

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
FROM THE CITY OF HOMER ADVISORY PLANNING COMMISSION**

In the Matter of)
)
MATTER OF CUP 23-04/23-01)
)
_____)

OAH No. 23-0320-MUN

**ORDER GRANTING IN PART AND DENYING IN PART MR. GRISWOLD’S MOTION
TO SUPPLEMENT THE RECORD**

On June 1, 2023, Frank Griswold filed a motion to supplement the record in this case with seven enumerated categories of items. The City of Homer filed a response to the motion on June 15, 2023. The motion is granted in part and denied in part as to each of the items as follows:

1. Mr. Griswold requested inclusion in the record of pages 1 through 4 of the minutes of the March 15, 2023 Planning Commission (Commission) meeting, during which there were communications that Mr. Griswold contends show the “widespread pervasiveness of ex parte communications among Homer city officials.” The motion is granted as to the first three pages of the minutes, which shows discussion surrounding the application for conditional use permit (CUP) 23-01 for the property and Scott Livingston’s plan to submit a second CUP application for the property. Mr. Griswold’s motion is denied as to page 4 of the minutes because the discussion on that page pertains to a CUP application (CUP 23-02) for a different property, and thus, is outside the scope of the appeal here.

2. Mr. Griswold asked for the record to be supplemented with an April 4, 2023 letter from him to the Commission with the subject line of “ex parte communications, partiality, and CUP 20-04.” Mr. Griswold explained that the letter contains a typo, as the reference to CUP 20-04 should have been to CUP 23-04. Mr. Griswold’s motion is granted as to the letter, which should be included in the record.

3. Mr. Griswold requested the inclusion in the record of “all materials pertaining to the application for CUP 23-01.” Because CUP 23-04 is purportedly an amendment to CUP 23-01, the underlying documents for the underlying CUP (23-01) are germane to 23-04, and are appropriately included in the record here. The motion is granted as to these items.

4. Mr. Griswold asked that the record be supplemented to include all documents pertaining to CUP 20-15, including the appeal proceedings. The approval of CUP 20-15 concerns a different application than CUP 23-01 and 23-04 and is not the subject of the appeal in this case. CUP 20-15 was previously appealed, the application for 20-15 was eventually

withdrawn, and the appeal was then dismissed by an administrative law judge as moot. Here, the relevant decision is the Commission's decision to approve CUP 23-04 based on the specific application for that permit and the materials considered by the Commission in deciding whether to approve it (and relatedly, CUP 2023-01). Documents considered by the Commission in deciding whether to approve a different permit, such as CUP 20-15, are outside the scope of the Commission's decision here and are not properly included in the record. Accordingly, Mr. Griswold's motion is denied as to the documents regarding CUP 20-15.

5. Mr. Griswold asked that the record be supplemented to include all correspondence between Rick Abboud of the City Planning Department and Melody and/or Scott Livingston concerning CUP 20-15, CUP 23-01 and/or CUP 23-04. He contends that the correspondence will show that Mr. Abboud was effectively the Livingston's representative in the application process as opposed to an impartial public servant.

The request is denied as to correspondence concerning CUP 20-15 for the reasons discussed in #4 above. The request is also denied as to the remaining items because correspondence between the Planning Department and the Livingstons was not considered by the Planning Commission in its decision on whether to approve CUP 23-01 and 23-04, and because there is nothing in the City Code indicating that correspondence between the Planning Department and permit applicants must be considered by the Commission. Moreover, there is nothing in the City Code prohibiting City employees, such as Planning Department staff, from being helpful to persons seeking to apply for permits by assisting them in navigating the requirements of the City Code. Indeed, that is part of what public servants are expected to do so that permit applications can be duly considered on their actual merits.

6/7. Mr. Griswold requested the inclusion in the record of an April 8, 2023 public record request from him for "zoning (i.e., building) permits issued for construction associated with the Commission's approval of CUP 23-01 and/or 23-04", and any and all such zoning/building permits. Applications for zoning permits are required to follow a separate process under HCC 21.70, and are separately appealable under HCC 21.93.020(a)(1). They fall outside the scope of the appeal in this case concerning the approval of CUP 23-04. Thus, the motion to supplement the record is denied as to these items.

Accordingly, the Office of the City Clerk is directed to supplement the record in this case no later than **July 19, 2023**, with the following items:

- (1) Pages 1 through 3 of the minutes of the March 15, 2023 Planning Commission meeting;
- (2) The April 4, 2023 letter from Mr. Griswold to the Commission, with the subject line of “ex parte communications, partiality, and CUP 20-04;” and
- (3) All records pertaining to the application for CUP 23-01.

DATED: July 12, 2023.

By: *Lisa M. Toussaint*
Lisa M. Toussaint
Administrative Law Judge

Certificate of Service: I certify that on July 12, 2023, a true and correct copy of this order was distributed as follows: Frank Griswold (by mail & email); Max Holmquist (by email); Michael Gatti (by email); Melissa Jacobsen (by email).

By: *Sarah Marshall*
Office of Administrative Hearings

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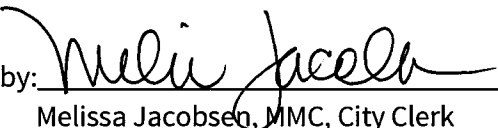
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Certificate of Service: I certify that on July 18, 2023, this document was sent to: Office of Administrative Hearings (by email); Frank Griswold (by email and mail); and Attorneys Michael Gatti & Max Holmquist (by email)

by:  _____
Melissa Jacobsen, MMC, City Clerk

1. CALL TO ORDER

Session 23-06, a Regular Meeting of the Planning Commission was called to order by Chair Scott Smith at 6:30 p.m. on March 15, 2023 at the Cowles Council Chambers in City Hall, located at 491 E. Pioneer Avenue, Homer, Alaska, and via Zoom Webinar. A worksession was held prior to the regular meeting for a discussion facilitated by Jan Keiser, Public Works Director on the Transportation Plan Update and Old Town Traffic Improvements.

PRESENT: COMMISSIONERS VENUTI, SMITH, HIGHLAND, STARK, BARNWELL, CONLEY

ABSENT: COMMISSIONER CHIAPPONE (UNEXCUSED)

STAFF: CITY PLANNER ABBOD, DEPUTY CITY CLERK KRAUSE

CONSULTING: PUBLIC WORKS DIRECTOR KEISER

2. AGENDA APPROVAL

Chair Smith read the items from the supplemental packet and requested a motion and second to adopt the agenda as amended.

HIGHLAND/VENUTI MOVED TO APPROVE THE AGENDA AS AMENDED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

3. PUBLIC COMMENTS ON ITEMS ALREADY ON THE AGENDA

Scott Livingston, noted that written comments were submitted and requested clarification, and understood that may not be available at this time. Mr. Livingston indicated that as he looked over the draft minutes that were put forward, he was disturbed that his comments and the discussion around the setback issue were misinterpreted in the minutes. He stated that a lot of the issues seemed to stem from the misunderstanding between himself and the City Planner. Mr. Livingston continued by stating that the setback issue was never something that he thought the Commission would not have to address, he believed his comments at the meeting were consistent with that. He stated that their application was focused on the lot coverage at the direction of the City Planner and he believed his comments at that meeting were that the setback was not implicated in this build. Mr. Livingston stated he acknowledged that the Commission was going to have to approve the setback issue. He explained that since there was robust discussion surrounding the setback, that at the end of the meeting it was clear that the setback was going to be approved. Mr. Livingston reported that they have submitted an application for a separate CUP to address the setback issue for consideration at the April 5, 2023 meeting. He indicated that if the Commission was unable or unwilling to grant relief and the clarification that was being asked for at this time, he would like the minutes amended, as it was never his intention and he did not think he ever actually stated that the Commission did not have the power, the ability, or stated that they could not address the setback issue. Mr.

Livingston reiterated again that an application was initially submitted with a copy of the CUP that was much more generic and it was amended to specifically focus on the lot coverage at the direction of the City Planner. He recognized that the Commission was balancing a lot of different interests and have been doing a very difficult job and expressed appreciation for that job. He opined that this issue has occurred due to the Commission not having access to good legal advice that would provide the Commission with a really good sense of their range of power and the authority within the regulatory context. Mr. Livingston concluded by stating that he believed that there was plans in place to get someone with that sort of legal regulatory background who would be more accessible to the Commission. He applauded and encouraged those efforts so that this type of misunderstanding did not arise again for future CUPs.

4. RECONSIDERATION

5. CONSENT AGENDA

- 5. A. PC Meeting Minutes - Unapproved Meeting Minutes for March 1, 2023
- 5. B. Decisions and Findings for Conditional Use Permit 23-01 at 106 W. Bunnell Avenue

Chair Smith noted the laydown memorandum from the City Planner with direction from the City Attorney regarding ex parte communication and requested Commissioners to disclose any ex parte communication that they may have had.

Chair Smith declared that he had a telephone conversation with Mr. Livingston and that Mr. Livingston requested the Commission to reevaluate whether or not the setback was addressed in this particular CUP application. Chair Smith stated that he referred Mr. Livingston to Condition five regarding it required a separate conditional use permit. Chair Smith stated that he did not engage in conversation with Mr. Livingston contrary to what the findings were in the CUP. Chair Smith related that Mr. Livingston pleaded with him to take up his case during the consideration of the meeting minutes of the last meeting and after reading the guidance provided by the City Attorney decided against that action.

Commissioner Barnwell came forward and declared that he received a call from Melody Livingston, it contained the same content as expressed by Commissioner Smith and lasted maybe ten minutes. He informed them that there was nothing he could do and directed her to contact the chair.

Commissioner Stark reported that he did not have contact or communication with anyone.

Commissioner Highland declared that she received a message from Melody Livingston and she returned the call stating that she could not speak to her about the issue. The conversation lasted for approximately one minute.

Deputy City Clerk Krause confirmed for the Chair that making the declarations on the record was what was recommended by the City Attorney. There was no additional action required.

Chair Smith read the Consent Agenda into the record and requested a motion and second.

HIGHLAND/BARNWELL MOVED TO APPROVE THE CONSENT AGENDA AS READ.

There was no discussion.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

6. PRESENTATIONS/VISITORS

7. STAFF & COUNCIL REPORTS/COMMITTEE REPORTS

7A. City Planner's Report - Agenda Item Report PC 23-017

Chair Smith introduced the topic and deferred to City Planner Abboud.

City Planner Abboud reviewed his staff report that was presented in the packet. The following topics were facilitated by Staff:

- Volunteers for the March 28th City Council meeting, Chair Smith will submit a written report for the packet.
- Enforcement of a Performance Guaranty
- Clarification on Performance Guaranty
- benefits to the community and city as well as individual property owners with regards to requiring a performance guaranty with regards to infrastructure

8. PUBLIC HEARING(S)

8. A. Request for Conditional Use Permit (CUP) 23-02 at 3375 Sterling Hwy for Approval of an addition in a lot containing a building area over 8,000 sq. ft. within the GC1 Agenda Item Report PC 23-018

Chair Smith introduced the item by reading of the title and declared that he had ex parte communication and conflict of interest.

HIGHLAND VENUTI MOVED THAT COMMISSIONER SMITH HAD A CONFLICT OF INTEREST DUE TO EX PARTE COMMUNICATION WITH APPLICANT.

Commissioner Smith explained that he was invited to Ms. Erickson residence to meet with her and Councilmember Davis to discuss matters related to other topics and Ms. Erickson brought forward her CUP application. He noted for the record Ms. Erickson had asked him, prior to the March 1st meeting if her CUP was on the agenda and he told her it was not. Mr. Davis then asked her what the CUP was for and Ms. Erickson responded stating that they needed additional storage. Chair Smith reported that he stopped the discussion and told Ms. Erickson and Mr. Davis that they could not speak about the CUP as it would be ex parte communication. He reported that they did not speak any further on the matter.

