



City of Homer

www.cityofhomer-ak.gov

Planning

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Homer, Alaska 99603

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Memorandum 22-048 (PL 22-03)

TO: MAYOR CASTNER, AND HOMER CITY COUNCIL

FROM: RICK ABBODD, AICP, CITY PLANNER

DATE: MARCH 16, 2022

SUBJECT: EXCLUDING THE USE OF CONNEXES OR OTHER SIMILAR INTERMODAL SHIPPING CONTAINERS FOR USE IN DWELLINGS

Currently, the Homer City Code does not have any standards for the construction of a dwelling other than a design for occupancy of one family that includes facilities for sleeping, cooking, and sanitation. As such, no particular materials are prohibited from use in a dwelling. Only commercial structure and multi-family dwellings of more than three units are reviewed for fire safety by the state Fire Marshall.

The Homer Planning Commission has considered the use of Connexes/intermodal shipping containers in dwellings. It was a subject of the agenda at 4 meetings, including a public hearing on March 2.

The concerns expressed that prevailed included safety, aesthetics, and effects on property values with the use of the item in a dwelling. It was decided that it was best to avoid their use city-wide in dwellings. It also promoted the concept of the adoption of building codes to better insure the safety of these and other structures that may be used as dwellings.

At the Public Hearing, the Commission voted 4-3 to recommend that the City Council adopt the attached draft ordinance banning their use in dwellings.

Attachments

Draft Ordinance

Staff Report PL 22-05 and Planning Commission Meeting Minutes of Jan. 05, 2022

Staff Report PL 22-08 and Planning Commission Meeting Minutes of Feb. 02, 2022

Staff Report PL 22-13 and Planning Commission Meeting Minutes of Feb. 16, 2022

Staff Report PL 22-16 and Planning Commission Meeting Minutes of March 02, 2022



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Staff Report PL 21-05

TO: Homer Planning Commission
FROM: Rick Abboud, AICP, City Planner
DATE: January 5, 2022
SUBJECT: Storage Container Dwellings

Introduction At the request of the Chair, I have added this item to the agenda.

Analysis It is my understanding that Commissioner Venuti proposes to regulate the usage of storage containers as dwellings based on zoning district.

The use of shipping containers has been a subject of staff report 21-52 that was presented to the commission. At the meeting of November 3rd, the subject was discussed and is highlighted in the minutes. No motion to regulate the use of shipping containers was made, although a request was made for Commissioners to work with staff to produce some proposed code.

Staff Recommendation Listen to and consider Commissioner Venuti's proposal.

Attachments

PC Minutes from meeting of 11/3/21

- Getting the new permitting software lined up and ready which will allow the Planning Department to be connected with Public Works, for real time information that can be shared, online payments, future permitting and enforcement issues will be able to be addressed
- Requested volunteers to attend the City Council meeting on November 8, 2021. He then provided guidance on giving the reports to City Council especially those items that may be quasi-judicial.

PUBLIC HEARINGS

- A. Staff Report 21-66, Draft Ordinance 21-xx, Amending Onsite Parking Requirements for Detached One Bedroom or Efficiency Dwelling Units.

City Planner Abboud provided a review of Staff Report 21-66 to the Commission.

There was no applicant.

Chair Smith opened the Public Hearing and having no public present in the audience or attending via Zoom he closed the Public Hearing and opened the floor to questions from the Commission.

There was no questions from the Commission.

VENUTI/BENTZ MOVED TO ADOPT STAFF REPORT 21-66 AND FORWARD DRAFT ORDINANCE TO AMEND PARKING REQUIREMENTS FOR DETACHED ONE BEDROOM AND EFFICIENCY DWELLING UNITS.

There was a brief discussion regarding clarification that by adopting the Staff Report the Commission will be recommending that the draft ordinance be forwarded to City Council for Public Hearing and approval.

Deputy City Clerk Krause confirmed that would be the action needed from the Commission.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PLAT CONSIDERATION

PENDING BUSINESS

- A. Staff Report 21-52, Use of Shipping Containers

Chair Smith introduced the item by reading of the title and invited City Planner Abboud to provide his report.

City Planner Abboud prefaced the discussion by stating that they are not referencing the previous appeal and anything specific regarding that specific site. This is to be a general discussion on the future

use of shipping containers not delving into anything that the Commission might have talked about regarding that previous permit.

City Planner Abboud then facilitated discussion on the future use of shipping containers. Some of the following points discussed were:

- Aesthetics
 - o no specific residential building regulations
 - o anything goes if its not financed
 - o metal rectangles are not as appealing to many communities
 - o not allowed for use a dwelling in Anchorage
- Safety
- Expensive to convert
- Alternative to standard building materials
- Most issues are solved within building codes, however Homer has no building codes
- No rush in using this alternative as a dwelling
- Recycling
- Possible devaluing property values
- Difficulties in wiring and plumbing connexes and making sure they have proper egresses
- Toxicity exposure with used connexes
- Including it in the Zoning Code and holding public hearings to get input
- other popular building materials or dwellings is yurts and how far into the details does the Commission want to go
- Ongoing maintenance as property owner ages for a connex dwelling
- logistically impossible to ban one type of materials over another and what that language or code would look like and if all the boxes are checked for safety and habitability then it should not be excluded based on material.
- Specific areas in the city are allowed to have mobile homes
 - o Mobile homes in other districts were in place before so are grandfathered in
 - o Central Business District and Rural Residential allows mobile homes
- Designs can be reviewed on some really nice homes constructed out of connexes.
- Apply all requirements such as health and safety to all dwellings
- Building issues or development within the zoning code leads to development of a building code
- Cost of land in Homer does not lend to placing a connex dwelling
- Previous act setting a precedent
- Current economy and lack of availability may preclude this from being an issue
- Examples of connexes and mobile homes that have been totally changed appearance wise on the exterior
- Commissioners who are interested in proposing language work with planning staff to develop proposed code for review and discuss at a future meeting.
- Cabins installed on top of connexes out on the spit and if these should be regulated in some manner such as limiting the spread.
 - o This is where we need to adopt a building code to address this issue
 - o Then we will need a building department
 - Not sure how much longer the city can go on without having a building code and department



- Commission can make a recommendation and Planning will then work with Administration and see where it goes
 - Listing of the situations where having a building code would be addressed that is not handled by zoning code
- other neighboring first class cities have building departments
 - Permit fees would fund building permits
 - Inspection of properties/projects
- Planning Department provide a list of situations, process for adoption, enforcement and working with the local professional community
 - date uncertain as to bringing back the information to the Commission on Building Department/Building Code

NEW BUSINESS

- A. Memorandum from City Clerk re: Advisory Bodies 2022 Meeting Schedule

Chair Smith introduced the item by reading of the title.

City Planner Abboud commented on the typical meeting schedule noting the months where the Commission only meets once during those months.

BENTZ/HIGHLAND MOVED TO APPROVE THE RESOLUTION TO ESTABLISH THE 2022 MEETING SCHEDULE AS PRESENTED.

There was no discussion.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

INFORMATIONAL MATERIALS

- A. City Manager's Report for October 25, 2021 City Council Meeting
- B. Planning Commission Calendar

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY STAFF

City Planner Abboud commented he was actually kind of excited about getting some of these initiatives and topics rolling and noted that while some of it is a little intimidating he felt that he was up for the challenge. Mr. Abboud stated that they got a lot of dots to connect, they kind of look at microcosms and then step back and kind of look at the macro issues that may be a bigger solution or better way to look at things.

Deputy City Clerk Krause commented that it was a good meeting and lots of good information.

- Regulations that limit the use of private property to the effect that it deprives the property of any value amounts to a taking and is something to consider.
- Checking on the element of rising sea levels and increase in the strength of storms is something to consider
 - o There is probably some consideration but the sea levels and glacier retreat has been really small increments and calculated in millimeters, City Planner Abboud will double check that data with Ms. Overbeck
 - o Current land level is outpacing the sea level rise but the increasing frequency and intensity of coastal storms addresses that but considering that we have been looking at data that addresses the past does not lend itself for what they may experience in the future and that faster erosion rates could be experienced.
 - o That supports the increase by 10 feet because Mother Nature is not going to get better and difficult to predict.

B. Staff Report 22-05, Storage Container Dwellings

Chair Smith introduced the item and requested City Planner Abboud to provide his staff report.

City Planner Abboud provided a summary of the Staff Report 22-05 and noted the prior discussions conducted by the Commission. He noted that a recommendation was made for Commissioner's to work with staff to produce some proposed code but there was none received by the planning department.

City Planner Abboud noted that Commissioner Venuti requested this item to be on the agenda through the Chair and then requested Commissioner Venuti to speak to the topic.

Commissioner Venuti provided a history of his experience and certifications as well as licensures and how long he has worked in the construction industry. He acknowledged that not everyone can afford a \$300,000-\$500,000 home and that recycling a container into a dwelling may be appealing to some people. Commissioner Venuti proceeded to provide his reasons for not allowing the use of shipping containers as dwellings for the following reasons:

- safety and health hazards with materials used in shipping containers
- aesthetics
- there is no standards for construction
- there are no requirements for inspection
- Not appropriate structure to be used in the urban or residential zones of the city where residents are heavily invested using more conventional means
- Use of shipping containers he believes will devalue the neighboring properties
- Community Design Manual does not support the use shipping containers

VENUTI/HIGHLAND MOVED THAT THE CITY OF HOMER LIMITS THE USE OF SHIPPING CONTAINERS CONVERTED INTO HOMES TO THE CENTRAL BUSINESS DISTRICT, MARINE COMMERCIAL DISTRICT AND EAST END MIXED USE DISTRICT.

Discussion ensued by the Commission on the following points:

- Toxicity and safety requirements, are what would be found in Building Code which the City does not have;

- Review of existing code does not have appropriate language to cover the use or to exclude the use of shipping containers and would need to assistance of the city attorney;
- limiting the use to the Central Business District was determined due to the recent allowance by the Commission to approve the Zoning Permit for the converted shipping container but argument was made by the City Planner that the Commission was not held to that decision

VENUTI/HIGHLAND - MOVED TO AMEND TO EXCLUDE THE CENTRAL BUSINESS DISTRICT FROM THE MOTION.

