

**Office of Administrative Hearing (OAH) Record Index
23-0250-MUN**

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BEACHY CONSTRUCTION, INC.

5243 Kachemak Dr. #A
Homer, AK 99603
(907)235-8876

March 28, 2023

Attn: Rick Abboud, AICP
Planning Department
City of Homer

Re: Notice of Appeal
Zoning Permit Application for 3000 Kilokak Ave.

Dear Mr. Abboud –

In conformity with Section 21.93.080, this letter shall serve as the Notice of Appeal of the Denial of the Zoning Permit Application for 3000 Kilokak Avenue, dated March 21, 2023. This property is owned by Dan and Elsie Gingerich of 8750 Lafayette Plain City Road, Plain City, OH 43064, and is otherwise known as Commercial Park Unit 3, Lot 9. This appeal is submitted by Beachy Construction, Inc., listed as the applicant for this zoning permit.

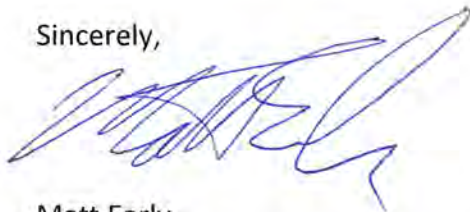
Beachy Construction (BCI) hereby asserts that the denial of this zoning permit is not in conformity with City Code and no requirement is provided in City Code for this development to necessitate being a commercial structure. Code 21.27.010 states that the East End Mixed Use District is PRIMARILY intended (emphasis added) for businesses, etc. and does not state that this district is exclusively set apart for business or commercial use. Under code section 21.27.020 a list of uses are permitted outright in the district, and this list includes “m. Storage of heavy equipment, vehicles, or boats” and “hh. Single Family and Duplex dwellings, only as an accessory use incidental to a permitted principal use. . .” These are the specific functions listed within the original zoning permit application for this property – principal use being storage. Neither of these functions necessitate a business or commercial use, and neither require a Fire Marshall Permit for construction under Alaska State Law, as they do not constitute a commercial development with intended commercial uses. There is no requirement for the EEMU District specifically requiring commercial use or business use, and no

requirement provided under the Code for a commercial Fire Marshall permit in this District.

In its denial letter, the conclusion is stated that the EEMU District is to accommodate commercial uses with limited accessory residential uses to support the primary commercial use – but nowhere in the Code does it state that the primary use is required to be commercial. While the area is specified as “primarily” intended to provide sites for businesses, it is not required in any of the language to be a business or commercial use. The actual makeup and construction of the area lends to this fact as well, as there are currently a number of developments in this District, and while the primary use of these developments is business and commercial use, there are a number of residential and private developments as well. It should be noted that the shop across the street from this proposed development, belonging to Overway Alaska Community Property Trust, is a private development with the primary purpose of personal storage. This development was approved as a residential development under Permit 0820-778 dated 8/15/2020 (copy of this permit is attached for reference). This development was approved as a private residential development under the same Code that the City is now using to deny the same type of development directly adjacent to this one previously approved. The City set precedent in the approval of Permit 0820-778 that they are now seeking to reverse at the expense of the Owner of this proposed development, in that the requirement for a commercial zoning permit would require the Owner to spend tens of thousands of dollars obtaining engineering and other services to satisfy the requirements of the State of Alaska Fire Marshall office, not to mention delay the project for months, all of which place an undue burden upon the lot owner and might lead to the cancellation of this project in its entirety if not reversed.

BCI asks that the City review their own Code as well as the information above and move to reverse its denial of this Zoning Permit in conformance with the Code and in conformance with the precedent the City has already established for this area.

Sincerely,



Matt Early
Project Manager / Beachy Construction, Inc.



City of Homer
 Planning & Zoning
 491 East Pioneer Avenue
 Homer, AK 99603-7624

Residential Zoning Permit New Construction

Department Use Only

Permit: 0820-778

Approved Date: **8/15/2020**

Start Date: **08/15/2020**

End Date: **02/15/2022**

Rcvd by

Paid by

Date Paid:

Check No.

Job Site Information

Address: **3005 KILOKAK AVE**
 City: **Homer** State: **AK**
 Zone:
 Parcel/Block/Lot: **17908073//17**

Owner Information

Name: **OVERWAY ALASKA COMMUNITY PROPERTY**
 Address: **59805 WINTER WREN CT**
 City/State/Zip: **HOMER, AK 99603**
 Telephone:

Applicant Information

Name: **OVERWAY ALASKA COMMUNITY PROPERTY 1**
 Address: **59805 WINTER WREN CT**
 City/State/Zip: **HOMER, AK 99603**
 Telephone:
 Land Use:

Contractor Information

Name: **BEACHY CONST INC ET AL**
 Address: **5243 KACHEMAK DR # A**
 City/State/Zip: **HOMER, AK 99603**
 Telephone: **907-235-8876**
 Building Use:

Legal Description:

This permit shall be displayed in a prominent, readily visible place at the site. If the work is not completed within the above-specified time, application for extension MUST be made to the City of Homer, prior to the end date above. The City assumes no responsibility for the accuracy of any City-held as-built drawings or for the Permittee's interpretation thereof.

This permit is issued with the expressed understanding that the City of Homer assumes no responsibility hereunder with regard to maintenance of private drainage systems that terminate in City ditch lines or drainages, including but not limited to foundation drains; proper location of lot lines or site dimensions. It is the responsibility of the permittee to meet whatever requirements any agency may have which may apply to the project specified in this permit. It is the permittee's responsibility to comply with all continuing obligations imposed by the Code not to damage other property. It is the permittee's responsibility to comply with all other permit terms at his/her expense.

Description of Work:

Construction of a personal boat shop.