Deputy City Clerk Krause inquired if Chair Smith felt he could provide an unbiased decision on the CUP action before the Commission.

Chair Smith stated that he could provide an unbiased decision and further stated that he had no financial gain from the action.



April 4, 2023

Re: Ex parte communications, partiality, and CUP 20-04.

Dear Commissioners,

On March 15, 2023, the Homer City Attorneys addressed the ex-parte communications that took place between the applicants for CUP 20-01/CUP 20-04 and multiple Commissioners. The attorneys characterized those ex parte communications as prohibited and advised Mr. Abboud that Commissioners should disclose any such ex parte contacts. However, the city attorneys cited no controlling provision of city code to support their legal advice.

Prior to the enactment of Ordinance 21-44(S), HCC 21.93.710(a) (regarding administrative appeal procedures) provided that no member of the Commission shall have ex parte communication with any person. HCC 21.93.710(c) required Commissioners to disclose illegal ex parte communications in accordance with HCC 21.93.710(d) which provided that a member of the Commission who receives an ex parte communication at any time shall, at the first opportunity thereafter, place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the member received an ex parte communication. HCC 21.93.710(e) provided that the Commission had the discretion to disqualify any member who participated in the appeal. In addition to disqualification, the Commission could impose appropriate sanctions, including default, against a party to the appeal for any ex parte violation. Under the guidance of attorney

Holmquist, HCC 21.93.710(c)(d) and (e) were repealed by Ordinance 21-44(S). The current gutted version of HCC 21.93.710, cited immediately below, provides that a *hearing officer* shall not have ex parte communications with any person but has no specific application to Commissioners considering an application for CUP or otherwise.

HCC 21.93.710 Ex parte communication prohibited.

a. The hearing officer appointed to review a decision issued by the Commission shall not have ex parte communication with any person. "Ex parte communication" means to communicate, directly or indirectly, with the appellant, other parties or persons affected by the appeal, or members of the public concerning an appeal or issues specifically presented in the notice of appeal, either before the appeal hearing or during any period of time the matter is under consideration, without notice and opportunity for all parties to participate in the communication.

b. This section does not prohibit:

1. Communications between municipal staff and Commission or the hearing officer where:

a. Such staff members are not themselves parties to the appeal; and

b. Such communications do not furnish, augment, diminish, or modify the evidence in the record on appeal.

2. Communications between the Commission and its legal counsel.

c. Repealed by Ord. 21-44(S).

d. Repealed by Ord. 21-44(S).

e. Repealed by Ord. 21-44(S).

f. It is a violation, subject to penalties and other enforcement remedies under this title:

1. For any person to knowingly have or attempt to have ex parte communication with a hearing officer in violation of subsection (a) of this section.
2. For the hearing officer to knowingly receive an ex parte communication in violation of subsection (a) of this section.
3. For the hearing examiner to knowingly fail to place on the record any matter that is an ex parte contact.

I am not aware of any current provision of HCC that specifically addresses ex parte communications involving Planning Commissioners but HCC 1.18.030(r) states: "City officials shall act impartially when conducting City business." Participating in ex parte communications clearly does not constitute acting impartially. Commissioners Smith and Barnwell willingly participated in lengthy ex parte communications with the applicants for CUP 23-04; this demonstrates that neither are impartial adjudicators. In accordance with HCC 1.18.048 (b) and (c), they should both be disqualified from all further proceedings regarding this matter.

Ex parte communications involving city officials have been taking place for decades. Recently, City Council member Shelly Erickson invited Commissioner Smith and Council member Davis to her residence to discuss her application for CUP 23-02. It is axiomatic that merely disclosing ex parte communications is insufficient to prevent them from occurring. The Commission should encourage the City Council to enact code provisions expressly prohibiting Commissioners from engaging in ex parte communications with applicants regarding quasi-judicial matters; implementing substantial enforceable penalties *might* help deter this pervasive activity in the future.





AGENDA

Planning Commission Regular Meeting

Wednesday, March 1, 2023 at 6:30 PM

City Hall Cowles Council Chambers In-Person & Via Zoom Webinar

Homer City Hall

491 E. Pioneer Avenue
Homer, Alaska 99603
www.cityofhomer-ak.gov

Zoom Webinar ID: 979 8816 0903 Password: 976062

<https://cityofhomer.zoom.us>
Dial: 346-248-7799 or 669-900-6833;
(Toll Free) 888-788-0099 or 877-853-5247

1. **CALL TO ORDER, 6:30 P.M.**
2. **AGENDA APPROVAL**
3. **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**
4. **RECONSIDERATION**
5. **CONSENT AGENDA** (Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Commissioner.)
 - 5.A. Unapproved Meeting Minutes – Will be provided in Supplemental Packet
6. **VISITORS/PRESENTATIONS** (10 Minutes)
7. **REPORTS** (5 minutes each)
 - 7.A. City Planner's Report **Page 3 - 7**
[Agenda Item Report PC 23-013](#)
8. **PUBLIC HEARING(S)**
9. **PENDING BUSINESS**
10. **NEW BUSINESS**
 - 10.A. Request for Conditional Use Permit (CUP) 23-01 at 106 W. Bunnell Avenue for Approval of a Building Area in Excess of 30% of the Lot Area **Page 8 - 51**
[Agenda Item Report PC 23-014](#)
11. **INFORMATIONAL MATERIALS**
 - 11.A. City Manager's Report **Page 52 - 64**
[CM Report for February 27, 2023 Council Meeting](#)
12. **COMMENTS OF THE AUDIENCE**
13. **COMMENTS OF THE STAFF**

14. COMMENTS OF THE COMMISSION

- 15. ADJOURNMENT** Next regular meeting is Wednesday, March 15, 2023 at 6:30 p.m., a Worksession will be at 5:30 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska



AGENDA ITEM REPORT

Request for Conditional Use Permit (CUP) 23-01 at 106 W. Bunnell Avenue for Approval of a Building Area in Excess of 30% of the Lot Area

Item Type: Action Memorandum
Prepared For: Planning Commission
Meeting Date: 01 Mar 2023
Staff Contact: Rick Abboud
Attachments: [2023-02-08 UPDATED Wild Honey Kitchen Addition CUP Supplement](#)
[Parking Calculations](#)
[Comprehensive Plan Review for CUP 23-01](#)
[CDM Review for CUP 23-01](#)
[Public Notice](#)
[Aerial Photograph](#)

Summary Statement:

Synopsis The applicant proposes to tear down a portion of a storage structure and replace it with an addition to the existing kitchen. A Conditional Use Permit (CUP) is required per HCC 21.18.040(d) building area in excess of 30 percent of the lot area.

Applicant: Melody Livingston, Land/Restaurant Owner (Wild Honey Bistro)
106 W Bunnell #2
Homer, AK 99603

Location: 106 W Bunnell Ave. condo unit

Legal Description: Chamberlain & Watson No 4 Lot 1-A , and T 6S R 13W SEC 19 Seward Meridian HM 2011002 INLET TRADING POST CONDOMINIUMS UNIT 2

Parcel ID: 17516052 (parcel) 17516052C001 Unit 1, 17516052C002 Unit2

Size of Existing Lot: 11,441 square feet

Zoning Designation: Central Business District

Existing Land Use:	Commercial mixed use	
Surrounding Land Use:	North:	Residential condos and commercial
	South:	RV Park, hotel
	East:	Mixed use residential and commercial
	West:	Restaurant, parking and residential condos

Comprehensive Plan: Chapter 4 Goal 4 Objective A-2: Create an overlay zone of the “Old Town” section of the CBD, establishing general standards for building design and construction. Aim for future buildings to continue in the style of the older buildings in the area as well as the several more recently constructed buildings that follow these traditions. Chapter 4 Goal 3: Encourage high quality buildings and site design that complements Homer’s beautiful natural setting, and Goal 1 Objective D-3: Support planning and zoning regulations that promote land use strategies that include compact, mixed-use development, high density development, and infill.

Wetland Status:	Not within wetlands
Flood Plain Status:	Zone D, flood hazards not determined.
BCWPD:	Not within the Bridge Creek Watershed Protection District
Utilities:	Public utilities service the site.
Public Notice:	Notice was sent to 56 property owners of 40 parcels as shown on the KPB tax assessor rolls.

Introduction

The applicant is proposing to tear down a portion of the existing Quonset hut like structure and extend the kitchen of the Wild Homey Bistro into its footprint. According to Kenai Peninsula Borough records, the structure to which the proposed addition is to be adjoined to was constructed in 1937. As the applicant is moving (removing) an existing structure (which affects lot coverage), a CUP is required per HCC 21.18.040(d) building area in excess of 30 percent of the lot area.

Analysis

Site and more than 30% lot coverage analysis

106 W Bunnell Ave is the site of four buildings and has adopted a condominium form of ownership for various elements found on the lot. Located at the northwest corner of Main Street and West Bunnell Ave, the three story Inlet Trading Post building currently houses the Bunnell Street Arts Center, Old Town Bed and Breakfast, the Fringe consignment store, and has other office space in the basement. This building will remain unchanged and is not part of the proposed new construction. The building to the west and adjacent to the three story building is the single story restaurant Wild Honey Bistro. Additionally, there two Quonset structures, one houses a dining area and the other is used for storage and is located behind the restaurant and dining area. The proposed new construction applies only to the building housing the restaurant. When combined, the buildings have more than 30% lot coverage, which requires a conditional use permit per HCC 21.18.040(d) building area in excess of 30 percent of the lot area.

The requirement of the CUP allows for public review of the proposal and how it may be accommodated onsite. This particular site and some surrounding properties have created a “Homer” feel to the area for over eighty years and have inspired the recommendation found in the Comprehensive Plan to create an “Old Town” overlay zone. The site is already largely impervious and has maintained greenspace along lot lines, as the property was developed long before local development requirements were adopted. Allowing an area of over 30% lot coverage helps the applicant improve the quality of structures while continuing a relative high density and maintaining a pedestrian environment, as described in the Comprehensive Plan Appendix A under Central Business District and the future considerations for Downtown Mixed Use District. The existing site provides an example of most all of the design guidelines found in the Community Design Manual (CDM) as reviewed in the attached document.



Exterior facing Bunnell Avenue taken on 02.09.2023

Floor Area:

Inlet Trading post Building Floor Area (1st ground floor) with decks:	2825 square feet
Wild Honey Proposed building area:	1628 square feet
Deck, boardwalk, and patio area (approx.):	490 square feet

Total coverage: 4943 square feet

The proposed total lot coverage is approximately 43%.

Ownership

Per HCC 21.71.020(a)(9), *If the applicant is not the owner of the subject lot, the owner's signed authorization granting applicant the authority to (a) apply for the conditional use permit and (b) bind the owner to the terms of the conditional use permit, if granted.*

Parcel 17516052 is held in condominium ownership between the applicant and Inlet Trading Post LLC whose registered agent is Asia Freeman, who submitted a signed email in support of the application. Trading Post LLC is granting authority for the application with the signed letter of support. While the applicant is in ownership control of the proposed addition, the application is bound to the lot and requires the signatures of the lot owners in understanding of the terms and conditions of the grant of the CUP.

Condition 1:

Applicant to gain signature of Asia Freeman per requirement of granting a CUP per HCC 21.71.020(a)(9)(b).

Parking (see attachments for parking calculations)

Staff has calculated that eighteen parking spaces are required for the site. Only 10 onsite parking spaces are provided. Therefore eight parking spaces must be provided prior to the approval of a zoning permit. This can be accomplished through an off-site parking agreement with another land owner. The applicant has stated that they have an agreement with AJ's for use of their lot. There is some on street parking along Bunnell Ave with approximately 6 spaces directly in front of the gallery and restaurant, and more across the street. However these spaces are partially in the right of way so they don't meet the requirement for on-site spaces. Staff notes the spaces are outside of the road travel lanes. There is a concrete curb that defines the traveled right of way, and parked cars are typically clear of the actual roadway.

