



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Planning

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### MEMORANDUM 18-129

TO: MAYOR CASTNER AND HOMER CITY COUNCIL  
THROUGH: KATIE KOESTER, CITY MANAGER  
FROM: RICK ABBOUD, CITY PLANNER  
DATE: NOVEMBER 6, 2018  
SUBJECT: ORDINANCE 18-39, AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HCC 21.18.040 TO REDUCE THE SETBACK PERMITTED FROM 20 FEET TO 10 FEET IN THE CENTRAL BUSINESS DISTRICT.

At the request of the City Council, the Planning Commission has reviewed the City Council's proposed changes for a reduction in the CBD setback from 20 feet to 10 feet. A public hearing was held at the October 17<sup>th</sup> meeting of the Planning Commission.

After receiving one written comment and no public testimony, the Commission voted to oppose amending the setback in the CBD. It was discussed that the basis for not approving the proposed ordinance was stated in the analysis provided by the City Planner (found in Staff Report PL 18-70) and supported by the commission.

The Commission did discuss that this subject could be analyzed in better detail with a revision of the Homer Area Transportation Plan, where traffic engineers could evaluate the various streets and provide recommendations. Revising the Transportation Plan is an item that the Commission added to their worklist.

#### **Planning Commission Recommendation:**

THE ADVISORY PLANNING COMMISSION DOES NOT SUPPORT ORDINANCE 18-39 AMENDING HCC 21.18.040 TO REDUCE THE SETBACK PERMITTED FROM 20 FEET TO 10 FEET IN THE CBD

#### **Att.**

Draft Ordinance 18-39

Staff reports PL 18-55, 18-60, 18-65, & 18-70

PC minutes 9.5.18, 9.19.18, 10.3.18 & 10.17.18

10.17.18 Public Hearing Comment



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**CITY OF HOMER  
HOMER, ALASKA**

Aderhold

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**ORDINANCE 18-39**

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AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
AMENDING HCC 21.18.040 TO REDUCE THE SETBACK PERMITTED  
FROM 20 FEET TO 10 FEET IN THE CENTRAL BUSINESS DISTRICT.

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WHEREAS, It is in the City’s best interest to permit uses outright that promote the goals of the Homer Comprehensive Plan, including permitting setback reductions in the Central Business District that would promote walkable business district locations located on local, non-arterial roads.

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THE CITY OF HOMER HEREBY ORDAINS:

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Section 1. Chapter 21.18.040 is amended to read as follows:

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21.18.040 Dimensional requirements.

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The following dimensional requirements shall apply to all structures and uses in the Central Business District:

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a. Lot Size.

1. The minimum lot area shall be 6,000 square feet. Lawful nonconforming lots of smaller size may be newly developed and used if off-site parking is provided in accordance with the City parking code, Chapter 21.55 HCC;

2. Multiple-family dwelling containing three or more units shall meet the standards in HCC 21.14.040(a)(2);

3. Townhouses shall meet the standards in HCC 21.53.010.

b. Building Setbacks.

1. Buildings shall be set back **10** ~~20~~ feet from all dedicated rights-of-way, except as **required or** allowed by subsection (b)(4) of this section.

2. Nonresidential buildings shall be set back five feet from all other lot boundary lines except the minimum setback shall be two feet from all other boundary lines when firewalls are provided and access to the rear of

43 the building is otherwise provided (e.g., alleyways) as defined by the State Fire  
44 Code and enforced by the State Fire Marshal.

45  
46 3. Residential buildings shall be set back five feet from all other lot boundary  
47 lines.

48  
49 4. **Setbacks from a dedicated right-of-way from** ~~If approved by a~~  
50 ~~conditional use permit, the setback from a dedicated right-of-way, except from~~  
51 ~~the Sterling Highway or Lake Street~~ **arterial roads, shall be at least 20 feet. may**  
52 ~~be reduced.~~ **For purposes of this subsection, “arterial” roads means a**  
53 **street, road, boulevard or highway that emphasizes mobility and is**  
54 **designed to carry higher volumes at higher speeds, attributes that usually**  
55 **conflict with safe access. Sterling Highway is an example arterial street.**  
56

57 5. Alleys are not subject to a **10** ~~20~~-foot setback requirement. The setback  
58 requirements from any lot line abutting an alley will be determined by the  
59 dimensional requirements of subsections (e)(1) and (2) of this section.

60  
61 6. Any attached or detached accessory building shall maintain the  
62 same yards and setbacks as the main building.

63  
64 c. Building Height. The maximum building height shall be 35 feet.

65  
66 d. No lot shall contain more than 8,000 square feet of building  
67 area (all buildings combined), nor shall any lot contain building area in excess of 30  
68 percent of the lot area, without an approved conditional use permit.

69  
70 e. Building Area and Dimensions – Retail and Wholesale.

71  
72 1. The total floor area of retail and wholesale business uses within a  
73 single building shall not exceed 75,000 square feet.

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75 2. No conditional use permit, planned unit development, or variance may be  
76 granted that would allow a building to exceed the limits of subsection (e)(1) of  
77 this section and no nonconforming use or structure may be expanded in any  
78 manner that would increase its nonconformance with the limits of subsection  
79 (e)(1) of this section.