Estimated Value: 300,000.00

AN ASBUILT SURVEY IS REQUIRED UPON PROJECT COMPLETION ACCORDING TO HOMER CITY CODE 21.70.040

Permit Fees

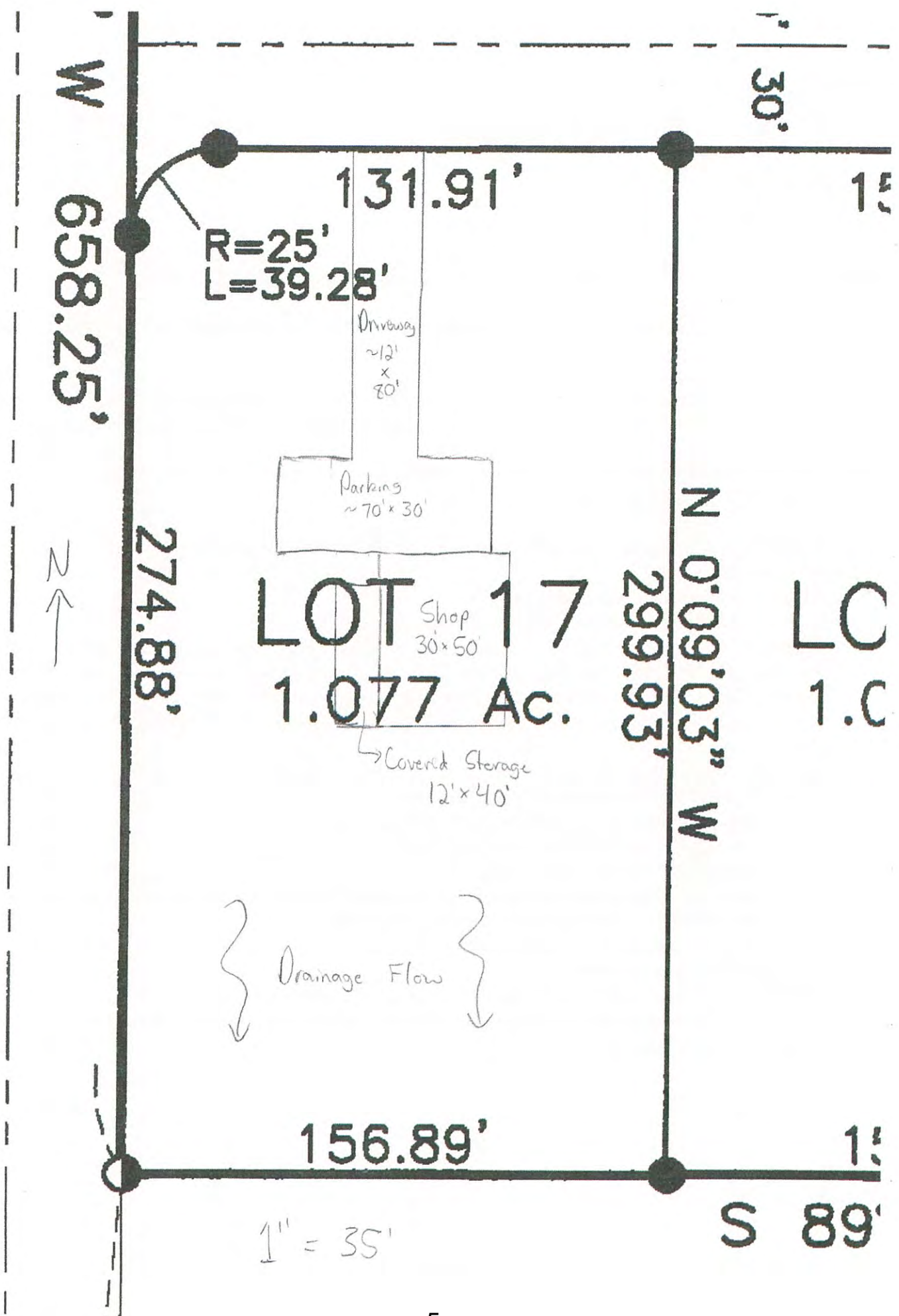
Description	Work Being Done By	Units	Cost @	Sum
Planning Single Family /Duplex			\$200.00	\$200.00

Signature: _____

Date: 8/15/20

Grand Total: \$200.00

Construction Type:





City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

SITE PLAN

Address: Lot 17 Block 3 Commercial Park

A site plan is a detailed scaled drawing which depicts the current and proposed improvement and uses of a parcel of land.

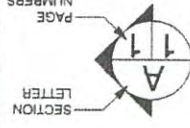
Drawing your site plan is easier than you might expect. With accurate measurements, pencil, paper and a ruler you can draw a site plan right at home. For more complex projects you may need professional expertise.

Below is a checklist of items that should be on your site plan. For items that do not apply to your project simply indicate N/A over the checkbox.

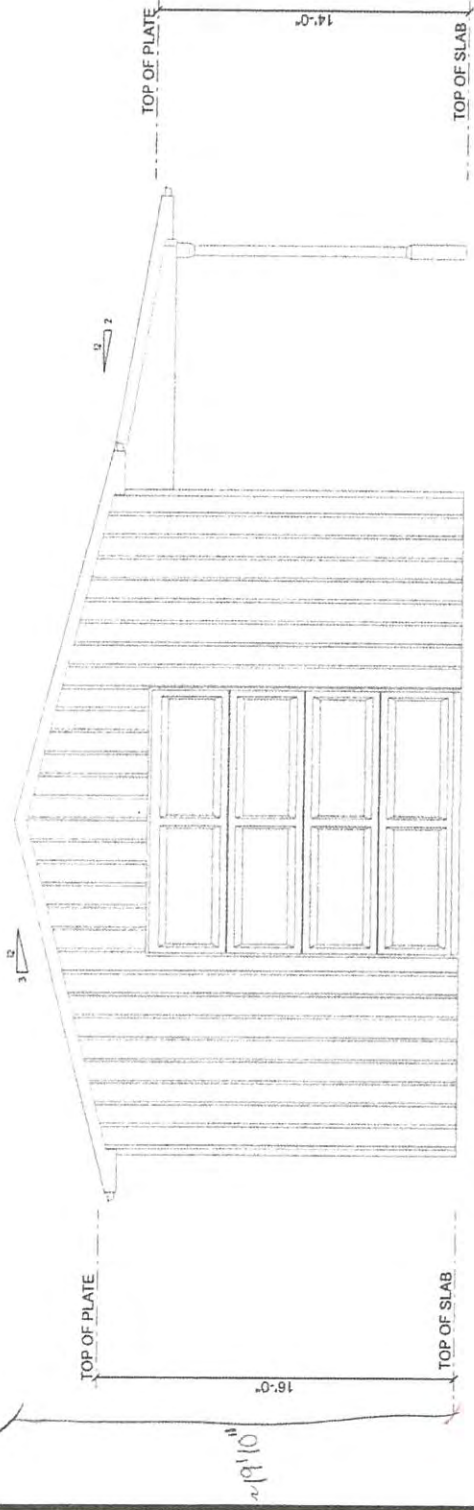
- Scale factor. For example, 1" = 20 ft. for smaller lots or 1" = 50 ft. for larger lots.
- North arrow
- All property lines and their dimensions
- All known easements – utility, drainage, driveway, etc.
- Exterior dimensions of proposed and existing structures, including additions, decks, and stairways.
- Building setbacks - distance from all structures to nearest property lines. Front property line(s) (property lines abutting a right-of-way) require a 20 ft. setback. Setbacks for other property lines are 5 – 8 ft., depending on the number of stories. Setbacks are measured from the property lines, NOT the road.
- Site work - Areas affected by excavating, filling, grading, or vegetation removal (with soil disturbance)
 - label the building location(s) disturbed area
 - label areas used for driveway/parking/maneuvering
 - approximate volume of excavated material: _____ cubic yards
 - approximate volume of filled material: _____ cubic yards
 - label areas of disturbed soil that will be revegetated naturally or landscaped (indicate areas of seeded grass or plantings such as trees and shrubs)
 - label limits of undisturbed vegetation
- Draw and label adjacent roads
- Label length and width of driveways & parking spaces (standard space is 9' x 19')
- Drainage – Indicate direction of surface flow, label structures such as ditches, french drains & swales
- Show wetland boundary if applicable