City Planner Abboud facilitated a discussion on the following points surrounding the use of shipping containers as dwellings:

- disallowing the use city wide
- creation of zoning regulations when there is no prohibited uses and structures and the need to create language to effect that prohibition
- obtaining legal advice on how to limit if not prohibit the use of shipping containers
- current structures listed in zoning regulations are mobile homes, yurts and teepees
- if the use is not listed by omission it is not permitted
- start of a new chapter for building standards and this item can be included as well as site development
- existing zoning regulations do not address building materials
- establishing zoning code may make the issue ten times worse and there currently is no rush to use shipping containers as dwellings
- questions regarding the legality of creating regulations based on appearance
- support for not using shipping containers as dwellings in all districts over allowing them in specific districts
- voting this motion down and making a new motion to prohibit the use of in the city

Commissioner Bentz advocated for voting this motion down as she did not believe that it should be addressed in the city zoning regulations noting that the Commission requested at a prior meeting for the Planning department to develop Title 12 which currently only addressed contractor bonding requirements. She expressed a further preference to wait until the Commission has a more comprehensive picture on how this really would affect practice in planning and in building inspections.

City Planner Abboud responded that he would definitely need to consult with the city attorney and perform more research if it is the wish of the Commission to eliminate this option as a dwelling. He then noted that the other issue of drainage and concerns of water going downhill, and getting Public Works on site development standards, could be included in the building standards. He can certainly work on bringing back language if that is the intent of the Commission.

Commissioner Bentz further expressed that it goes back to the individual opinion on aesthetics as there are some people who like teepees, yurts and long narrow buildings and if the Commission is going to base this on aesthetics then they should include soft sided coverings for excluded materials for buildings within city limits as well given the environmental conditions and how habitable it is, as it's a hazardous building-type to use in this area.

Further comments were made on the following:

- yurts were always meant to be a temporary living structure
- additional clarification on how this would be reflected in city code was requested

Deputy City Clerk Krause suggested that the Commission make a motion to postpone to a date certain to allow the City Planner to bring back additional information.

City Planner Abboud stated that he would appreciate that opportunity since at the moment it is a concept and he can bring back something specific.

VENUTI/HIGHLAND - MOVED TO POSTPONE THE MOTION TO THE SECOND MEETING IN FEBRUARY TO ALLOW THE CITY PLANNER TO PROVIDE ADDITIONAL INFORMATION.

City Planner Abboud advised that dependent on the City Attorney's schedule and it would be difficult to get vast public input due to COVID and usually the public does not pay attention until it goes to Council since we would have to provide notice city wide.

Commissioner Bentz requested clarification that the time given would allow staff time to get the information and legal input needed.

City Planner Abboud responded that he could include a staff report in the packet requesting postponement to allow for the time needed if necessary.

VOTE. (Postponement) NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Smith stated for the record that the motions presented by Commissioner Venuti are on the table and will be taken up at the second meeting in February.

NEW BUSINESS

INFORMATIONAL MATERIALS

- A. City Manager's Report for December 13, 2021 City Council Meeting
- B. Kenai Peninsula Borough Notice of Decisions

Chair Smith noted the informational materials in the packet.

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY STAFF

Deputy City Clerk Krause welcomed everyone back.

City Planner Abboud had no comments.



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Staff Report PL 22-08

TO: Homer Planning Commission
FROM: Rick Abboud, AICP, City Planner
DATE: February 2, 2022
SUBJECT: Storage Container Dwellings

Introduction

It was a request of the Commission to review draft code language that would prohibit the use of shipping containers as dwellings.

Analysis

The Commission's discussion weighed considerations of where shipping containers commonly known as Connex's might be allowed. I questioned the logic (or perhaps consistency) of eliminating one of the unlimited options one now has for construction of a dwelling, without adopting building codes and creating a building department. I believe that it would be best to eliminate the option as a dwelling throughout all districts, if it is believed that structures of this type are a detriment to the citizens of Homer.

The most straight forward way to address the use of shipping container in dwellings is elimination by amending the definition of the term 'dwelling'. This transfers neatly to any considerations of use of the material for a dwelling in any variety of dwelling options. I do not find any reason why we would want to make an allowance for this in one district over another. The draft ordinance would eliminate the option for use in all districts.

I believe the best way to regulate for safety concerns is to adopt a building code. Aesthetically, I find it inconsistent with the unlimited options that are available in Homer. I believe shipping containers can be configured to a variety of tastes, but it is the minimalist approach that might be most offensive. Without a building department, it is unrealistic to regulate the form of use.

Staff Recommendation

Discuss the regulation and make recommendation for continued direction of the subject.

Attachments

Draft ordinance

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**CITY OF HOMER
HOMER, ALASKA**

Planning Commission

ORDINANCE 22-XX

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
AMENDING TITLE 21.03.040 DEFINITIONS USED IN ZONING CODE.

