

WORK SESSION AGENDA

1. Call to Order 5:30 p.m.
2. Guest Speaker Chris Story with Kachemak Board of Realtors
3. Discussion of Items on the Regular Meeting Agenda
4. Public Comments
The public may speak to the Planning Commission regarding matters on the work session agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
5. Commission Comments
6. Adjournment

REGULAR MEETING AGENDA

1. Call to Order

2. Approval of Agenda

3. Public Comment

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

4. Reconsideration

5. Adoption of Consent Agenda

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

A. Approval of Minutes of March 19, 2014 meeting **pg. 5**

6. Presentations

7. Reports

A. Staff Report PL 14-31, City Planner's Report **pg. 11**

8. Public Hearings

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

A. Staff Report PL 14-33, Conditional Use Permit (CUP) 2014-05 Request to allow building into the front setback at 320 W Pioneer Avenue **pg. 27**

B. Staff Report PL 14-34, Request for exemption from the Bridge Creek Watershed Protection District, Lot 4, Tulin East Highlands Subdivision, 1270 Don's Drive **pg. 49**

9. Plat Consideration

A. Staff Report PL 14-32, Harrington Heights 2014 Replat Preliminary Plat **pg. 61**

10. Pending Business

A. Staff Report PL 14-36, Itinerant Merchants (IM) and Mobile Food Service (MFS) April 16, 2014 **pg. 73**

11. New Business

A. Staff Report PL 14-35, Discussion on moving a lot line in the Bridge Creek Watershed Protection District, decreasing the size of a lot **pg. 99**

12. Informational Materials

A. City Manager's Report from the March 24, 2014 City Council Meeting **pg. 103**

B. Letter from Faith Lutheran Church Planning Board RE: changeable copy signs in the Gateway Business District. **pg. 107**

C. KPB Platt Committee Notice of Meeting in Homer Monday, April 14, 2014 at Land's End Resort **pg. 109**

D. KPB Plat Committee Notice of Decisions

- Barnett's South Slope Sub. Quiet Creek Park Revised Preliminary Plat **pg. 111**
- Mattox Subdivision 2014 Preliminary Plat **pg. 145**

13. Comments of the Audience

Members of the audience may address the Commission on any subject. (3 minute time limit)

14. Comments of Staff

15. Comments of the Commission

16. Adjournment

Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.
Next regular meeting is scheduled for May 7, 2014. A work session will be held at 5:30 pm.

Session 14-06, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Venuti at 6:30 p.m. on March 19, 2014 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, HIGHLAND, SLONE, STEAD, STROOZAS, VENUTI

ABSENT: SONNEBORN

STAFF: CITY PLANNER ABBOD
DEPUTY CITY CLERK JACOBSEN
PUBLIC WORKS DIRECTOR MEYER

Approval of Agenda

Chair Venuti called for a motion to approve the agenda.

HIGHLAND/BOS SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Public Comment

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

None

Reconsideration

Adoption of Consent Agenda

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

- A. Approval of Minutes of March 5, 2104 meeting
- B. Decision and Findings for CUP 2014-04 for a Fire Station at 188 Skyline Drive

Chair Venuti called for a motion to adopt the consent agenda.

HIGHLAND/BOS SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Presentations

Reports

A. Staff Report PL 14-27, City Planner's Report

City Planner Abboud reviewed his staff report. There was brief discussion relating to the Board of Realtors comments about relaxing the Bridge Creek Watershed District regulations. He reviewed his trip to Denver for the New Partners for Growth Conference and discussion ensued regarding regulations of marijuana sales, as it may be happening soon in Alaska.

Public Hearings

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

A. Staff Report 14-24, Ordinance 14-09(A), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.12.020, "Permitted Uses and Structures", to Expand the Permitted Uses in the Rural Residential District to Include the Addition of a Detached Dwelling Unit as an Accessory to a Single Family Dwelling on a Lot Serviced by City Water and Sewer Services **and on a lot that is over one acre not serviced by city water and sewer services.**

City Planner Abboud reviewed his staff report.

Chair Venuti opened the public hearing.

Ted Schmidt, city resident, said at first blush he was concerned because over the last few years he has heard Council comments about how the water and sewer has trouble has financing their infrastructure because one of the problems is that there aren't enough residents tied in to it. He is also aware of a desire to bring water up West Hill to complete a loop in the system. He doesn't think it is a financial possibility in some of these areas because of larger lot sizes. People knew that when buying those lots and it was their preference when they bought them. He feels like this is a left handed way to say you can't do this with your property because you aren't on city water and sewer. He thinks each lot should be examined on its own basis as there are a lot of steep slopes and wetlands.

There was discussion with the City Planner about the process already in place for a conditional use permit process for the larger rural residential lots. Mr. Schmidt raised issue of an action by a previous planning commission approving two duplexes with a community septic system in an area where there were wells less than 200 feet away on other properties. City Planner Abboud said he couldn't speak for to a past action, but it is a reason that these should come for review by the Commission through the CUP process.

There were no further comments and the public hearing was closed.

HIGHLAND/SLONE MOVED TO RECOMMEND COUNCIL ADOPTION OF ORDINANCE 14-09 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 21.12.020, "PERMITTED USES AND STRUCTURES", TO EXPAND THE PERMITTED USES IN THE RURAL RESIDENTIAL DISTRICT TO INCLUDE THE ADDITION OF A DETACHED DWELLING UNIT AS AN ACCESSORY TO A SINGLE FAMILY DWELLING ON A LOT SERVICED BY CITY WATER AND SEWER SERVICES.

Commissioner Highland said she moved to adopt the ordinance without the amendment based on the concerns raised at their previous meeting. The lots that are not serviced by water and sewer should get conditional use permits because of issues with soils, water, and review of the best interest for the area. The CUP process gives notice to property owners in the area and special conditions or considerations for review. Those are some of the reasons they had discussed previously as to why they felt lots without city water and sewer should still be addressed through a CUP.

Commissioner Slone agrees with disapproving the amendment. His main reasoning is because of lots that are not large enough to accommodate sewer systems that won't contaminate wells on adjacent properties that are downhill from the development.

Commissioner Stroozas agreed that those are valid points.

Commissioner Stead commented that the way it's written now, you have to have two acres so saying a lot that is 1.1 acres can automatically have an accessory use doesn't fit. He doesn't think it is very well thought out amendment to what the Commission sent to Council, and supports the motion to adopt the original ordinance as written.

Commissioner Bos doesn't think it could be permitted outright regardless of how big the property is. He recognized that septic's are rated based on bedroom count. He raised concerns about being able to add another residence to a property with a septic when you don't know the status of the drain field, unless you ask the applicant to have it investigated. It will just add to the "buyer beware" list that the next person will have to deal with. He is adamant that we need to stop those situations.

City Planner Abboud reviewed the process by the City and by DEC relating to septics which includes an engineered plan to be done by a certified installer. There has to be a space for the septic and enough space to replace it, and hopefully in those spaces they won't harm a neighboring well.

There was brief discussion relating to building inspections and that if the City had a building inspector it would be much easier to do something like this.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Plat Consideration

Pending Business

A. Staff Report PL 14-29, Storm Water & Green Infrastructure, March 19, 2014

City Planner Abboud reviewed the staff report and touched on some comments that Public Works Director Meyer made during the worksession.

There was discussion about the Corps of Engineers and that they interested in regulatory wetlands, and also areas of moving water, like creeks and streams. The general won't comment on development outside of the regulatory areas. It was noted that the Corps doesn't look at the cumulative effect from development in an area, and it makes you wonder who is looking at the big picture.

Runoff from the Quiet Creek Subdivision area came up in discussion and how it may cause issues for the high school and also that some of the runoff goes down to the Mattox area as well. City Planner Abboud noted that the high school itself is a major contributor to runoff. It is an existing issue that is compounding.

The Commissioners acknowledged that it's important to consider what is happening below the surface. The surface runoff is one thing, but then you have the subsurface runoff that many times isn't very deep and it punches out into little springs. The Storm Water and Melt Water Management and Mitigation Plan for Homer Alaska is a really good start. Considering it in conjunction with the information from the Soil & Water Conservation District and NRCS provides a lot of information to work with.

City Planner Abboud noted they can look through that information for policies which can be adopted, but creating a regulatory boundary is a different thing. To prohibit development in the areas that the drainage is marked and take away the right of the property owner isn't necessarily the right thing to do. It creates a whole new environment.

They continued to discuss concerns with subdividing and its effect on the already existing issue with downstream runoff. They also acknowledged that they need to work on incremental changes as they move forward.

New Business

A. Staff Report PL 14-30, Vacancies and Absences

City Planner Abboud touched on the staff report recommendations relating to Commissioner Sonneborn's absences. Chair Venuti advised the Commission that she submitted her resignation from the Commission so no action is necessary.

Commissioner Slone expressed his desire to propose a bylaw amendment relating to Commission absences. There was brief discussion regarding the Commission's absences as defined by their bylaws and the discrepancy with City Code.

SLONE/HIGHLAND MOVED TO INCORPORATE A BYLAW CHANGE TO STATE THAT A COMMISSIONER SHALL ANNOUNCE UNDER CLOSING COMMENTS A KNOWN INTENT TO MISS A SUBSEQUENT MEETING; AND AT THE BEGINNING OF EACH MEETING THE CHAIR SHALL ANNOUNCE THE STATUS OF A COMMISSIONER WHO IS ABSENT.

Discussion ensued relating to absences and that perhaps these aren't necessarily rules that needs to be incorporated into the Commission's bylaws.

VOTE: YES: SLONE
NO: BOS, STEAD, HIGHLAND, VENUTI, STROOZAS

Motion failed.

Informational Materials

- A. DOT& PF Open House Notice for Sterling Highway & Main Street Intersection Improvements
- B. KPB Plat Committee Notice of Decision Re: Tietjen Sub. Compass Addition Replat Preliminary Plat
- C. KPB Planning Commission Notice of Decision Re: Tulin Terrace Sub. East Terrace Addn. Time Extension Request
- D. City Manager Report from the March 10, 2014 City Council Meeting
- E. Letter from Virginia Tornes Re: Mattox Subdivision 2014 Preliminary Plat
- F. Email from City Attorney, Thomas Klinkner Re: Open Meetings and Advisory Commissions

The Commission acknowledged the letter from Virginia Tornes. City Planner Abboud will draft a letter of acknowledgement from the Commission for Chair Venuti to sign.

Comments of the Audience

Members of the audience may address the Commission on any subject. (3 minute time limit)

None

Comments of Staff

City Planner Abboud advised he will be absent at the next meeting and possibly the one after.

Comments of the Commission

Commissioner Stroozas said it is good to be home.

Commissioner Stead advised that he will be absent at the next meeting.

Commissioner Bos said it was a good meeting.

Commissioner Slone had no comment.

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
MARCH 19, 2014

Commissioner Highland said she is excited about working on storm water and green infrastructure and seeing if they can come up with something.

Chair Venuti said it was an interesting meeting. He encouraged everyone to find prospects for the open seat.

Adjourn

There being no further business to come before the Commission, the meeting adjourned at 8:39 p.m. The next regular meeting is scheduled for April 2, 2014 at 6:30 p.m. in the City Hall Cowles Council Chambers.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____



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STAFF REPORT PL 14-31

TO: Homer Advisory Planning Commission
FROM: Planning Staff
MEETING: April 16, 2014
SUBJECT: City Planner's Report

Faith Lutheran Church has submitted a request to amend the sign code to allow an internally illuminated sign in the Gateway Business District. They are requesting that a member of the Planning Commission sponsor an ordinance. If any member of the HAPC would like to pursue an amendment please let staff know. If no member of the Commission wishes to support this, the congregation can also approach a council member, or file a petition per city code. (HCC 21.94)

New City Code: Travis will provide you with new copies of the City code, and the revised bylaws as adopted.