DATE: Monday, July 20, 2020
 SCALE: 3/16" = 1'-0"
 DRAWN BY:
 PAGE: 1/3
 Elevations 1

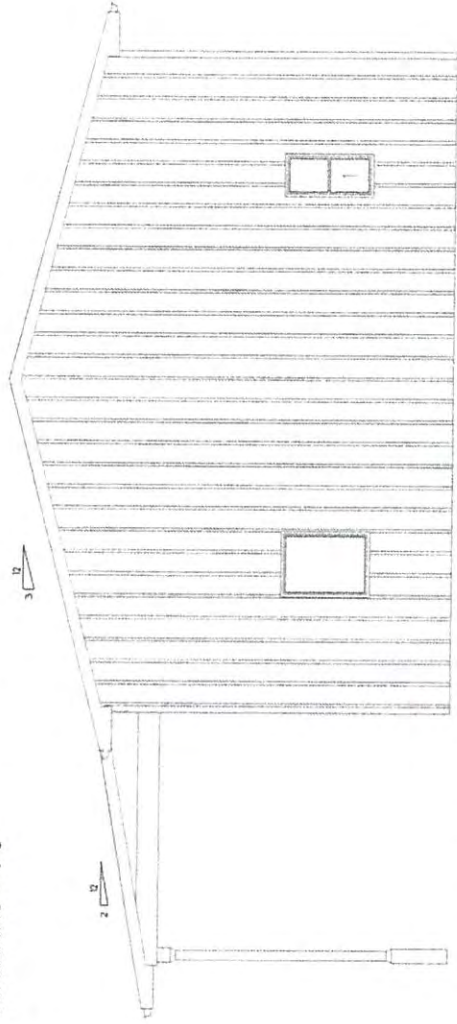
Overway Shop
 PHONE:
 FAX:
 MOBILE:



SOFTPLAN ARCHITECTURAL DESIGN SOFTWARE
 Beachy Construction, Inc.
 5243 Kachemak Drive
 Homer AK 99603
 PHONE: 907-235-8876
 FAX: 907-235-5521
 MOBILE:
 matt@bchomer.com



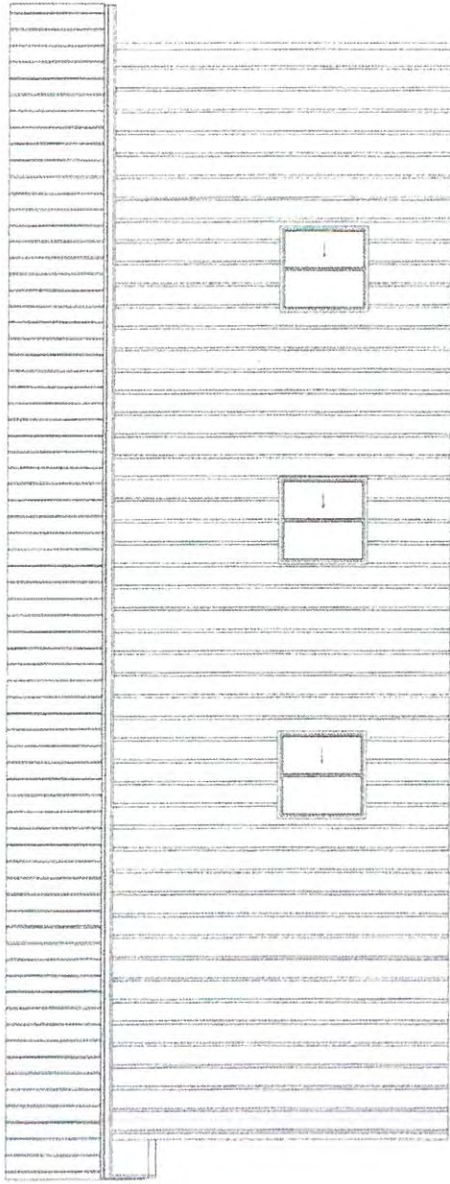
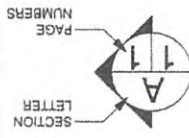
FRONT ELEVATION
 SCALE: 3/16" = 1'-0"



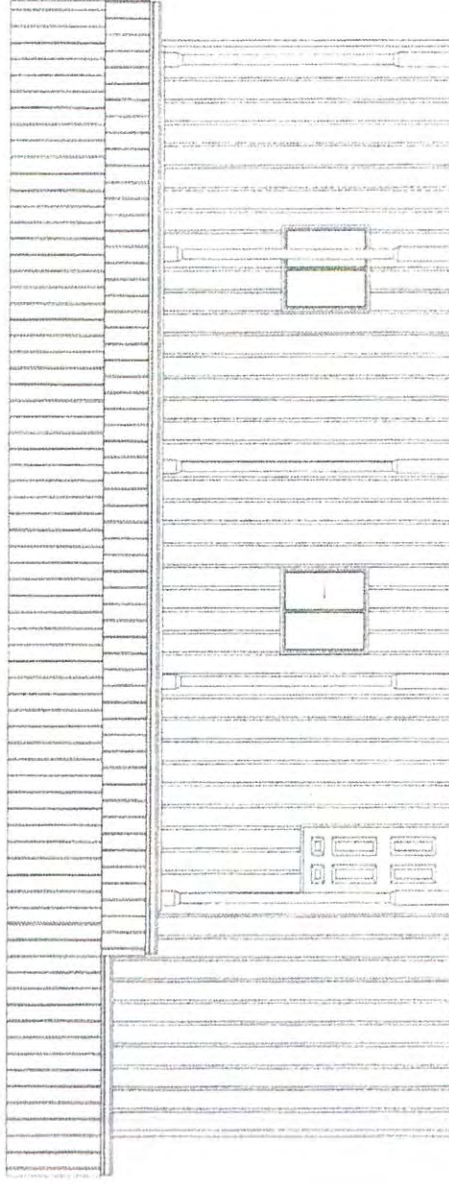
REAR ELEVATION
 SCALE: 3/16" = 1'-0"

DATE: Monday, July 20, 2020 SCALE: 3/16" = 1'-0" DRAWN BY:	99603 AK Homer 5243 Kachemak Drive PHONE: 907-235-8876 FAX: 907-235-5521 MOBILE:	ARCHITECTURAL DESIGN SOFTWARE SOFTPLAN Beachy Construction, Inc. PHONE: 907-235-8876 FAX: 907-235-5521 MOBILE:
	ELEVATIONS 2 2/3 PAGE:	

Overway Shop
 PHONE:
 FAX:
 MOBILE:

