

**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 REGARDING MOTION TO FUTHER SUPPLEMENT THE RECORD

On July 24, 2023, the Office of Administrative Hearings received Appellant’s Motion to Further Supplement the Record to include minutes of the March 1, 2023 meeting of the Planning Commission, including the vote of the Commission, and the final decision of the Commission approving CUP 2023-01. On July 26, 2023, Homer City Clerk Melissa Jacobsen supplemented the record with the documents Mr. Griswold sought. Accordingly, the motion is now moot.

One very minor note is that the index for the record identifies the final decision of the Commission on CUP 2023-01 as beginning at 164-OAH, but the document actually begins on 159-OAH.

DATED: July 31, 2023.

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

Certificate of Service: I certify that on July 31, 2023, a true and correct copy of this order was distributed as follows: Frank Griswold (by email and mail); Michael Gatti (by email); Max Holmquist (by email); Melissa Jacobsen (by email).

By: Haley Canfield
Office of Administrative Hearings

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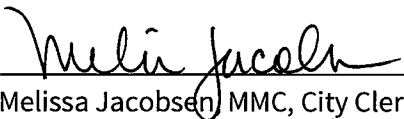
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Certificate of Service: I certify that on July 26, 2023, this document was sent to: Office of Administrative Hearings (by email); Frank Griswold (by email and mail); and Attorneys Michael Gatti & Max Holmquist (by email)

by: 
Melissa Jacobsen MMC, City Clerk

1. CALL TO ORDER

Session 23-05, a Regular Meeting of the Planning Commission was called to order by Chair Scott Smith at 6:30 p.m. on March 1, 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 presentation and discussion facilitated by Ryan Foster, Special Projects Coordinator on the Comprehensive Plan, Zoning & Planning Code Update, Grading and Clearing Regulations, and Greater Homer Housing Event.

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

STAFF: CITY PLANNER ABOUD, DEPUTY CITY CLERK KRAUSE

CONSULTING MEMBER: MAYOR CASTNER

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/BARNWELL 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

4. RECONSIDERATION

5. CONSENT AGENDA

- 5A. Unapproved Meeting Minutes
PC Unapproved Minutes for February 15, 2023

HIGHLAND/BARNWELL MOVED TO APPROVE THE CONSENT AGENDA.

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 23-013

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

City Planner Abboud reviewed his staff report that was presented in the packet. He spoke to the following:

- Council actions taken at the February 27th meeting
- Transportation Plan draft scheduled for the worksession on April 5, 2023
- Reviewed New Banners for Pioneer Avenue at the Economic Development Advisory Commission
- There were no volunteers to attend Council meeting on March 13th
 - o Chair Smith will submit written report.

City Planner Abboud responded to questions on the topic of the proposed new banners for Pioneer Avenue.

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

City Planner Abboud provided a thorough review of Staff Report AIR PC 23-014 that included the following:

- Condominium ownership
- Neighboring properties and uses
- Design of the buildings
- Building constructed in 1937
- There are four buildings
 - o first building is 3 stories containing
 - Art Gallery
 - B & B
 - consignment shop
 - o This building is not included in the proposed project.
 - o Two Quonset type houses
 - one houses a dining area
 - one is used for storage
 - o Wild Honey Bistro
- Ownership
 - o Condition 1 Required signature of acknowledgement from property owner/co-owner
- Parking
 - o Condition 2 Required agreement with land owner for the required parking needs
- Landscaping
 - o Screening
 - Condition 3 Required all dumpsters must be screened from the residential units as required by HCC

- Condition 4 Required screening of rear parking area along the north lot line per HCC
- Requirements to grant the CUP regarding existing setback issues:
 - Finding 1 – If approved by CUP more than 30% lot coverage and buildings with the 20 foot building setback area are allowed
 - Finding 2 – The improvements found in the 20 foot setback may be approved with a CUP per HCC 21.18.040 (b)(4)
 - Condition 5: Obtain approval of structures in the setback prior to commencement of any building activities.
 - City Planner Abboud provided background information on the improvements in the setback and that it was recommended to the applicant to take care of that at this time, the applicant disagreed stating that since this project did not affect the issue of the building in the setback that it was not applicable. Mr. Abboud stated an application will be needed reiterating that it could be taken care of at the March 15th meeting. However, in accordance with HCC 21. 18.040(b)(4) this issue must be taken care of prior to the commencement of any building activities regardless.
- Outdoor Lighting
 - Condition 6: Required all outdoor lighting must be downlit.
- No written comments were received on this project.