City Council –see attached resolutions.

Sign workshops: Dotti held two sign workshops recently. Hosting **Signs for Thriving Businesses** in the Chamber's conference room seems to encourage dialogue amongst the business owners. Sign manufactures are also invited and the business owners seem to appreciate their attendance and are very inquisitive of their expertise. Approximately a dozen different business owners attended, all considering new signs this spring.

Homer Chamber of Commerce “Business after Hours” with the EDC and the HAPC is tentatively scheduled for Thursday, May 15th. The Planning and Economic Development Commissions are hosting the event, with a few staff. It would be great to have one or two commissioners volunteer to work with Katie Koester on the finer details of the event.

Attachments:

PARC Project Overview

Resolution 14-039 (HAPC Bylaws)

Resolution 14-040 (Disbanding the TAC and assigning tasks to HAPC)



Park Art Recreation and Culture Needs Assessment

PARC Mission Statement

To determine the resources and prioritize the needs for our community concerning parks, arts, recreation and culture facilities and programs. (10-15 year outlook)

Project Overview

Needs Assessment Goals:

1. Identify existing and potential resources
 - a. How do people use their spare time?
 - b. Program resources: who offers what, when and how often?
 - c. Identify locations and facilities used
 - d. How are existing programs and facilities funded?
 - e. List City responsibilities – parks, maintenance, campgrounds, budget, income,
 - f. Identify volunteer efforts
2. Survey what programs and facilities are desired by the community
3. Conduct a Gap Analysis between haves and wants
 - a. Include future demographic trends
 - b. Identify barriers to access, (money, time, space/facilities, lack of information)
 - c. Consultant to provide an analysis on trends, observations and patterns of results
4. Measure community values for art, recreation and quality of life
 - a. What level of importance do citizens place on the availability of these services?
 - b. Are Culture and Recreation essential services?
 - c. Is it important that they be available to all income levels?
5. Funding Mechanisms
 - a. How could new programs and structures be funded?

CITY OF HOMER
HOMER, ALASKA

City Manager/Planning

RESOLUTION 14-039

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
AMENDING THE HOMER ADVISORY PLANNING COMMISSION
BYLAWS "QUORUM; VOTING" TO PERMIT FOUR INSTEAD OF
FIVE MEMBERS TO APPROVE A CONDITIONAL USE PERMIT OR
A VARIANCE.

WHEREAS, The Homer Advisory Planning Commission is made up of appointed members who despite their best efforts cannot attend every commission meeting; and

WHEREAS, Requiring a supermajority of the commission's membership to approve a conditional use permit or a variance impedes with their ability to conduct hearings and issue decisions on a timely basis; and

WHEREAS, By expanding the Commission's authority to approve a conditional use permit or a variance with four members instead of five members is in the City's best interest to conduct business timely; and

WHEREAS, These amendments were reviewed and discussed by the Homer Advisory Planning Commission at their November 6, 2013 and January 2, 2014 meetings and received unanimous support from the commission.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, hereby amends the Homer Advisory Planning Commission Bylaws "Quorum; Voting" to permit four instead of five members to approve a conditional use permit or a variance.

PASSED AND ADOPTED by the Homer City Council on this 24th day of March, 2014.

CITY OF HOMER


MARY E. WYTHE, MAYOR

ATTEST:


JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

HOMER ADVISORY PLANNING COMMISSION BYLAWS

The Homer Advisory Planning Commission is established with those powers and duties as set forth in Title 1, Section 76, of the Homer City Code. The Commission is established to maximize local involvement in planning and to implement and recommend modifications to the Homer Zoning Ordinance, Title 21, and Subdivisions, Title 22. The Commission's jurisdiction is limited to the area within the City boundaries and that area designated as the Homer Bridge Creek Watershed Protection District.

The Homer Advisory Planning Commission ("Commission") consists of seven members; no more than one may be from outside the city limits. Members will be appointed by the Mayor subject to confirmation by the City Council for three-year terms (except to complete terms). The powers and duties of the Commission are described in HCC 1.76.030.

- A. To abide by existing Alaska State law, Borough Code of Ordinances, where applicable, and Homer City Code pertaining to planning and zoning functions;
- B. To abide by Robert's Rules of Order, so far as this treatise is consistent with Homer City Code;
- C. Regular Meetings:

All Commission members should be physically present at the designated time and location within the City for the meeting. Teleconferencing is not permitted.

1. First and third Wednesday of each month at 6:30 p.m.
2. Agenda deadline is two weeks prior to the meeting date at 5:00 p.m. Agenda items requiring public hearing must be received three weeks prior to the Commission hearing. However, conditional use applications may be scheduled for public hearing in accordance with HCC 21.94. Preliminary plats must be submitted the Friday two weeks before the Commission meeting.
3. Items will be added to the agenda upon request of staff, the Commission or a Commissioner.
4. Public notice of a regular meeting shall be made as provided in HCC Chapter 1.14
5. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by vote of the Commission.

Procedure: The Chair will entertain a motion to extend the meeting until a specific time. After the motion has been seconded, the Commission will vote. A yes vote will extend the meeting until the specified time. A no vote will require that the Chair conclude business at or before 9:30 pm

and immediately proceed to comments of the audience, the Commission and adjournment.

D. Special Meetings:

All Commission members should be physically present at the designated time and location within the City for the meeting. Teleconferencing is not permitted.

1. Called by Chair or majority of the Commission.
2. Require reasonable notification be given to the Planning Department staff and twenty-four hour notice to Commissioners.
3. Public notice of a special meeting shall be made as provided in HCC Chapter 1.14.

E. Duties and Powers of the Officers:

A Chair and Vice-Chair shall be selected annually in August or as soon thereafter as practicable by the appointive members. The Chair shall preside at all meetings of the Commission, call special meetings in accordance with the bylaws, sign documents of the Commission, see that all actions and notices are properly taken, and summarize the findings of the Commission for the official record. The Vice-Chair shall perform all duties and be subject to all responsibilities of the Chair in his/her absence, disability or disqualification of office. The Vice-Chair will succeed the Chair if he/she vacates the office before the term is completed to complete the un-expired term. A new Vice-Chair shall be elected at the next regular meeting.

F. Committees

1. The Chair shall appoint committees for such specific purposes as the business of the Commission may require. Committee appointments will be confirmed by the Commission. Committee membership shall include at least two Commissioners. Other Committee members may be appointed from the public.
2. One Committee member shall be appointed Chair and be responsible for creating an agenda and notifying the City Clerk of meetings so they may be advertised in accordance with Alaska State Law and Homer City Code.
3. One Committee member shall be responsible for furnishing summary notes of all Committee meetings to the City Clerk.
4. Committees shall meet in accordance with Commission bylaws and Robert's Rules.
5. All committees shall make a progress report at each Commission meeting.

6. No committee shall have other than advisory powers.
7. Per Robert's Rules, upon giving a final report, the Committee is disbanded.

G. Motions to Reconsider:

Notice of reconsideration shall be given to the Chair or Vice-Chair, if the Chair is unavailable, within forty-eight hours from the time the original action was taken. A member of the Commission who voted on the prevailing side on any issue may move to reconsider the commission's action at the same meeting or at the next meeting of the body provided the above 48-hour notice has been given. Consideration is only for the original motion to which it applies. If the issue involves an applicant, staff shall notify the applicant of the reconsideration.

H. Conflict of Interest:

A member of the Commission shall disqualify himself/herself from participating in any official action in which he/she has a substantial financial interest per HCC 1.12. The member shall disclose any financial interest in the topic before debating or voting. The member cannot participate in the debate or vote on the matter, unless the Commission has determined the financial interest is not substantial.

Following the Chair's announcement of the agenda item, the Commissioner should state that he has a conflict of interest. Once stated, the member should distance himself/herself from all motions. The Commission must move and vote on whether or not there is a conflict of interest. At this time, a motion shall be made by another Commissioner restating the disclosed conflict. Once the motion is on the floor the Commissioner can disclose his/her financial interest in the matter and the Commission may discuss the conflict of interest. A vote will then be taken. An affirmative vote excuses the Commissioner and he/she takes a seat in the audience or remains nearby. Upon completion of the agenda item, the Commissioner will be called back to join the meeting.

I. Situation of personal interest

A situation of personal interest may arise. For example, a Commissioner may live in the subject subdivision or may be a neighboring property owner. If the Commissioner feels that by participating in the discussion he/she may taint the decision of the Commission, or be unable to make an unbiased decision, the Commissioner should state his/her personal interest. The same procedure as above should be followed to determine the conflict.

J. Ex parte Communications

Ex parte contacts are not permitted in quasi-judicial actions. Ex parte communications can result in a violation of procedural due process. If a Commissioner finds him/herself about to be involved in ex parte contact the Commissioner should recommend that the citizen submit their comments in writing to the Commission or testify on record. If a Commissioner has been involved in an ex parte contact, the contact and its substance should be disclosed at the beginning of the hearing. The Commissioner should state whether or not s/he thinks s/he can make an unbiased decision.

K. Quorum; Voting:

Four Commission members shall constitute a quorum. Four affirmative votes are required for the passage of ~~an ordinance, resolution or a motion. Conditional use permits and zoning variances require a majority plus one vote.~~ Voting will be by verbal vote, the order to be rotated. The final vote on each resolution or motion is a recorded roll call vote or may be done in accordance with J. Consensus. For purposes of notification to parties of interest in a matter brought before the Commission, the Chair may enter for the record the vote and basis for determination.

The City Manager, or his/her designee and Public Works Director shall serve as consulting members of the Commission but shall have no vote.

L. Findings:

Findings will be recorded for conditional use permits, variances, acceptance of nonconforming status and zoning ordinance amendments. The findings will include the result of the vote on the item and the basis of determination of the vote, as summarized by the Chair or Vice-Chair, in the absence of the Chair.

M. Consensus:

The Commission may, from time-to-time, express its opinion or preference concerning a subject brought before it for consideration. Said statement, representing the will of the body and meeting of the minds of the members may be given by the presiding officer as the consensus of the body as to that subject without taking a motion and roll call vote.

N. Abstentions:

All Commission members present shall vote unless the Commission, for special reasons, permits a member to abstain. A motion to excuse a member from

voting shall be made prior to the call for the question. A member of the Commission requesting to be excused from voting may make a brief oral statement of the reasons for the request and the question of granting permission to abstain shall be taken without further debate. An affirmative vote of the Commission excuses the Commissioner. A member may not explain a vote or discuss the question while the roll call vote is being taken. A member may not change his/her vote thereafter.

O. Vacancies:

A Commission appointment is vacated under the following conditions and upon the declaration of vacancy by the Commission. The Commission shall declare a vacancy when the person appointed:

1. Fails to qualify;
2. Fails to take office within thirty days after his/her appointment;
3. Resigns and the resignation is accepted;
4. Is physically or mentally unable to perform the duties of his/her office;
5. Misses three consecutive or six regular meetings in a calendar year; or
6. Is convicted of a felony or of an offense involving a violation of his/her oath of office.

P. Procedure for Consideration of Agenda Items:

The following procedure will normally be observed:

1. Staff presents report and makes recommendation;
2. If the agenda item involves an applicant s/he may make a presentation;
3. Commission may ask questions of the applicant and staff.

Q. Procedure for Consideration of Public Hearing Items:

1. Staff presents report and makes recommendation;
2. Applicant makes presentation;
3. Public hearing is opened;
4. Public testimony is heard on item (presentation of supporting/opposing evidence by public – Commission may ask questions of public);
5. Public hearing is closed;
6. Rebuttal of evidence by staff (if any);
7. Rebuttal of evidence by applicant (if any);
8. Commission may ask questions of the applicant, and staff.
9. The Commission will move/second to accept the staff report, with or without staff recommendations. The Commission will discuss the item, may ask questions of staff, and make amendments to the

recommendations of staff. Amendments may be made by motion/second.