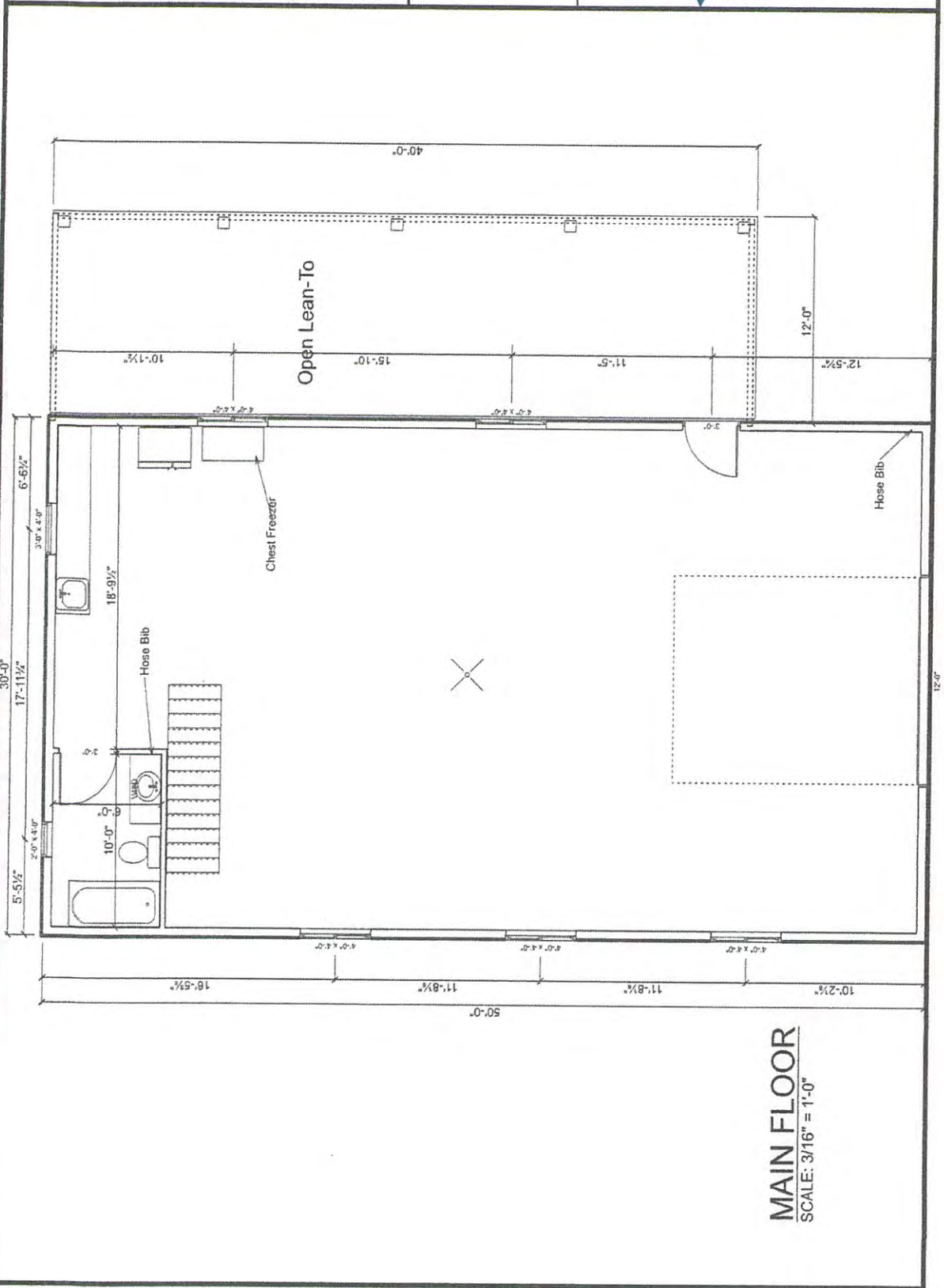


SIDE ELEVATION 1
 SCALE: 3/16" = 1'-0"



SIDE ELEVATION 2
 SCALE: 3/16" = 1'-0"

Overway Shop PHONE: FAX: MOBILE:	DRAWN BY: SCALE: 3/16" = 1'-0" DATE: Monday, July 20, 2020	SECTION LETTER PAGE NUMBERS		99603 AK Homer 5243 Kachemak Drive PHONE: 907-235-8876 FAX: 907-235-5521 MOBILE:	matt@bcihomer.com Beachy Construction, Inc. ARCHITECTURAL DESIGN SOFTWARE
	3/3 Floor Plans			matt@bcihomer.com	
	SOFTPLAN ARCHITECTURAL DESIGN SOFTWARE				



From: [Matt Early](#)
To: [Rick Abboud](#)
Cc: [Julie Engebretsen](#)
Subject: Zoning permit application
Date: Wednesday, March 15, 2023 9:20:25 AM
Attachments: [Scan_0170.pdf](#)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Rick –

Attached is a zoning permit application for our first planned job for this season, in commercial park. Note that this building is just a private shop and residence – owner plans to drive up their RV and store it inside along with a boat, and then live in the apartment portion for periods of the year. Let me know any questions, and please call me for payment.
Thanks much,

Matt Early
Project Manager
Phone: (907) 235-8876
Fax: (907) 235-5521
Mobile: (907) 299-9900
matt@bcihomer.com





City of Homer

www.cityofhomer-ak.gov

Planning
491 East Pioneer Avenue
Homer, Alaska 99603
Planning@ci.homer.ak.us
(p) 907-235-3106
(f) 907-235-3118

Zoning Permit Application

Property Owner

Name: Dan Gingerich Phone #(s): 614-595-1006
Mailing Address: 8750 Lafayette Plain City Rd. City: Plain City State: OH Zip: 43064
Email: endgingerich@gmail.com

Applicant (if different than the property owner)

Name: Beachy Construction, Inc. Phone #(s): (907) 235-8876
Mailing Address: 5243 Kachemak Dr. City: Homer State: AK Zip: 99603
Email: matt@bcihomer.com

Project Property Information

Address: 3000 Kilobak Ave. KPB Tax ID #: 17908065
Legal Description: Commercial Park Unit 3 Lot 9
Lot Size: 1.07 acres Zoning District: _____
Describe the use of all existing structures: none

For each proposed structure, describe the use & list the square footage of each floor: _____

Shop space & apartment first floor 3,840 SF
↳ personal RV and boat storage, not for rental or commercial use

Estimated market value of finished improvements: \$700,000

Water Permit # (City) _____ Sewer Permit # (City) _____ Driveway Permit # _____

Will site be served by a well or cistern? Y or (circle one) DEC approved septic system? Y or (circle one)

For staff use:

** New Fees **

Date: _____ Fee \$ _____ Residential \$300 / Commercial \$400 / Deck \$100 Late fee _____

Received by: _____ Date application accepted as complete _____

Finance Code 21-2106. Zoning Permit required by HCC 21.70

Site development standards for all projects (applies to all development in the City)

- Drainage design must deposit all runoff into either an engineered drainage system or into a natural drainage. Building setbacks are 15ft. from open ditches and 10 ft. from closed drainage systems.
- All exposed, cleared, filled and disturbed soils must be revegetated within 9 months of initial earthwork or reseeded by the next August 31st.
- Development activities shall not adversely impact other properties by causing damaging alteration of surface water drainage, surface water ponding, slope failure, erosion, siltation, intentional or inadvertent fill or root damage to neighboring trees, or other damaging physical impacts.