Melody Livingston, Applicant stated that they are not planning on changing the footprint that the plan is to only replace the existing building that is being used as a dining area and that the construction will reflect the style of the main building.

Chair Smith opened the public hearing.

Susan Miller, resident, commented in support of the replacement of the Quonset which they were told eleven years ago that it was a temporary structure, questioned the timeline for the remainder of the structure as it was an eyesore. She noted that the roses that were planted were not successful in the use as a screen for the dumpster and requested a more formal screening structure. Ms. Miller also requested that the aesthetics for the rear of the building in plantings be addressed similar to those done in the front of the buildings.

Joshua Bregge, non-resident, commented in support for the project noting a business relationship with the applicant and encouraged keeping within the old style buildings to retain the historical aesthetics of the area of Old Town.

Chair Smith closed the public hearing.

City Planner Abboud facilitated discussion on the following topics:

- Old Town Overlay District
- Anyone participating in this hearing will have the right of due process
- Screening landscaping materials

Ms. Livingston requested clarification on the purpose of the screening for the dumpster and the parking lot. She stated that they intend to have a more formal screening for the dumpster which will also designate the location of where it will belong and offer a more acceptable view to the nearby residents. She responded that they would be willing to work with the other owners on a more appropriate screening method for the parking area but within affordable limits in response to the comments on the failure with the Sitka Roses previously planted.

Commissioner Venuti questioned the applicant's response to a Fire Marshall review noting the regulations requiring that and it stated it needs to be sorted out.

Mr. Scott Livingston, responded that his interpretation of the city code, they are not required to have Fire Marshall review, however, to be clear they will be obtaining a Fire Marshal review as they are installing hoods and other things and to move forward with the commercial kitchen. He then addressed concerns regarding the dumpster screening.

City Planner Abboud provided clarification that to obtain the Zoning Permit a Fire Marshall Permit will be required.

Ms. Livingston explained that the prior project was going to be a complete teardown and rebuild however due to the cost being prohibitive and the issues with a neighboring property owner, they will be tearing down 2/3 of the existing building (Quonset hut) and the remaining 1/3 will be used as storage until the future when they will come before the Commission again for another CUP in response to questions on the Quonset building demolition.

Mr. Livingston added that this current proposal maintains the original café structure which is the 1937 build and is very attractive, charming and quaint. In the next phase they will remove the remaining portion of the Quonset hut and construct a combined facility similar in style to the original building. This will create a unified structure to combine the seating and storage, but that is 2-3 years out at this time. He then stated that two thirds of the existing structure is the closest part to the Bunnell, straight back from the café, this will allow them to expand their kitchen which is too small to accommodate their growing needs. The existing kitchen creates long wait times and it will only get worse if they do not do something soon. Mr. Livingston referred to the picture in the packet on page 12, stating that where the double doors are located and to the right, that section would remain.

City Planner Abboud confirmed that Condition 2 requires the signature of Asia Freeman and a Zoning Permit will not be granted without her signature. He confirmed that the letter does not fulfill the requirements and the CUP can be granted with that Condition in response to questions from Commissioner Highland and Chair Smith.

Commissioner Highland requested clarification on the building in the setback and how that will be addressed by Conditional Use Permit.

City Planner Abboud explained that while that issue could have been addressed if the applicant included it on this application but since it was not the applicant will need to address the issue before they will be granted the zoning permit to start this project.

Mr. Livingston interjected that his interpretation of the regulations, believing that since they will not be touching the portion of the building in the setback that they do not need to address the setback issue at this time. He noted that this is consistent with all the other buildings in the area.

City Planner Abboud explained that he did address the issue of the complications, he referred to how it was addressed in his Staff Report, and continued stating that in code if a CUP was not required, that expansion of a non-conforming building in a way that doesn't expand the non-conformity could be done. It can be debated whether it is needed or not but stated that it was included it in his report and it is up to the Commission's discretion to address this and as far as the non-conformity, he can refer to Homer City Code as far as construction, as listed in Finding number 2 on what is allowed and there can be some debate on whether this particular addition does not affect the setback and as such can be dealt with at a separate time. These buildings are very old. This is a conservative look at the building within a 20 foot setback and is something that the Commission should consider.

Commissioner Highland requested further clarification regarding the statement provided earlier by the City Planner that the applicant is required to come back for another CUP regarding the con-conformity.