WHEREAS, The 2018 Comprehensive Plan Chapter 4 Goal 3 states, “Encourage high-quality buildings and site development that complement Homer’s beautiful natural setting;” and

WHEREAS, The 2018 Comprehensive Plan Chapter 4 Goal 3 Objective A states: “Create a clear, coordinated regulatory framework that guides development;” and

WHEREAS, The 2018 Comprehensive Plan Chapter 4 Goal 3 Objective B states “Maintain high quality residential neighborhoods, promote housing choice by supporting a variety of dwelling options;” and

WHEREAS,

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.03.040, is hereby amended to read as follows:

“Dwelling” or “dwelling unit” means any building or portion thereof designed or arranged for residential occupancy by not more than one family and includes facilities for sleeping, cooking and sanitation. **“Dwelling” or “dwelling unit” shall not include the use of or incorporation of Connex boxes or other similar intermodal shipping containers in part or whole.**

Section 2 or the last section. This Ordinance is of a permanent and general character. and shall be included in the City Code.

41 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this _____ day of _____, 2022.

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CITY OF HOMER

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KEN CASTNER, MAYOR

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49 ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

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55 YES:

56 NO:

57 ABSTAIN:

58 ABSENT:

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60 First Reading:

61 Public Hearing:

62 Second Reading:

63 Effective Date:

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65 Reviewed and Approved as to form and content:

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69 _____
Rob Dumouchel, City Manager

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71 Date: _____

Date: _____

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- it is very complex, there are varying degrees of possible slope failure which should have a greater setback such as 60 feet
- Erosion rates do not depend on a coastal bluff
- City code was not based on general slope stability
- Support for the 40 foot setback is a good point to start with
- description and definition for bluff edge
- different features and issues on Baycrest
 - o different benches
 - o rotational issues
 - o historical landslides or slough

City Planner Abboud requested direction from the Commission to come up with code language.

Further discussion ensued on the definition clarification of coastal bluff, multiple benches, concerns on the scarp under West Hill location, setting threshold on the coastal erosion, requiring readily moveable structures, it would be dependent on the time of application since it changes all the time; using the LIDAR information that is currently available, establishing a setback at 40 feet catches most if not all the predicted erosion; using the LIDAR information to develop the definition as well as the mapping will provide the best definition and most appropriate definition.

Further discussion ensued on the definition of coastal bluff and that it is not a defined line. Additional comments were made on the 40 feet from the top of a slope and 15 feet from the bottom is from the building code and that they were not established for a coastal bluff in Homer, Alaska. City Planner Abboud noted that it is reasonable and you would not be condemning the land, basing it off of building code at minimum you are not going against it in theory if you adopt a building code there would be no conflict, the Commission can decide more but he would not recommend less.

BENTZ/ VENUTI MOVED TO REQUEST PLANNING STAFF DRAFT REGULATIONS AND BRING BACK TO THE MARCH 16TH MEETING FOR REVIEW BY THE COMMISSION.

Commissioner Bentz requested this to be on a worksession so it can be reviewed and discussed.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Staff Report 22-08, Storage Container Dwellings

Vice Chair Highland introduced the item and requested City Planner Abboud to provide his staff report.

City Planner Abboud stated that the Commission wanted to view language to ban the use of storage containers for dwellings. He noted that the best way in his opinion since they do not have building code was to amend the term dwelling. He noted that without a building department there was not a better way in his opinion. He confirmed that this would be an amended definition of the word dwelling currently used.

City Planner Abboud facilitated an in-depth discussion on the following points:

- aesthetics of the use of shipping containers as dwellings
- limitations on regulating the use of shipping containers until the city has a building department
- applying personal opinions to regulate on the way things look and would this then apply to other non-standard dwelling materials such as yurts.
- cost comparison of converting a shipping container compared to traditional builds
- possible toxicity that can pass on to persons who reside in a shipping container
- how near future is a building department and code
- Use of shipping containers can be done in other applications such as commercial, example Oyster Bar that was approved.
- Structural concerns using converted shipping containers

Deputy City Clerk Krause reminded the Commission that this topic was postponed at the January 5, 2022 regular meeting reading the motions on the floor limiting the use of shipping containers as dwellings to the Central Business District, Marine industrial and East End Mixed Use District then the amendment was to remove the Central Business District. The current item before the Commission is to amending the definition which is another factor of the issue of using shipping containers as dwellings. So that issue will be on the February 16th agenda.

Commissioner Bentz restated her understanding of the discussion from the January meeting simplifying to three points: the motion and amendment on the floor to limit the use of intermodal shipping containers, the amendment to city code regarding the definition of “dwelling” in relation to intermodal shipping containers and third for the Commission to explore adding building inspection services.

Vice Chair Highland did not recall that discussion but noted that they cannot move something that is not on the agenda.

Further discussion ensued on making motions to changing code and preference to address the issues through building inspections and adding building code and those types of city services and it would be very beneficial to the residents of Homer and use those instances as evidence to support the implementation of building code. Additional points made that typically residential structures are inspected but there is no way to know that at this time.

City Planner Abboud requested that the issue of building code be kept separate from these issues.

Vice Chair Highland restated the topics that would be coming before commission at the February 16th meeting and they can then bring back this item as well.

Commissioner Bentz would like to see proposed code language on limiting shipping containers since they have a motion on the floor.