Condition 2:

Provide eight offsite parking stalls by documenting a parking agreement with a private land owner.



View of parking lot to the south taken on 02.09.2023

Landscaping

Due to the existing site design and small lot, there is not a lot of room for landscaping. The Main Street right of way has a boardwalk, attractive landscaping and seating. At the rear or north property line, the parking lot abuts the driveway and parking area for the neighbor cottages, and there are overhead power lines. Staff recommends leaving any decisions about landscaping to the property owners to meet requirements discussed in the 'screening' section below.



View of parking lot to the north on 02.09.2023

Screening Requirements

Any dumpster should be screened from view of the residential cottages at minimum on one side, by a fence or landscaping.

Condition 3: Screen dumpster on at least one side, from view of the cottages located to the north.

HCC 21.55.020 (a)(4)(f) states:

“f. An area used for commercial or industrial parking, loading or servicing shall be screened from view from any adjoining residential zoning district or lot used for residential purposes by a wall, fence or planting of adequate height to screen the parking, loading or servicing area.”

Staff notes there is a code requirement for screening commercial parking lots from adjoining residential uses. Although the condos were constructed well after this parking lot was created, this code requirement still applies. I believe that continuing the Sitka roses would work well, alternatively

a fence could also be deployed. Staff recommends the applicant have the flexibility to choose how they will screen the parking area in consideration of impact on the power line easement.

Condition 4: Screen the rear parking area along the north lot line per HCC 21.55.020 (a)(4)(f).

The criteria for granting a Conditional Use Permit is set forth in HCC 21.71.030, Review criteria, and establishes the following conditions:

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

Analysis: HCC 21.18.040(d) building area in excess of 30 percent of the lot area can be allowed with an approved conditional use permit.

HCC 21.18.020(a) authorizes retail business (Bunnell and the Fringe),

HCC 21.18.020(cc) authorizes a rooming house (Old Town Bed and Breakfast), and HCC 21.18.020(d) authorizes restaurants.

HCC 21.18.040(b)4, Building within the twenty foot building setback.

Finding 1: If approved by a Conditional Use Permit, more than 30% lot coverage and buildings within the twenty foot building setback area are allowed.

Finding 2: The improvements found in the twenty foot building setback may be approved with a conditional use permit per HCC 21.18.040(b)(4).

Condition 5: Obtain approval of structures in the setback prior to commencement of any building activities.

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

Applicant: The purpose of the CBD zoning district is for a centrally-located shopping and restaurant, among others, and the proposed addition is compatible with the purpose of the district

Purpose statement: The purpose of the Central Business District is primarily to provide a centrally located area within the City for general retail shopping, personal and professional services, educational institutions, entertainment establishments, restaurants and other business uses listed in this chapter. The district is meant to accommodate a mixture of residential and nonresidential uses with conflicts being resolved in favor of nonresidential uses. Pedestrian-friendly designs and amenities are encouraged.

Analysis: The purposes of the structures are well within the stated purpose of the district. The structures provide elements recommended in the comprehensive plan regarding the development types. The site provides connections and accommodations for pedestrians and a host of other recommendations found in the Community Design Manual. These elements will be provided with the current building area coverage which supports a desirable dense,

compact design in support of mixed-use as desired in this area as discussed in the 2018 Homer Comprehensive Plan.

Finding 3: The purpose of the Central Business District includes providing for general retail shopping, restaurants, and encourages pedestrian-friendly design and amenities. The proposed development is compatible with the purpose statement of the district.

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

Applicant: Proposed project will increase adjoining property values. The project replaces an unsightly and deteriorating structure with a new useful structure that will match the aesthetics of the surrounding buildings.

Analysis: Many uses in the Central Business District have greater negative impacts than would be realized from a total lot coverage over thirty percent. Mobile homes, auto repair, pipelines, and shelters for the homeless may have a greater impact on nearby property values. Assisted living, group care, religious, cultural and fraternal assembly could generate a good deal of traffic. The architectural and pedestrian qualities of this project will help maintain neighborhood character and maintain existing property values by reinvesting in the neighborhood and continuing a commonly visited restaurant. Lot coverage over 30% provides continued use of the well-established lots providing building to the lot line, pedestrian amenities, and parking to the rear as prescribed in the 2018 Comprehensive Plan and the Community Design Manual.

Finding 4: Lot coverage over thirty percent as proposed is not expected to negatively impact the adjoining properties greater than other permitted or conditional uses.

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

Applicant: Proposed use is the same as the current use.

Analysis: Surrounding uses of land include AJ's restaurant and bar to the west, residential cottages of the north, mixed use commercial/residential to the east, and an RV park, private residence and hotel across the street. The lot coverage is not exceptional to that of many of the neighbors. These developments may constitute nonconformities due to lot coverage and setbacks as they were developed prior to City regulations, but it has been recognizing through the citations of the comprehensive plan elements that these developments are a desirable for the area and not just something that should be eliminated. The site has included a restaurant for over twenty years, and the property has contained mixed uses at current density for decades. Allowing the continuance of the existing lot coverage is in-line with comprehensive plan goals for the area that encourages dense compact development.

Finding 5: Redevelopment of the existing restaurant with the proposed site plan and lot coverage is compatible with existing mixed uses of surrounding land.

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

Analysis: The site is served by municipal water, sewer, police and fire services, and two city maintained paved roads.

Finding 6: Existing roads, public water, sewer, police and fire services are adequate to serve the site.

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

Applicant: Use and traffic will remain consistent, but proposed building will better fit the design of adjoining buildings and be more attractive overall.

Purpose statement: The purpose of the Central Business District is primarily to provide a centrally located area within the City for general retail shopping, personal and professional services, educational institutions, entertainment establishments, restaurants and other business uses listed in this chapter. The district is meant to accommodate a mixture of residential and nonresidential uses with conflicts being resolved in favor of nonresidential uses. Pedestrian-friendly designs and amenities are encouraged.

Analysis: Desirable neighborhood character could be described by a portion of the Purpose statement for the district. The proposed project is centrally located within the City of Homer and continues the general retail and restaurant uses of the property. The proposed design aligns well with existing buildings and sustains the character promoted in the Comprehensive Plan. The coverage allows for compact, mixed-use development, high density development, and infill as supported in Goal 1 Objective D-3 of the 2018 Homer Comprehensive Plan.

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

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

Analysis: Public services such as paved streets, water, sewer, and public safety are adequate to serve the proposed use. Fire Marshal review of the project is required to gain a zoning permit for construction.

Finding 8: The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area and the city as a whole when all applicable standards are met as required by city code

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

Analysis: Gaining a CUP and subsequent zoning permit will require compliance with applicable regulations.

Finding 9: An approved CUP and zoning permit will ensure that the proposal will comply with applicable regulations and conditions specified in Title 21.

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

Applicant: Part of Goal One is to promote mix-use with moderate to high density, which the project accomplishes (as it better serves the current use). Goal Three encourages high quality structures and this project will increase the quality of the existing structures.

Analysis: Chapter 4 Goal 4 Objective A-2: Create an overlay zone of the “Old Town” section of the CBD, establishing general standards for building design and construction. Aim for future buildings to continue in the style of the older buildings in the area as well as the several more recently constructed buildings that follow these traditions. Goals of the Land Use Chapter of the Homer Comprehensive Plan include Chapter 4 Goal 3: Encourage high quality buildings and site design that complements Homer’s beautiful natural setting, and Goal 1 Objective D-3: Support planning and zoning regulations that promote land use strategies that include compact, mixed-use development, high density development, and infill.

The restaurant kitchen deck expansion supports the continued mixed use development on the site and maintains current density (Approximately 43% lot coverage). The expansion is proposed to continue the architectural style that matches the existing construction and is considered to have a lot of Homer character. All of these considerations are in keeping with the applicable goals and objectives of the Comprehensive Plan. An analysis of the applicable goals and objectives of the Comprehensive Plan are attached.

Finding 10: The proposal is not contrary to the applicable land use goals and objects of the Comprehensive Plan. The proposal aligns Goal 1 Objective D-3, Goal 3 and Goal 4 Objective A-2 and no evidence has been found that it is contrary to the applicable land use goals and objects of the Comprehensive Plan.

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

Analysis: The three sections of the CDM apply: Site Plan Review, Architecture and Site Design. The proposed project does not significantly change the existing site plan, architecture, or site design. The CDM review will be commiserate with the scale of the proposed improvements. A review of the CDM is attached.

Staff finds the project complies with the applicable provisions of the CDM in many existing aspects and the project will provide increased compliance listed below:

1. The new construction will match the existing architectural style, siding material and color for the Inlet Trading Post building. Matching this style will maintain visual compatibility between structures (see applicants supplemental response to question 2).

2. Conditions 3 and 4 to provide screening for the dumpster and parking lot.
3. Condition 6 for compliance with outdoor lighting requirements.

Finding 11: Project complies with the applicable provisions of the CDM.

Condition 6: Outdoor lighting must be down lit per HCC 21.59.030 and the CDM.

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

- 1. Special yards and spaces:** No specific conditions deemed necessary
- 2. Fences and walls:** No specific conditions deemed necessary
- 3. Surfacing of parking areas:** No specific conditions deemed necessary.
- 4. Street and road dedications and improvements:** No specific conditions deemed necessary.
- 5. Control of points of vehicular ingress and egress:** No specific conditions deemed necessary.
- 6. Special provisions on signs:** No specific conditions deemed necessary.
- 7. Landscaping:** No specific conditions deemed necessary.
- 8. Maintenance of the grounds, building, or structures:** No specific conditions deemed necessary.
- 9. Control of noise, vibration, odors or other similar nuisances:** No specific conditions deemed necessary.
- 10. Limitation of time for certain activities:** No specific conditions deemed necessary.
- 11. A time period within which the proposed use shall be developed:** No specific conditions deemed necessary.
- 12. A limit on total duration of use:** No specific conditions deemed necessary.
- 13. More stringent dimensional requirements,** such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.
- 14. Other conditions necessary** to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.

PUBLIC WORKS COMMENTS: No comments received.

FIRE DEPARTMENT COMMENTS: No comments received.

PUBLIC COMMENTS: None at time of staff report.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission approve CUP 23-01with findings 1-11 and conditions 1-6.

Attachments:

[2023-02-08 UPDATED Wild Honey Kitchen Addition CUP Supplement](#)

[Parking Calculations](#)

[Comprehensive Plan Review for CUP 23-01](#)

[CDM Review for CUP 23-01](#)

[Public Notice](#)

[Aerial Photograph](#)

Melody Livingston

Broad Point, LLC (d/b/a Wild Honey Bistro)
106 W Bunnell, Unit 2
Homer, AK 99603
Ph: (907) 942-5205
Email: eat@wildhoneybistro.com

February 8, 2023

ATTN: Planning Commission - City of Homer

RE: Cover Letter to CUP for 106 W Bunnell, Unit B

Dear City Planning Commission,

This letter accompanies and supplements the CUP submitted on February 8, 2023. The CUP was submitted for approval for the tear down of an existing, deteriorating structure and replacing with a new structure on the same footprint that will provide a dedicated food preparation space accessible from the currently-existing cafe.

Currently, the property is historically non-conforming in regard to lot coverage and the set back. The set back is not at issue under this CUP as no changes are proposed to the Bunnell side of the property and the setback will not be affected. Lot coverage also remains unchanged as the proposed demolition and construction simply replaces an existing building that is quickly deteriorating and will eventually become unusable in order to add kitchen prep space to the existing cafe. The lot coverage, and overall square footage for Wild Honey and the property overall, does not change under this proposal.