City Planner Abboud responded that he would prefer somewhat of both. This point has been discussed with many others at great length, he added that he sees the merits on both sides and there is no clear cut case on presenting this kind of issue in this manner. There are cases regarding non-conformity but nothing conclusive to state a decision was made. He would prefer that it is cleaned up at this time, but the applicant stated his interpretation of the regulations and was not going to address it at this time. This is a conservative approach. Mr. Abboud stated that in accordance with code, the expansion of a structure can be allowed in a way that does not increase the non-conformity if the Commission grants the CUP for the over 30%, they will still be left with this structure in the 20 foot setback, but it has been like this for a very long time, it fits within the expectations of the city's code and plans.

Chair Smith read into the record, Homer City Code 21.18.040 Dimensional requirements. (b) Building Setbacks (4) If approved by a conditional use permit, the setback from a dedicated right-of-way, except from the Sterling Highway or Lake Street, may be reduced.

Chair Smith then reiterated that the City Planner has noted that there is this allowance in code to permit this sort of activity.

Commissioner Highland expressed her continued uncertainty and requested further clarification on what action was required by the Commission on the setback issue.

City Planner Abboud stated that since this current application did not address the setback issue and it was not addressed in the Notice that was distributed and published as legally required, he assured the Commission he did address the topic with the applicant, it would require another application.

Mr. Livingston interjected once again there was misunderstanding between Mr. Abboud and himself, he reiterated that he did not think the setback was an issue because they were not including it since it was not implicated or changing the setback or performing any deconstruction or construction on the area of the lot where the setback is implicated. He continued by stating that it is not a bar that the Commission should be concerned moving forward with granting this CUP and would appreciate that the Commission do that.

Mr. Abboud responded to Commissioner Venuti that he was correct in assuming that this setback issue was a common one among other buildings in the immediate area not applicable to just this building.

Chair Smith called for a motion and second.

HIGHLAND/VENUTI MOVED TO ADOPT STAFF REPORT AIR PC 23-014 AND APPROVE CUP 23-01 WITH FINDINGS 1-11 AND CONDITIONS ONE THROUGH SIX.

There was a brief clarification and discussion regarding condition two must be completed before a Zoning Permit is issued.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

9. PLAT CONSIDERATION(S)

10. PENDING BUSINESS

11. NEW BUSINESS

12. INFORMATIONAL MATERIALS

- 12.A. City Manager's Report
CM Report for February 27, 2023

Chair Smith commented on the Anchorage Boat Show being referred to as the Homer Boat Show due to the number of Homer businesses present.

Mayor Castner provided a report on the Sales Tax collected.

13. COMMENTS OF THE AUDIENCE

14. COMMENTS OF THE STAFF

15. COMMENTS OF THE COMMISSION

Mayor Castner stated that it would be really disingenuous for him to not tell the Commission that the comprehensive plan that they heard so much about tonight, is, will probably be vetoed. He reported that he will be reducing the amount from \$650,000 to \$250,000 which would be enough to attack Title 21 and the City should do Title 22 at the same time. Mayor Castner then provided the reasons to support his veto. He noted there are four more months to go in in this budget cycle and a new two year budget starts on July 1, 2023. The City has been "check booking" it for the last year, just writing checks outside the budget to replace something that has to be replaced, an emergency thing or something like that. But the comprehensive plan is not an emergency. It's all of a sudden. He acknowledged that the City Council was talking about redoing it, and the City Attorney stated that we could do it in a serial manner. He did not

believe that anybody consulted the Commission and reported that no one consulted the City Council on what it was that they or this Commission wanted to attack. A list of deficiencies was not presented to City Council to support this action. It brings forward the questions, "Why, now?" and "How come?" He stated that it was really unsettling to keep writing checks when the City has finite income. The City has an expectation of a lot of grants that could become available, and in order for us to be to meet those grant availabilities, the City going to have to have the cash to do the match. There is the accounting portion. That's pretty easy, but the economics of it is not so easy. How much do we set aside in order to meet those grants and where we are right now? The meeting before this last one City Council approved a whole bunch of grant applications, and some of them didn't have immediate matches, but many of them had subsequent matches, and he didn't know where the City was. The City Council's number one goal coming out of last year's visioning session in March was to have a comprehensive fiscal plan and that has not happened yet. I mean, if it's happened, it's only happened at the administrative level. The City Council does not have a comprehensive fiscal plan, and that's really frustrating to me, because it's not that hard when you have two sources of income. So I had asked a couple of weeks ago, for the City Manager to try and figure out a way where the City could do part of it, because it was initially presented as a two-step process. What has occurred to make this come out in one glop? He stated that he never got a good explanation. Administration just reported that they were developing the Comprehensive Plan first then tackling title 21. He did not agree that is what has to happen. He encouraged the Commission to agree that they see that the City needs to rewrite Title 21 soon before similar projects like the last one comes before them. The ambiguity and the setback thing could easily be fixed. Stantec had the \$213,000 proposal to do all of the Title 21 work, and they have all of the databases, and all of the information from other cities and towns, and everything like that. I think it would be worth a while to do it and get it done before the next election. The comprehensive plan. I don't see any reason what the difference would be if we started now or in July. So, I am going to veto the ordinance and resolution. Mayor Castner provided input on the platting process, expressing how and what should be included in the process for approval of preliminary plats, the next topic was the misunderstanding that was going through the community on a proposed road through Mud Bay and he stated that there will be no roadway built through Mud Bay. Mayor Castner then provided input on what he thought was the Port & Harbor Advisory Commission's perspective of the Harbor Expansion project and what has actually happened since 2022 and why and whom initiated the actions.