10. The Commission may continue the topic to a future meeting. Once the public hearing is closed no new testimony or information will be accepted from the public. The Commission may ask questions of the applicant and staff.

R. Procedure for Consideration of Preliminary Plats :

The following procedure will normally be observed:

1. Staff presents report and makes recommendations;
2. Applicant makes presentation;
3. Public comment is heard on the item;
4. Applicant may make a response;
5. Commission may ask questions of applicant, public and staff.

S. The Commission shall act as a body:

A member of the Commission may not speak or act for the Commission without recommendation or direction given by the Commission. The Chair or Chair's designee shall serve as the official spokesperson of the Commission.

T. Bylaws Amended:

The bylaws may be amended at any meeting of the Commission by a majority plus one of the members, provided that notice of said proposed amendment is given to each member in writing. The proposed amendment shall be introduced at one meeting and action shall be taken at a subsequent Commission meeting. The bylaws will be endorsed by a resolution of the City Council.

U. Procedure Manual:

The policy and procedure manual will be endorsed by resolution of the City Council and may be amended at any meeting of the Commission by a majority plus one of the members, provided that notice of said proposed amendment is given to each member in writing. Proposed amendments to the procedure manual shall be introduced at one meeting and action shall be taken at a subsequent Commission meeting.

**REGULAR MEETING
AGENDA**

- 1. Call to Order**
- 2. Approval of Agenda**
- 3. Public Comment**
The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
- 4. Reconsideration**
- 5. Adoption of Consent Agenda**
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- 9. Plat Consideration**
- 10. Pending Business**
- 11. New Business**
- 12. Informational Materials**
- 13. Comments of the Audience**
Members of the audience may address the Commission on any subject. (3 minute time limit)
- 14. Comments of Staff**
- 15. Comments of the Commission**
- 16. Adjournment**
Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission. Notice of the next regular or special meeting or work session will appear on the agenda following "adjournment."

1 CITY OF HOMER
2 HOMER, ALASKA

3 Mayor/Council

4 RESOLUTION 14-040

5
6 A RESOLUTION OF THE HOMER CITY COUNCIL DISBANDING
7 THE TRANSPORTATION ADVISORY COMMITTEE AND
8 ASSIGNING ROAD AND TRAIL STANDARDS TO THE HOMER
9 ADVISORY PLANNING COMMISSION.

10
11 WHEREAS, The first Road Standards Steering Committee was established in 1984 via
12 Resolution 84-81; and

13
14 WHEREAS, The steering committee was directed to meet for a six-month period to
15 prepare a recommendation to the Council for an ordinance revising the existing road standards
16 and establishing future road construction standards; and

17
18 WHEREAS, In 1987 the City Council adopted the Master Roads and Streets Plan and the
19 Design Criteria Manual for Streets and Storm Drainage via Ordinance 87-6(S); and

20
21 WHEREAS, In 2006 the City Council adopted Resolution 06-36(A), renaming the Road
22 Standards Committee to the Transportation Advisory Committee.

23
24 WHEREAS, In 2009 the City Council adopted Resolution 09-89(S), reducing the
25 monthly meetings of the Transportation Advisory Committee to quarterly meetings in an
26 effort to reduce staff costs; and

27
28 WHEREAS, The Transportation Advisory Committee has completed the scope of work
29 prescribed in Resolution 84-71 and further road and trail standards can be addressed by the
30 Advisory Planning Commission with the Parks and Recreation Advisory Commission making
31 recommendations relating to trail standards.

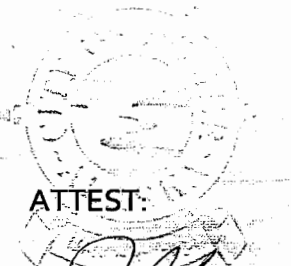
32
33 WHEREAS, Disbandment of the Transportation Advisory Committee will reduce
34 overlapping jurisdictions, increased bureaucracy, and staff costs.

35
36 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby disbands the
37 Transportation Advisory Committee and assigns road and trail standards to the Homer
38 Advisory Planning Commission.
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PASSED AND ADOPTED BY THE HOMER CITY COUNCIL this 24th day of March, 2014.


CITY OF HOMER



ATTEST:



JO JOHNSON, MMC, CITY CLERK


MARY E. WYTHE, MAYOR

Fiscal Note: N/A



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

STAFF REPORT PL 14-33

TO: Homer Advisory Planning Commission
THROUGH: Julie Engebretsen, Deputy City Planner
FROM: Dotti Harness-Foster, Planning Technician
MEETING: April 16, 2014
SUBJECT: CUP 14-05 at 320 W. Pioneer Avenue, Windjammer Suites

Request action: Conduct a public hearing and make a decision on this application. This is a quasi-judicial action.

SYNOPSIS: The Windjammer Suites proposes to build a covered deck on the east side of the existing motel/apartment building, facing Pioneer Ave. If approved, the covered deck will extend 10 feet into the 20 foot building setback along Pioneer Avenue. In the Central Business District, a reduced setback is allowed with an approved Conditional Use Permit (CUP) per HCC 21.18.040(b)(4).

Applicants:	Terry and Jonnie Yager
Property owners:	John and Norma Smith
Location:	320 W. Pioneer Avenue, Windjammer Suites
Parcel ID:	17515102
Legal:	Long legal see Public Notice
Lot Size(s)	0.66 acres
Zoning Designation:	Central Business District
Existing Land Use:	Motel/apartment complex
Surrounding Land Use:	North: Residential, Hostel and Vacant South: Business and HERC site East: Business and vacant West: Business and Homer Middle School
Comprehensive Plan:	Land use goals are described in section (i)
Wetland Status:	No wetlands are shown on the Homer Wetland Map.
Flood Plain Status:	Zone D, Flood hazards undetermined.
BCWPD:	Not within the Bridge Creek Watershed Protection District
Utilities:	Existing public water and sewer
Public Notice:	Notice was sent to 21 property owners of 20 parcels as shown on the KPB tax assessor rolls.

History: The 2014 as-built survey shows the southeast corner of the building encroaching two-feet into the Pioneer Avenue setback. The Kenai Peninsula Borough tax record indicates that the building was constructed in 1975. In 1975 the Kenai Peninsula Borough did not have setback standards; hence the

Windjammer Suites was legally constructed and conformed to the 1975 standards. Over time the City of Homer adopted zoning standards through Title 21 that allows structures in the Central Business District a reduce setback if approved by CUP, HCC 21.18.040(b)(4).

Analysis

This conditional use permit request is to allow the building to encroach 10 feet into 20 foot building setback. The applicant would like to construct an 8 ft by 40 ft covered deck into the setback. Covered porches, decks and entrances are included in the measurement of the building per HCC 21.05.020(d). When combined, the building and the proposed covered porch will extend 10-feet into the 20-foot building setback along Pioneer Avenue.

Landscaping

The existing area between the building and Pioneer Ave is paved. Generally, staff does not recommend removing pavement to create landscaping. Instead, staff recommends a condition to require planter boxes or similar beautification that will improve the aesthetics of the streetscape. Staff discussed this with the applicant. He agrees to include flower box plantings along the rim of the deck facing Pioneer Avenue.

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

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

Analysis: The Windjammer Suites has operated as a 16-unit hotel, motel and apartment complex since 1975.

Finding 1: Hotels, motels, and multi-family dwellings are all permitted uses in the CBD, per HCC 21.18.020. HCC 21.08.040(b)(4) allows for a reduced setback along Pioneer Avenue with an approved Conditional Use Permit.

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

Applicant: The covered deck will enhance the Pioneer Avenue landscape.

Purpose of the district: “The purpose of the Central Business District is primarily to provide a centrally located area within the City for general retail shopping, personal and professional services, educational institutions, entertainment establishments, restaurants and other business uses listed in this chapter. The district is meant to accommodate a mixture of residential and nonresidential uses with conflicts being resolved in favor of nonresidential uses. Pedestrian-friendly designs and amenities are encouraged.” HCC 21.18.010.

Finding 2: The covered porch provides protection from the weather and enhances a pedestrian-friendly atmosphere along Pioneer Avenue.

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

Applicant: The covered deck will improve property values.

Finding 3: The value of adjoining property will not be negatively affected because this proposal improves the exterior façade of an existing building.

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

Applicant: Improving the Windjammer Suites facade should add to Pioneer Avenue's overall improvements.

Finding 4: The covered porch is compatible with the other buildings along Pioneer Avenue. Within 250 feet there are three buildings that have reduced setbacks to Pioneer Avenue and offer decks similar to the proposed deck. Aurora Gems (365 W. Pioneer Ave.), Homer Council of the Arts (355 W. Pioneer Ave.) and All Hopped Up Coffee Shop (280 W. Pioneer Ave.).

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

Applicant: We are only adding a covered deck.

Finding 5: The covered deck will not increase the need for public services. The existing structure is connected to public water and sewer and Pioneer Avenue is a State maintained road.

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

Applicant: This is only a positive change that has no known negative effects.

Finding 6: The scale, bulk, coverage and density of the proposed covered porch will be in harmony with other facades along Pioneer Avenue. The covered deck will not have an undue harmful effect on Pioneer Avenue character.

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

Applicant: Will only be positive.

Finding 7: The covered deck will not be unduly detrimental to the health, safety or welfare of the surround area or the City as a whole.

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

Finding 8: With an approved CUP, this proposal will comply with the applicable regulations and conditions specified in HCC Title 21.

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

Analysis: Chapter 4, Goal 4, Objective A states: “Encourage a concentrated, pedestrian oriented, attractive business/commerce district in the central Business District (CBD) following the guidelines found in the Town Center Plan.”

Finding 9: The commercial streetscape of Pioneer Ave will be enhanced by the construction of the covered porch and by the provision of direct pedestrian access from the sidewalk to the business. The proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan.

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

Analysis: This proposal complies with the applicable provisions of the Community Design Manual which are:

Include area for outdoor leisure for the primary structure (p20, #2). The covered deck will be attached to the primary structure and provide space for outdoor leisure.

Provide consistent architectural interest to all prominent facades (p20 #5). The covered deck will be prominently visible on Pioneer Avenue and provide architectural interest to the existing blank wall.

Provide common area of a size proportionate to development (p24 #1). The proposed covered deck is proportional to the existing 9,000 sf building with 16 hotel/motel units.

Provide direct access to common areas with pedestrian walkways (p26 #4) The proposed covered deck provides easy and direct access to Pioneer Avenue.

Provide covering over walkways where appropriate (p28 #6) The proposed covered deck provides an appropriate covering over the deck.

Landscaping & Screening (p28): Landscaping shall include flower box plantings along the rim of the deck facing Pioneer Avenue.

Avoid parking in front of building entrances (p34 #9) The area between the proposed covered deck and Pioneer Avenue will not be used for parking.

Outdoor lighting (p35): All lighting shall meet the outdoor light standards per HCC 21.59.030 Lighting Standards, to reduce glare and light trespass by using downward directional lighting.

Condition 1: All lighting shall meet the outdoor light standards per HCC 21.59.030 Lighting Standards, to reduce glare and light trespass by using downward directional lighting.

Finding 10: The covered deck will meet the applicable provisions of the Community Design Manual.