As noted, granting the CUP is justified as the non-conforming elements are either unaffected or remain unchanged by the proposed work and the work proposed constitutes a direct improvement to the property and will be positive for the neighborhood as it upgrades the long-term viability of the property and the aesthetics of the property for the surrounding neighbors. In short, the status quo is maintained as to the non-conforming elements and significant improvements will be made under the proposal.

- Question 1 - The property is currently a commercial condo with two units:
 - Unit 2 (16% ownership, by internal square footage) is owned by the CUP applicant, is used as a restaurant (Wild Honey Bistro), and consists of three structures - the cafe space, which is attached to but not accessible from the Bunnell building; a smaller quonset hut that sits to the West of the cafe and is used as a seating annex; and a larger quonset hut in the rear used for general storage.

- Unit 1 (84% ownership, by internal square footage) consists of a single structure housing the Bunnell Arts Center (art gallery), Old Town Bed & Breakfast (short-term rental space), and The Fringe (clothing retail).

The lot is 0.26 acres (11, 441 sq. ft.). Lot coverage is estimated to be just under 36%. This is estimate was calculated by taking the outside dimensions of the Bunnell Arts Center building (~67 ft. x 37 ft = 2442 sq. ft.) and outside dimensions of the space covered by the three structures constituting Unit 2 (~37 ft. x 44 ft = 1628 sq. ft.) and dividing the combined total square footage (2,442 sq. ft. + 1,628 sq. ft. = 4,070 sq. ft.) against the lot size (4,070 sq. ft. ÷ 11,441 sq. ft. = 35.58%).

- Question 2 - Use of the property will not change and Unit 2 will continue to be used as a dine-in/carry-out restaurant. The rear quonset hut will be partially demolished in order to allow for construction of a prep kitchen, which will be connected to the rear of the existing, original cafe structure. No other changes will be made to the other structures or to the front (Bunnell Avenue) side of the property.

The planned demo and new building will replace the old, deteriorating quonset hut structure with a useful space that will better allow Wild Honey to service its current customers. The new structure will also be sided and painted to match the main Bunnell building and the Bunnell Avenue side of the existing cafe. This will be much more visually pleasing than current.

- CUP Review Criteria (f) & Parking Questions - The CUP does not reduce the currently-available parking, nor does it seek or require an expansion of available parking.

Wild Honey Bistro has inside seating available for up to 24 customers (4 two-top tables in the main cafe, and 8 two-top tables in the small quonset annex) and overflow seating on the outside deck for 8 (two four-top tables) that is available in the summer, weather permitting. The proposed construction does not add or reduce total seating.

Current parking is available in the front (approximately 20 spaces, counting both side of Bunnell) and rear (10 spots) of the cafe, and Wild Honey has an agreement with the owner of AJ's Steakhouse for use of their parking lot in the mornings and afternoons, prior to AJ's opening at 5:00PM. None of this parking will be affected by the proposed changes.

The existing cafe has a very small kitchen space which limits how quickly customer orders can be fulfilled. During the summer season, wait times get excessively long due to the limited capacity of the current kitchen space (getting up to over an hour during the height of the season). Additionally, prep during the summer season has to happen outside of normal work hours as the kitchen is not able to

simultaneously handle prep work and servicing customer orders when the cafe is busy.

Converting a portion of the back quonset hut to kitchen prep space will help reduce wait times and allow prep work to be done at the same time that customer orders are being completed. The new prep space also will allow onsite preparation of all bakery products, the majority of which are currently being prepared in a cottage kitchen offsite.

Due to reduced wait times, approval of the CUP may actually result in lower parking competition as customers will be less likely to build up on the site while they wait to be served. This will be particularly impactful during summer months where parking competition is highest. As noted above and elsewhere in the application, the CUP simply seeks to add a prep space to the existing Wild Honey cafe structure. The renovation will not add any additional seating and overall square footage will stay the same.

The addition of a dedicated prep space will allow better service of the existing customer base as noted above, but will also provide a better working environment for Wild Honey's employees. Wild Honey employees will benefit as the new space will allow prep work to be done during regular business hours, rather than on days that the cafe would otherwise be closed or evening hours.

In addition to the responses above, please note that we will be working with the Fire Marshall and Alaska DEC to ensure that the kitchen expansion meets fire and food service requirements and that we are in compliance with all required permits and approvals.

If there is additional information that will assist with making a determination, please let us know and we will be happy to provide.

Sincerely,

A handwritten signature in black ink, appearing to read 'ML', with a long horizontal flourish extending to the right.

Melody Livingston, Owner/Operator

Wild Honey Bistro (Homer, AK)

Asia Freeman
Michael Walsh
106 W Bunnell Ave, Unit 1
Homer, AK 99603
asia@bunnellarts.org
slideruleblues@gmail.com

February 7, 2023

Melody Livingston

Broad Point, LLC (d/b/a Wild Honey Bistro)
106 W Bunnell Ave, Unit 2
Homer, AK 99603
Ph: (907) 942-5205
Email: eat@wildhoneybistro.com

RE: Support for February 2023 CUP Application Submitted by
Melody Livingston for 106 W Bunnell Ave, Unit 2

Dear Melody,

Michael and I are pleased to support your CUP application which works within the existing footprint and sightlines of the historic Inlet Trading Post.

We appreciate that your plan, including the drawing and description, shows that you will remove a dilapidated storage structure behind the existing cafe and replace it with an attractive and functional kitchen space that will be sided and painted to match the Trading Post. We like that your plan overall does not change the building's historic silhouette.

We appreciate your plan for structural and functional improvement of the building within Wild Honey Bistro's existing footprint as a cafe.

Thank you for your thoughtfulness in this design and your patience with this process of working towards both historic preservation of a Homer landmark, and improved functionality for your wonderful cafe.

Sincerely,

Asia Freeman

Asia Freeman
Owner, 106 W Bunnell Ave, Unit 1



Michael Walsh
Owner, 106 W Bunnell Ave, Unit 1



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

Applicant	
Name: <u>Melody Livingston</u>	Phone No.: <u>(907) 942-5205</u>
Address: <u>51789 East End RD</u>	Email: <u>melodyliving@yahoo.com</u>
Property Owner (if different than the applicant):	
Name: <u>(same as applicant)</u>	Phone No.: _____
Address: _____	Email: _____
PROPERTY INFORMATION:	
Address: <u>106 W Bunnell Ave, Unit B</u>	Lot Size: <u>0.26</u> acres KP Tax ID # <u>17516052</u>
Legal Description of Property: <u>T65 R13W, Chamberline & Watson N.4 Lot 1-A</u>	
<i>For staff use:</i>	
Date: _____	Fee submittal: Amount _____
Received by: _____	Date application accepted as complete _____
Planning Commission Public Hearing Date: _____	

Conditional Use Permit Application Requirements:

1. Site Plan - drawn to a scale of not less than 1" = 20' which shows existing and proposed structures, clearing, fill, vegetation and drainage
2. Right of Way Access Plan
3. Parking Plan
4. A map showing neighboring lots and a narrative description of the existing uses of all neighboring lots. (Planning staff can provide a blank map.)
5. This completed application form
6. Payment of application fee (nonrefundable)
7. Any other information required by Code or staff to review your project

Circle Your Zoning District

	RR	UR	RO	<u>CBD</u>	TCD	GBD	GC1	GC2	MC	MI	EEMU	BCWPD
Level 1 Site Plan	x	x	x			x			x			x
Level 1 ROW Access Plan	x	x							x			
Level 1 Site Development Standards	x	x										
Level 1 Lighting			x	x	x	x	x	x	x	x	x	
Level 2 Site Plan			x	x	x		x	x		x	x	
Level 2 ROW Access Plan			x	x	x		x	x		x	x	
Level 2 Site Development Standards			x*	x	x	x	x	x			x	
Level 3 Site Development Standards									x	x		
Level 3 ROW Access Plan						x						
DAP/SWP questionnaire				x	x	x	x	x			x	

Circle applicable additional permits. Planning staff can assist with these questions.

- Y N Are you building or remodeling a commercial structure, or multifamily building with more than three (3) apartments? If yes, Fire Marshal Certification is required.
Status: _____
- Y N Will development trigger a Development Activity Plan?
Application Status: _____
- Y N Will development trigger a Storm Water Plan?
Application Status: _____
- Y N Does the site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required. Application Status: _____
- Y N Is development in a floodplain? If yes, a Flood Development Permit is required.
- Y N Does the project trigger a Community Design Manual review?
If yes, complete the design review application form. The Community Design Manual is online at: <https://www.cityofhomer-ak.gov/planning/community-design-manual>
- Y N Do the project require a traffic impact analysis?
- Y N Are there any nonconforming uses or structures on the property?
- Y N Have nonconforming uses or structures on the property been formally accepted by the Homer Advisory Planning Commission?
- Y N Does the site have a State or City driveway permit? Status: Active
- Y N Does the site have active City water and sewer permits? Status: Active

Conditional Use Permit Application Questions. Use additional sheets if necessary.

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

See cover letter for response.

2. What is the proposed use of the property? How do you intend to develop the property? Attach additional sheet if needed. Provide as much information as possible.

See cover letter for response.

Conditional Use Permit Review Criteria Information. Use additional sheets if necessary. Per HCC 21.71.030 Review Criteria, the applicant must produce evidence sufficient to enable meaningful review of the application. Unless exceptions or other criteria are stated elsewhere in the Code, the application will be reviewed under these criteria:

- a. What code citation authorizes each proposed use and structure by conditional use permit?

21.18.040(d) - greater than 30 percent lot coverage on approval of CUP

21.18.020(d) - permitted use of restaurant; 21.18.030(a) - conditional use for planned unit developments;

21.18.030(h) - conditional use allowing more than one building containing a permitted principal use on lot

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

The purpose of the CBD zoning district is for a centrally-located shopping and restaurant, among others, and the proposed addition is compatible with the purpose of the zoning district and the current use of the property.

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

Proposed project will increase adjoining property values. The project replaces an unsightly and deteriorating structure with a new, useful structure that will match the aesthetics of the surrounding buildings.

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

Propose use is the same as the current use.

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

Yes.

- f. How will the development affect the harmony in scale, bulk, coverage and density upon the desirable neighborhood character, and will the generation of traffic and the capacity of surrounding streets and roads be negatively affected?

Use an traffic will remain consistent with current use. The proposal is designed to allow better service relating to the current use and traffic levels. The project will enhance the current use, may help relieve congestion during peak periods of parking competition (see cover letter for additional details on this point), will better fit the design of adjoining building, and be more attractive overall.

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

No.

h. How does your project relate to the goals of the Comprehensive Plan? Find the Comprehensive Plan on the City's website:

www.cityofhomer-ak.gov/planning/comprehensive-plan

Part of Goal One is to promote mix-use with moderate to high density, which the project accomplishes (as it better serves the current use).

Goal Three encourages high quality structures and this project will increase the quality of the existing structures.

i. The Planning Commission may require special improvements. Are any of the following a component of the development plan, or are there suggestions on special improvements you would be willing to make? **Circle each answer and provide clarification on additional pages if Yes is selected.**

- 1. Y/N Special yards and spaces
- 2. Y/N Fences, walls and screening
- 3. Y/N Surfacing of parking areas
- 4. Y/N Street and road dedications and improvements (or bonds)
- 5. Y/N Control of points of vehicular ingress and egress
- 6. Y/N Special provisions on signs
- 7. Y/N Landscaping
- 8. Y/N Maintenance of the grounds, buildings, or structures
- 9. Y/N Control of noise, vibration, odors, lighting, heat, glare, water and solid waste pollution, dangerous materials, material and equipment storage, or other similar nuisances
- 10. Y/N Time for certain activities
- 11. Y/N A time period within which the proposed use shall be developed
- 12. Y/N A limit on total duration of use
- 13. Y/N Special dimensional requirements such as lot area, setbacks, building height
- 14. Y/N Other conditions deemed necessary to protect the interest of the community

Parking Questions.