Commissioner Highland expressed her appreciation for the Mayor providing some clarification and she expressed that she believed they had a pretty darn good Comp Plan and appreciated his efforts, she did have some heartburn on the size and scope of the Harbor Expansion and wished that it was presented to the Planning Commission before everyone else. She expressed that it was a good meeting.

Commissioner Stark thanked the Mayor for his comments and that he shared the people's frustration as he has heard a lot of comments on the priority, referring to the Harbor Expansion since they believe it is a huge project, and take too long to get completed. But if you do not start somewhere it will never get completed and it does not have to take forever. He believed there were ways to get things done expeditiously with partnerships.

Commissioner Conley commented that the Planning Commission arrange to have some dialogue between the Harbor Commission and the Planning Commission. He was positive that the Chair of the Harbor Commission would be happy to attend one of their meetings and provide an opportunity for questions and answers. He then stated that he was fortunate enough to sit in on one of the worksessions, reporting that it was very informative, lots of interaction and good information. He believed it was on the Commission to

be engaged and close the gap, he would volunteer to do that unless Mr. Abboud would be able to address that. It was a good meeting and he expressed his appreciation for the work provided by the staff tonight.

Commissioner Venuti stated that it was an interesting meeting, good conversations. He agreed with the Mayor about the inadequacies over the two plats and he was wondering how, as they develop the comprehensive plan that they can incorporate performance bonds and requirements for subdivisions so that when developers say they are going to do something they actually do it. Mr. Venuti expressed that spending \$650,000 for the Comprehensive Plan boggles his mind. They have been able to work with the City Planner and improve it over time that he has been on the Commission without spending money and he thinks they should rethink spending that type of money for an out of town company that does not understand Homer. He continued by stating he has lived here 43 years and believed he had a really good feeling for the pulse of Homer and did not believe it would be beneficial for somebody coming down from Anchorage and making changes based on their experience. He expressed his thanks to the staff and Commissioners.

Commissioner Chiappone expressed his admiration to the owners of Wild Honey for going to great lengths to meet the requirements. It was a rather complicated situation but they did a great job with that and he then expressed his thanks to the Mayor for his report.

Commissioner Barnwell thanked the Mayor for his comments. He has been saying for months that the Commission should be more involved with the Comp Plan, the scope of work and consultant review. He realizes that it is difficult due to it being an internal process but having been a consultant before, he has stated before that the scope of work and the Comp Plan is reflected in Chapter 21 and it is huge. It may be easy for Council to think it is worth the \$650,000 but he appreciated the serial approach and tackling one bit at a time. Title 21 needs to be address right away and should be the focus. There is so much that Homer has going in right now with the Harbor Expansion Project, Transportation Plan, you name it. He expressed that he really supported what the Mayor stated tonight and then agreed with Commissioner Chiappone with regards to Wild Honey sticking through it. Mr. Barnwell expressed that and overlay district is a really good one for this area and he believed would solve several problems. He thanked staff for the great meeting tonight.

Chair Smith expressed his appreciation to the Commission to fit the report to City Council in 2 pages. He announced that the Kachemak Bay Traditional Games would be held at the Homer High School on March 10-12, 2023 and encouraged everyone if they had children or grandkids who were not into traditional sports to get involved with an amazing group of people. He expounded on the benefits and how it gets kids involved with physical activity that is fun and challenging. He echoed the sentiments of the Commission expressing that he appreciated the Mayor's fiscal intelligence, he cringes at the thought of blank check capabilities but understands, he would love to see more growth and things happen in a wise way with regards to process. Chair Smith expressed his thanks for the Commissioners providing their time and again encouraging those as soon as they are able to attend meetings in person, noting that Commissioner Stark is still out of town as the exception.