All Projects in Any Zoning District (Check all that apply)

- New**
- A **Site Plan** is required for all projects. This “bird’s eye view” must show the entire lot and include all of the details found on the site plan checklist. See the attached example site plan.
 - An **As-built survey** is required for all structures upon completion of work
The survey must show the location and dimensions of permitted structures (see HCC 21.70.040)
 - A **Building Elevation** drawing is required for all proposed buildings. Building height from grade to the peak of the roof must be included. See the attached example building elevation drawing.
 - Lighting standards** apply to all projects (HCC 21.59.030)
 - Outdoor lighting must be installed so that it does not produce light trespass or glare
 - The maximum height for pole lighting is 28 ft. and for building-mounted lighting, it is 15 ft.
 - Outdoor lights installed 15 ft. or higher must be cut-off luminaires
 - A **Wetlands Permit** may be required if your project is within a wetland. If the following map indicates wetlands on your property, then written authorization from the Army Corps of Engineers (ACOE) is required
 - Homer area wetland map source: <https://www.kpb.us/gis-dept/interactive-mapping>
ACOE submission status: _____ ACOE POA #: _____
 - A **Grading/Fill Plan** is required when 3 ft. of fill is placed over 25% of the lot area (HCC 21.50.150)
 - Slope Development Standards** apply when the project includes any of the following: (HCC 21.44)
 - The average slope of the lot is greater than 15% (A rise of 15 ft. to 100 ft. run)
 - Disturbance takes place within 40 ft. of the top, or 15 ft. of the toe of a steep slope (45%), bluff, coastal bluff or ravine
 - A **Storm Water Plan (SWP)** is required when the project includes any of the following: (HCC 21.50.020)
For projects located in commercial zoning districts, skip this subsection & see SWP section below
 - Creates 25,000 square feet of new impervious surface
 - Increases the total impervious surface coverage to one acre or greater
 - Grading that moves 1,000 cubic yards of material
 - Creates a permanent slope of 3:1 or more that exceeds 10 ft. from toe of slope to top of slope
 - A **Sign Permit** is required for most projects that include advertising signage. Check with Planning Staff to find out if a permit is required for your project.
 - A **Conditional Use Permit (CUP)** may be required under certain circumstances, including but not limited to the following:
 - The project includes a conditionally permitted use, as listed in the specific zoning district section of HCC Title 21
 - Building area exceeds 8,000 (all buildings combined) or 30% of the lot area
 - The project includes more than one building with a primary use
 - The project will generate traffic in excess of 100 vehicle trips per hour or 500 vehicle trips per day
 - A **Coastal Flood Hazard Area Development Permit** is required when the project lies within mapped coastal flood hazard areas. For all projects on coastal properties, check with the Planning Office for current flood area designations.
 - The **Bridge Creek Watershed Protection District** has additional restrictions for property development (see HCC 21.40)

All Projects in Commercial Districts including the Residential Office District when the project is commercial or multifamily residential (3-plex or larger) in nature (check all that apply)

- State Fire Marshal** approval is required for all commercial buildings and apartment projects (4-units or more)
Fire Marshal application Status: _____ Permit # _____
- Landscaping requirements** apply to all projects (HCC 21.50.030(f))
 - Landscaping shall include the retention of native vegetation to the maximum extent possible
 - A minimum buffer of 3 ft. along lot lines and 15 ft. along the top bank of a defined drainage
 - Topsoil addition, seeding, and plantings must be completed within 9 months of completion of project
 - Parking lots with 24 spaces or more have additional standards (see HCC 21.50.030(f)(1)(b))
- A **Development Activity Plan (DAP)** is required when your project includes any of the following (HCC 21.74):
 - Clearing or grading of 10,000 square feet or more
 - 5,000 square feet or more of new impervious coverage. "Impervious" coverage includes all parking areas, driveways, roads, walkways, whether paved or not, and any areas covered by buildings or structures, concrete, or asphalt
 - Grading that moves 1,000 cubic yards of material
 - A temporary or permanent slope of 3:1 or more that exceeds 5 ft. from toe of slope to top of slope
 - Grading activities that will result in the diversion of existing drainage courses, both natural or human-made, from their existing point of entry or exit from the grading site
 - Any land clearing or grading on slopes steeper than 20%, or within 20 feet of wetlands.
- A **Storm Water Plan (SWP)** is required when your project includes any of the following (HCC 21.50.030):
 - Creates 25,000 square feet of new impervious surface
 - Increases the impervious surface coverage to greater than 60% of the lot area
 - Grading of 1 acre or more
 - Grading that moves 10,000 cubic yards of material
 - A temporary or permanent slope of 3:1 or more that exceeds 10 ft. from toe of slope to top of slope
 - Land clearing or grading on slopes steeper than 25%, or within 10 feet of wetlands, streams, or ponds

I/we certify that all the information contained in this application is true and accurate and that I am/we are authorized to act on behalf of the property owner(s). I/we hereby hold harmless the City of Homer, its employees and agents from all suits, actions, or claims arising from any work undertaken.

The permit will be issued with the understanding that the City of Homer assumes no responsibility with regard to maintenance of private drainage systems that terminate in City ditch lines or drainages, including but not limited to foundation drains, proper location of lot lines, or site dimensions. Further, the City assumes no responsibility for the accuracy of any City-held drawings, or for the permittee's interpretation thereof.

I/we understand that the application fee covers the costs associated with processing this application, and that payment of same is nonrefundable and does not assure approval of the site plan. I/we acknowledge that by signing this application I am/we are authorizing employees or agents of the City access for exterior site inspections. This permit must be displayed so that it is readily visible from the nearest street, at the site for which the permit was obtained. If the exterior work is not completed by the permit's expiration date, one reasonable extension may be granted for good cause shown.