1. How many parking spaces are required for your development? No additional parking required

If more than 24 spaces are required see HCC 21.50.030(f)(1)(b)

2. How many spaces are shown on your parking plan? see cover letter

3. Are you requesting any reductions? No

I hereby certify that the above statements and other information submitted are true and accurate to the best of my knowledge, and that I, as applicant, have the following legal interest in the property:

CIRCLE ONE:


Owner of record

Lessee

Contract purchaser

Per HCC 21.71.020(a)(9), if the applicant is not the owner of the subject lot, the owner's signed authorization grants the applicant authority to:

- (a) apply for the conditional use permit, and
- (b) bind the owner to the terms of the conditional use permit, if granted.

Applicant signature:  Date: 2/8/23

Property Owner signature:  Date: 2/8/23

Map title goes here.



0.0 Miles

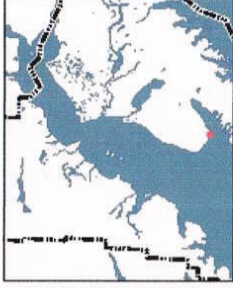
0 0.02

Coordinate System: NAD_1983_StatePlane_Alaska_4_FIPS_5004_Feet

67

This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. Do not use for navigation.

DATE PRINTED: 8/26/2020



Legend

- Mileposts
- City Limits
- Highways
- Major Roads
- Roads
- Town Medium Volume
- Town Low/Seasonal; Other
- Proposed
- Parcels

Notes

Enter map notes here.

Wild Honey Kitchen Remodel



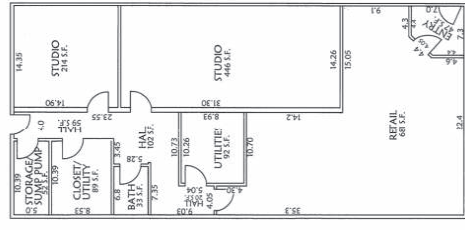
Scale (approximate)
1" = 40' - 0"

area for demo &
replacement

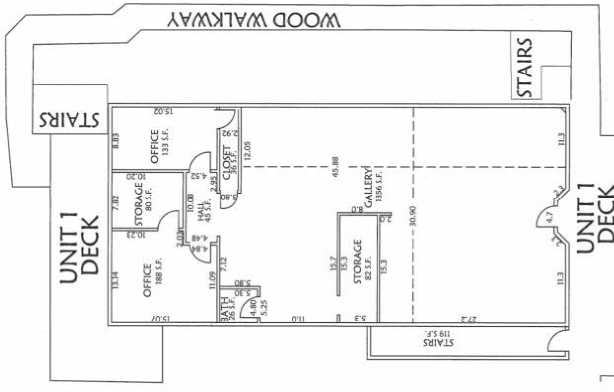
Site Plan

INLET TRADING POST UNIT 1

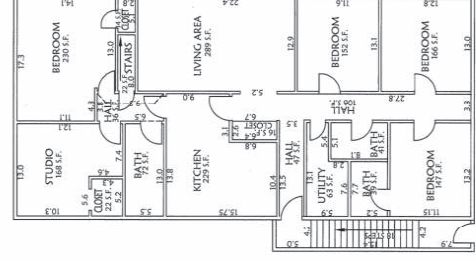
UNIT 1 INTERIOR
BASEMENT 1815 SQ.FT.
FIRST FLOOR 2065 SQ. FT.
SECOND FLOOR 1858 SQ. FT.
TOTAL 5738 SQ. FT.



BASEMENT
DECLARANT RESERVES RIGHT TO ESTABLISH AS A SEPARATE UNIT.



GROUND FLOOR
DECLARANT RESERVES RIGHT TO ESTABLISH AS A SEPARATE UNIT.



SECOND FLOOR
DECLARANT RESERVES RIGHT TO ESTABLISH AS A SEPARATE UNIT.



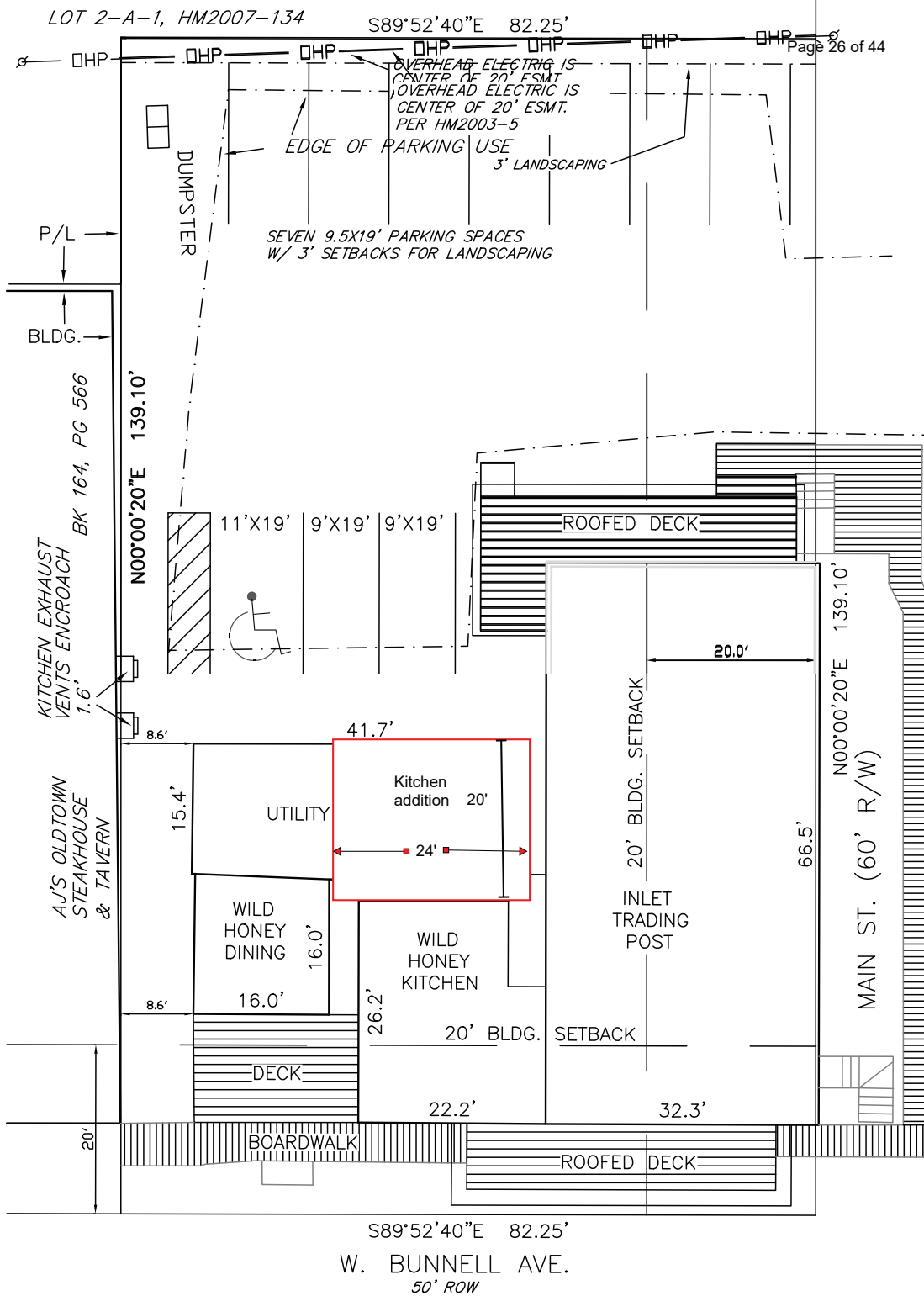
SCALE 1" = 10'

NOTE: 1. ALL AREAS SHOWN ARE NET INTERIOR.
AREAS DO NOT INCLUDE SPACE OCCUPIED BY INTERIOR WALLS

INLET TRADING POST
AS-BUILT DRAWING
LOT 1A CHAMBERLAIN AND WATSON NO. 4
RECORDED AS PLAT NO. 2003-005 H.R.D
LOCATED IN THE SW 1/4 SEC. 19, T. 65., R. 13W.,
3/4M. WITHIN THE CITY OF HOMER
KENAI PENINSULA BOROUGH, THIRD JUDICIAL
DISTRICT, STATE OF ALASKA (H.R.D.)
CONTAINING 0.26 ACRES MORE OR LESS

SEABRIGHT SURVEY & DESIGN
1044 EAST ROAD, SUITE A
HOMER ALASKA 99603
(907) 235-4247
EMAIL: seabrightz@gmail.com

DRAWN BY: KB DATE: 1-2011 SCALE: 1" = 10'
CHK BY: KB JOB #10-05 SHEET 2 OF 4



JOB No.	5225
DATE	08/26/2020
SCALE	1" = 15'
ADDRESS:	106 W. BUNNELL AVE
DRAWING	5225_5138_5169
TAX PARCEL	17516052
PLAT No.	2011-2
SECTION	SE-1/4, 19
TOWNSHIP	6S
RANGE	130E QAH

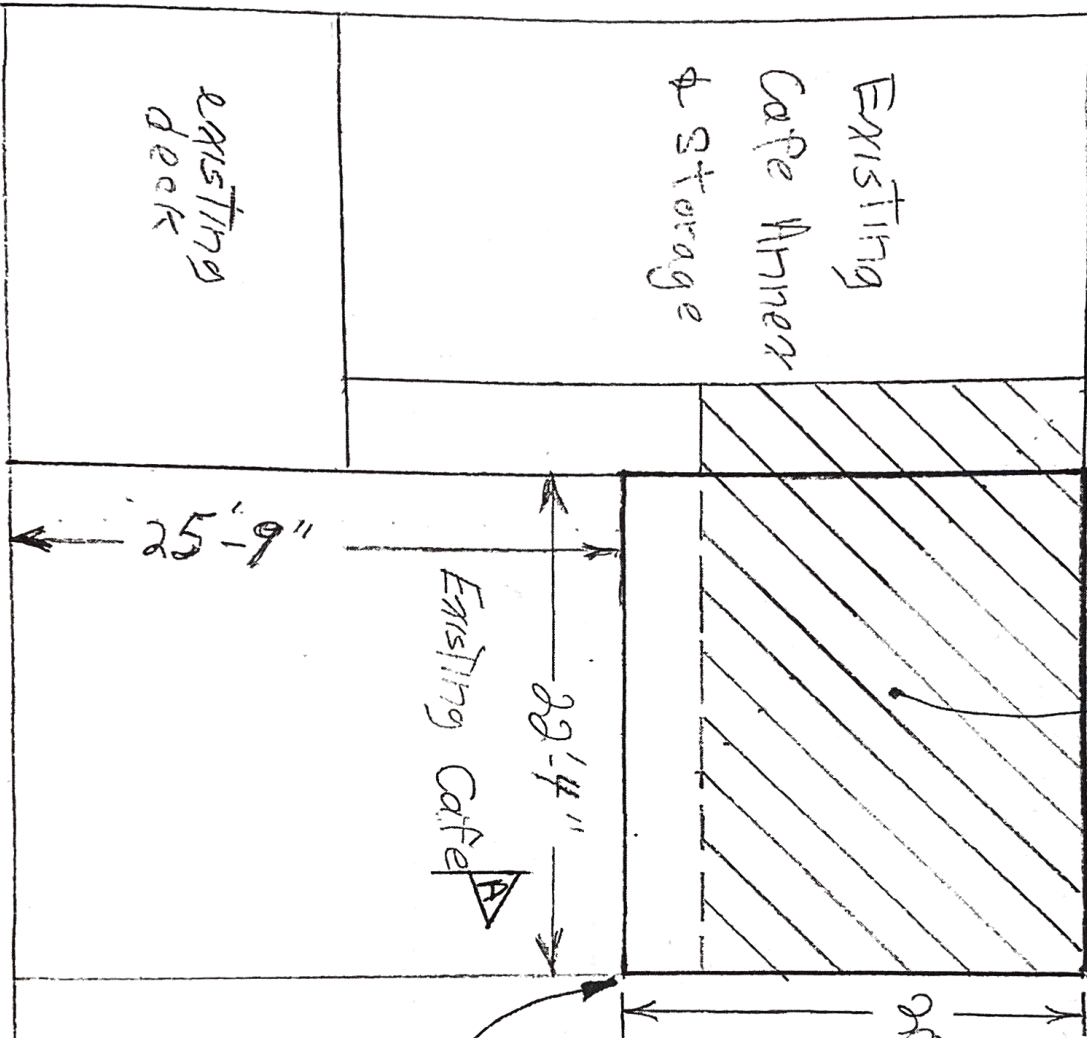
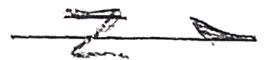
AS-BUILT EXHIBIT
 LOT 1-A CHAMBERLAIN & WATSON NO.4
 WITHIN SE1/4 SEC 19, T 6S, R 13W (S.M.)
 IN THE CITY OF HOMER
 HOMER RECORDING DISTRICT

