the state. While in past years HVFD could bill the State for wildland fires after two hours and beyond (equipment and personnel) this change will allow us to bill from the time of initial dispatch if/when HVFD is providing service for at least 4 hours. The local Fire Management Officer in the Soldotna office also is allowing up to one hour of time as part of that 4 hour minimum for us to apply to getting our equipment and apparatus returned to service following a wildland fire. In all reality, since losing the KESA contract it is unlikely that HVFD will have much wildland activity within our Primary Response Area (Homer and Kachemak City limits) needing more than 2 hours to control, or turn over to the Division of Forestry. For wildland fires outside our Primary Response Area we will be able to bill from time of dispatch according to the new agreement.

"The team that cares."



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



CITY OF HOMER & KACHEMAK CITY

Kenai Peninsula Borough
GIS Division
DECEMBER 4, 2007



Cooperator Name Homer Volunteer Fire Department

[illegible]

Request for reimbursement of equipment use is limited to the equipment as listed in this attachment

[illegible]

Cooperator Personnel Roster and Pay Rates

Cooperator Name:
Homer Volunteer Fire Department

Position	Rate per Hour
Fire Dept. Chief Officer	\$36.00
Safety Officer	\$34.00
Driver / Engineer	\$24.00
Dept. Firefighters	\$18.00
EMT (min 2 per medical unit)	\$22.00
Paramedic (MICP)	\$30.00

Position/Title	Last Name	First Name	Hourly Rate
EMT-1/FF	Anderson	Stephanie	\$ 22.00
EMT-2/FF	Appelhanz	Tom	\$ 22.00
MICP (Paramedic)	Bauer	Katie	\$ 30.00
EMT-2/FF	Blackmon	Tim	\$ 22.00
EMT-2/FF	Brown	Zack	\$ 22.00
FF	Bunker	Dan	\$ 18.00
EMT-1/FF	Burns	Brian	\$ 22.00
MICP (Paramedic)	Cunningham	Samantha	\$ 30.00
FF/EMT-III/Engineer	Cushman	Chris	\$ 24.00
FF/Capt./Engineer	Diaz	Jose	\$ 24.00
EMT-1/FF	Grabowski	Elaine	\$ 22.00
EMT-1/FF	Griswold	Mary	\$ 22.00
EMT-2/FF	Head	Wes	\$ 22.00
FF	Hobbs	Zac	\$ 18.00
EMT-1	Hottman	Lilian	\$ 22.00
Engineer/Driver	Johnson	Pat	\$ 24.00
FF/Engineer/IC	Kauffman	Maynard	\$ 36.00
FF/EMT	Kuzmin	Olga	\$ 22.00
FF	Long	Carey	\$ 18.00
EMT-1/FF	Lovely	Chris	\$ 22.00
EMT-I	Lyda	Genny	\$ 18.00

Cooperator Personnel Roster and Pay Rates

Cooperator Name:
Homer Volunteer Fire Department

Position	Rate per Hour
Fire Dept. Chief Officer	\$36.00
Safety Officer	\$34.00
Driver / Engineer	\$24.00
Dept. Firefighters	\$18.00
EMT (min 2 per medical unit)	\$22.00
MICP (Paramedic)	\$30.00