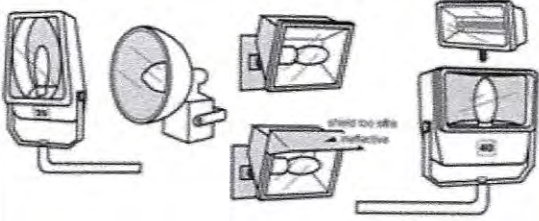
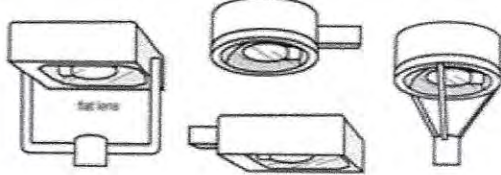
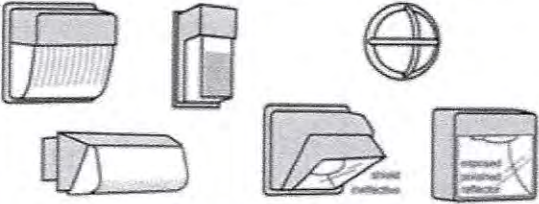
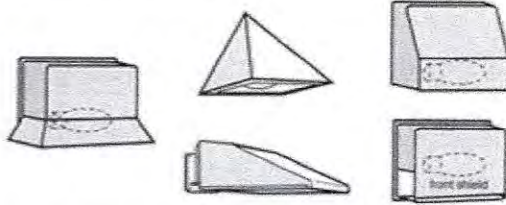
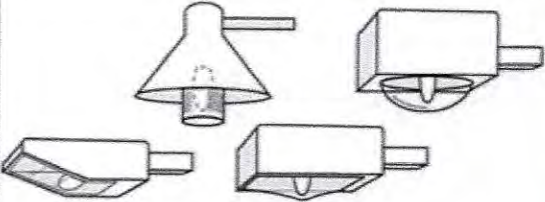
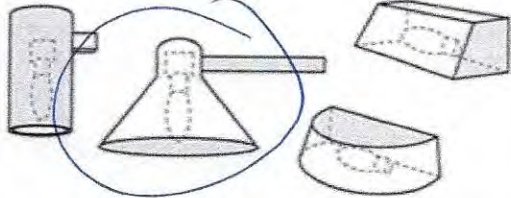
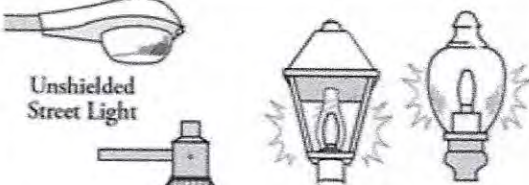
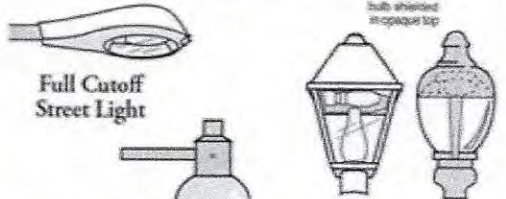

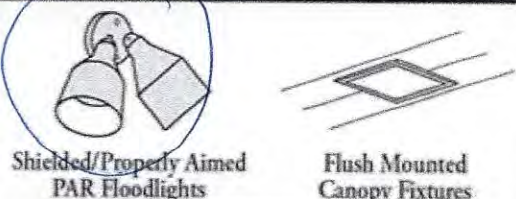
Owner Signature (required): _____ Date: _____

Applicant Signature:  _____ Date: 3/14/23

Circle the type(s) of exterior fixtures to be used in your project below

All exterior lighting is subject to level one lighting standards, according to HCC 21.59.030. Lighting standards aim to reduce glare and light trespass and to improve the nighttime visual environment.

Check this box if exterior lighting will not be installed or replaced with your project

<p>UNACCEPTABLE Fixtures that Produce Glare and Light Trespass</p>	<p>ACCEPTABLE Fixtures that Shield the Light Source to Minimize Glare and Light Trespass - Facilitating Better Night Vision</p>
 <p>Unshielded or Poorly-shielded Floodlights</p>	 <p>Full Cutoff Fixtures</p>
 <p>Unshielded Wallpacks & Poorly-shielded Wall Mount Fixtures</p>	 <p>Fully-shielded Wallpack & Wall Mount Fixtures</p>
 <p>Drop-lens & Sag-lens Fixtures with Exposed Bulb/Refractor Lens</p>	 <p>Fully-shielded Fixtures</p>
 <p>Unshielded Street Light</p> <p>Unshielded Security Light</p> <p>Unshielded 'Period' Style Fixtures</p>	 <p>Full Cutoff Street Light</p> <p>Fully Shielded Security Light</p> <p>Fully Shielded 'Period' Style Fixtures</p>
 <p>Unshielded PAR Floodlights</p> <p>Drop-lens Canopy Fixtures</p>	 <p>Shielded/Properly Aimed PAR Floodlights</p> <p>Flush Mounted Canopy Fixtures</p>



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

SITE PLAN

Address: 3000 Kildalek Ave.

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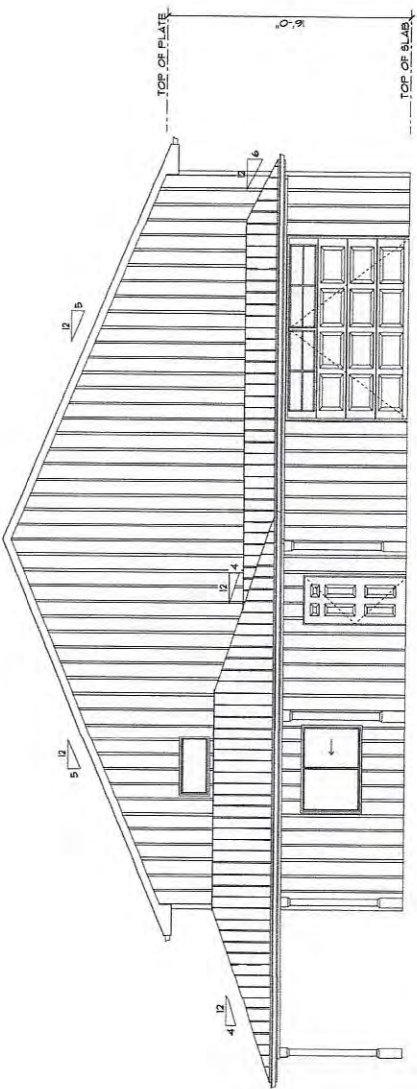
DATE: Wednesday, March 01, 2028
 SCALE: 1/8" = 1'-0"
 DRAWN BY: _____
 PHONE: _____
 FAX: _____
 MOBILE: _____