City Planner Abboud expressed hesitancy in writing the language that Commissioner Bentz requested for the motions on the floor and that the Commission has not expressed solid support for the current recommendation he has presented to address the situation. He further expressed that he did not believe that it was a preferred choice on how to construct a dwelling.

Commissioner Conley requested a worksession on this topic to discuss and review all the options and to get a thorough understanding of the issues.

Commissioner Barnwell supported the idea of worksession instead of trying to make a decision in this limited time period.

Vice Chair Highland requested confirmation that City Planner Abboud had enough direction to proceed with the Building Code aspect of this by the commission.

City Planner Abboud confirmed.

Deputy City Clerk Krause requested a motion to postpone amending the definition from the Commission if they were not acting on it at this meeting.

BENTZ/VENUTI MOVED TO POSTPONE THIS ITEM TO THE FEBRUARY 16, 2022 REGULAR MEETING.

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

A. Staff Report 22-09 Maximum Parking Allowance for Large Retail

Vice Chair Highland introduced the item by reading of the title.

City Planner Abboud reviewed his staff report for the Commission.

Discussion was facilitated and focused more on the issues that were brought forward by the changes in the Safeway parking lot on the following:

- requirements for parking lots for commercial establishments
- design factor
- number of entrances
- looking at minimums
- making logical allowances for what is really necessary on site
- parking lots are really expensive
- reducing the percentage is the simplest method
- removal of landscape requirements
- accommodating snow removal and storage

BENTZ/CONLEY MOVED TO STRIKE LINE A PARKING LOTS FOR LARGE RETAIL AND WHOLESALE DEVELOPMENT SHALL NOT EXCEED THE MINIMUM NUMBER OF SPACES REQUIRED BY CHAPTER 21.55 BY MORE THAN 10 PERCENT.

There was no further discussion.



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Staff Report PL 22-13

TO: Homer Planning Commission
FROM: RICK ABOUD, AICP, CITY PLANNER
DATE: FEBRUARY 16, 2022
SUBJECT: CONTAINER DWELLINGS

Introduction

The Planning Commission requested that a draft ordinance be created for consideration of a postponed motion to allow for the use of a container dwellings in the Central Business District (CBD), Marine Commercial District (MC), and East End Mixed District (EEMU).

Analysis

I have created a definition that carves out the use of Connex (shipping containers) or Connex parts in the construction of a dwelling. This allows us to make the allowance in the above mentioned districts and by the rules of code construction, it would be prohibited in any district where it was not listed. Although I do not believe zoning code is an ideal way to deal with this issue, we do not have another option at this time.

I have made the recommendation that if the commission finds it in the best interests of the city to prohibit these structures in any manner, the reasons for prohibition should be carried forth throughout the entire city. While some container dwellings are less than impressive to me, I do believe that we should be interested in ensuring our concerns for all.

There are some considerations in the proposed districts. The CBD currently supports residential dwellings and is arguably our most prominent district, as it is hopefully utilized by all citizens and visitors. The MC and EEMU Districts do not allow dwellings as a primary use, other non-dwelling uses for Connexes are allowed and may require Fire Marshal approval for commercial uses, depending on the occupancy category.

Staff Recommendation

Review the draft ordinances and give direction.

Attachments

Draft ordinance for allowance of Connex dwellings in CBD, EEMU, and MC.
Draft ordinance for elimination of Connex dwellings city-wide by definition.

**CITY OF HOMER
HOMER, ALASKA**

Planning Commission

ORDINANCE 22-XX

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA AMENDING HOMER CITY CODE 21.03.030, DEFINITIONS, HOMER CITY CODE 21.18.020, 21.30.020, & 21.27.020, PERMITTED USES AND STRUCTURES TO INCLUDE “CONTAINER DWELLING”, IN DEFINITION AND ALLOW AS A PERMITTED USE IN THE CENTRAL BUSINESS, MARINE COMMERCIAL & EAST END MIXED USE DISTRICTS.

WHEREAS, The 2018 Comprehensive Plan;” and

WHEREAS,;” and

WHEREAS,; and

WHEREAS,.....

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.03.030, is hereby amended to read as follows:

21.03.030 Definitions.

“Container dwelling” means a “Dwelling” or “Dwelling Unit” that incorporates the use of Connex boxes or other similar intermodal shipping containers use in the structure in part or whole.

Section 2. Homer City Code 21.18.020, is hereby amended to read as follows:

21.18.020 Permitted uses.

II. Container dwelling.

Section 3. Homer City Code 21.30.020, is hereby amended to read as follows:

21.24.020 Permitted uses.

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mm. Container dwelling.

Section 4. Homer city Code 21.27.020, is hereby amended to read as follows:

21.27.020 Permitted uses.

pp. Container dwelling.

Section 5. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this ____ day of _____, 2022.

CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and Approved as to form and content:

Rob Dumouchel, City Manager

Michael Gatti, City Attorney

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Date: _____

Date: _____

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2 **CITY OF HOMER**
3 **HOMER, ALASKA**

4 Planning Commission

5 **ORDINANCE 22-XX**
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8 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
9 AMENDING TITLE 21.03.040 DEFINITIONS USED IN ZONING CODE.
10

11 WHEREAS, The 2018 Comprehensive Plan Chapter 4 Goal 3 states, “Encourage high-
12 quality buildings and site development that complement Homer’s beautiful natural setting;”
13 and
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15 WHEREAS, The 2018 Comprehensive Plan Chapter 4 Goal 3 Objective A states: “Create
16 a clear, coordinated regulatory framework that guides development;” and
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18 WHEREAS, The 2018 Comprehensive Plan Chapter 4 Goal 3 Objective B states “Maintain
19 high quality residential neighborhoods, promote housing choice by supporting a variety of
20 dwelling options;” and
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22 WHEREAS,
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24 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
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27 Section 1. Homer City Code 21.03.040, is hereby amended to read as follows:
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29 “Dwelling” or “dwelling unit” means any building or portion thereof designed or arranged for
30 residential occupancy by not more than one family and includes facilities for sleeping,
31 cooking and sanitation. **“Dwelling” or “dwelling unit” shall not include the use of or**
32 **incorporation of Connex boxes or other similar intermodal shipping containers in part**
33 **or whole.**

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36 Section 2 or the last section. This Ordinance is of a permanent and general character
37 and shall be included in the City Code.
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41 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this ____ day of _____, 2022.

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CITY OF HOMER

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KEN CASTNER, MAYOR

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49 ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

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YES:

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NO:

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ABSTAIN:

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ABSENT:

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First Reading:

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Public Hearing:

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Second Reading:

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Effective Date:

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Reviewed and Approved as to form and content:

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Rob Dumouchel, City Manager

Michael Gatti, City Attorney

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Date: _____

Date: _____

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Commissioner Bentz added that it is consistent with the data and the research that shows higher erosion rates in the western portion of City of Homer and lower erosion rates in the areas east of West Hill and that 40 foot setback is pretty consistent with the 30 year planning horizon and with other documentation that the Commission has been presented on this topic.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

BENTZ/BARNWELL MOVED TO REQUEST STAFF TO PROVIDE A DRAFT ORDINANCE OF PROPOSED LANGUAGE OF DEFINITION UPDATES FOR COASTAL BLUFFS FOR REVIEW AT THE STAFF'S CONVENIENCE OR WHEN READY.

There was a brief discussion on putting a time limit on the draft ordinance.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Staff Report 22-13, Storage Container Dwellings

Chair Smith introduced the item and requested City Planner Abboud to provide his staff report.

City Planner Abboud stated that this was a subject thoroughly discussed by the Commission and there are motions on the floor pertaining to allowing container dwellings in the Central Business District, Marine Commercial and East End Mixed Use District and a draft ordinance on eliminating container dwelling city wide by definition and he looks forward to the Commission's guidance on what they wish to do.

Chair Smith requested clarification from the Clerk regarding the motions that were on the floor for consideration.

Deputy City Clerk Krause stated that there were two motions from the January 5, 2022 regular meeting, a main motion and amendment. The amendment will be dispensed with first then the main motion. She provided guidance on the procedure.

Chair Smith read the amendment into the record, VENUTI/HIGHLAND MOVED TO AMEND THE MOTION TO EXCLUDE THE CENTRAL BUSINESS DISTRICT FROM THE MOTION and opened the floor for discussion.

Chair Smith stated that since there was no discussion on the amendment, he requested objections to the motion before them amending the motion to exclude the CBD from the main motion.

Commissioner Venuti requested clarification on what they were voting on.

Chair Smith stated that they were voting on the amendment only at this time, which was to limit the use of shipping containers to East End Mixed Use and Marine Commercial, the amendment excludes the CBD.

Commissioner Highland stated that they have two ordinances to vote on down the line and so her thought would be to vote no on these motion so they would need a roll call vote. She explained that they will be addressing two ordinances that the Commission has a choice between that will be voted on after the Commission addresses these two leftover motions from the meeting in January.

Commissioner Bentz questioned as a procedural aspect if the makers of the motion and the amendment would want to withdraw their motions or if they believe if these motions are the way they want to go.

Deputy City Clerk Krause explained that procedurally the motions should be voted down.

VOTE. (Amendment) YES. VENUTI, SMITH, CHIAPPONE, CONLEY, BENTZ, BARNWELL
VOTE. NO. HIGHLAND.

Motion carries.

Chair Smith then read the main motion as amended into the record as follows:

MOVED THAT THE CITY OF HOMER LIMITS THE USE OF SHIPPING CONTAINERS CONVERTED INTO DWELLINGS TO THE MARINE COMMERCIAL AND EAST END MIXED USE DISTRICTS, after clarification was provided by Commissioner Bentz on the motion being amended and affirmation provided by the Clerk.

Chair Smith then opened the floor for discussion, hearing none, he asked if there were any objections, as there were objections, he called for a roll call vote.

Commissioner Chiappone requested clarification on the result of the vote if they voted yes or no on the motion.

Chair Smith provided clarification that if they voted no on the motion it would not limit the use of shipping containers and if they voted yes it would limit the use on shipping containers as dwellings to those districts.