80  
81 Section 2. This ordinance shall take effect upon its adoption by the Homer City  
82 Council.  
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### Staff Report PL 18-55

TO: Homer Advisory Planning Commission  
FROM: Rick Abboud, City Planner  
DATE: September 5, 2018  
SUBJECT: Central Business District Setback

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#### Introduction

Council Person Adderhold is proposing that the Planning Commission make a recommendation on the proposed changing in front setback from the current 20' to 10' in the Central Business District (CBD).

#### Analysis

In the past ten years, the Commission has had 10 Conditional Use Permits (CUP's) proposing setback reductions. Nine have been approved and one withdrawn with two having been appealed with the city prevailing so far, but due process opportunity has not been exhausted in either case (note: CUP 05-10 for a 9' setback reduction on Grubstake Avenue was approved and appealed. The City prevailed in Civil Superior Court).

#### 2009

CUP 09-04, 353 Grubstake Ave, 10' reduction from Poopdeck Street approved – open porch

#### 2011

CUP 11-09, 3406 Main Street (Old Town), 10' reduction from Bunnell and 8' reduction from Main Street – structure, enclosed porch

#### 2013

CUP 13-03, 580 E Pioneer Avenue (WKFL Restrooms), 14' reduction from Heath Street - structure

CUP 13-06, 265 E Pioneer Avenue, 8.8' reduction from Pioneer Avenue – structure and covered porch

CUP 13-11, 203 E Pioneer Avenue. 13' reduction from Greatland Street - structure

#### 2014

CUP 14-05, 320 W Pioneer Avenue, 10' reduction from Pioneer Avenue – deck. **Appealed, Alaska Supreme Court on going**

CUP 14-07, 564 E Pioneer Avenue, 7.5' reduction from Lee Drive – structure

**2017**

CUP 17-02, 210 Ohlson Lane, 12' reduction from Greatland Street – structure

**2018**

CUP 18-02, 302 E Pioneer Avenue, 8' reduction from Pioneer Avenue – open porch. **Appealed, Hearing Officer**

CUP 18-07, 3781 Heath Street. 10' reduction from Pioneer Avenue – structure. Withdrawn

The sponsor of the proposal wishes to decrease the amount of CUP's the Planning Office processes. This would lighten the office workload and make the process for an applicant much easier to navigate and decrease permitting time by at least 3 weeks. An added consideration would be to lower the city's exposure to costly appeals.

To evaluate the concept of eliminating a CUP for a lowered setback distance, we can look at the distances that have been requested. Seven of ten requests were for 10' or less, leaving three proposals for 12', 13', & 14' respectively. The sponsor suggests that the new setback be 10' from rights-of-way (ROW). As written, this would eliminate the opportunity for the three CUP's that requested a distance greater than 10'.

You may now be thinking, what about utility setbacks that are greater than 10'? A great deal of the lots in the CBD have not had the now required 15' setback requirement from ROW allied to their property that has not been subdivided. In the case that a setback or any other easement might interfere with a building at ten feet, the applicant would have to get a release from the provision or they would not be able build over the encumbered land. Other provision, such as sight triangles on roads or drives, will have to be met regardless of the setback.

Other considerations include the expansion of substandard ROW. Several streets in the CBD were developed as a 50' ROW. The current road standard is 60' and the Borough will need confirmation that the city does not wish to gain ROW to meet the current road standards when reviewing subdivision proposals long substandard roads. The Public Works Director should be consulted on this subject.

**Streets of the CBD**

The functional classification of the streets differ between the two city plans. The Master Roads and Streets plan of 1986 is quite out of date and not based on any current standards I can verify. The 2005 Homer Area Transportation Plan has a classification based on AASHTO that has been modified for rural communities, but not many of the streets are classified. Many of the local roads are 50' wide, while the standard width is 60 feet.

Pioneer Avenue	Rural Major Collector	60' to 70'
Lake Street	Rural Major Collector	60' to 80'



Bartlett Street	Rural Minor Collector	60'
Main Street	Rural Major Collector	60'
Sterling Highway	Rural Principle Arterial	~100'
Heath Street		60' mostly
East Fairview		80'
Greatland Street		60'
Poopdeck Street		60' on developed section
Shelford Street		45' to 30'
Lucky Shot Street		60'
Svedlund Street		60'
Snowbird Street		60'
Kachemak Way		60'
Klondike Avenue		60' west of Kachemak Way, 40' to the east
Bonanza Avenue		50'
Grubstake Avenue		50'
Hazel Avenue		50' to 60'+
Ben Walters Lane		60'
Smokey Bay Way		60'
Ohlson Lane	Rural Minor Collector	40' to 60'
Jenny Way		20' to 40'
Bunnell Avenue	Rural Minor Collector	40'w 60'e
Allen Way		20' alley
Hansen Avenue		60'
Charles Way		55'
Beluga Place		50'
North Avenue		40'

I am planning to have the Public Works Director speak with the Commission at the work session to give a perspective on the rights-of-way in the CBD and how a reduced setback might affect them.

### **Staff Recommendation**

Have a discussion about the proposal. Request any additional information you may need. Consider for further work or public hearing.