ABILITY SURVEYS

REGISTERED LAND SURVEYORS
 (907) 235-8440
 152 DEHEL AVE., HOMER, ALASKA 99603

Plan View

Current Storage

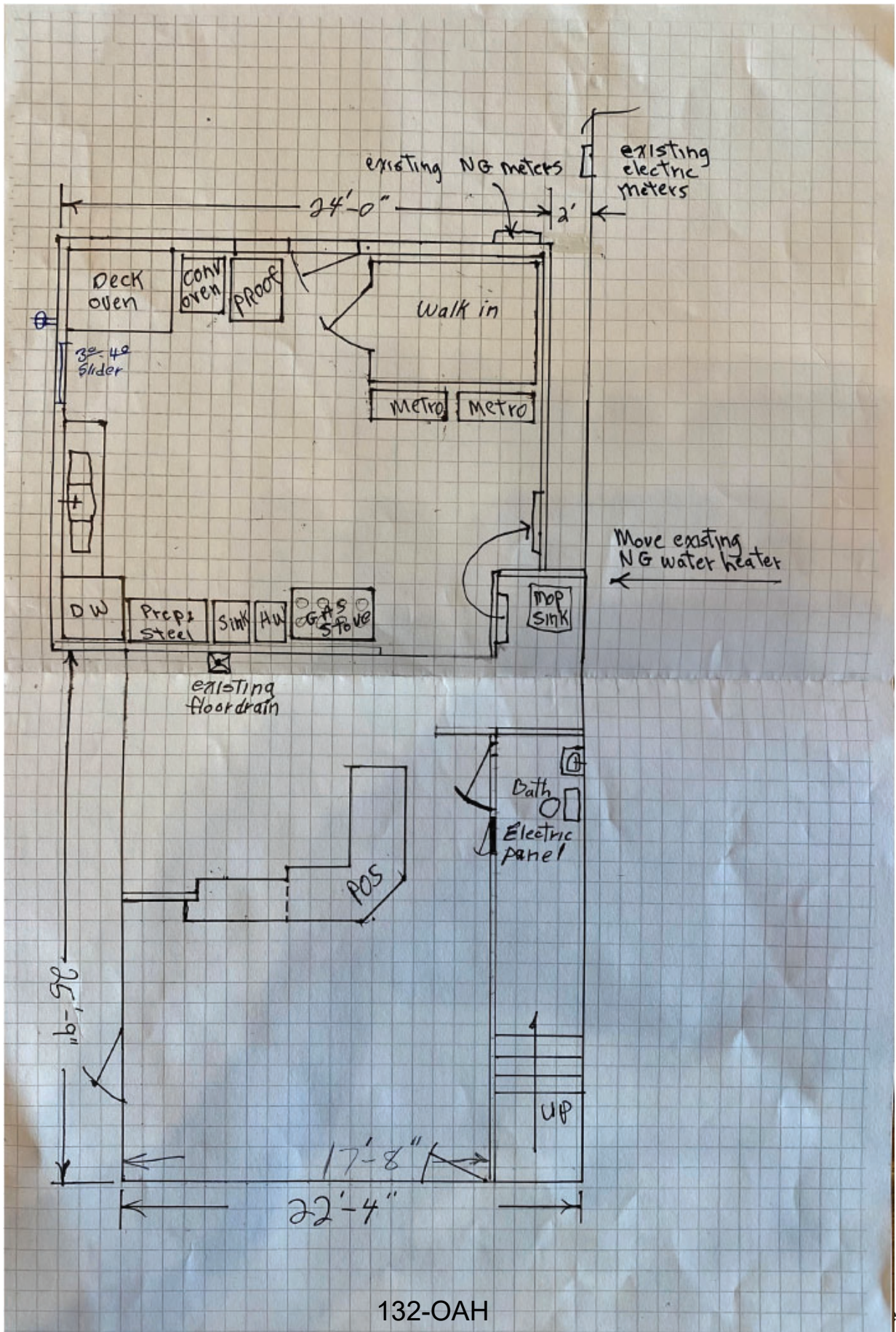


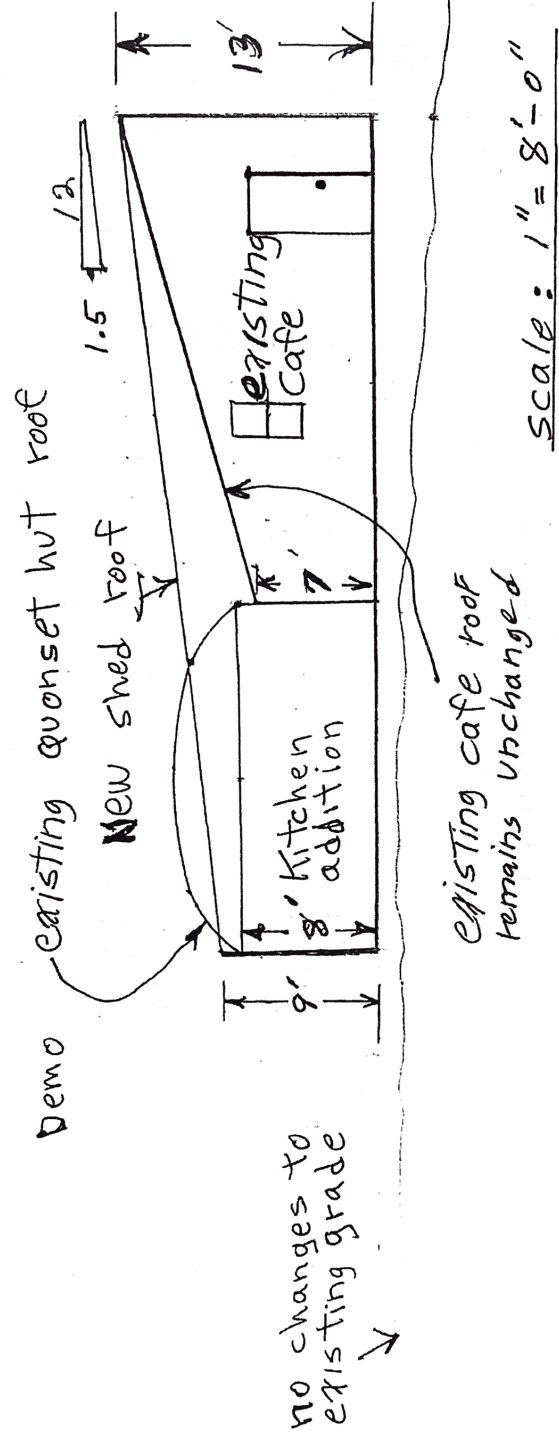
Bunnell Pitt Center
(existing)

Wild Honey
Prep Kitchen addition
22'-4" X 22'-0"

Scale: 1/8" = 1'-0"

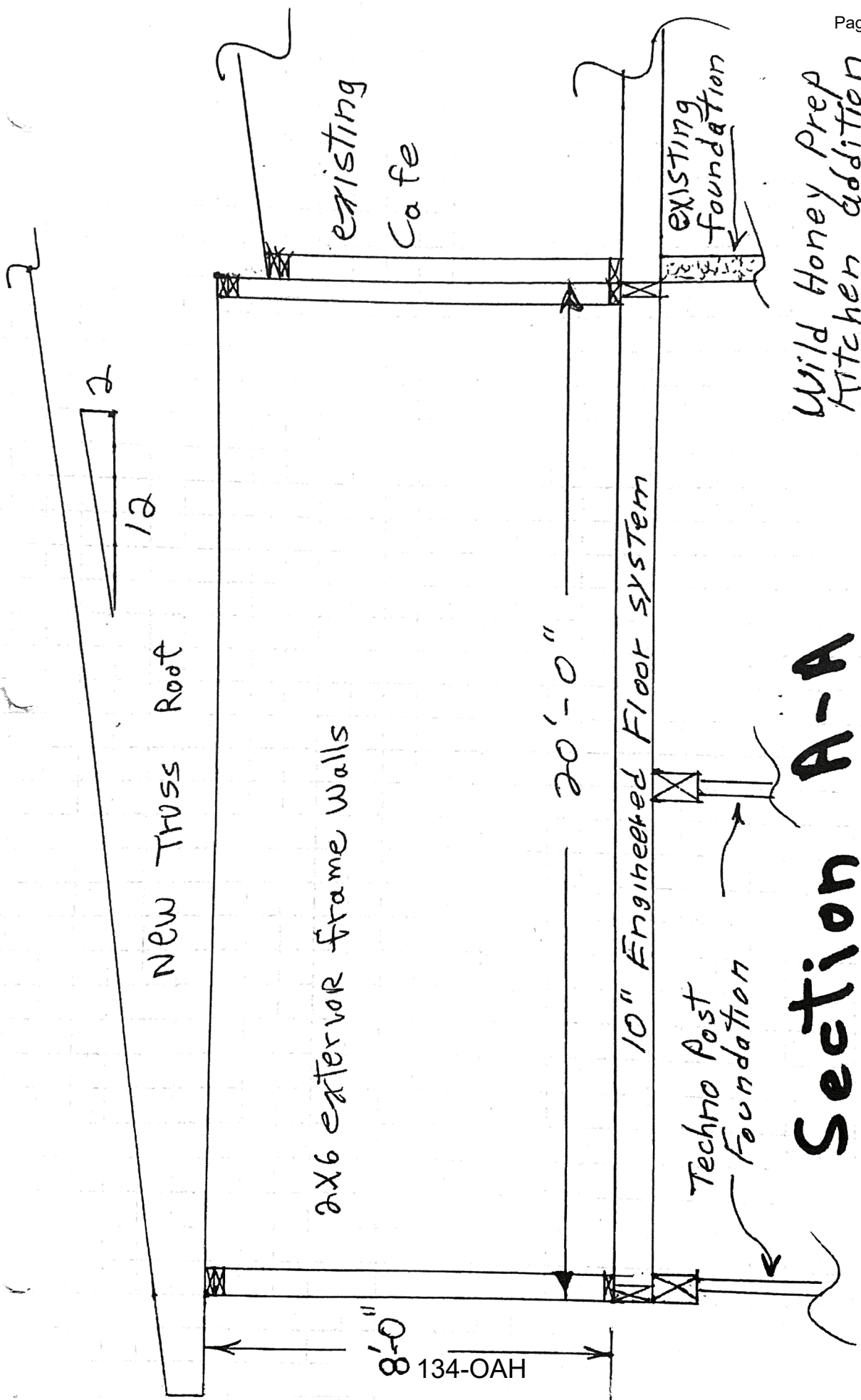
2





West Elevation

Drawn 1-16-23



Wild Honey Prep
Kitchen addition

Section A-A

Scale: 3/8" = 1'-0"

Wild Honey and Bunnell parking calculations 2/24/23 RA

Wild Honey:

24 interior restaurant seats: 1 space per 3 seats = 8 parking spaces

10 exterior seats: 1 space per 10 seats = 1 parking space

Total: 9 spaces

Old Trading Post/Bunnell Building

~calculations based on excluding mechanical, storage and utility spaces, data from condo drawings

Basement has 1,341 of habitable space

Ground floor has 1,677 square feet

1,341 + 1,677 = 3018 square feet. At 1 space per 300 square feet, this equates to **10.06 spaces**

Second Floor BnB

2 spaces (assigned studio use as a dwelling unit) plus one per two guest rooms, of which there are four.