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

1. **Special yards and spaces.**
2. **Fences, walls and screening.**
3. **Surfacing of vehicular ways and parking areas.**
4. **Street and road dedications and improvements (or bonds).**
5. **Control of points of vehicular ingress and egress.**
6. **Special restrictions on signs.**
7. **Landscaping.**
8. **Maintenance of the grounds, buildings, or structures.**
9. **Control of noise, vibration, odors, lighting or other similar nuisances.**
10. **Limitation of time for certain activities.**
11. **A time period within which the proposed use shall be developed and commence operation.**
12. **A limit on total duration of use or on the term of the permit, or both.**
13. **More stringent dimensional requirements, such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.**
14. **Other conditions necessary to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.**

Condition 2: Landscaping shall include flower box plantings along the edge of the deck facing Pioneer Ave.

PUBLIC WORKS COMMENTS: No comment.

FIRE DEPARTMENT COMMENTS: Fire Chief Painter – No Comment.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission approve Conditional Use Permit 14-05 with findings 1-10 and Conditions 1 and 2 at 320 W. Pioneer Avenue to allow the building to extend 10 ft into the 20 ft building setback along Pioneer Avenue.

ATTACHMENTS

1. Application
2. Public Notice
3. Aerial Map



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Applicant
 Name: TERRY & JONNIE YAGER Telephone No.: 399-1001
 Address: 412 E. PIONEER AVE. HOMER Email: terry@remaxofhomer.com

Property Owner (if different than the applicant):
 Name: JOHN & NORMA SMITH Telephone No.: 235-9761
 Address: 320 W. PIONEER AVE HOMER Email: N/A

PROPERTY INFORMATION:
 Address: 320 W. PIONEER AVE Lot Size: .6600 acres KPB Tax ID # 17515102
 Legal Description of Property: LONG-LEGAL

For staff use:
 Date: 3/26/14 Fee submittal: Amount \$300.
 Received by: dht Date application accepted as complete _____
 Planning Commission Public Hearing Date: April 16, 2014

Conditional Use Permit Application Requirements:

1. A Site Plan
2. Right of Way Access Plan
3. Parking Plan
4. A map showing neighboring lots and a narrative description of the existing uses of all neighboring lots. (Planning can provide a blank map for you to fill in).
5. Completed Application Form
6. Payment of application fee (nonrefundable)
7. Any other information required by code or staff, to review your project

Circle Your Zoning District

	RR	UR	RO	CBD	TCD	GBD	GC1	GC2	MC	MI	OSR	BCWPD
Level 1 Site Plan	x	x	x			x			x		x	x
Level 1 ROW Access Plan	x	x							x		x	
Level 1 Site Development Requirements	x	x										
Level 1 Lighting			x	x	x	x	x	x	x	x		
Level 2 Site Plan			x	x	x		x	x		x		
Level 2 ROW Access Plan			x	x	x		x	x		x		
Level 2 Site Development Requirements			x*	x	x	x	x	x	x	x		
Level 3 ROW Access Plan						x						
DAP/SWP questionnaire				x	x	x	x	x	x	x		

Circle applicable permits. Planning staff will be glad to assist with these questions.

- Y N Are you building or remodeling a commercial structure, or multifamily building with more than 3 apartments? If yes, Fire Marshal Certification is required. Status: JUST ADDING A DECK & REMOVAL OF TWO UNITS
- Y N Will your development trigger a Development Activity Plan? Application Status: _____
- Y N Will your development trigger a Storm water Plan? Application Status: _____
- Y N Does your site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required. Application Status: _____
- Y N Is your development in a floodplain? If yes, a Flood Development Permit is required.
- Y N Does your project trigger a Community Design Manual review? If yes, complete the design review application form. The Community Design Manual is online at: <http://www.ci.homer.ak.us/documentsandforms>
- Y N Do you need a traffic impact analysis?
- Y N Are there any nonconforming uses or structures on the property?
- Y N Have they been formally accepted by the Homer Advisory Planning Commission? N/A
- Y N Do you have a state or city driveway permit? Status: _____
- Y N Do you have active City water and sewer permits? Status: _____

1. Currently, how is the property used? Are there buildings on the property? How many square feet? Uses within the building(s)? IT IS A MOTEL/APT COMPLEX. WILL BE REMODELING FOR OFFICES & UPDATE LIVING QUARTERS. BUILDING IS 9010 S.F. HAVE CONTACTED AND IN ACTIVE COMMUNICATION WITH FIRE MARSHALLS OFFICE. DO NOT FEEL THAT REMODELING WILL CHANGE ANYTHING OF CONCERN TO FIRE MARSHALL. NO MAJOR CHANGES TO EGRESS OR MAJOR CONFIGURATION OF BUILDING
2. What is the proposed use of the property? How do you intend to develop the property?
(Attach additional sheet if needed. Provide as much information as possible).
CHANGE UNIT 15 INTO OFFICE SPACE FOR RE/MAX OF HOMER AND HOMER PROPERTY MANAGEMENT. REMODEL UNIT INTO LIVING QUARTERS FOR TERRY YAGER & FAMILY

CONDITIONAL USE INFORMATION: (Please use additional sheet(s), if necessary)

- a. What code citation authorizes each proposed use and structure by conditional use permit?
HCC 21.18.040(b)(4) reduced setback
- b. Describe how the proposed uses(s) and structures(s) are compatible with the purpose of the zoning district. ENCHANCES THE PIONEER AVE LANDSCAPE
- c. How will your proposed project affect adjoining property values? INCREASE PROPERTY VALUES

- d. How is your proposal compatible with existing uses of the surrounding land? _____
Very nice improvement for all of Homer
- e. Are/will public services adequate to serve the proposed uses and structures?

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

ENHANCE AREA NOTHING NEGATIVELY EFFECTED.
- g. Will your proposal be detrimental to the health, safety or welfare of the surrounding area or the city as a whole?

NO
- h. How does your project relate to the goals of the Comprehensive Plan?
 The 2006 Town Center Plan and the 2008 Comprehensive Plan are online at:
<http://www.ci.homer.ak.us/documents/planning>

ENHANCE AREA
- i. The Planning Commission may require you to make some special improvements. Are you planning on doing any of the following, or do you have suggestions on special improvements you would be willing to make? (circle each answer)
1. Y/N Special yards and spaces.
 2. Y/N Fences, walls and screening.
 3. Y/N Surfacing of parking areas.
 4. Y/N Street and road dedications and improvements (or bonds). **!**
 5. Y/N Control of points of vehicular ingress & egress.
 6. Y/N Special provisions on signs.
 7. Y/N Landscaping.
 8. Y/N Maintenance of the grounds, buildings, or structures.
 9. Y/N Control of noise, vibration, odors, lighting, heat, glare, water and solid waste pollution, dangerous materials, material and equipment storage, or other similar nuisances.
 10. Y/N Time for certain activities.
 11. Y/N A time period within which the proposed use shall be developed.
 12. Y/N A limit on total duration of use.
 13. Y/N Special dimensional requirements such as lot area, setbacks, building height.
 14. Y/N Other conditions deemed necessary to protect the interest of the community.

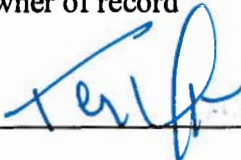
PARKING

- 1. How many parking spaces are required for your development? 17 ~~NO GARAGE~~
- If more than 24 spaces are required see HCC 21.50.030(f)(1)(b). _____
- 2. How many spaces are shown on your parking plan? 17
- 3. Are you requesting any reductions? NO

Include a site plan, drawn to a scale of not less than 1" = 20' which shows allow existing and proposed structures, clearing, fill, vegetation and drainage.

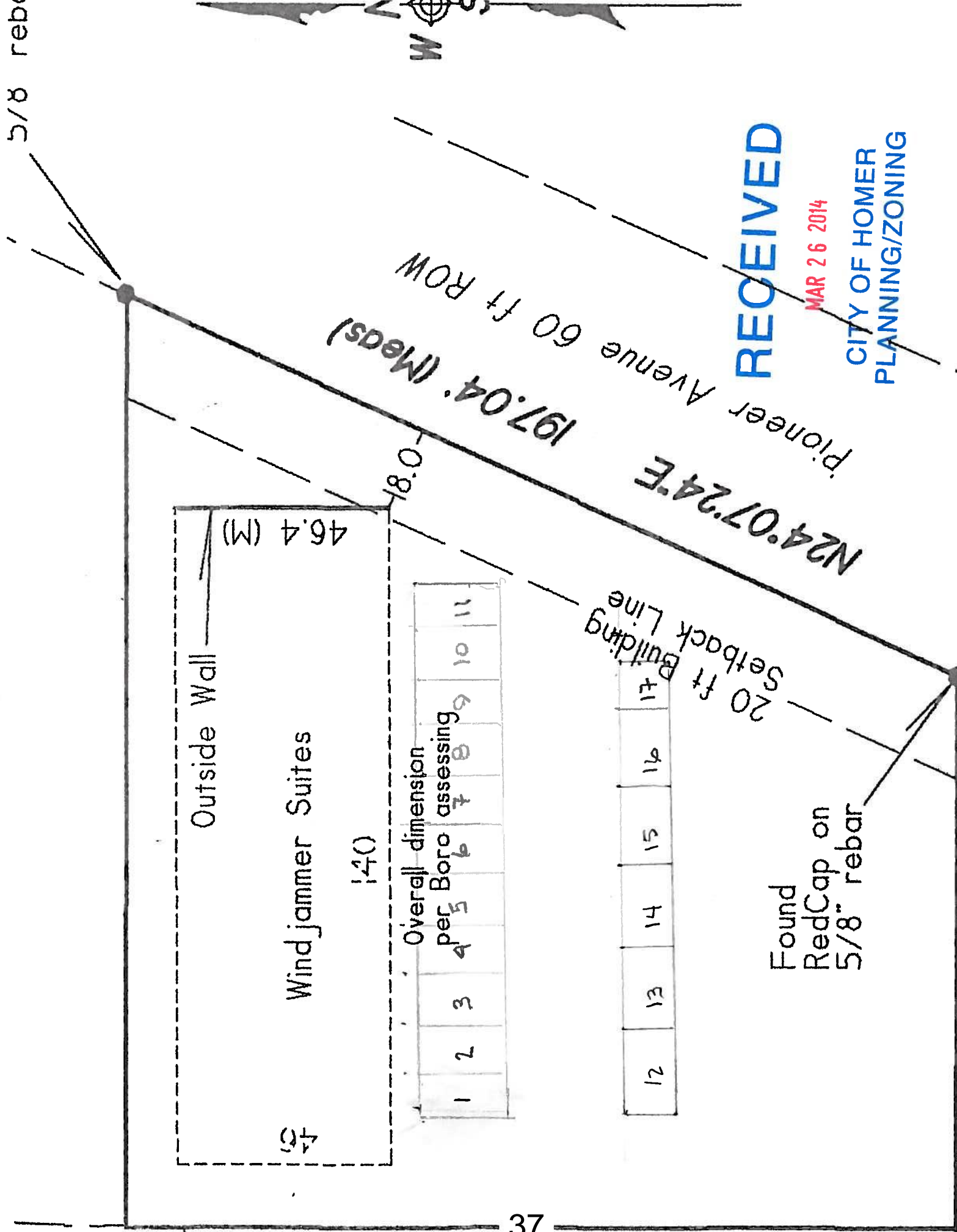
I hereby certify that the above statements and other information submitted are true and accurate to the best of my knowledge, and that I, as applicant, have the following legal interest in the property:

CIRCLE ONE: Owner of record Lessee Contract purchaser

Applicant signature:  Date: 3-24-14

Property Owner's signature:  Date: 3/26/14

5/8 rebar



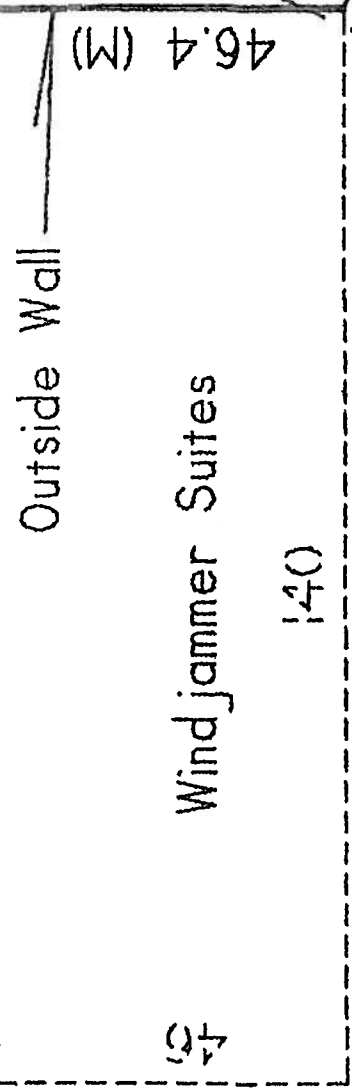
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MAR 26 2014

CITY OF HOMER
PLANNING/ZONING

Pioneer Avenue 60 ft ROW
197.04' (Meas)
N24°07'24\"/>



Overall dimension per Boro assessing

1	2	3	4	5	6	7	8	9	10	11
---	---	---	---	---	---	---	---	---	----	----

20 ft Building Setback Line

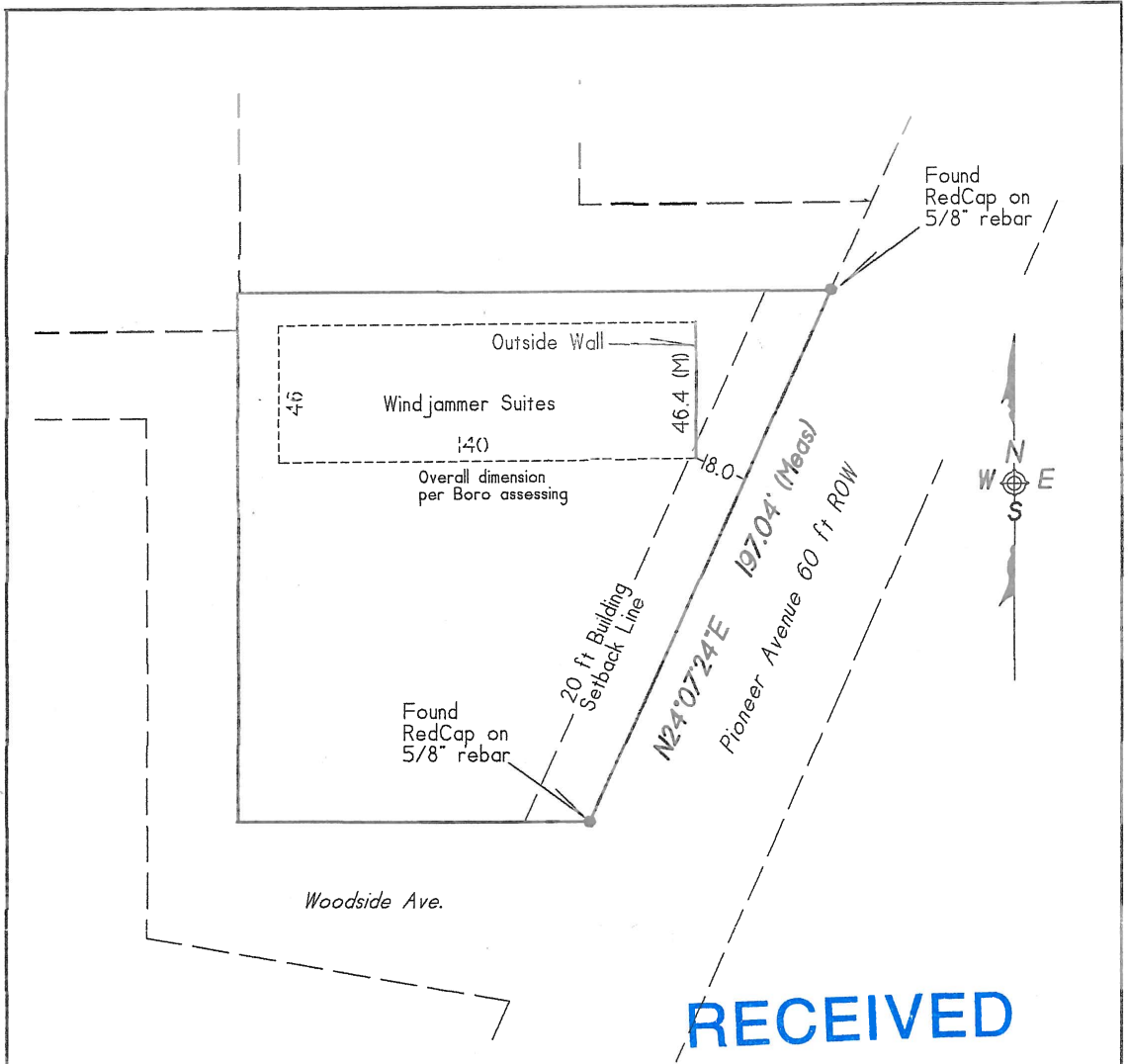
12	13	14	15	16	17
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Found RedCap on 5/8" rebar

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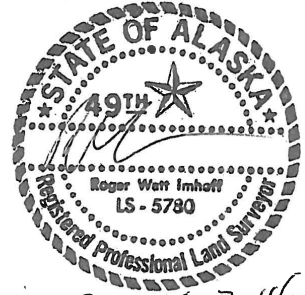
NOTES

1. Subject structure is framed building.
2. The purpose of this survey was to locate the easterly side of the building and its position relative to the edge of the right-of-way of Pioneer Avenue. No other building dimensions or locations of improvements were surveyed.

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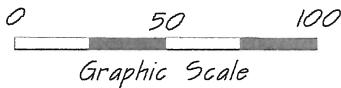
MAR 26 2014

**CITY OF HOMER
PLANNING/ZONING**



2-04-2014

school.cgo

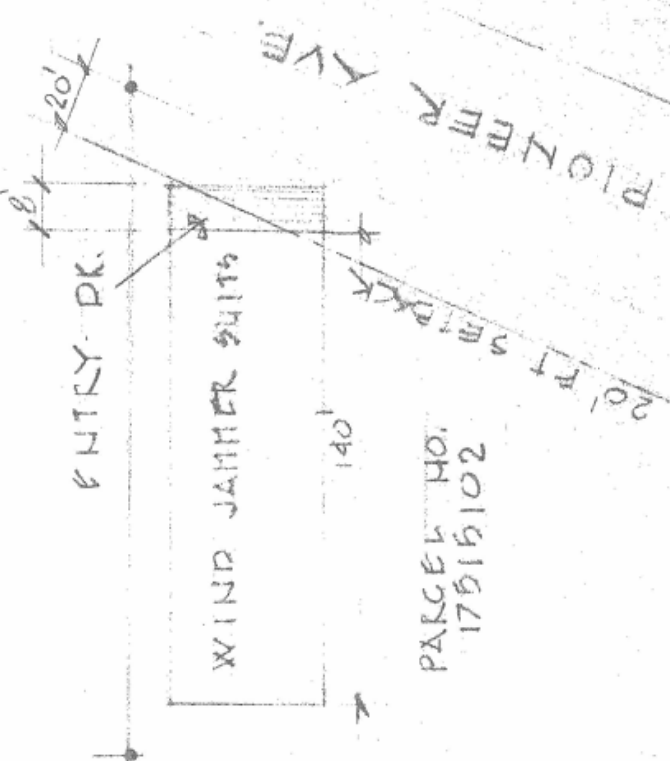
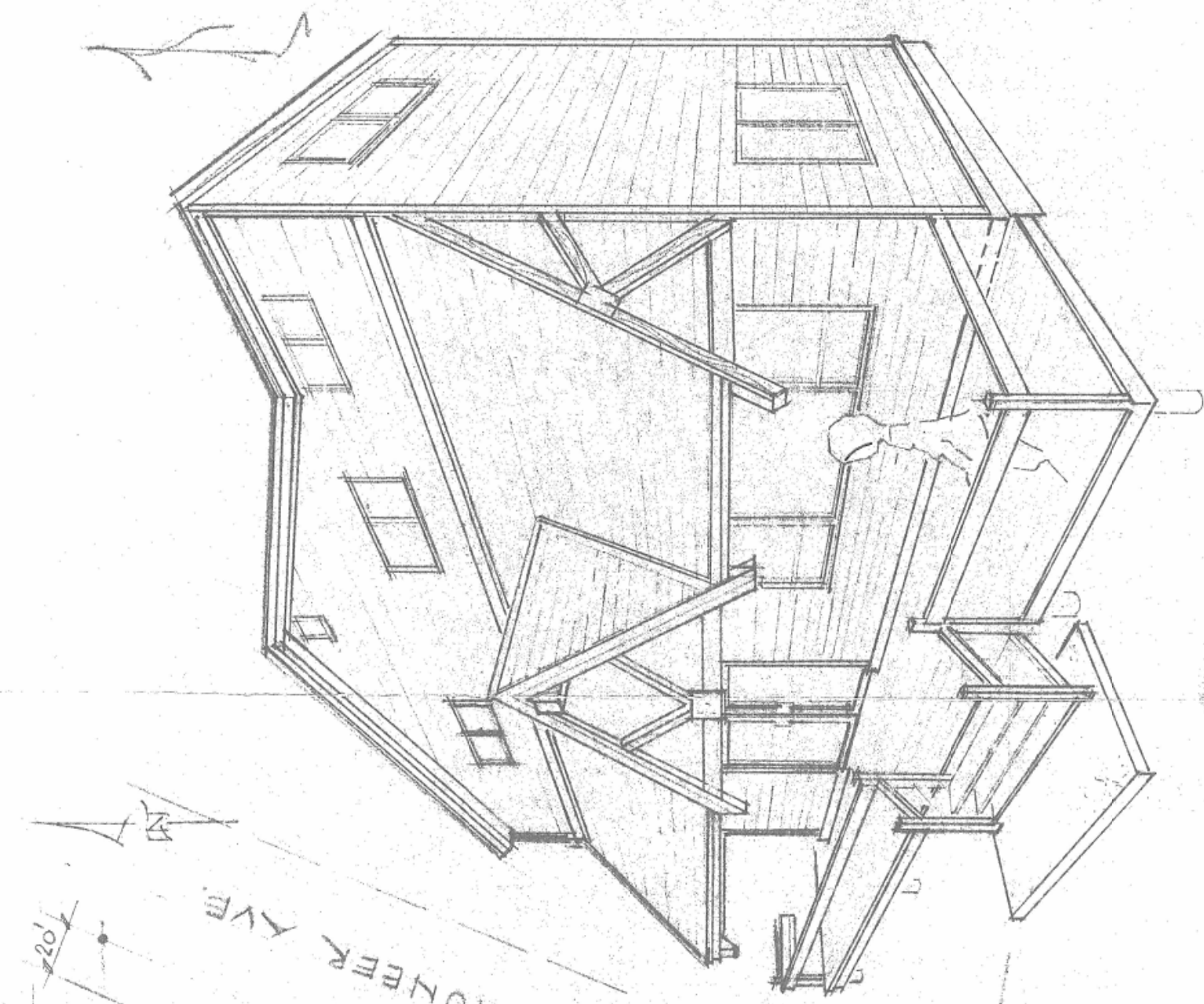


ASBUILT SURVEY

Metes and Bounds Parcel per
Book 308 Pg 558 HRD
within the City of Homer

Located in
Section 19, T6S, R13W, 5M
Homer Recording District
Third Judicial District, Alaska
KPB Tax Parcel No. 17515102

Clients: Terry Yager Homer Ak 99603		Surveyed By: Roger W. Imhoff, RLS PO Box 2588 Homer Ak 99603
Date of Survey 2-04-2014		File windjammer.vcd
Drawn RWI	FB2014-1	Scale 1" = 50 ft



PARCEL NO.
17515102

RECEIVED

MAR 26 2014

CITY OF HOMER
PLANNING/ZONING

PUBLIC NOTICE

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, April 16, 2014 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska on the following matter:

Request for Conditional Use Permit (CUP) 2014-05: The owner proposes to extend a deck and covered porch into the 20 ft. building setback at 320 W Pioneer Ave (Windjammer Suites). A CUP for a reduction of the 20 ft. setback from Pioneer Avenue is required by HCC 21.18.040(b)(4). Legal Description of lot: That portion of the SE1/4 NE1/4 beginning 328 ft north of the southwest corner of said quarter of quarter section th south 180 ft th east 123 ft to the west boundary of the hwy th northerly along the boundary of said hwy to a point 328 ft north of the south boundary of said quarter of quarter section th west 218 ft to the pob excluding Pioneer Ave T 6S R 13W SEC 19 S.M. HM

Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Travis Brown at the Planning and Zoning Office, 235-3106.