### **Attachments**

Ordinance 18-39 **Already Included in Packet**

Memorandum 18-095

Memorandum from City Clerk, synopsis of 8/27/18 Council Committee of the Whole Meeting

Map with street names





## City of Homer

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Homer City Council

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Homer, Alaska 99603

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### Memorandum 18-095

TO: MAYOR ZAK AND HOMER CITY COUNCIL  
FROM: DONNA ADERHOLD, COUNCILMEMBER  
DATE: AUGUST 22, 2018  
SUBJECT: REDUCTION OF SETBACK IN THE CENTRAL BUSINESS DISTRICT (CBD)

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The purpose of this memo is to introduce the concept for a draft ordinance to the City Council for review prior to recommending the Planning Commission work on an ordinance. This serves two purposes: 1. an opportunity for the public to be aware of the item and that the subject is proposed to be sent to the Planning Commission for review and, 2. for the City Council to express their support for the concept and to discuss any refinement which may lead to a better recommendation to the Planning Commission.

Over the past 10 years, 10 Conditional Use Permits in the CBD for reduction of a setback have all been approved. Allowing a reduced setback to be permitted in the Planning office supports the reduction of staff time preparing for these public hearings and reducing process and delays for applicants.

**Recommendation:** Please express your support for the ordinance and concepts.



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## Memorandum

TO: Acting Chair Bentz and the Advisory Planning Commission

FROM: Melissa Jacobsen, MMC, City Clerk

DATE: August 30, 2018

SUBJECT: City Council Comments Regarding Ordinance 18-39

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City Council discussed Ordinance 18-39 during their Committee of the Whole session on August 27<sup>th</sup>. It was requested by Mayor Pro Tem Aderhold that their talking points be provided to the Planning Commission for consideration. A summary of Council comments is as follows:

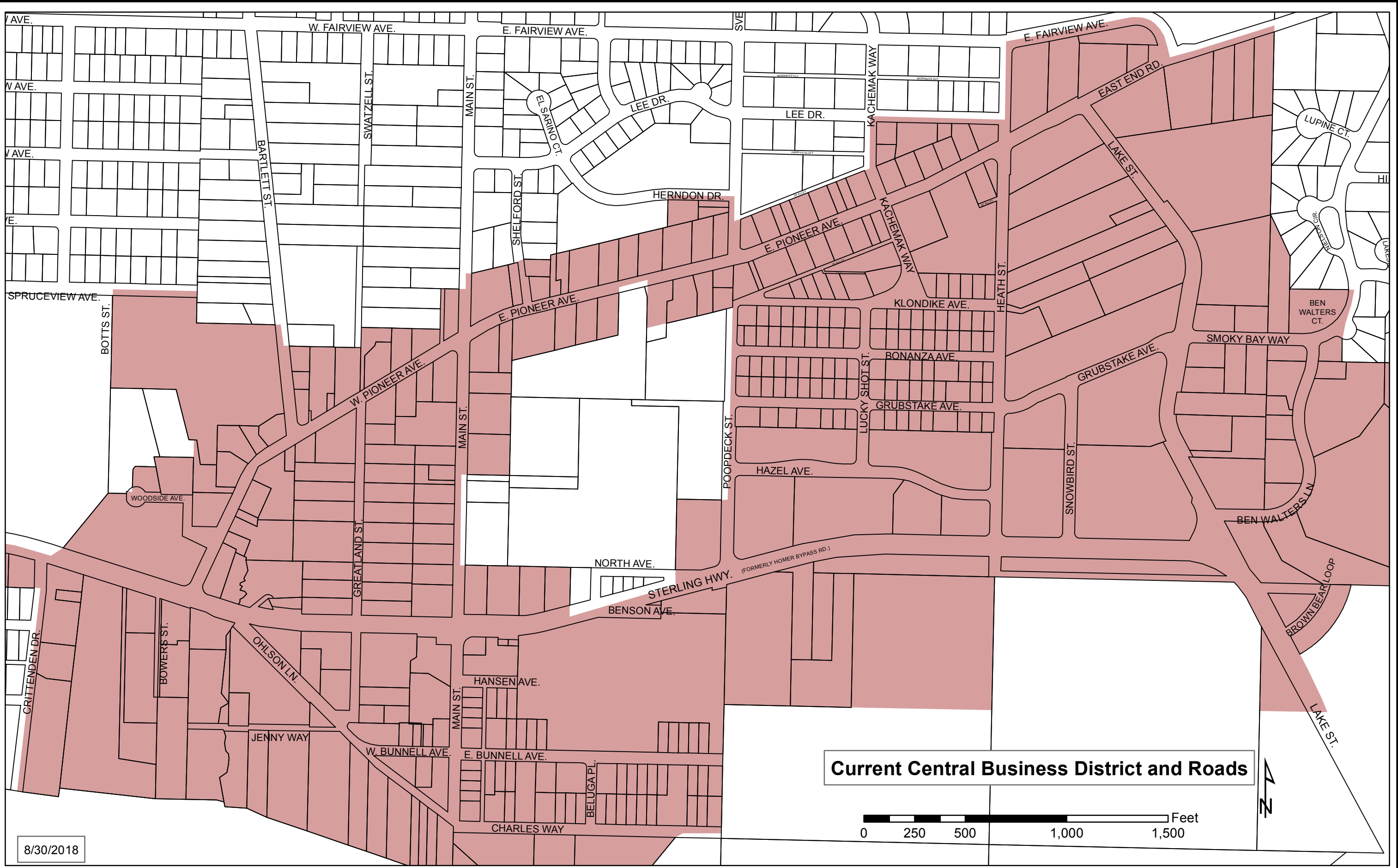
Councilmember Venuti asked why the change? They've been dealing with it through CUP and every situation is different, and we don't want to take away anything they've done well.