Total: 4 spaces required

Total spaces required

HCC 21.55.090 (c) allows for a reduction in parking as follows: "If more than one use is present on a lot, the number of required off-street parking spaces shall be equal to 75 percent of the sum of the number of required off-street parking spaces for each use computed separately, unless the Commission approves a lesser number."

9 (wild honey) + 10.06 (ground and first floor) + 4 (second floor) = 21.06 spaces x .75% parking reduction for multiple uses= 17.295 spaces, or 18 spaces total required for the site with current uses

Review of comprehensive plan Land Use Chapter for CUP 23—01 **RA 3.1.23**

GOAL 1: Guiding Homer’s growth with a focus on increasing the supply and diversity of housing, protect community character, encouraging infill, and helping minimize global impacts of public facilities including limiting greenhouse gas emissions.

Objective A: Promote a pattern of growth characterized by a concentrated mixed-use center, and a surrounding ring of moderate-to-high density residential and mixed-use areas with lower densities in outlying areas.

Staff: This project supports the concentrated mixed-use center (of town).

Objective B: Develop clear and well-defined land use regulations and update the zoning map in support of the desired pattern of growth.

N/A – not associated with update of zoning map.

Objective C: Maintain high quality residential neighborhoods; promote housing choice by supporting a variety of dwelling options.

N/A – not in a residential zone

GOAL 2: Maintain the quality of Homer’s natural environment and scenic beauty.

Objective A: Complete and maintain a detailed “green infrastructure” map for the City of Homer and environs that presents an integrated functional system of environmental features on lands in both public and private ownership and use green infrastructure concepts in the review and approval of development projects.

N/A – not associated with mapping

Objective B: Continue to review and refine development standards and require development practices that protect environmental functions.

N/A – not associated with creation of development standards

Objective C: Provide extra protection for areas with highest environmental value or development constraints.

N/A – Already developed area, no change in impact proposed

Objective D: Collaborate with jurisdictions outside the City of Homer, as well as state and federal agencies, to ensure that environmental quality is maintained.

N/A – not associated with other jurisdictions

GOAL 3: Encourage high-quality buildings and site development that complement Homer’s beautiful natural setting.

Objective A: Create a clear, coordinated regulatory framework that guides development.

Staff: Goal 3, objective A implementation items are all directives to review and consider new policies and are not applicable to directly to CUP’s.

Objective B: Encourage high quality site design and buildings.

Staff: The proposal increases the quality of building by replacement of poor quality structure with a new addition that is required to gain approval of the State Fire Marshall.

GOAL 4: Support the development of a variety of well-defined commercial/business districts for a range of commercial purposes.

Objective A: Encourage a concentrated, pedestrian oriented, attractive business/commerce district in the Central Business District (CBD) following the guidelines found in the Town Center Development Plan.

Staff: The proposal provides updates of a lot that provide an example of the objectives listed in objective A and the Community Design Manual.

Objective B: Discourage strip development along the Sterling Highway and major collectors/thoroughfares.

Staff: This represents the support for infill in the existing CBD and the proposal is not located on a major collector.

Finding:

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

The Community Design Manual (CDM) was adopted by resolution in April 2004, amended in January 2009 and 2021. The CDM is divided into sections: architecture, site design, and outdoor lighting. The architecture, site design, and outdoor lighting sections are applicable to conditional uses within the central business district.

This Design Review Manual represents a statement of policies which shall be observed for building and site design in the City of Homer. The Commission is authorized to waive specific Design Manual requirements if it finds that (a) an alternative design represents an equivalent or superior design solution to what would otherwise be achieved by rigidly applying specific requirements, or (b) the alternative design meets the intent of the general requirement, or (c) reasonably meets the intent of the CMD when considering the constraints of the building site, building use, or excessive material costs.

Staff: In this instance, we find a ‘model’ existing development that espouses most of the elements of the Community Design Manual and forms the basis for reproduction of its elements, as explained in the CUP staff report regarding the concept of an “Old Town Overlay” District referenced in the 2018 Homer Comprehensive Plan.

The Applicant is making a change to a small percentage of the site that, in itself, constitutes a greater compliance with the CDM. The proposal is minimal and introduces an improvement to the rear of the property. The measures applied to the site should be in consideration of the constraints of the site and in relation to the extent of the proposed improvements. In this case, a few minor changes will provide a benefit within reason of the scale of the proposal, while a great deal of compliance with the manual is existing. The addition does not add any new requirements for parking or introduce addition to the footprint.

***Architecture Review
(Begins on page 1-1)***

The building and its setting: Buildings shall be designed to reflect the natural conditions of the site and shall include design elements, which visually anchor the building to the site.

1. Incorporate building design elements into landscaped areas.
2. Respect natural topography.

Staff: No change to the existing natural conditions are proposed. The site began development in 1937.

Hierarchy in building design: Visual interest in the urban-scape can be achieved through a hierarchal approach to design. For example, strategically located structures, architectural elements or site amenities designed as focal points create a visual “draw” and suggest a point of activity. These also serve as a reference point for all subordinate structures. This concept is particularly applicable to large parcels with multiple structures. Multiple carbon copy buildings provide no visual hub and shall be avoided.

1. Design primary structure as a focal point.

2. *Include area for outdoor leisure for Primary Structure.*
3. *Incorporate multiple tenant spaces into hierarchy of building design.*
4. *Provide common architectural treatment.*
5. *Integrate secondary structures as support buildings.*

Staff: The applicant is proposing additional compliance with building design, as the expansion is to be treated with a uniform architectural treatment that exists on the main structures. The existing structures form adequate hierarchy, including outdoor areas.

Prominent Facades: Prominent Facades: Prominent facades include all building facades visible from waterways, arterials, and activity centers, and also facades, which face the road(s) providing primary access to the building site. Prominent facades may not be sterile wall planes void of architectural interest. They shall be detailed with added relief, shadow lines, and visual depth unless screened with landscaping.

Provide consistent architectural interest to all prominent facades.

- a. Prominent facades shall not be blank walls.
- b. Prominent facades shall reflect the same design and detailing which typify the building's front including roof design, window proportion, facade variation, and building materials.
- c. Prominent facades may not be concealed behind high walls or privacy fences. Lower fences and walls not exceeding 3 feet in height are acceptable.

Staff: Prominent facades are not part of the proposal and existing facades fit well into requirements.

Building Scale and Mass

Avoid long, low wall planes. Prominent facades shall have no wall plane wider than 2.5 times the height of the wall plane.

Staff: Existing facades meets requirements.

Provide substantial shifts in walls and roof surfaces. Wall and roof surfaces shall be broken down into smaller planes using substantial shifts in building footprints that result in substantial shift by limiting roof areas in the same plane and provide horizontal and vertical shifts.

Staff: Significant shifts in wall and roof surfaces exist.

Provide visual terminus to tops of buildings. In order to avoid a truncated look at the top of the building, all structures shall have a visual "cap". This may include either a pitched roof or a flat roof. Pitched roofs shall have the appearance of true hips and gables with a defined ridge where opposing roof planes meet. Avoid unusual or atypical roof forms on all structures.

Staff: Visual terminus is provided.

Window and Door Fenestration:

1. Maintain balance in the placement of windows.
2. Conform to solid/void ratio requirements on prominent façade wall planes.
3. Reflective glass is discouraged.

Staff: Existing windows and doors provide a good balance and interest.

Siding and Trim: Traditional building materials such as brick, stone or wood reflect human handicraft and provide texture to building exteriors. Materials for new construction and remodeling should convey similar visual qualities. Use materials which simulate quality traditional building materials

Staff: Siding and trim presented to street fronts are appropriate features. The addition is to continue in the style and color of the existing structures.

Color:

1. Keep field colors subdued.
2. Limit bold or bright trim colors.
3. Finer details may be accented with brighter colors.

Staff: Existing color is appropriate and shall be continued on the expansion.

Roofing materials: Views of roofs from the ground and from higher elevations play an important role in the architecture of the city. Roofing materials shall be selected according to following criteria.

1. Use roof materials which provide texture and shadow lines.
2. Avoid bright-colored, reflective, or unsightly roofing materials.

Staff: Roofing material are not apparent from the street fronts.

Building Lighting: Building Lighting: Lighting may be used to accent a building but shall not be used to denote a corporate or commercial image except on allowed signage. Lighting may be directed to a building but should generally not emanate from a building.

1. Avoid back lit panels and awnings.
2. Keep light sources hidden from public view.
3. Avoid bright lighting on outdoor surfaces of buildings.
4. Avoid colored lighting on buildings.
5. Apply utility lighting sparingly.
6. Lighted accents, canopies, color bars, stripes, or areas. (used sparingly)

Staff: Lighting is appropriate and any new lighting shall conform to code and the CDM per condition of CUP.

Miscellaneous Architectural Devices: Building design should be executed in a straightforward manner. Tack-on devices may not be used to mitigate poor design or to promote a particular theme. If a particular style or theme is desired, it should be reflected in the building's form and general detailing. Page 37 of 44

1. Architecturally integrated artwork is encouraged.
2. Avoid architectural gimmicks and fads.
3. Maintain consistency in awning design.
4. Avoid awnings which obscure or dominate the building design.

Staff: Architectural is integrated and the rest of the buildings in the area are encouraged to emulate the style.

Parking Garages:

1. Recess vehicle entrances in the main façade.
2. Screen parking garage facade

Staff: N/A

Site Design Review (begins page 2-1):

On-Site Walkways:

1. Link commercial buildings and the public right-of-ways with primary walkways.
2. Assure that primary walkway width is proportionate to scale of project.
3. Differentiate walkway surface.
4. Accent walkways with significant landscaping.
5. Accent walkways with lighting and seating areas.

Staff: The current walkway provides elements listed above.

Outdoor Common Areas: A common area is a designed outdoor space which encourages outdoor activities and leisure in outdoor spaces associated with commercial development. Required common spaces must be provided on-site, but may be enlarged and extended into city rights-of-way to connect with the sidewalk, subject to City of Homer approval.

1. Provide common area of a size proportionate to development
2. Choose type of common area best suited to development
3. Locate common areas in view corridors.
4. Provide direct access to common areas with pedestrian walkways

Staff: Existing outdoor common areas provide a good example of the qualities desired by the CDM.

1. Locate structure near front setback line
2. Orient service and delivery areas away from street
3. Use landscaping to screen parking lots and service areas
4. Link dissimilar building with common site amenities.
5. Provide covering over walkways where appropriate.
6. Place no more than 50% of required parking in front of buildings
7. Avoid parking in front of building entrance

Staff: The existing site design reasonably provides elements supported above. The parking lot does offer some screening form the street and the Condition in the CUP addresses screening design left to the applicant to meet the intent of the code. Site constraints exist, as the area needed to support a buffer is part of utility line easement and landscaping needs to be tempered to not interfere with power lines or access to them.