PAGE: 1 / 3
 Elevations 1

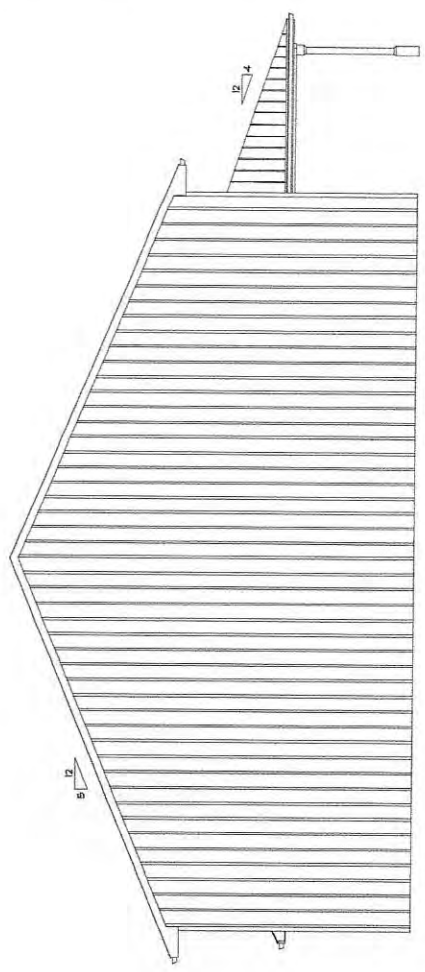


SOFTPLAN
 ARCHITECTURAL DESIGN SOFTWARE

Beachy Construction, Inc.
 5243 Kachemak Drive PHONE: 907-235-8876
 Homer AK MOBILE: _____
 99603 FAX: 907-235-5521
 matt@bchomer.com

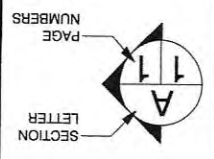


SOUTH ELEVATION
 SCALE: 1/8" = 1'-0"

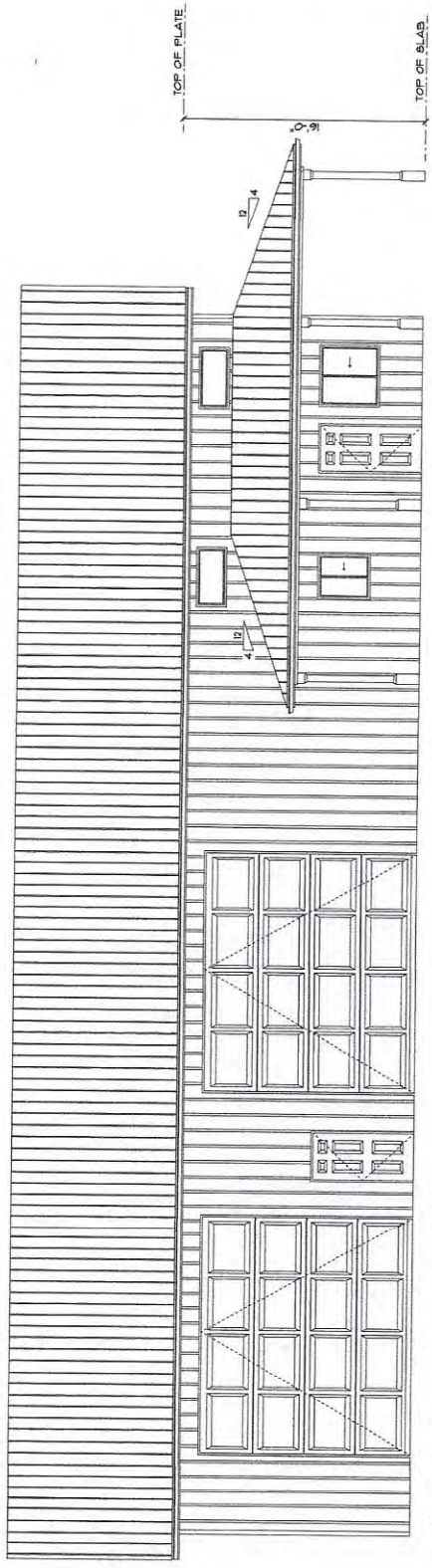


NORTH ELEVATION
 SCALE: 1/8" = 1'-0"

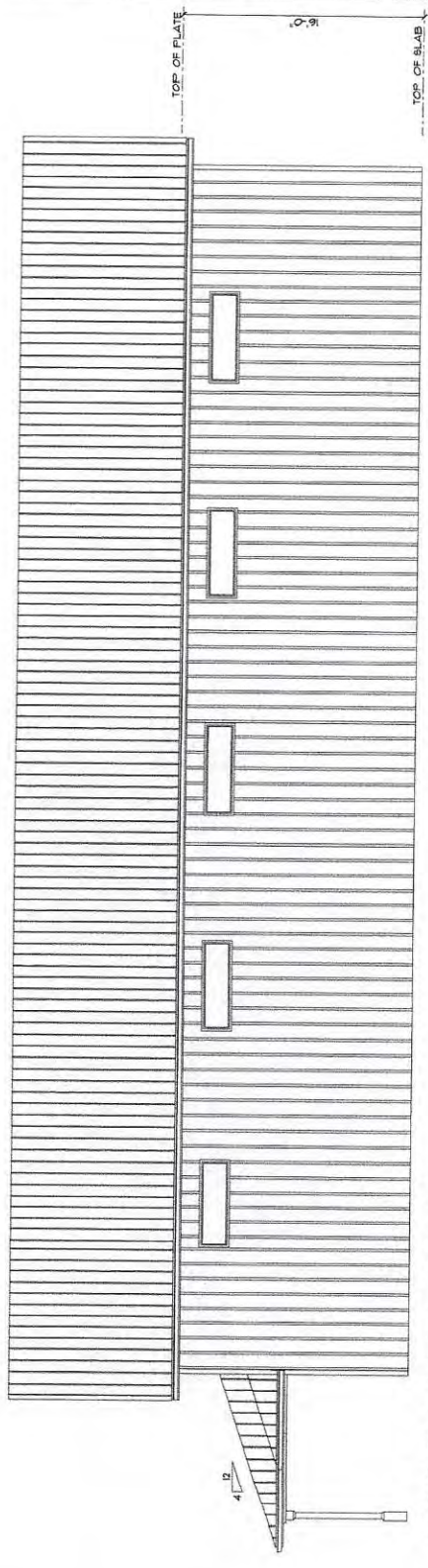
Gingerich Shop
 PHONE:
 FAX:
 MOBILE:



SOFTPLAN
 ARCHITECTURAL DESIGN SOFTWARE
Beachy Construction, Inc.
 5243 Kachemak Drive PHONE: 907-235-8876
 Home AK
 MOBILE: 99603
 FAX: 907-235-5521
 matt@beachy.com



WEST ELEVATION
 SCALE: 1/8" = 1'-0"



EAST ELEVATION
 SCALE: 1/8" = 1'-0"

5243 Kachemak Drive
 Homer AK
 99603
 PHONE: 907-235-8876
 FAX: 907-235-5521
 MOBILE: matt@bchomer.com

Beachy Construction, Inc.