Mayor Pro Tem Aderhold explained the Planning Commission has never denied a CUP for a setback up to 10 feet and it's also the area of greatest litigation, which is part of the reason for evaluating this. If the Planning Commission is always issuing a permit for the reduction, then maybe with certain stipulations, the Planning Department can issue the permit rather than going through the Commission, in an effort to streamline that process.

Councilmember Smith commented his biggest concern is that there might be lots that you don't want to give up the ten feet, then it becomes a problem, and their wide open to do it. It might be more problematic. The CUP has worked, but he understands it's taken a lot of time in the courtroom as a result of where it's at now. He sees benefits on both sides and would like to see what the Planning Commission comes up with in their review.

Councilmember Erickson commented as the Planning Commission is are relooking at the transportation plan she thinks it's important we are not looking at one little picture on this, but at the broader view, particularly if we start opening up where town center would be. What do we want that to look like with road placement? There is a lot involved as we open up new territory, versus where we have things on Pioneer Ave. that are old and kind of all over the place. There are a couple issues and it will be good that they are looking at both issues and how we should integrate that with the transportation plan and road planning.

Councilmember Stroozas commented we have the CUP process as a system of checks and balances, and agrees there may be properties we don't want the ten feet on. The system has worked, people who have applied have general received it without any conflict, yes, it has been a big point of litigation for the city over the year.



**Current Central Business District and Roads**

0 250 500 1,000 1,500 Feet



8/30/2018



**PLAT CONSIDERATION**

**A.** Staff Report 18-53, Forest Glen Subdivision 2019 Preliminary Plat

City Planner Abboud provided a summary of Staff Report 18-53.

Gary Nelson, surveyor for the project did not have a presentation he was available for any questions the commission may have.

Chair Venuti opened the floor for public testimony on the issue, upon seeing no one in audience come forward he closed the public testimony period.

Commissioner Highland inquired about the naming of plat as 2019 versus 2018 and confirmation that the date of "August 17, 2012" on the application was a typographical error.

Mr. Nelson explained that he was informed by the Planning Department that there was already a Plat submitted entitled Forest Glen Subdivision 2018 so they changed it to 2019 and confirmed that the date was a typographical error.

BENTZ/HIGHLAND MOVED TO ADOPT STAFF REPORT 18-53, FOREST GLEN SUBDIVISION 2019 PRELIMINARY PLAT AND FORWARD RECOMMENDATION TO THE KENAI PENINSULA BOROUGH

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

**PENDING BUSINESS**

**NEW BUSINESS**

**B.** Staff Report 18-55, Amending HCC 21.18.040 to Reduce the Setback Permitted from 20 Feet to 10 Feet in the Central Business District.

City Planner Abboud reviewed his report and noted that the City Clerk provided minutes from the Council discussion during Committee of the Whole. He then summarized Councilmembers concerns and comments.

City Planner noted that there were some things that the Commission did not review exactly, the City Attorney took away using exact names. He did not have a recommendation for an alternative at this time. He commented on the size of the setback and that the City of Homer was not



developed in the standard method as it was a collection of homesteads instead of planned city center and streets configured from the main square.

City Planner Abboud commented on options that could be taken in the future, what has been changed in regards to utility easements, old easements, new easements that have been put in. He noted that there is a lot for the commission to consider. He has put in the information from the City Transportation Plan. He requested direction and input from the commission.

Chair Venuti requested a motion to bring the item to the floor for discussion.

BOS/BENTZ MOVED TO BRING STAFF REPORT 18-55 TO THE FLOOR FOR DISCUSSION.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Highland requested clarification on the process and defining it.

City Planner Abboud provided clarification on the issues.

Commissioner Banks noted the different types of roads in this zone and the recommendation from the attorney not to reference by street but he feels that it would be a good idea on some streets to bring the business right up to the street to encourage walkability. He is not sure it is a great idea to do this by zone.

Commissioner Bos noted that there have only been 10 conditional use permits for setback reductions with one withdrawn and all have been approved. He preferred looking at each individual street.

Commissioner Bentz requested further clarification on the recommendation from the attorney on naming.

City Planner Abboud explained that the city attorney did not recommend using the name of the street but preferred descriptors.

Commissioner Bentz inquired if they should make a classification system before addressing this issue.

City Planner Abboud responded that was the issue, if they could set that out in the transportation plan, but to be exclusive is an issue and he would have to determine another quality to satisfy the legal review and the city attorney.



Further discussion ensued on the basis for requesting the change to the setback regulation, problems related to the changes, responding to Council's request to provide a recommendation and making this into code, the number of conditional use permits that were under or went to litigation, there were many challenges to institute a blanket setback in the district, requesting a worksession with the City Attorney to define the issue and forwarding that recommendation to City Council.