Position/Title	Last Name	First Name	Hourly Rate
FF/EMT-III/Engineer/IC	Miotke	Dan	\$ 36.00
FF	Moe	Barrett	\$ 18.00
FF	Moe	Kiel	\$ 18.00
MICP/FF	Mumma	Trevor	\$ 30.00
Chief	Painter	Robert	\$ 36.00
FF	Pellegrini	Paul	\$ 18.00
FF	Renner	Martin	\$ 18.00
FF/EMT	Reutov	Zina	\$ 22.00
FF	Sallee	Joe	\$ 18.00
EMT-2/FF	Schmutzler	Jake	\$ 22.00
Engineer/Driver	Schneyer	Matt	\$ 24.00
FF	Smith	Starling	\$ 18.00
FF	Sumption	Terry	\$ 18.00
FF/Engineer/IC	Thomas	Gary	\$ 36.00
FF	Thompson	Cheyenne	\$ 18.00
FF	Toubman	Jesse	\$ 18.00
FF	Turner	Dan	\$ 18.00
Engineer	Van Pattern	Doug	\$ 24.00
FF	Weiser	Dylan	\$ 18.00
FF	Wiebe	Miles	\$ 18.00
EMT-1	Yakunin	Raisa	\$ 22.00
FF/EMT-III/Engineer/IC	Yarbrough	Tim	\$ 36.00

HOMER VOLUNTEER FIRE DEPARTMENT RADIO FREQUENCIES AS OF MAY 4, 2000

<u>Dept/Agency</u>	<u>Rx</u>	<u>RxPL</u>	<u>Tx</u>	<u>TxPL</u>
1. Homer Police Dept.	155.310	123.0	158.790	123.0
2. Homer Police Dept.	155.625	123.0	158.300	123.0
3. Homer Fire Dept.	154.415		153.890	123.0 **
4. Homer Fire Dept.	154.370		153.830	123.0
5. EMS Repeater	154.965		158.895	**
6. Alaska EMS	155.160		155.160	**
7. State Forestry (Seld)	151.280	141.3	159.345	141.3 **
8. Marine VHF-16	156.800		156.800	
9. Marine VHF-10	156.500		156.500	
10. Disaster	155.280		155.280	**
11. HVFD Simplex	154.415		154.415	**
12. Air Guard	168.625		168.625	
13. TAC 1	159.375		159.375	**
14. TAC 2	172.225		172.225	**
15. Homer Public Works	153.905	123.0	158.940	123.0
16. Anchor Point VFD	158.865		153.950	
17. Mutual Aid #1	154.295		154.295	
18. Mutual Aid #2	154.280		154.280	
19. Mutual Aid #3	154.265		154.265	
20. Command #1	155.295		155.295	
21. AST Simplex	155.250		155.250	

Portable Radios (except for 10 HT 1250) have only channel 1 - 16

** Denotes frequencies for Homer DOT/Airport. HVFD Simplex may be deleted if "talkaround" option is available on main frequency (HVFD 1)

**CITY OF HOMER
HOMER, ALASKA**

City Clerk/
Public Works Director

RESOLUTION 11-049

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, AWARDED A CONTRACT TO PAUL'S SERVICES, OF ANCHOR POINT, ALASKA, IN THE AMOUNT OF \$28,500 FOR THE CARTER DRIVE ACCESS IMPROVEMENTS; AND TO EAST ROAD SERVICES, INC., OF HOMER, ALASKA, IN THE AMOUNT OF \$52,475 FOR THE JACK GIST DRAINAGE AND FIELD IMPROVEMENTS; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The City, as part of Water Treatment Plant Upgrade project, is establishing alternative access around the new water treatment plant by completing improvements to the newly platted Carter Drive, and the City Council authorized drainage and field improvements for the third softball field at the Jack Gist Recreational Park; and

WHEREAS, An Invitation to Bid for the project was advertised for both projects in the Homer Tribune on March 16 and 23, 2011 and posted on the City's website as required by the City's Procurement Manual; and

WHEREAS, The Carter Drive project will complete the construction of minimum access improvements within the newly dedicated Carter Drive, and the Jack Gist Park improvements will complete infield and outfield improvements and correct drainage problems; and

WHEREAS, Paul's Services was determined to be the low responsive bidder for the Carter Drive improvements, and East Road Services was determined to be the low responsive bidder for the Jack Gist Park improvements; and

WHEREAS, This award is not final until written notification is received by either firm from the City of Homer.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, approves the award of the construction of the Carter Drive Access Improvements to Paul's Services, of Anchor Point, Alaska, in the amount of \$28,500; and approves the award of the construction of the Jack Gist Park Drainage and Field Improvements to East Road Services, Inc., of Homer, Alaska, in the amount of \$52,475; and authorizes the City Manager to execute the appropriate documents to complete construction.