Old picture approx. 10-12yrs old(?) – for representative purposes – private drive in foreground

Landscaping and screening

1. Utilize non-invasive attractive plants to achieve landscaping and screening, preserve or create tree canopy, and provide ecosystem services such as water retention and filtration. Concepts such as rain gardens and other Low Impact Development concepts are encouraged.
2. Choose plantings which are compatible with existing vegetation.
3. Locate vegetation to preserve significant views
4. Provide adequate room for retained vegetation.
5. Replace lost trees which were intended to be retained.
6. Retain the natural symmetry of trees.
7. Use shrubs or vines on blank walls.
8. Outside storage of materials and equipment and trash, if otherwise allowed, should be screened from view from adjacent streets and residential areas.
9. Enclosed storage of materials, equipment and trash is encouraged.
10. Elements such as, but not limited to; HVAC units, telephone boxes, fuel tanks and electrical transformers, shall be integrated into the site design through the use of landscaping, berms or fences and should be as unobtrusive as possible.

Staff: The site does retain areas of vegetation and those are not proposed to change. The CUP supports conditions to screen parking area and dumpster from view. This provides reasonable compliance with landscaping and screening in relation to site constraints and existing compliance that includes plantings and flower boxes in front of the structures as well as green areas along lot lines.

Fences

1. Choose fence materials carefully.
2. Limit chain link to non-visible areas.
3. Limit height of fences

Staff: If the applicant chooses to employ a fence it is to meet the intent of the design manual.

Outdoor Lighting

1. Avoid lighting large area with a single source.
2. Avoid excessive light throw.
3. Keep light source hidden from public view
4. Use downward directional lighting
5. Choose approved outdoor light designs
6. Avoid light fixture designs which have an industrial appearance.

Staff: CUP recommends a condition that any lighting comply with code and the CDM.

Finding: The proposal will provide additional compliance with the CDM in appropriate relationship to the improvement proposed and site constraints.

**CITY OF HOMER
PUBLIC HEARING NOTICE
PLANNING COMMISSION MEETING**

A public hearing on the matter below is scheduled for Wednesday, March 1st, 2023 during the Regular Planning Commission Meeting. The meeting begins at 6:30 p.m. and will be conducted via Zoom webinar. Participation is available virtually or in-person at City Hall, more information below.

A request for Conditional Use Permit (CUP) 22-01 for building renovation and kitchen expansion of the Wild Honey Bistro at 106 W. Bunnell Ave.. A CUP is required for unit developments in the Central Business District when the building area is in excess of 30% of the lot area, according to Homer City Code 21.18.040(d).

In-person meeting participation is available in Cowles Council Chambers located downstairs at Homer City Hall, 491 E. Pioneer Ave., Homer, AK 99603.

To attend the meeting virtually, visit zoom.us and enter the Meeting ID & Passcode listed below. To attend the meeting by phone, dial any one of the following phone numbers and enter the Webinar ID & Passcode below, when prompted: 1-253-215-8782, 1-669-900-6833, (toll free) 888-788-0099 or 877-853-5247.

Meeting ID: 979 8816 0903
Passcode: 976062

Additional information regarding this matter will be available by 5pm on the Friday before the meeting. This information will be posted to the City of Homer online calendar page for February 24, 2023 at <https://www.cityofhomer-ak.gov/calendar>. It will also be available at the Planning and Zoning Office at Homer City Hall and at the Homer Public Library.

Written comments can be emailed to the Planning and Zoning Office at the address below, mailed to Homer City Hall at the address above, or placed in the Homer City Hall drop box at any time. Written comments must be received by 4pm on the day of the meeting.

If you have questions or would like additional information, contact Rick Abboud at the Planning and Zoning Office. Phone: (907) 235-3106, email: clerk@cityofhomer-ak.gov, or in-person at Homer City Hall.

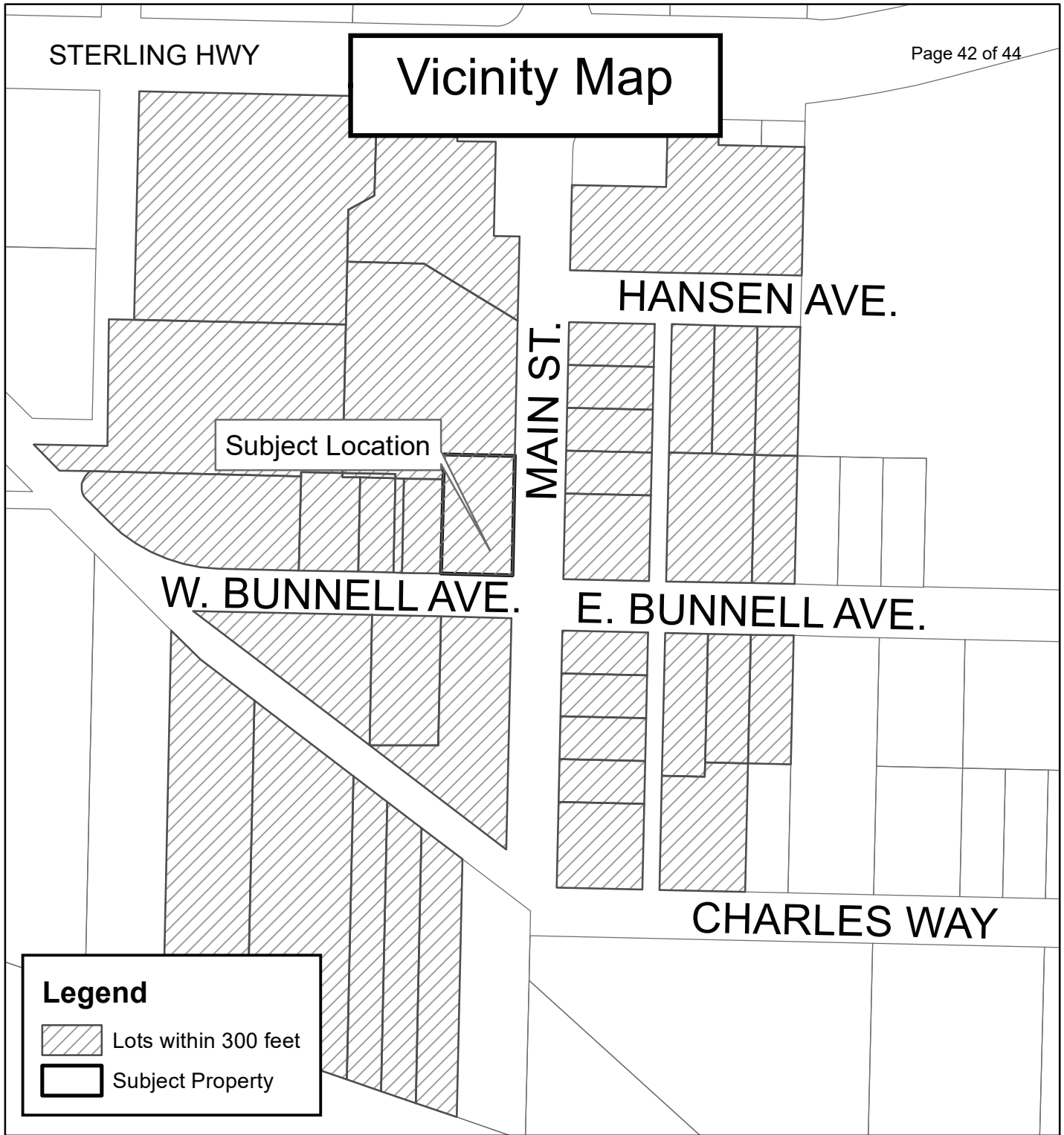
NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 300 FEET OF PROPERTY



VICINITY MAP ON REVERSE

STERLING HWY

Vicinity Map



Subject Location

MAIN ST.



HANSEN AVE.

W. BUNNELL AVE.

E. BUNNELL AVE.

CHARLES WAY

Legend

-  Lots within 300 feet
-  Subject Property

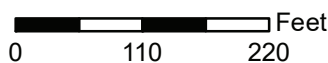


City of Homer
Planning and Zoning Department

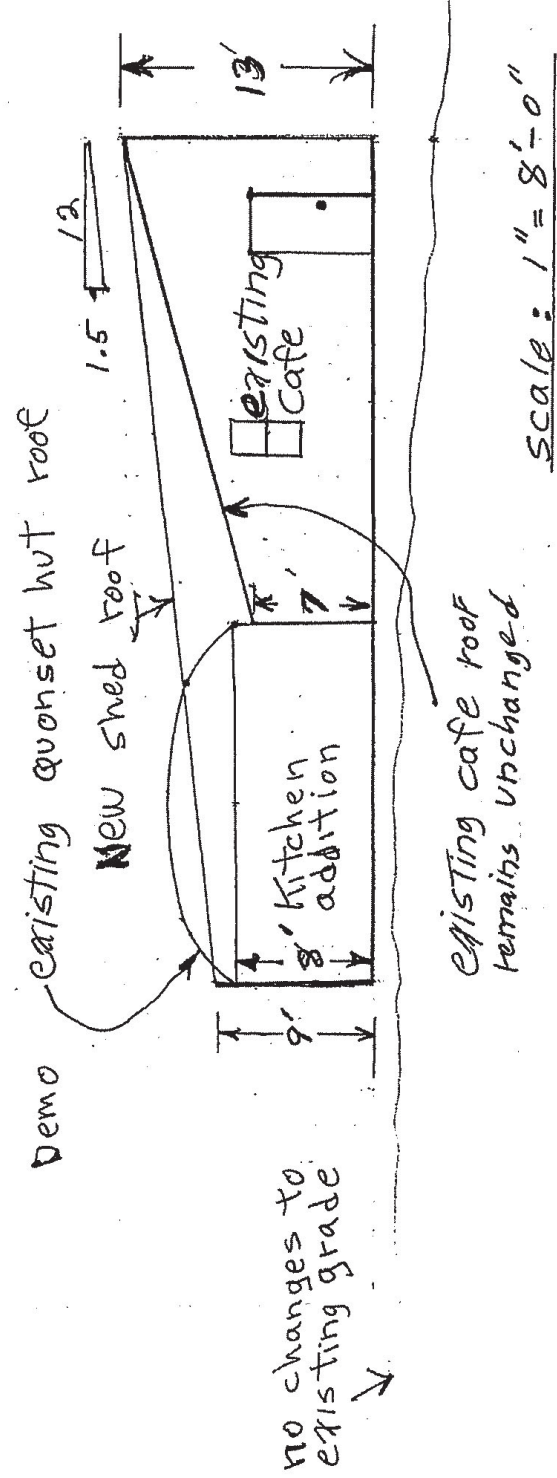
January 25, 2023

Request for Conditional Use Permit 23-01 106 W. Bunnell

Marked lots are within 300 feet and
property owners notified.



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




West Elevation



Aerial Map

Subject Location. Expansion of Wild Honey Bistro restuarant building

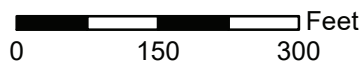
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City of Homer
 Planning and Zoning Department
 9/30/20

**Request for
 Conditional Use Permit 20-15
 106 W. Bunnell Ave.**

Marked lots are within 300 feet and property owners notified.



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City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Memorandum

Agenda Changes/Supplemental Packet

TO: PLANNING COMMISSION
FROM: RENEE KRAUSE, DEPUTY CITY CLERK II
DATE: MARCH 1, 2023
SUBJECT: SUPPLEMENTAL PACKET

5. CONSENT AGENDA

- 5. A. Unapproved Meeting Minutes
Meeting minutes for the February 15, 2023 regular meeting

8. PUBLIC HEARING(S)

- 8. A. Request for Conditional Use Permit (CUP) 23-01 at 106 W. Bunnell Avenue for Approval of a Building Area in Excess of 30% of the Lot Area
Agenda Item Report PC 23-014

This item was incorrectly placed under new business in the agenda packet