BENTZ/ MOVED TO FORWARD THIS BACK TO CITY COUNCIL FOR PUBLIC HEARING

There was a brief discussion on making a motion to take no action at the commission level and putting this back to City Council and that they could pass the ordinance as is if that is the intent of the Commission and the need to make a motion in the positive format.

Commissioner Bentz pulled her motion from the table for consideration.

BENTZ/ BANKS MOVED THAT THE PLANNING COMMISSION RECOMMEND NOT MOVING FORWARD TO PUBLIC HEARING AT THIS TIME BUT ENTERTAIN ADDITIONAL WORK ON THIS ORDINANCE.

A discussion on whether they can recommend a worksession since they are not ready to take this to Public Hearing ensued.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Bentz requested for the worksession that they have legal available along with maps in front of them.

City Planner Abboud noted that was the difficulty since the City Attorney was not a Planner.

Commissioner Highland requested clarification for the report to council on Monday.

City Planner Abboud responded that she could tell them they will be having a worksession to do more work on this ordinance.

### **INFORMATIONAL MATERIALS**

- A.** City Manager's Reports for the August 13 & 27, 2018 Homer City Council meetings
- B.** Reappointment to the Commission
- C.** Decision on CUP 2018-02





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## Planning

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(p) 907-235-3106  
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### Staff Report PL 18-60

TO: Homer Advisory Planning Commission  
FROM: Rick Abboud, City Planner  
DATE: September 19, 2018  
SUBJECT: Central Business District Setback

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#### Introduction

The Commission discussed some issues regarding setbacks at the September 19<sup>th</sup> work session. The Commission wanted some guidance from legal, maps, and a review of the Transportation Plan and a review of individual streets.

Hopefully, Commissioners have a copy of the 2005 Homer Transportation Plan (can be accessed at <https://www.cityofhomer-ak.gov/planning/homer-area-transportation-plan-2005>). Information from staff report 18-55 (last meeting) will still be helpful.

#### Analysis

The data from the plan is based on 1999 traffic counts. It is on the radar for the Council and Commission to update the plan. With the data in mind, it is difficult to apply the information to current conditions, as the shelf-life of the 20-year document nearing its end. Projections are taken out to 2021, just a few years away. Accuracy is questionable. The plan's main goals are to maintain a reasonable level-of-service (LOS). Specifically, cited issues in the CBD include circulation and congestion improvements including an additional east-west route. Other concerns are parking and snow storage. Besides suggesting alternative routes and intersection improvements, no technical guidance is provided on ideal street widths, only a cafeteria rendering of a complete street (p. 17, fig. 7).

Another consideration may be the Non-Motorized Transportation and Trails Plan. Page 16 of the plan has this wonderful dream design of Main Street. I would have to guess that this would require more right-of-way (ROW) than is appropriated right now. How much? Well, that depends on an engineered design, which is not currently available.

Opinions are all over. Where I, as a planner, believe that Pioneer Avenue could be narrowed and slowed down and calming techniques implemented in the future, our engineer sees it turning into four lanes. Are our substandard street widths adequate for the future? Again, that depends on which amenities we feel will be supported and desired in the future. Will the current/future transportation plans have political support for implementation?

Is this over analysis? Is there another way to meet the goals of providing an appropriate land use rights and limiting exposure to legal challenges? For the near future, at least, there would not seem to be a relief to legal challenges, regardless of our legal outcomes, for providing an option as a CUP. What else could we do? We could make a comprehensive transportation plan that carefully analyses and makes recommendations. We could have a prohibition on CUP's or completely eliminate them. If many exceptions are warranted, we would have to invest time in creating an analysis of the qualities of the exceptions.

We have approved all requests that have made it through the Planning Commission. This approved the reduction from 7 streets out of 30 or so ROW's found in and abutting the CBD. Accepting a reduction of less than 10', from experience, would not have satisfied the requests that we have processed. I am convinced that there is no 'perfect' answer. As with many things, we will gain experience as time moves.

### **Staff Recommendation**

Have a discussion about the proposal. Request any additional information you may need. Consider for further work or public hearing.