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





Vicinity Map on Reverse

Vicinity Map

SPRUCEVIEW AVE.

Legend

-  Subject Lot
-  Lots w/in 300 ft

Subject Location
320 W Pioneer Ave
(Windjammer Suites)

WOODSIDE AVE.

Sterling Highway

Pioneer Ave

ST.

N DR.

RS ST.

OHL

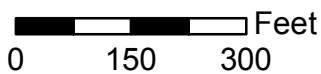


City of Homer
Planning and Zoning Department

April 1, 2014

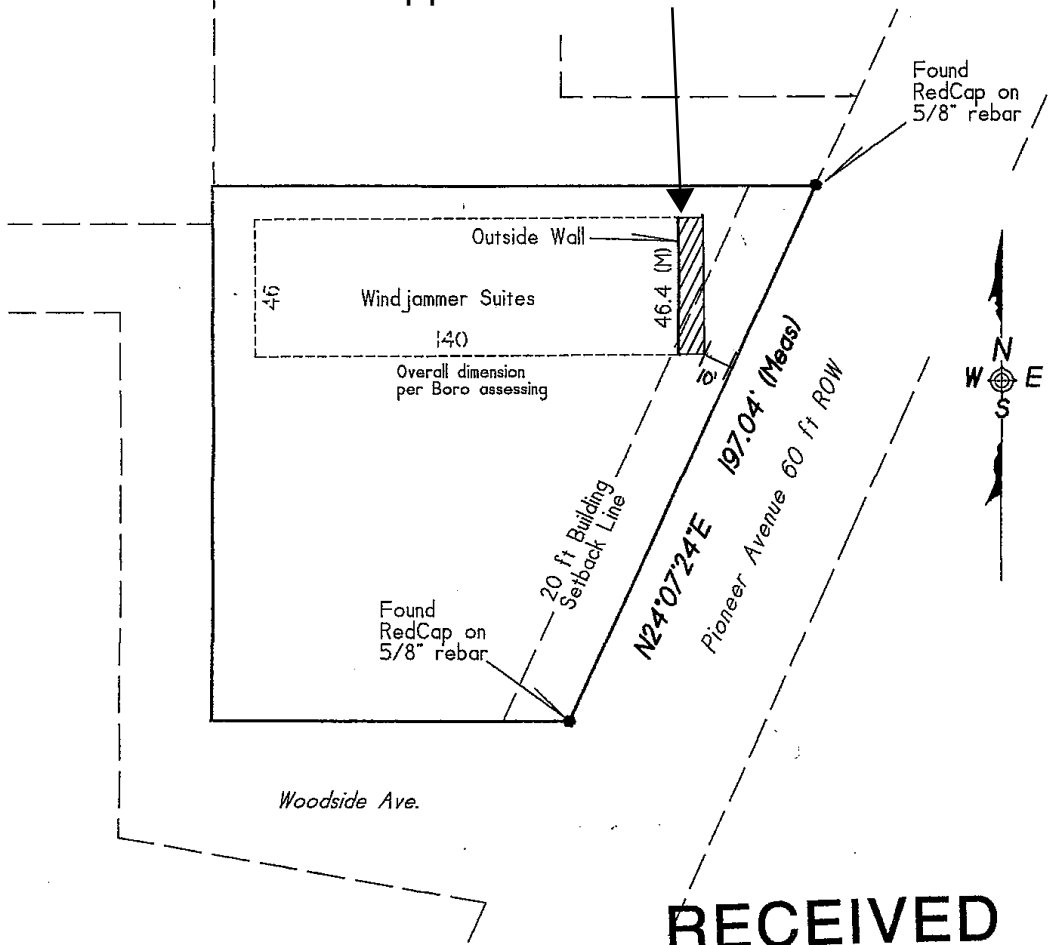
Request for CUP 2014-05
320 W Pioneer Ave

Marked lots are within 300 feet
and property owners notified.



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

Proposed covered porch to extend approx. 10 ft. into setback



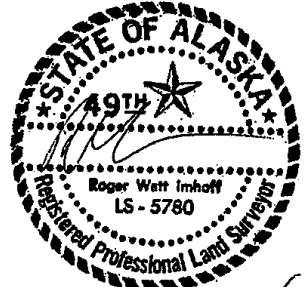
NOTES

1. Subject structure is framed building.
2. The purpose of this survey was to locate the easterly side of the building and its position relative to the edge of the right-of-way of Pioneer Avenue. No other building dimensions or locations of improvements were surveyed.

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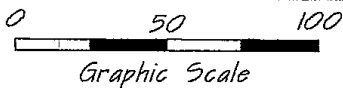
MAR 26 2014

CITY OF HOMER
PLANNING/ZONING



2-04-2014

school.cgo

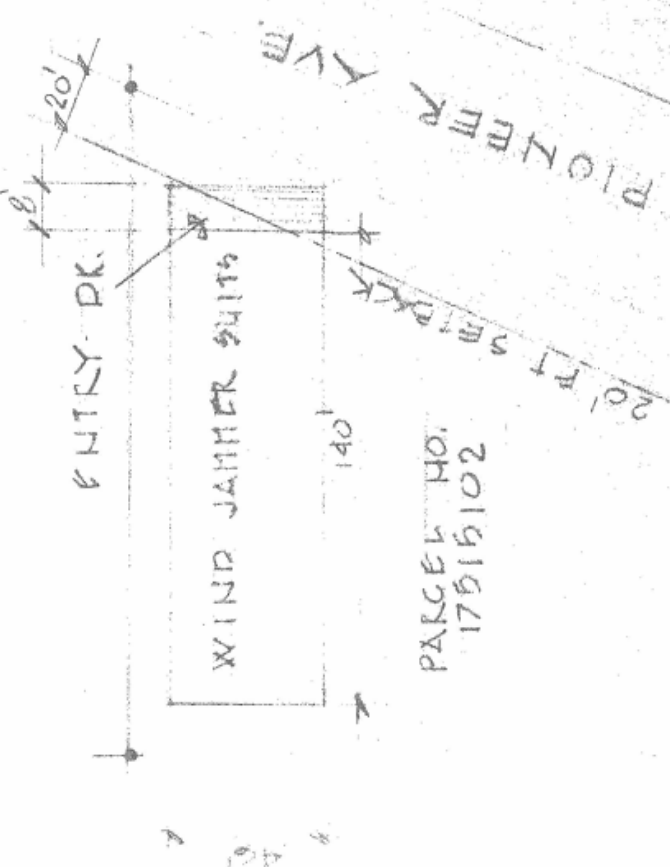
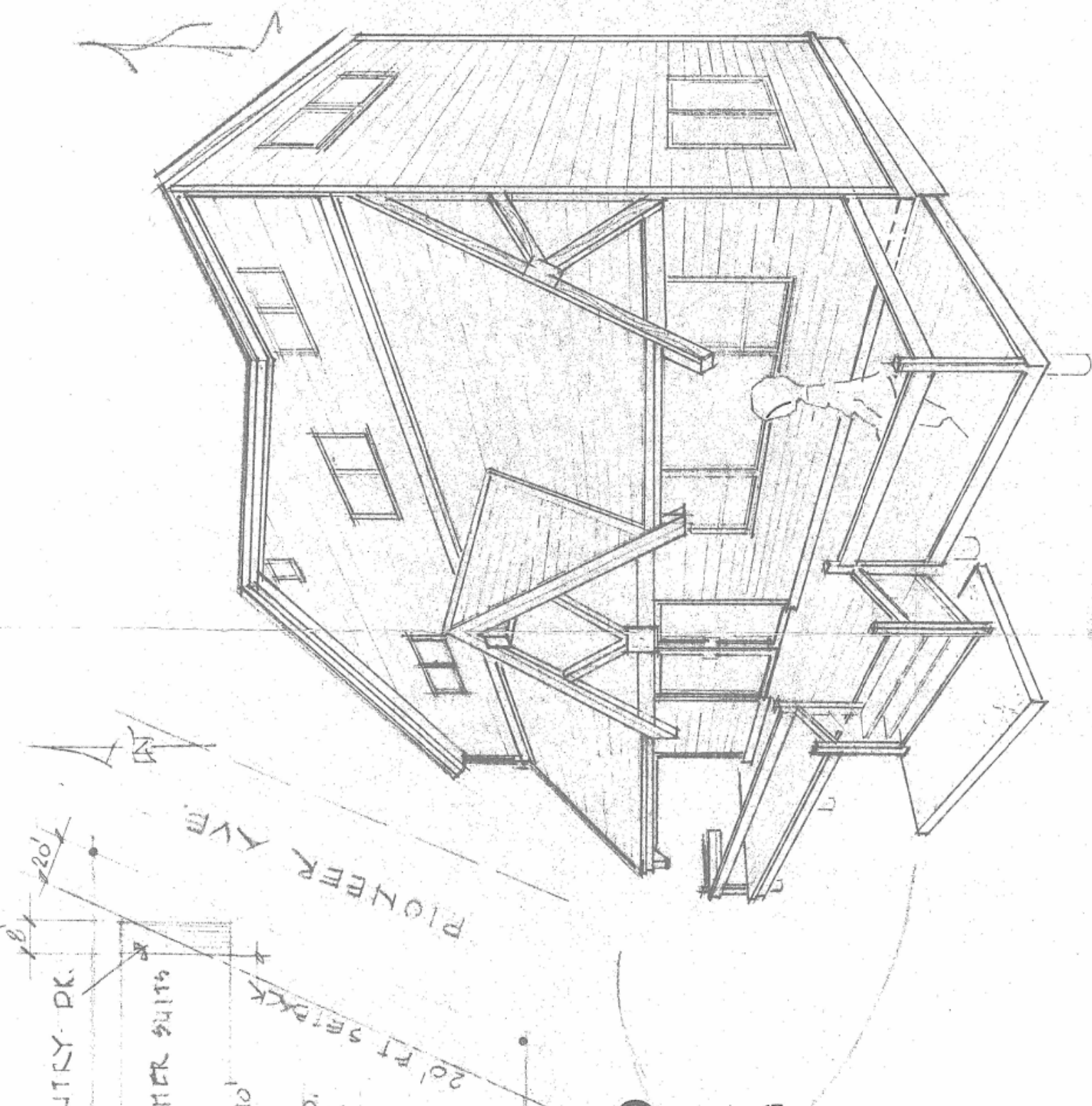


ASBUILT SURVEY

Metes and Bounds Parcel per Book 308 Pg 558 HRD within the City of Homer

Located in Section 19, T6S, R13W, 5M Homer Recording District Third Judicial District, Alaska KPB Tax Parcel No. 17515102

Clients: Terry Yager Homer Ak 99603		Surveyed By: Roger W. Imhoff, RLS PO Box 2588 Homer Ak 99603
Date of Survey 2-04-2014		File windjammer.vcd
Drawn RWI	FB2014-1	Scale 1" = 50 ft



PARCEL NO.
17515102

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MAR 26 2014

CITY OF HOMER
PLANNING/ZONING

Vicinity Map-Aerial Photo



Legend

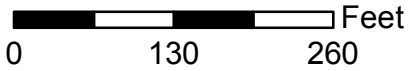
-  Subject Lot
-  Lots w/in 300 ft



City of Homer
Planning and Zoning Department
April 1, 2014

Request for CUP 2014-05
320 W Pioneer Ave

Marked lots are within 300 feet
and property owners notified.