Commissioner Barnwell commented that it is arbitrary and that they should have a comprehensive city wide policy not district by district.

Commissioner Venuti expressed that he thought they were heading to a city wide decision on this.

Commissioner Highland responded that they were but they had to dispense with these motions first.

VOTE. YES. SMITH
VOTE. NO. CHIAPPONE, HIGHLAND, CONLEY, BARNWELL, BENTZ, VENUTI

Motion failed.

Deputy City Clerk Krause explained that the Commission needs to address the two ordinances presented by the City Planner in response to Chair Smith's question on next steps.

City Planner Abboud noted that procedurally by voting down the motions you voted down the ordinance on page 25 of the packet. He further noted that the Commission can vote or not as it decides on the other ordinance on page 28 of the packet.

Commissioner Highland stated that she would like to address that they do not want to allow containers as dwellings city wide and expressed that she needed some direction on where to proceed next.

Commissioner Bentz offered that she was wanting the draft ordinance shown on page 28 of the packet.

City Planner Abboud offered guidance on making a motion to adopt draft ordinance.

HIGHLAND/VENUTI MOVED TO ADOPT THE DRAFT ORDINANCE AMENDING TITLE 21.03.040 DEFINITIONS USED IN ZONING CODE.

Commissioner Bentz provided clarification that the proposed ordinance would amend city code to update the definition of dwelling so that any dwelling shall not include the use of our incorporation of connex boxes or other similar intermodal shipping containers in part or in whole and that would be a citywide limitation on the use of shipping containers or similar materials for building.

Commissioner Highland expressed her concerns regarding the possible safety concerns on the use of shipping containers for dwellings so she would be voting yes on the motion.


Commissioner Bentz expressed that she would rather see this addressed by a comprehensive building code rather than discriminating against this type of building material over others that may be potentially even more hazardous.

Commissioner Highland questioned the City Planner, stating that toxicity is her major concerns regarding safety with the shipping containers, and she would like to know of the possible dangers with other building materials.

City Planner Abboud responded that hopefully people who used these building methods would remediate the floor such as encapsulation or replacement, commenting that it would not be hard to do but the City does not have a building inspector to ensure that has been done. He further stated that any other building can be hazardous just by poor ventilation or stovepipe, radon, asbestos, lead paint, without a building code anything goes. Old buildings and old methods of building that are unhealthy and provided some current examples.

Further discussion points were made on the following:

- Applicants seeking the advice and input from the planning department

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- current conditions within the dwelling that was installed in the neighborhood
 - excluding containers by zoning code is very unusual and in terms of city planning Homer does not want to be the exception to that rule

VOTE. YES, CHIAPPONE, HIGHLAND, VENUTI, SMITH

VOTE. NO. CONLEY, BENTZ, BARNWELL

There was a brief discussion on the passing of this motion and clarification that shipping containers or connexes would not be allowed or used as building materials in the city limits.

Motion carried.

NEW BUSINESS

A. Staff Report 22-14, Building Codes

Chair Smith introduced the item by reading of the title.

City Planner Abboud reviewed Staff Report 22-14 for the Commission. He provided additional information on the following:

- if procedural inspections are not done in the building process how would they determine that it was built correctly without doing a destructive inspection
- older homes and buildings in Homer have numerous errors
- protects against man made hazards having a building code
- allows for discounted FEMA insurance rates when there is a building code
- building codes contribute to health and safety issues
- building codes provide energy savings when people implement

Discussion was facilitated and focused on the following:

- ISO ratings and how that would affect the city if they adopted a building code
- Community Rating System (CRS) applies to Flood Insurance
- Costs to implement a building department which are usually housed as a section of the Public Works Department
- City Planner has conducted nominal research on how this would be staffed but the fees usually cover the costs of staffing a department.
- Costs would be borne by the builder and home owner
 - o It has been shown that the filling of a municipal building inspector position is difficult to fill according to other municipalities
- This same personnel could fill the duties of Fire Marshall and or Code Enforcement
- The Planning Commission would recommend the adoption of building codes in the most efficient manner to the city.

Further comments were expressed by Commissioners on the following:

- Cost effectiveness of adopting building code but using private enterprise
- additional unnecessary bureaucracy



City of Homer

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Staff Report PL 22-16

TO: HOMER PLANNING COMMISSION
FROM: RICK ABOUD, AICP, CITY PLANNER
DATE: MARCH 2, 2022
SUBJECT: CONTAINER DWELLINGS PUBLIC HEARING

Introduction

The Planning Commission has moved to support an ordinance that prohibits the use of Connex or other similar intermodal shipping containers for use in dwellings.

Analysis

Commissioner Venuti brought the issue of regulating the use of Connex container for use as dwellings. He made several points about his concerns for use including:

- safety and health hazards with materials used in shipping containers
- aesthetics
- there is no standards for construction
- there are no requirements for inspection
- Not appropriate structure to be used in the urban or residential zones of the city where residents are heavily invested using more conventional means
- Use of shipping containers he believes will devalue the neighboring properties
- Community Design Manual does not support the use shipping containers

The Commission continued the discussion in 2 following meetings, arriving in a motion that was sustained by a vote of 4-3 in support of banning their use in dwellings city-wide. The sustaining arguments supported the concerns of the safety of their use. As Homer has not adopted a building code, single family and multi-family dwellings containing three or less units are not subject to building codes and the structures are not required to be inspected or gain certificates of occupancy. Additional concerns were expressed of a possible negative effect to properties neighboring their use and their undesirable form.