### **Attachments**

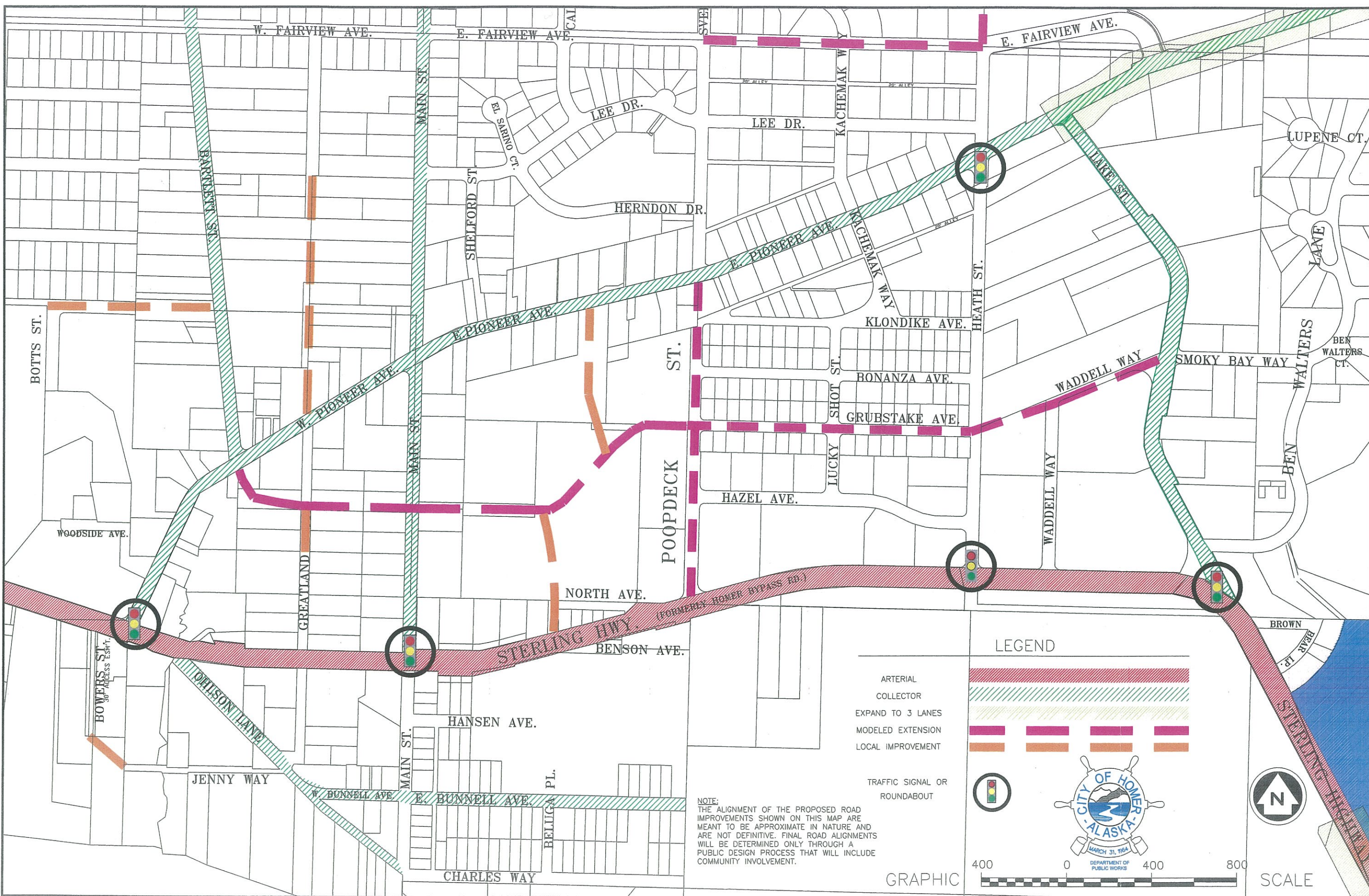
Map

**2005 HOMER AREA TRANSPORTATION PLAN**  
CENTRAL BUSINESS DISTRICT, ALTERNATE A



**Mike Tauriainen, P.E.**  
CONSULTING ENGINEERS, INC.  
IN ASSOCIATION WITH  
TRIALS CONSULTANT  
LAND DESIGN NORTH  
PLANNING CONSULTANT  
TRANSIT ENGINEER  
BROOKS & ASSOCIATES

DATE: JULY 2001  
SCALE: AS SHOWN  
DESIGNED BY: MT  
DRAWN BY: ES  
CHECKED BY: MT  
APPROVED BY: \_\_\_\_\_



NOTE:  
THE ALIGNMENT OF THE PROPOSED ROAD IMPROVEMENTS SHOWN ON THIS MAP ARE MEANT TO BE APPROXIMATE IN NATURE AND ARE NOT DEFINITIVE. FINAL ROAD ALIGNMENTS WILL BE DETERMINED ONLY THROUGH A PUBLIC DESIGN PROCESS THAT WILL INCLUDE COMMUNITY INVOLVEMENT.

**LEGEND**

- ARTERIAL
- COLLECTOR
- EXPAND TO 3 LANES
- MODELED EXTENSION
- LOCAL IMPROVEMENT
- TRAFFIC SIGNAL OR ROUNDABOUT

**GRAPHIC SCALE**

400 0 400 800

DEPARTMENT OF PUBLIC WORKS

**CITY OF HOMER - ALASKA**  
MARCH 31, 1964



VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

**PENDING BUSINESS**

**A.** Staff Report 18-60, Amending HCC 21.18.040 to Reduce the Setback Permitted from 20 Feet to 10 Feet in the Central Business District

BENTZ/BANKS MOVED TO POSTPONE PENDING BUSINESS ITEM A TO THE NEXT REGULAR MEETING AND MOVE NEW BUSINESS ITEM A.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

**NEW BUSINESS**

**A.** Staff Report 18-62, Amending HCC 21.61.040(b) to codify the City Council's Role as the local regulatory authority.

City Planner Abboud provided a brief explanation on the reason to bring this change forward and what it will provide.

BENTZ/HIGHLAND MOVED TO FORWARD DRAFT ORDINANCE AMENDING HOMER CITY CODE 21.61.040(B) CODIFYING THE CITY COUNCIL'S ROLE AS THE LOCAL REGULATORY AUTHORITY TO PUBLIC HEARING AT THE NEXT REGULAR MEETING OF THE COMMISSION.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

HIGHLAND/BENTZ MOVED TO RECOMMEND EXTENDING THE MEETING UNTIL 10:10 P.M. TO ALLOW FOR COMMENTS.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.