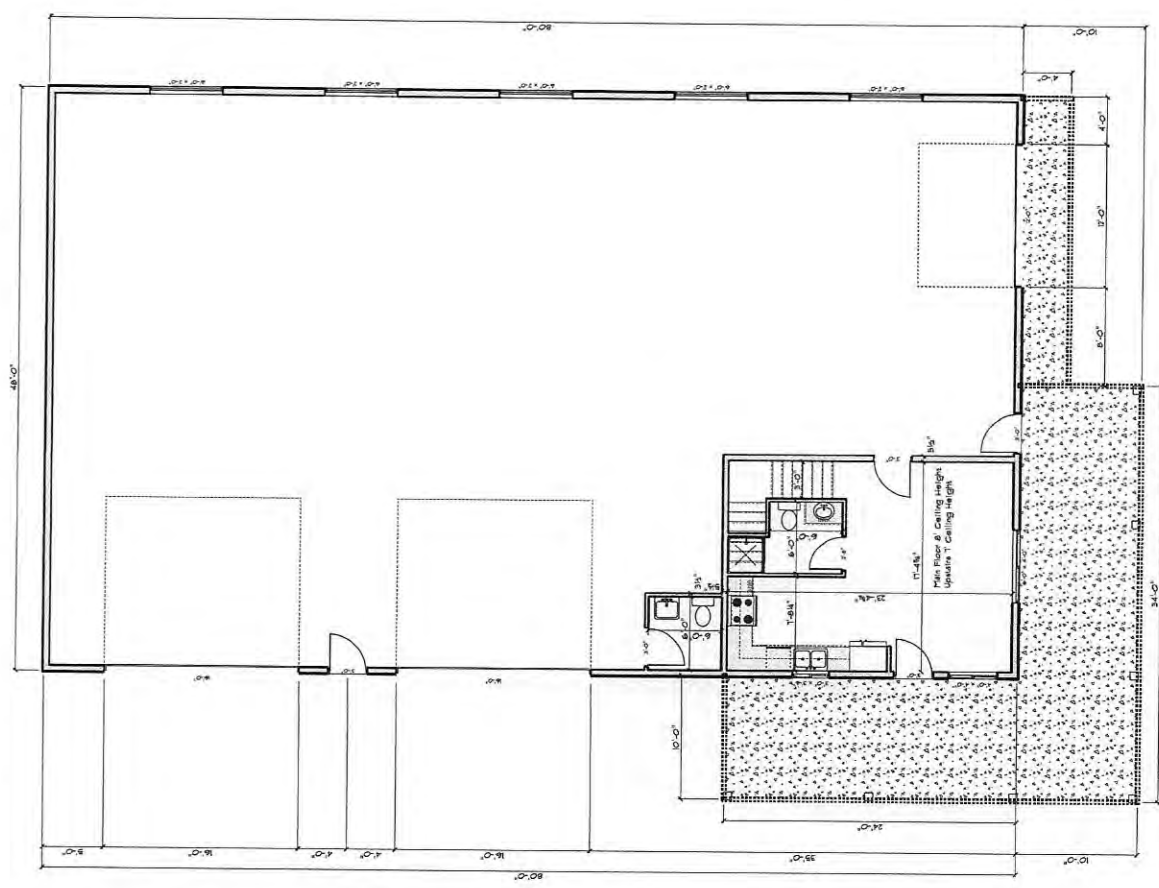
SECTION
 LETTER
 PAGE
 NUMBERS



DRAWN BY:
 SCALE: 1" = 10'-0"
 DATE: Wednesday, March 01, 2028

Gingerich Shop
 PHONE:
 FAX:
 MOBILE:

PAGE: 3/3
 Main Floor



MAIN FLOOR
 SCALE: 1" = 10'-0"



156.97'

156.97'

TERNVIEW PLACE

273.38'

N 0°09'03" W

LOT
1.075 A

~95'

48'

12'

298.41'

Parking Area

Shopl
Apartment
48x80

80'

Existing Driveway

Covered
Porch
Areas

Parking
Area

~140'

R=25'
L=39.26'

131.95'

Existing
Driveway

156.93'

Kilobek Ave.

30'
30'

N 0°09'30" W



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

March 21, 2023

Matt Early
Beachy Construction
5243 Kachemak Dr.
Homer, AK 99603

Re: Denial of Zoning Permit Application for 3000 Kilokak Ave.

Dear Mr. Early,

The Planning Office received your March 14, 2023 Zoning Permit Application (ZPA) for “Shop space + apartment first floor 3,840 SF – personal RV and boat storage, not for rental or commercial use” at 3000 Kilokak Avenue, situated in the East End Mixed Use (EEMU) District. This is NOTICE OF FINAL DECISION AND RIGHT TO APPEAL THE DETERMINATION THAT THE ABOVE REFERENCE APPLICATION IS DENIED.

FINDINGS

The stated use of “personal RV and boat storage, not for rental or commercial use” on your application dated March 14, 2023 does not comport purpose of the EEMU district and does not constitute a primary principle use allowed in the district. The EEMU District is primarily intended to provide sites for businesses and associated customary accessory uses.

- 1) Your March 14, 2023 application for a ZPA declares the use for the proposed building situated in the EEMU district is for “shop space + apartment first floor 3,840SF-personal RV and boat storage, not for rental or commercial use”.
- 2) Homer City Planning’s (HPC) interpretation of the EEMU District is that it is authorizes commercial uses with limited accessory uses to the principal commercial use.
- 3) HPC’s analysis is based upon the language of Homer City Code 21.27.010-HCC 21.27.090 which, taken as a whole, is designed for primarily Commercial activities.
- 4) HPC’s analysis is supported by the purpose of the EEMU District which establishes:

HCC 21.27.010, Purpose.

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

- 5) The requirement for ‘direct motor vehicle access’ and ‘larger land area’ along with the list of ‘Permitted Uses and Structures’ contained in HCC 21.27.020 are commercial uses further supporting HPC’s interpretation of the EEMU District as commercial.

CONCLUSIONS

- 1) The EEMU District is designed to accommodate commercial uses with limited accessory residential uses to support the primary commercial use.
- 2) HCC 21.27.010-21.27.090 read in totality further supports the established intent of the EEMU District as primarily commercial.
- 3) The March 14, 2023 ZPA declares it is for a non-commercial use and therefore incompatible with the required commercial use in the EEMU District.
- 4) The March 14, 2023 ZPA is hereby DENIED.

NOTICE OF FINAL DECISION AND RIGHT TO APPEAL

This constitutes a NOTICE OF FINAL DECISION AND RIGHT TO APPEAL PURSUANT TO HCC 21.93.070 which provides:

An appeal must be filed within 15 days after the date of:

- a. Distribution of the final decision of the City Manager, City Planner, or planning staff members **to the applicant** or other person whose property is the subject of the matter being appealed; or
- b. Distribution of the final decision of the Planning Commission to the applicant and other parties, if any. [Ord. 21-44(S) § 2, 2021; Ord. 17-07(S-3)(A) § 7, 2017; Ord. 08-29, 2008].

Respectfully,



Rick Abboud, AICP

Homer City Planner

(907) 235-3105

rabboud@ci.homer.ak.us