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City of Homer

www.cityofhomer-ak.gov

Planning
491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us
(p) 907-235-3106
(f) 907-235-3118

Staff Report 14-34

TO: Homer Advisory Planning Commission
FROM: Julie Engebretsen, Deputy City Planner
DATE: April 16, 2014
SUBJECT: Exclusion of 1270 Don's Drive from the Bridge Creek Watershed Protection District

Requested action: Conduct a public hearing, and exempt the subject lot from the Bridge Creek Watershed Protection District. This is a quasi-judicial action.

Introduction

Applicant: Dave Treat
Location: 1270 Don's Drive, Lot 4 Tulin East Highlands Subdivision
Public Notice: Notice was sent to 14 owners of 14 parcels

Mr. Treat owns the property and home at 1270 Don's Drive. He is requesting two actions from the Commission. This staff report only concerns the exclusion from Bridge Creek Watershed Protection District.

HCC 21.40.020(c) states: "Excluded from the regulations of the Bridge Creek Watershed Protection District are parcels that are within the Bridge Creek Watershed Protection District and from which all the surface waters drain away from the Bridge Creek Watershed; provided, that the drainage of the entire parcel is proven by survey to be unable to enter the Bridge Creek Watershed. The determination of whether a parcel is excluded under this subsection will be made by the Planning Commission on a case-by-case basis after notice and a public hearing. The property owner has the burden of proof."

Analysis

Mr. Treat hired a surveyor, who provided a schematic of both of Mr. Treat's properties. The surveyor provided one foot contour information from a field survey, and drainage arrows showing the direction of surface runoff. The drawing shows all of Lot 4 as draining toward Don's Drive, and to Skyline Drive. Skyline Drive drains to the east, leading to a culvert near Easy Street that crosses to the south side of Skyline Drive.

Staff Recommendation: Adopt Findings 1 and 2, exempting the property from the regulations of the Bridge Creek Watershed Protection District.

Finding 1: HCC 21.40.020(c) allows a parcel to be excluded from the Regulations of Bridge Creek Watershed Protection District if all the surface waters drain away from the watershed.

P:\PACKETS\2014 PCPacket\Staff Reports\SR 14-34 Treat BCWPD Exclusion.docx

Finding 2: Based on the drawing dated 1/6/2014, all surface waters from Lot 4 Tulin East Highlands Subdivision do not drain into the Bridge Creek Watershed.

Attachments

1. Request for exemption from Watershed
2. Site Plan dated 1/4/2014
3. Public Notice
4. Letter from Carol Griswold (adjacent property owner to the west)
5. Aerial Photo (Not Included in Packet. Will be a lay down at the meeting)

Julie Engebretsen

From: Dave Treat <dave@treatsheating.com>
Sent: Tuesday, April 01, 2014 3:00 PM
To: Julie Engebretsen
Subject: 1270 Dons drive

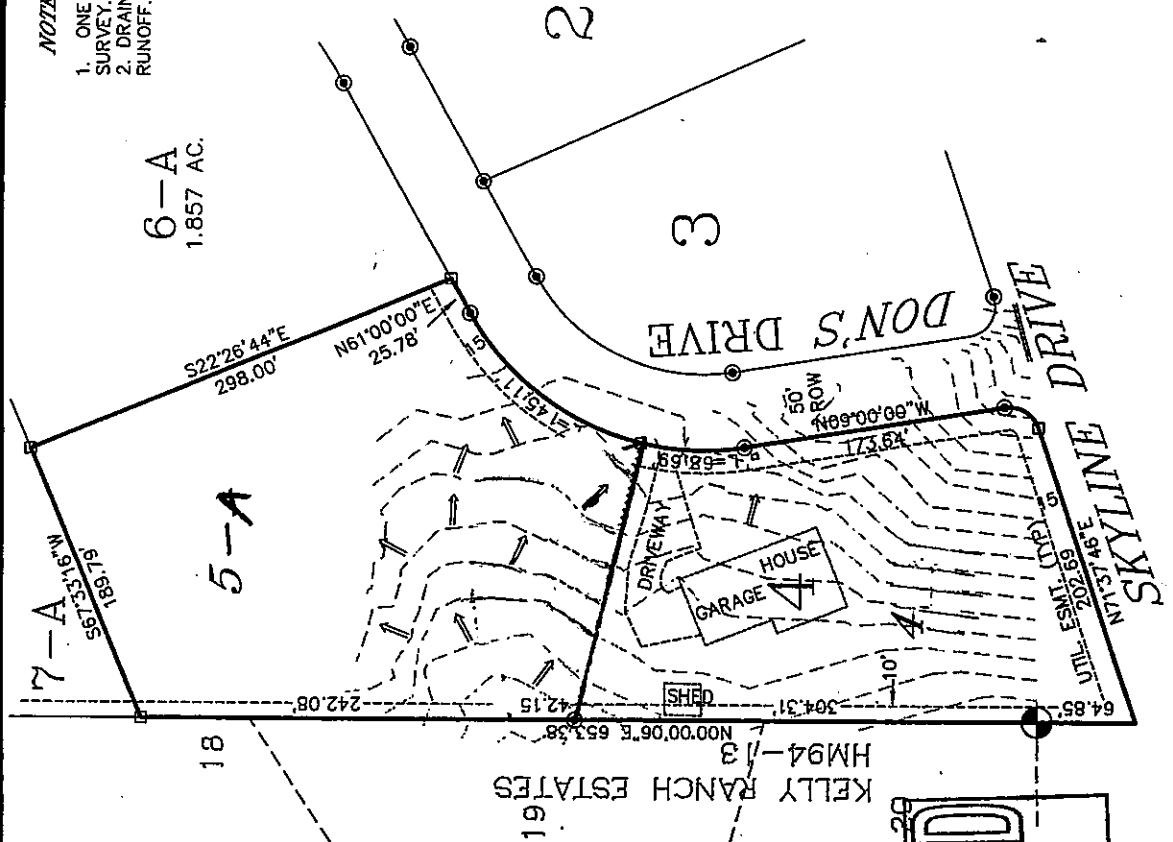
Thanks for your help Julie,

I am the owner of 1270 dons drive, homer ak, and am requesting that lot 4 of Tulin east highlands subdivision be removed from the bridge creek watershed protection district based on the map I submitted to the city building dept. thank you for your consideration of this issue. Dave treat

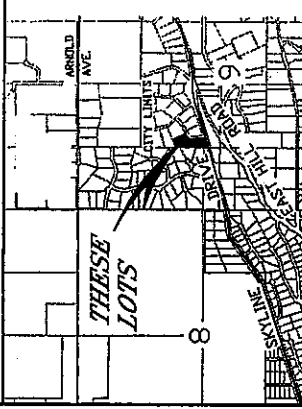
Dave Treat
Treat's Heating & Cooling
(253) 377-0835

NOTES:

1. ONE FOOT CONTOUR INTERVAL FROM FIELD SURVEY.
2. DRAINAGE ARROWS SHOW DIRECTION OF SURFACE RUNOFF.



VICINITY MAP
SCALE: 1" = 1/2 MILE



THESE LOTS

REPLAT EXHIBIT

OF LOT 4,
TULIN EAST HIGHLANDS
(PLAT #91-33),
AND LOT 5-A, (HM97-3)
IN THE NW1/4, SEC 9,
T6S, R13W, S.M.,
CITY OR HOMER,
KENAI PENINSULA BOROUGH,
THIRD JUDICIAL DISTRICT,
STATE OF ALASKA,
HOMER RECORDING DISTRICT,

DATE	1/4/2014
SCALE	1" = 100'
JOB No.	4743
DRAWING:	4743_4732

ABILITY SURVEYS
GARY D. NELSON, P.L.S.
(907)235-8440
152 DEHEL AVE., HOMER, ALASKA



RECEIVED
JAN 6 2014
CITY OF HOMER
PLANNING/ZONING

PUBLIC NOTICE

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, April 16, 2014 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska on the following matter:

Request for exclusion from the Bridge Creek Watershed Protection District at 1270 Don's Drive. A public hearing is required by HCC 21.40.020(c). Legal Description of lot: Lot 4 Tulin East Highlands Subdivision T 6S R 13W SEC 9.

Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

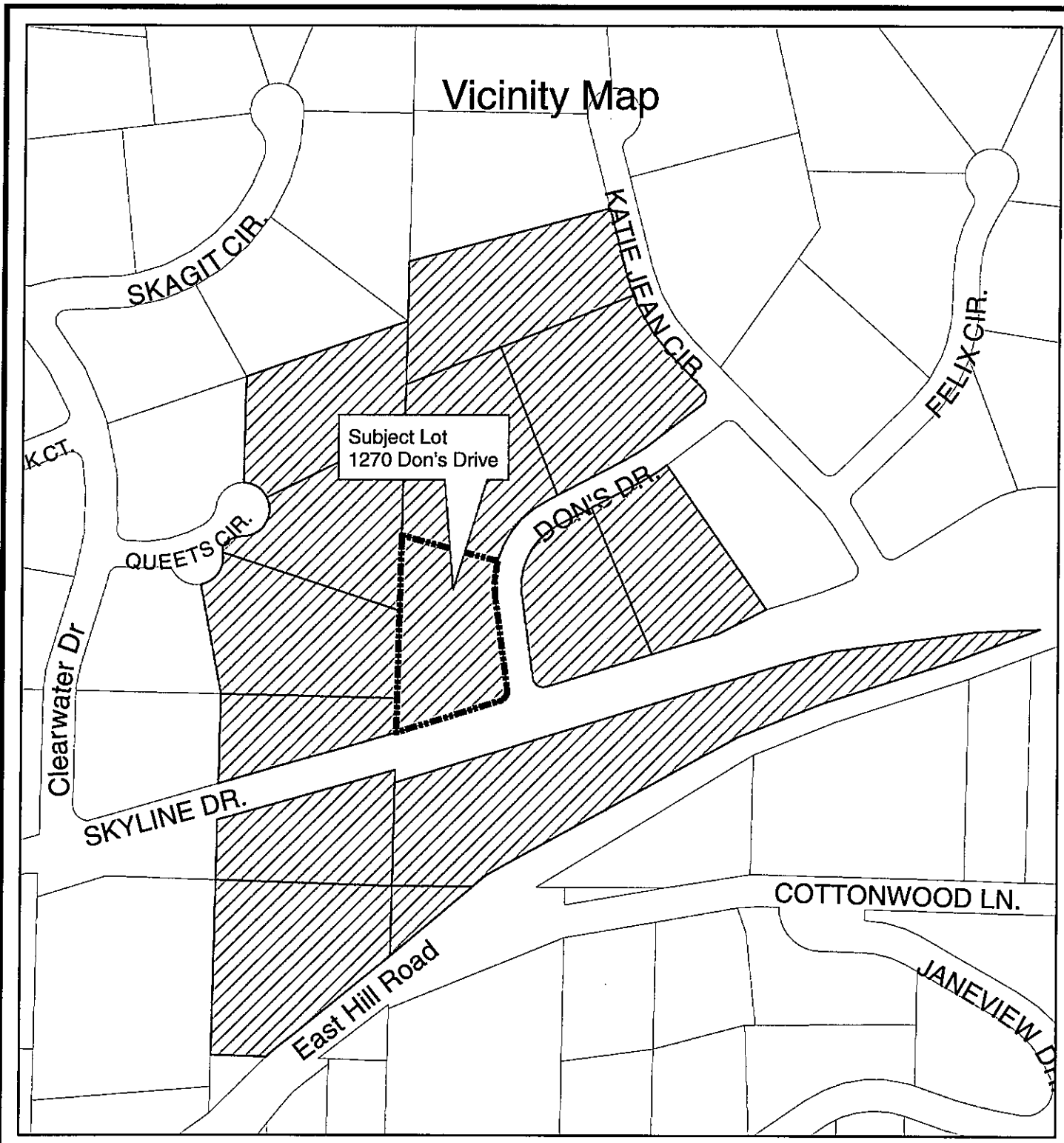
The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Travis Brown at the Planning and Zoning Office, 235-3106.