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### Staff Report PL 18-65

TO: Homer Advisory Planning Commission  
FROM: Rick Abboud, City Planner  
DATE: October 3, 2018  
SUBJECT: Central Business District Setback

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#### Introduction

The Commission had some discussion about the proposed ordinance at the work session meeting of September 19<sup>th</sup>. When the regular meeting time exceeded 10pm, the commission approved a motion to move the item to their next meeting.

#### Analysis

The City Council had moved the item to public hearing on the agenda of their September 24<sup>th</sup> meeting. At the meeting, they moved to postpone their public hearing and 2<sup>nd</sup> reading of the proposed ordinance to no later than January 14, 2019.

#### Staff Recommendation

Have a discussion about the proposal. Request any additional information you may need. Consider for further work or public hearing.

#### Attachments

Memorandum 18-095 **These attachments have already  
been included in Packet**

Ordinance 18-39

Memorandum from City Clerk, synopsis of 8/27/18 Council Committee of the Whole meeting  
Central Business District Map, *2005 Homer Area Transportation Plan*



PLAT CONSIDERATION

PENDING BUSINESS

A. Staff Report 18-60, Amending HCC 21.18.040 to Reduce the Setback Permitted from 20 Feet to 10 Feet in the Central Business District

Discussion by the Commission on the basis for the proposed change, the difficulty in establishing a blanket policy, defining specific streets, review of the Transportation Plan which is coming to the end of its shelf life ensued.

Further discussion on the issues that need to be developed and that if they can get the experts to review the roads and determine the amenities.

The Commission discussed the merits of the proposed changes to the setbacks in the Central Business District and commented on the following:

- Reduction in litigation may not be affected
- Case by case evaluation may not be the best approach
- Commercial Areas versus Residential Areas
- Reduction of CUP

BENTZ/BERNARD - MOVE THAT THE COMMISSION REVISITS THE SETBACK ISSUES ON THE NUMBER OF CONDITIONAL USE PERMITS ISSUED WHEN THEY REVIEW THE TRANSPORTATION PLAN

Discussion on the commercial traffic that uses Pioneer Avenue and that they would be unable to access another route.

VOTE. NON-OBJECTION UNANIMOUS CONSENT.

Motion carried.

BENTZ/BOS - MOVED TO FORWARD ORDINANCE 18-39 TO PUBLIC HEARING.

There was a brief discussion on moving to Public Hearing.

BANKS/BENTZ MOVE TO AMEND THE MOTION TO FORWARD ORDINANCE 18-39 TO PUBLIC HEARING AFTER REVIEW/UPDATING OF THE TRANSPORTATION PLAN.

There was a brief discussion on the benefit to wait until after updating the Transportation Plan and possible professional input on the issue.

VOTE. (Amendment)NO. BOS, SMITH, HIGHLAND, VENUTI

VOTE. (Amendment) YES. BENTZ, BANKS, BERNARD

Motion failed.

SMITH/BOS MOVE TO REQUEST EXTENTION OF TIME TO HOLD A PUBLIC HEARING ON JANUARY 16 2019

Discussion on the basis of delaying the action to allow enough response time.

VOTE. (Amendment).YES. SMITH, BOS.

NO. HIGHLAND, BENTZ, VENUTI, BANKS, BERNARD

Motion failed.

Chair Venuti called for the vote on the Main motion on the floor.

VOTE. YES. HIGHLAND, VENUTI, BOS, SMITH

NO. BENTZ, BANKS, BERNARD.

Motion carried.

NEW BUSINESS

A. Staff Report 18-66, Green Infrastructure (GI)

Discussion ensued on the following:

- what it would take
- the costs involved to build
- what approaches can be implemented to address green infrastructure
- lessen the impacts to neighboring properties
- recommendations to invite professionals to comment
- explanation on how the Planning Department can implement these strategies
- review of the reading materials will lead the Commission in the direction that is required
- Commission can be better informed before speaking to Council on the issues
- Examples of how does the water flow in Homer
- Need to determine how to improve percentage of drainage
- Not trying to reinvent the wheel referring to page 50 of the materials that City Planner provided
- Staff recommendation was that the Commission learn more.
- Encourage builders who come into the Planning Dept to use the green infrastructure in their development

Chair Venuti recommended the commission to review the Stormwater plan and city code where there are rules currently applicable in Section 21.75 of city code.



## City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Planning

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### Staff Report PL 18-70

TO: Homer Advisory Planning Commission  
FROM: Rick Abboud, City Planner  
DATE: October 17, 2018  
SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HCC 21.18.040 TO REDUCE THE SETBACK PERMITTED FROM 20 FEET TO 10 FEET IN THE CENTRAL BUSINESS DISTRICT.

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### Introduction

The Commission has been asked by the City Council to review the proposed ordinance and make a recommendation regarding adoption.

### Analysis

The ordinance proposes to reduce the current 20' setback from ROW's in the CBD to 10', with the exception of the Sterling Highway.

