



MEMORANDUM

Ordinance 25-01 Request for additional information explaining the status of applications related to the CUP 23-08 Lighthouse Village PUD

Item Type: Action Memorandum
Prepared For: Mayor Lord and Homer City Council
Date: January 24, 2025
From: Ryan Foster, City Planner and Michael Gatti, City Attorney
Through: Melissa Jacobsen, City Manager

Additional questions have been submitted by Council Member Erickson regarding the Lighthouse Village Planned Unit Development project:

Question 1: if we now put contingencies on the plat for Doyon, would we be opening ourselves up for a lawsuit?

Placing contingencies on the plat for Doyon is not an option for the City Council. The Council may approve or veto the ROW vacation of a portion of B Street. The Kenai Peninsula Borough (KPB) is the platting authority for the City of Homer. The Homer Planning Commission reviews and provides recommendations and comments to the KPB.

Question 2: I am VERY concerned about the lack of a proper traffic study (a pedestrian is not the same). Can we put a contingency that they would have to have a traffic light to allow for left hand turns to and from their driveway and Kachemak Drive, with documentation from the State that that is their intent or requirements on that intersection? (From May to Sept, that is a very dangerous intersection. Busses turn slowly on a hard left turn. The amount of traffic already over the years is heavy use. For the study to say there isn't an issue is false. Large and slow moving vehicles taking a left hand turns from Kachemak Way are always subject to people coming around the blind corner at a speed that can make it hard to stop and thus we have accidents there). What's the plan if there is an evacuation off the spit?

A Traffic Impact Analysis (TIA) was submitted for the CUP 23-08 and was reviewed by the Planning Commission and was completed by an Engineer and reviewed by the Homer City Planner and the Alaska Department of Transportation. Conditions of approval were included in the CUP 23-08 approval by the Planning Commission based on the findings of the TIA, which focused on the pedestrian improvements recommended by the study. A traffic light was not a recommended finding of the TIA. This was a well discussed topic in the conditional use permit process, including a presentation and Q & A of

the Traffic Engineer with Kinney Engineering who drafted the TIA. There is no evidence that the TIA was erroneous or improper.

Question 3: If there is a major accident with one of their busses and they need an alternative route, would they be able to use B street as an entrance? Will they be able to put an entrance in there at any time? Looking at the plats in our packet, I don't see where these issues are addressed.

Not as currently planned, based on the approval of the CUP 23-08 Planned Unit Development, there is no planned vehicle access to the property via B Street. There is a requirement for the applicant to provide a 20' public access easement via B Street as a condition of approval.

Question 4: It is my understanding that if we fail these two issues tonight that the project stops. Is that correct?

CUP 23-08 has the rezoning of 1491 Bay Avenue and the ROW Vacation of B Street as conditions of approval. If they are not approved, the CUP 23-08 would not be viable. Any number of options are available to the property owner in moving forward with development of their property if the CUP 23-08 is not viable.



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Homer City Council

re: (REVISED) B Street Right-of-way vacation (KPB file 2024-131V); Ordinance 25-01, rezone of 1491 Bay Avenue, parcel id. 17921015

Dear Council members:

I am commenting on Doyon Corporation's application to vacate the lower portion of B Street as made in its borough right-of-way vacation application and a proposed rezone of 1491 Bay Avenue

I am a borough resident living outside Homer City Limits on Diamond Ridge. My main interest in this application is as an active birder and a member of the Kachemak Bay Shorebird Festival Steering Committee. I seek to preserve access to a traditional bird viewing platform that Doyon removed and in its new site plan intends to rebuild. Access to this viewing platform with previous owners was made through agreements between the owner and the U.S. Fish and Wildlife Service. I speak for myself and not as a member of the shorebird festival committee.

Under Kenai Peninsula Borough Code, the Homer City Council has the right to review the KPB Planning Commission's decision to grant this right-of-way vacation, either approving, vetoing, or granting with conditions. The borough granted the vacation without setting any conditions or compensating the city for the loss of its property. I have these comments on the right-of-way vacation application.

Relevant to this issue, the council also will consider Ordinance 25-01, a rezone from rural residential to commercial of 1491 Bay Avenue. Under its amended Conditional Use Permit application, Doyon's project extends from the Homer Spit lots, across the B Street right-of-way, and onto 1491 Bay Avenue. requires rezoning 1491 Bay Avenue. Unless the right-of-way vacation is granted, the project cannot happen. The rezone should be considered in this context.