Staff Recommendation

Hold a public hearing and make recommendation regarding adoption to the City Council.

Attachments

Planning Department review of code amendment
Draft ordinance

21.95.040 Planning Department review of code amendment.

The Planning Department shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

a. Is consistent with the Comprehensive Plan and will further specific goals and objectives of the plan.

Staff: The amendment is consistent with the Comprehensive Plan and furthers Chapter 4, Goal 3 by encouraging “high-quality buildings.”

b. Will be reasonable to implement and enforce.

Staff: The amendment should not present difficulties to implement and enforce. Connexes are a relatively unique feature that is easily identifiable.

c. Will promote the present and future public health, safety and welfare.

Staff: The amendment was proposed, in part, to help ensure health, safety and welfare as Connexes or similar intermodal shipping containers used in dwellings may introduce an unsafe environment when not subjected to building codes.

d. Is consistent with the intent and wording of the other provisions of this title.

Staff: The wording has been reviewed and no conflicts have been noted.

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**CITY OF HOMER
HOMER, ALASKA**

Planning Commission

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ORDINANCE 22-XX

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA AMENDING TITLE 21.03.040 DEFINITIONS USED IN ZONING CODE, "DWELLING" OR "DWELLING UNIT," TO EXCLUDE THE USE OF CONNEX BOXES OR OTHER SIMILAR INTERMODAL SHIPPING CONTAINERS.

WHEREAS, The 2018 Comprehensive Plan Chapter 4, Goal 3 states, "Encourage high-quality buildings and site development that complement Homer's beautiful natural setting;" and

WHEREAS, The 2018 Comprehensive Plan Chapter 4, Goal 3, Objective A states: "Create a clear, coordinated regulatory framework that guides development;" and

WHEREAS, The 2018 Comprehensive Plan Chapter 4, Goal 3, Objective B states "Maintain high quality residential neighborhoods, promote housing choice by supporting a variety of dwelling options;" and

WHEREAS, The Homer Planning Commission has found that use of Connex boxes or other similar intermodal shipping container for use a dwellings is contrary to maintaining high quality residential neighborhoods.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.03.040, is hereby amended to read as follows:

34 "Dwelling" or "dwelling unit" means any building or portion thereof designed or arranged for
35 residential occupancy by not more than one family and includes facilities for sleeping,
36 cooking and sanitation. **"Dwelling" or "dwelling unit" shall not include the use of or
37 incorporation of Connex boxes or other similar intermodal shipping containers in part
38 or whole.**

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41 Section 2 or the last section. This Ordinance is of a permanent and general character
42 and shall be included in the City Code.

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46 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this ____ day of _____, 2022.

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CITY OF HOMER

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KEN CASTNER, MAYOR

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ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

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YES:

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NO:

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ABSTAIN:

ABSENT:

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First Reading:

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Public Hearing:

Second Reading:

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Effective Date:

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Reviewed and Approved as to form and content:

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Rob Dumouchel, City Manager

Michael Gatti, City Attorney

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Date: _____

Date: _____

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Deputy City Planner Engebretsen reviewed Staff Report 22-15 highlighting the following:

- opportunity for training virtually in conjunction with the Alaska Planners Conference
- April 23rd, 2022 deeper dive into specific and technical questions
- At the Planning Conference Week of April 22nd-24th presentations on Coastal Setback regulations and challenges to take the technical information and turn into land use regulations
- EDC has identified affordable workforce housing and balancing the quality of life as the community grows
- New plans for the property at the corner of Pioneer and Sterling Highway information available on the city website
- Notice to property owners regarding changes in zoning

Deputy City Planner Engebretsen provided information in response to Commissioner questions on the proposed community multi-use center and where the information was located on the city website, demolition schedule, and funding.

PUBLIC HEARINGS

A. Staff Report 22-16, Storage Container Dwellings

Chair Smith introduced the item by reading of the title.

Deputy City Planner Engebretsen reviewed Staff Report 22-16 for the Commission.

Chair Smith opened the public hearing and having no one present he closed the public hearing.

Chair Smith requested a motion and second.

HIGHLAND/VENUTI - MOVED TO ADOPT STAFF REPORT 22-16 AND RECOMMEND FORWARDING TO CITY COUNCIL THE DRAFT ORDINANCE AMENDING HOMER CITY CODE 21.03.040 DEFINITIONS USED IN ZONING CODE, "DWELLING" OR "DWELLING UNIT" TO EXCLUDE THE USE OF CONNEX BOXES OR OTHER SIMILAR INTERMODAL SHIPPING CONTAINERS.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried

PLAT CONSIDERATION

A. Staff report 22-17, Puffin Acres Bayweld 2022 Replat

Chair Smith introduced the item by reading of the title.

Commissioner Conley declared he had a conflict of interest.