After a careful review of the current status of all the ROW's in the CBD, the Commission feels that the various configurations of the roads, which includes a significant amount of substandard ROW widths, deserves more detailed study before reducing the setback districtwide. Consideration for the reduction includes the future expectation of the function that the individual roads are to provide and an examination of the ability of the road to support those functions (i.e. is enough ROW dedicated for anticipated amenities). The Commission feels that an updated transportation plan can provide information in enough detail to evaluate the merits of setback reduction for the various roads. In addition, the Planning Commission recommended working with the City Attorney to identify strategies to minimize legal exposure to CUP appeals.

At this time, the recommendation of the Planning Commission is to not reduce the setbacks in the district until the completion of an update to the transportation plan is accomplished.

### Staff Recommendation

Hold a public hearing on Ordinance 18-39 and move a recommendation to the City Council.

### Attachments

Ordinance 18-39 **Already Included in Packet**



Chair Venuti opened the public hearing and seeing no public present other than the applicant he closed the Public Hearing.

Commissioners commented or inquired about the following and the Applicant responded:

- Parking plan recommendations were acceptable
- Storm drainage and runoff catchment system
- Addressing runoff from steep slopes
  - o Commission recommendation to review the city's best practices document
- Foundations for the project
  - o steel piling and concrete
- Project timeline
  - o Will start this year, with the Garage/Shop planned for 2020 and the main residence in 2021
- Dirt work planned later this fall with plans to be disturbing minimal groundcover using the steel pylons for the foundation

BENTZ/SMITH MOVED TO ADOPT STAFF REPORT 18-68 AND APPROVE CUP 2018-12 WITH FINDINGS 1-11 AND CONDITIONS 1-3.

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Staff Report 18-70, Ordinance 18-39 Amending HCC 21.18.040 to reduce the setback permitted from 20 feet to 10 feet in the Central Business District.


Deputy City Planner Engebretsen noted the one comment received and read the report included in the packet by the City Planner into the record.

Chair Venuti opened the public hearing, seeing no one in the audience coming forward he closed the Public Hearing.

Chair Venuti open the floor to questions by the commission.

There were no questions or comments.

HIGHLAND/SMITH MOVED THAT THE ADVISORY PLANNING COMMISSION DOES NOT SUPPORT ORDINANCE 18-39 AMENDING HCC 21.18.040 TO REDUCE THE SETBACK PERMITTED FROM 20 FEET TO 10 FEET IN THE CBD



A brief discussion on the basis for not approving the proposed ordinance was stated in the analysis provided by the City Planner and supported by the commission.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

#### PLAT CONSIDERATION

A. Staff Report 18-69, Hillside Acres Subd. Tract 7 2018 Replat Preliminary Plat

Deputy City Planner Engebretsen reviewed the staff report for the commission.

There was no applicant present.

Chair Venuti opened the floor for public comment seeing no one present in the audience he closed the public comment period.

There was no comments or questions from the commission.

HIGHLAND/BENTZ MOVED TO ADOPT STAFF REPORT 18-69 AND APPROVE THE HILLSIDE ACRES SUBDIVISION TRACT 7 2018 REPLAT PRELIMINARY PLAT WITH COMMENTS 1 & 2

There was no discussion

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

#### PENDING BUSINESS

#### NEW BUSINESS

A. Decisions and Findings for Conditional Use Permit (CUP) 18-09, for a medical clinic containing more than 8,000 square feet of building area at 267 Cityview Avenue (Meeting Laydown)

This item was pulled from the consent and moved to New Business Item A

Commissioner Banks wanted the pre-existing condition of a non-permitted parking lot listed since it was a concern expressed at the meeting by several members who testified and since the other concerns or points are noted he felt it would be appropriate.



**From:** Frank Griswold <fsgriz@alaska.net>  
**Sent:** Tuesday, October 16, 2018 10:17 AM  
**To:** Department Planning  
**Cc:** Melissa Jacobsen; Renee Krause  
**Subject:** Proposed Setback Ordinance 18-39

Dear Commissioners,

Under the guise of reducing/avoiding future litigation costs, the City Council is attempting to provide a parachute for Derek and Catriona Reynolds should I prevail in my pending appeal of CUP 2018-02. No consideration has been given to deleting the allegedly illegal provision of city code (HCC 21.18.040(b)(4)) that allows for setback reduction by Conditional Use Permit rather than by Variance and neither the Planning Commission nor City Council has given any consideration to the economic value, aesthetic value, and/or public safety value of 20-foot front yard setbacks or to why they were originally adopted into the city zoning code. (See Purpose: HCC 21.01.030). HCC 21.18.040(b)(4) explicitly excludes properties fronting Lake Street but restricting the proposed 10-foot setback requirement solely to non-arterial roads in the CBD via Ordinance 18-39 would mean that the current 20-foot setbacks along Lake Street would be reduced to 10 feet. The 2005 Homer Area Transportation Plan classifies both Lake Street and Pioneer Avenue as "Rural Major Collector" streets i.e., not "Arterials." (See Plate 1 at 1-25). Thus, proposed Ordinance 18-39 constitutes arbitrary decision-making, violates of the equal protection clause of the US Constitution, and will likely spawn further litigation. The Commission should oppose proposed Ordinance 18-39 and recommend that the City Council delete HCC 21.18.040(b)(4) instead.

Frank Griswold