- In return for vacating the easement and gaining title, Doyon proposes to grant a 20-foot wide pedestrian easement that will connect on its property to a trail and viewing platforms. I commend Doyon for granting this access and making these improvements.

- However, the ROW vacation application does not show that public access is preserved on Doyon's property. I recommend that as a condition of the vacation that the trail or sidewalk to the viewing platforms on Doyon property be made a public easement, and that the public shall also have the right in perpetuity to use sidewalks or trails connecting to the Homer Spit Trail.

- It is unclear in the ROW vacation if the 20-foot wide pedestrian easement goes all the way to the bottom or southern edge of the ROW to the wetlands. The Homer Planning Commission set in condition 3 of its Conditional Use Permit application approval that this easement be granted "as indicated in the site plan." I recommend that the council make as a condition of the vacation that this pedestrian right-of-way go all the way to the wetlands. While hiking down the bluff to the wetlands may be difficult for many users, keeping this access preserves a future option for the city of Homer to make access easier through improvements like a stairway or ramp. This also will preserve access for scientific purposes such as wetlands or habitat studies.

B.

- KPB code 20.65.060 (B), Title to vacated area, says this: “If the municipality acquired the street or other public area vacated for legal consideration or by express dedication to the municipality other than as a subdivision platting requirement, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority to be paid to the municipality on final vacation.” This matter should be addressed by making a fair market value assessment of the ROW to be vacated and as a condition of the vacation require Doyon to pay that fair market value. Note that the right-of-way vacation doesn't just give Doyon an additional lot, but it is necessary for the hotel footprint to be built. As compensation, if Doyon grants public access through its property, I think it would be acceptable that Doyon not have to pay fair market value for its acquisition.

- The existing B Street ROW offers a vegetated buffer between the Bay Avenue neighborhood and the new hotel project at the southern end. Doyon's property on the west side of the B Street ROW, 1491 Bay Avenue, also offers a similar vegetated buffer. Should Doyon be granted a right-of-way vacation and its rezone, I recommend that these buffers be maintained.

- In another matter, Doyon proposes to rezone that property to commercial. The Homer Planning Commission recommended this rezone for a previous CUP that included commercial development on both the B Street right-of-way and 1491 Bay Avenue. Curiously, the planning commission did not recommend vacating the B Street right-of-way.

Under both Doyon's original CUP application and its amended CUP application, the project extends across the B Street right-of-way and onto 1491 Bay Avenue. Vacation of B Street and rezoning 1491 Bay Avenue is necessary for the project to happen as designed. The right-of-way vacation should be considered in this context. If the council does not approve the right-of-way vacation, the rezone also should not happen. In effect, granting the rezone and right-of-way vacation will required a replat.

- Other commenters have recommended that if the council should set conditions that these be made as plat notes. I agree with that recommendation.

- A drainage easement also should be maintained on the B Street ROW.

Thank you for your consideration and public service. While there are some issues with this application, I think that a fair compromise can be reached that protects the public interest while allowing a commercial project to proceed.

Best,

Michael A. Armstrong

From: [Lynn Whitmore](#)
To: [Department Clerk](#)
Subject: City of Homer Proposed Purchase of KPB Parcel 17504007, in the Woodard Creek Drainage
Date: Monday, January 27, 2025 12:42:41 PM

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

I'd like to express my support for the City to purchase that parcel. Hopefully this will help the City as it begins the process protecting the Woodard Creek Drainage.
Thank you very much for allowing my comment.

Lynn Whitmore
President, Kachemak Moose Habitat, Inc

From: [Laurie Daniel](#)
To: [Department Clerk](#)
Subject: Comment on rezone and vacation related to Lighthouse village
Date: Monday, January 27, 2025 12:06:10 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
Please distribute my comment to all City Council members. Thank you.

My bottom-line recommendation: The existing access/birding easement should not be given up. Period. Clearly no superior easement or arrangement has been suggested by owner/developer.

If this goes ahead as Doyon wants, it not only destroys a very longtime, actively used, community treasure but sets a terrible precedent for Homer. It essentially requires special treatment and favors to a big corporation, allowing them to take an action that goes against everything the community wants – as stated in our Comp Plan and community surveys. That is not right, nor how the system is supposed to work. Rezoning the residential lot to general commercial and vacating the B St. right-of-way is absolutely not in the best interest of the City of Homer. I find that the City Planning office is blatantly incorrect in their conclusion that it is.

More specifically - the proposed rezone of Lot 163 and Right-of-Way vacation would allow for intensive development of, and impact to, a piece of City-owned coastline land that has been used for decades by the birding community and Kachemak Bay Shorebird Festival (KBSF). This is some of the most high-value land in Homer: wooded, waterfront property with tremendous views of shorebird habitat and Kachemak Bay.