16. ADJOURNMENT

There being no further business before the Commission, the meeting was adjourned at 8:35 p.m. The next Regular Meeting is Wednesday, March 15, 2023 at 6:30 p.m. A worksession is scheduled for 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 and via Zoom webinar.



Renee Krause, MMC, Deputy City Clerk II

Approved: _____ March 15, 2023



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HOMER PLANNING COMMISSION

Approved CUP 2023-01 at the Meeting of March 1, 2023

RE: Conditional Use Permit (CUP) 2023-01
Address: 106 W Bunnell Ave

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

DECISION

Introduction

Melody Livingston, representing Wild Honey Bistro (the “Applicant”), who is the owner of Inlet Condominiums Unit 2 and her husband Ed (Scott) Livingston, applied to the Homer Planning Commission (the “Commission”) for a Conditional Use Permit (CUP) under Homer City Code (HCC) 21.18.040(d), for a building area in excess of 30% of the lot in the Central Business District:

The applicant proposed to remove part of an existing detached storage structure and expand the kitchen of the Wild Homey Bistro into substantially the footprint of the portion of the storage structure to be demolished.

A public hearing was held for the application before the Commission on March 1, 2023, as required by Homer City Code 21.94. Notice of the public hearing was published in the local newspaper and sent to 56 property owners of 40 parcels within 300 feet of the proposal, as shown on the Kenai Peninsula Borough tax assessor rolls. Public notices contained information on how to submit written testimony, participate telephonically, or participate on the Zoom meeting platform.

At the March 1, 2023 meeting of the Commission, all seven Commissioners were present. The Commission approved CUP 2023-01 unanimously with eleven findings and six conditions.

Evidence Presented

City Planner, Rick Abboud reviewed the staff report. The Applicant described the proposed improvements. There were two who testified in support of the proposal including Susan Miller and Joshua Bregge. Their comments included support for replacement of the storage structure, concerns for screening the rear of the building, and encouragement for continuing

the style of the existing structures. The Applicant stated she would be willing to work with others on determining appropriate screening for the parking area. Clarification was made to Mr. Livingston that Fire Marshall approval is required for the structure and that the conditions for approval included the requirement to gain approval for the portion of existing structure in the 20' setback from the right-of-way (ROW).

A discussion ensued about gaining approval for the portions of the structures that were located in the 20' setback. City Planner Abboud stated that it could have been addressed in the CUP. Mr. Livingston stated that he did not believe that he had to address the setback issue at this time. Chair Smith read the code that allows a reduced setback with a CUP into the record. After being asked for clarification by Commissioner Highland, City Planner Abboud stated that the application did not address the issue of the setback and that the matter would be required to be addressed in a properly noticed public hearing and it would require another application. It was then moved and approved with unanimous consent to approved CUP 23-01 with findings 1-11 and conditions 1-6.

Findings of Fact

After careful review of the record and consideration of testimony presented at the hearing, the Commission determined CUP 2023-01, to allow more than 30% of building area on a lot in the Central Business District per HCC 21.18.040(d), satisfies the review criteria set out in HCC 21.71.030 and is hereby approved.

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

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

Finding 1: 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.

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.

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.

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.

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.

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

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

Finding 8: The proposal 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.

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

Condition 1: Applicant to gain signature of Asia Freeman per requirement of granting a CUP per HCC 21.71.020(a) (9) (b).

Condition 2: Provide eight offsite parking stalls by documenting a parking agreement with a private land owner.

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

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

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

Finding 10: The proposal is not contrary to the applicable land use goals and objects of the 2018 Homer Comprehensive Plan. The proposal aligns Goal 1, Objective A; Goal 3, Objective B; and Goal 4, Objective A and no evidence has been found that it is contrary to the applicable land use goals and objectives of the Comprehensive Plan.

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

Finding 10: Project will comply 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:** See Condition 4.
- 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:** See Conditions 3.
- 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.

Conclusion: Based on the foregoing findings of fact and law, Conditional Use Permit 2023-01 is hereby approved, with Findings 1-11 and the following six conditions:

Condition 1: Applicant to gain signature of Asia Freeman per requirement of granting a CUP per HCC 21.71.020(a) (9) (b).

Condition 2: Provide eight offsite parking stalls by documenting a parking agreement with a private land owner.

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

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

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

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

Mar 17, 2023

Date

Scott Smith

Chair, Scott Smith

3/17/23

Date

Rick Abboud

City Planner, Rick Abboud

NOTICE OF APPEAL RIGHTS

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

CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to the below listed recipients on 3/17, 2023. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk on the same date.

3/17/2023
Date


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