PASSED AND ADOPTED by the Homer City Council this 9th day of May, 2011.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: \$28,500 Acct. No. 205-375 and \$52,475 Acct. No. 157-731



CITY OF HOMER

PUBLIC WORKS

3575 HEATH STREET HOMER, AK 99603

TELEPHONE (907)235-3170

FACSIMILE (907)235-3145

MEMORANDUM 11-069

To: Walt Wrede, City Manager
From: Carey Meyer, Public Works Director
Date: May 3, 2011
Subject: **Carter Drive Access Improvements, West Elementary Trail, Jack Gist Park
Construction Contract Award Recommendations**

The City opened bids for this project on April 19. Three bids were received:

	Engineer's	15% of Eng.	East Road	Twin Peaks	Paul's
	Estimate	Estimate	Services	Construction	Services
Bid Item					
Carter Drive Access Improvements	\$25,500.00	\$29,325.00	\$31,500.00	\$49,402.00	\$28,500.00
West Elementary Trail Construction	\$7,000.00	\$8,050.00	\$9,950.00	\$15,622.00	
Jack Gist Drainage and Field Improvements	\$65,000.00	\$74,750.00	\$72,500.00	\$79,687.00	
Jack Gist Parking Improvements	\$16,500.00	\$18,975.00	\$17,680.00	\$30,222.00	

The low bid for Jack Gist Drainage and Field Improvements is higher than the funding available; Public Works has negotiated with the low bidder (East Road Services) a reduction in scope of work (less topsoil import into outfield) and the cost of the project is now \$52,475 (within the budget available). The budget does not allow for the Jack Gist Parking Improvement bid item to be awarded.

The low bid for Carter Drive is within the budget. The low bid for the West Homer Elementary Trail project is higher than the funding authorized and will be rebid.

Recommendations:

The City Council award the construction contract for:

- 1) the Carter Drive Access Improvements to Paul's Services, Anchor Point, Alaska in the amount of \$28,500,
- 2) the Jack Gist Drainage and Field Improvements to East Road Services, Homer Alaska in the amount of \$52,475,

and authorize the City Manager to execute all appropriate documents to complete construction.

CITY OF HOMER
HOMER, ALASKA

City Clerk

RESOLUTION 11-050

A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA, AWARDED THE CONTRACT FOR THE
SOUNDVIEW AVENUE/WOODARD CREEK CULVERT
REPLACEMENT PROJECT TO THE FIRM OF _____
OF _____, _____ IN THE AMOUNT OF
\$ _____ AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The Invitation to Bid was advertised in the Homer Tribune on April 6 and
13, 2011 and posted on the City's website as required by the City's Procurement Manual; and

WHEREAS, The project will complete the Soundview Avenue/Woodard Creek culvert
replacement; and

WHEREAS, _____ was determined to be the low responsive bidder; and

WHEREAS, This award is not final until written notification is received by
_____ of _____, _____, from the City of Homer.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Homer, Alaska,
approves the award of the contract for the Soundview Avenue/Woodard Creek Culvert
Replacement to the Firm of _____ OF _____, _____, in the
amount of \$ _____ and authorizes the City Manager to execute the appropriate documents to
complete construction.

PASSED AND ADOPTED by the Homer City Council this 9th day of May, 2011.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: \$ _____, Acct. No. 160-766

COMMENTS OF THE AUDIENCE
COMMENTS OF THE CITY ATTORNEY
COMMENTS OF THE CITY CLERK
COMMENTS OF THE CITY MANAGER
COMMENTS OF THE MAYOR
COMMENTS OF THE CITY COUNCIL
ADJOURNMENT