KBSF has used this platform during their over 30 years of conducting bird surveys and viewing programs for the public. Further, it is used every few days over a period of several months each spring by Kachemak Bay Birders during the annual shorebird migration surveys, as well as for some of the monthly guided birding trips conducted in Homer throughout the year. In addition, the platform has been routinely used by the general public year round.

Following the comments by the Kachemak Bay Conservation Society (KBSC), if the Council considers taking either of these actions, it must set conditions that -

- (a) protect the environmental integrity of the site, and
- (b) ensure long-standing historic public access to shorebird viewing.

All conditions must be codified through title/deed restrictions. Without this level of assurance, then Doyon, or any future owner, could walk away from agreements.

Further, the vacation of B-Street Right of Way and Rezone of Lot 163 Bayview

Subdivision should only be considered under the following conditions:

1) **Provide a revised plat showing a 20-ft Pedestrian Access Easement from both B Street and the Spit Road to the viewing platform.** Only through a formal public easement can public access be assured, providing the necessary guarantee of “equal or superior access” required in KPB 20.70.180. An unsecured public access is an unacceptable trade for our public right of way.

As you know, KBSF long ago became Alaska’s largest wildlife viewing festival and draws visitors statewide, nationally and internationally. According to KBSF managers, approximately 100 birders have historically accessed the “Lighthouse Village” viewing platform at any given time during the festival, with 50 to 200 visitors generally coming each day, and this historic access must be secured.

2) **Provide a revised plat showing a 30' conservation easement protecting the existing woods in the B Street Right of Way.** Doyon has said that they want to protect Rural Residential neighbors from the noise, lights, etc. of the hotel via a 30’ vegetative buffer. A conservation easement on the title is needed to legitimize that guarantee and protect this forested area.

The value of the 50 foot wide, 750 foot long piece of City land being asked for by Doyon is some of the most high-value land in Homer. It is worth a tremendous amount, both ecologically, recreationally and monetarily. Asking for a guarantee that some land will be conserved is fair and proper, and the only way to hold Doyon to that promise.

3) **A binding plan to ensure the protection of migratory birds and their habitat.** Approval of the rezone and ROW vacation would allow a large hotel/condo complex to be built in an area that is a cornerstone of Homer culture and economy. It’s even questionable that Homer needs such a large facility at this time. The site overlooks Mariner Park Lagoon, which is designated as a Western Hemisphere Shorebird Reserve Network (WHSRN) Site of International Importance, meaning that at least 100,000 shorebirds annually return here.

To qualify for a WHSRN designation, the City of Homer, who owns the Lagoon, agreed to:

- make shorebird conservation a priority
- protect and manage shorebird habitat

Therefore, the City must require the highest protection of the shorebirds and their habitat in Mariner Park Lagoon. As a condition of the vacation of the ROW and the Rezone of the lot, Doyon should be required to work with local US Fish and Wildlife Service, Friends of Alaska National Wildlife Refuges (main sponsor of the Kachemak Bay Shorebird Festival), as well as the Kachemak Bay Birders (supporters of the WHSRN) to develop appropriate and binding measures to protect migratory birds and their sensitive habitat. This could be implemented, for example, through a title restriction placed on the land the City gives to Doyon.

Issues that need to be addressed in these measures include:

- Disruption of nesting birds and migratory shorebirds during their spring and fall migrations as a consequence of increased activity at the hotel and condos.
- Mitigation of physical and environmental impacts from condo dwellers and their dogs to nesting and migratory birds.
- Mitigation of disruptive aspects of construction (like pile driving).
- A higher standard of stormwater management in this highly sensitive area.
- Mitigation of window strikes by birds, as well as light and noise pollution from the development.

4) The new viewing platform should be at least equivalent in size to the old platform. The Kachemak Bay Shorebird Festival has used this platform during the annual festival for bird surveys and viewing programs for the public. It is used every few days over a period of several months each spring by Kachemak Bay Birders during the annual shorebird migration surveys, as well as for some of the monthly local birding trips conducted throughout the year. In addition, the platform is also used by the general public year round.

Since so much of Homer tourism depends on having good access to bird and other wildlife viewing, it is important to restore this much-used facility and make sure there are agreements on its maintenance and public use far into the future. As with all other conditions, this commitment must be secured through title restriction.

Thank you for your consideration of my comment.

Laurie Daniel
PO Box 3713
Homer, AK 99603
(907) 235-4349