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

.....

Vicinity Map on Reverse

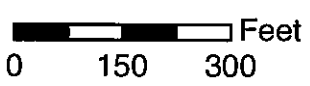
Vicinity Map



City of Homer
Planning and Zoning Department
April 1, 2014

Request for exclusion from the Bridge Creek Watershed Protection District

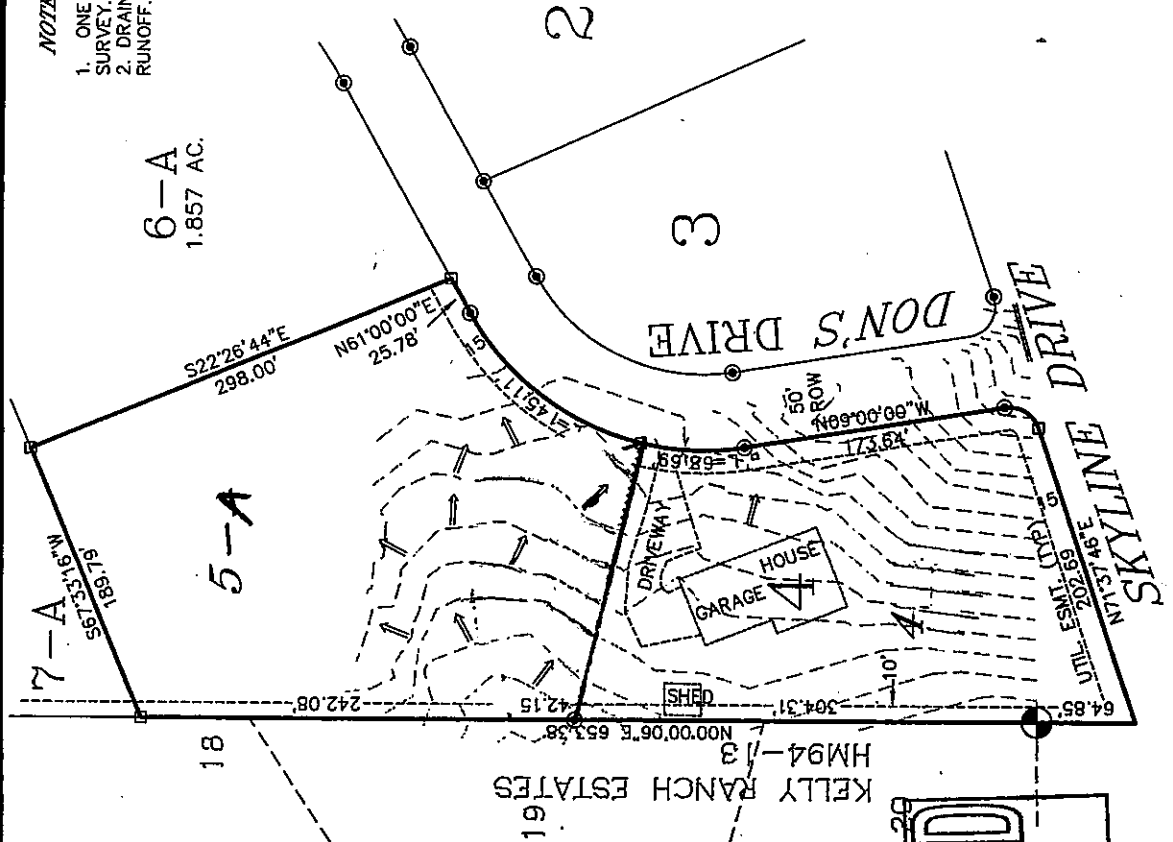
Marked lots are within 300 feet
and property owners notified.



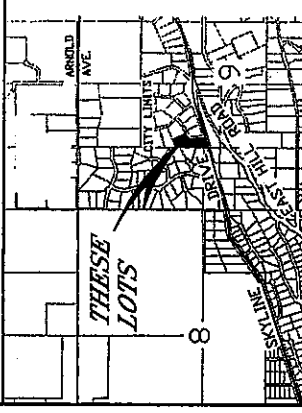
Disclaimer:
It is expressly understood the City of Homer, its council, board, departments, employees and agents are not responsible for any errors or omissions contained herein, or deductions, interpretations or conclusions drawn therefrom.

NOTES:

1. ONE FOOT CONTOUR INTERVAL FROM FIELD SURVEY.
2. DRAINAGE ARROWS SHOW DIRECTION OF SURFACE RUNOFF.



VICINITY MAP
SCALE: 1" = 1/2 MILE



THESE LOTS

REPLAT EXHIBIT

OF LOT 4,
TULIN EAST HIGHLANDS
(PLAT #91-33),
AND LOT 5-A, (HM97-3)
IN THE NW1/4, SEC 9,
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CITY OR HOMER,
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STATE OF ALASKA,
HOMER RECORDING DISTRICT,

DATE	1/4/2014
SCALE	1" = 100'
JOB No.	4743
DRAWING:	4743_4732

ABILITY SURVEYS
GARY D. NELSON, P.L.S.
(907)235-8440
152 DEHEL AVE., HOMER, ALASKA



RECEIVED
JAN 6 2014
CITY OF HOMER
PLANNING/ZONING

April 8, 2014

RE: Bridge Creek Watershed Protection District exclusion

Dear Planning Commission,

I am a property owner within 300 feet of the proposed BCWPD exclusion. I will be unable to attend the April 16 meeting, but would like to share some comments based on my conversation with Travis Brown, the Zoning Map, and KPB GIS map.

I think selecting Skyline Drive as the southern boundary of the BCWPD may have been for the city's convenience and not necessarily based on topography. Instead of placing the burden of proof on each property owner as noted in the code, it would be more fair for the city to establish the boundary for all. Many of the property owners in this district purchased their lots before the establishment of the BCWPD, and now face additional surveying charges should they wish to develop their property.

Our property must also adhere to strict requirements that were not in place when we purchased the property. While I totally support the protection of the city's water supply, I feel my land may not be as valuable or usable with these restrictions. I feel the city should try to minimize the costs to the landowners, and assist with mitigation measures as we are already carrying the burden of being in the BCWPD.

As for the property owner who is applying for the exemption, I would just want to be sure that developing/hard surfacing the rest of his property up to the Rural Residential limit of 30% will not adversely impact the water supply to the Reservoir. Travis stated that if the exemption is granted and development proceeds, all the other regulations for setbacks, septic, etc for the Rural Residential zone will be followed.

As for the maps and BCWPD boundary description, it would be helpful to officially name the Bridge Creek Reservoir, rename the Crossman Ridge side road that leads east off of the main Crossman Ridge Road, and rewrite the description to follow current roadways.

Thank you,
Carol Griswold
Seward

RECEIVED

4/8/2014

**CITY OF HOMER
PLANNING/ZONING**



City of Homer

www.cityofhomer-ak.gov

Planning
491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us
(p) 907-235-3106
(f) 907-235-3118

STAFF REPORT PL 14-32

TO: Homer Advisory Planning Commission
THROUGH: Julie Engebretsen, Deputy City Planner
FROM: Dotti Harness-Foster, Planning Technician
MEETING: April 16, 2014
SUBJECT: Harrington Heights 2014 Replat Preliminary Plat

Requested Action: Preliminary plat approval to shift a common lot line to the east.

GENERAL INFORMATION

Applicants:	Marsha Korpi PO Box 1033 Homer, AK 99603	Ken Bergman PO Box 72 Homer, AK 99603	Johnson Surveying PO Box 27 Clam Gulch, AK 99568
Location:	Southwest corner of Wright Street and Noview Avenue		
Parcel ID:	Lot 1-A is 17512317 and Lot 3, Block 3 is 17512306		
Size of Existing Lot(s):	Lot 1-A is 20,038 sf and Lot 3, Block 3 is 10,019 sf		
Size of Proposed Lots(s):	Lot 1-A1 will be 16,424 sf and Lot 3A, Block 3 will be 13,930 sf		
Zoning Designation:	Urban Residential		
Existing Land Use:	Residential		
Surrounding Land Use:	North: Residential South: Residential East: Vacant West: Residential		
Comprehensive Plan:	Goal 1 Objective B: Promote a pattern of growth characterized by a concentrated mixed use center, and a surrounding ring of moderate-to-high density residential and mixed use areas with lower densities in outlying areas.		
Wetland Status:	No designated wetlands. There is an identified drainage.		
Flood Plain Status:	Zone D, flood hazards undetermined.		
BCWPD:	Not within the Bridge Creek Watershed Protection District.		
Utilities:	City water and sewer are available.		
Public Notice:	Notice was sent to 54 property owners of 68 parcels as shown on the KPB tax assessor rolls.		

ANALYSIS:

This subdivision is within the Urban Residential District. The common lot line between the parcels will shift to the east. A creek runs down the common lot line. The City is requesting a 30 foot drainage easement. This aligns with Homer's development standards which requires a minimum of a 15 foot setback between any structures and the top of the bank, HCC 21.50.020(b)(2).

Preliminary Approval, per KPB code 20.12.0060 Form and Contents Required. The commission will consider a plat for preliminary approval if it contains the following information.

1. Within the title block:
 - a. Names of the subdivision which shall not be the same as an existing city, town, tract or subdivision of land in the borough, of which a map or plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
 - b. Legal description, location, date, and total area in acres of the proposed subdivision;
 - c. Name and address of owner and registered land surveyor;
 - d. Scale.

Staff Response: The plat meets these requirements.

2. North point;

Staff Response: The plat meets these requirements.

3. The location, width and name of existing or platted streets and public ways, railroad rights-of-way and other important features such as section lines, political subdivision or municipal corporation boundaries abutting the subdivision.

Staff Response: The plat meets these requirements.

4. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries and prominent natural and manmade features, such as shorelines or streams.

Staff Response: The plat meets these requirements.

5. All parcels of land including those intended for private ownership and those to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision together with the purposes, conditions or limitation of such reservations.

Staff Response: Private parcels are shown. Public Works requests a 20 foot radius curb on Lot 1-A1.

6. The names and widths of public streets and alleys and easements including drainage easements existing and proposed, within the subdivision. [Additional City of Homer HAPC policy: Drainage easements are normally thirty feet in width centered on the drainage. Final width of the easement will depend on the ability to access the drainage with heavy equipment. An alphabetical list of street names is available from City Hall.]

Staff Response: A 30 foot wide drainage easement centered on the drainage is requested.

7. The names of adjacent subdivisions or an indication that the adjacent land is not subdivided.

Staff Response: The plat meets these requirements.

8. Approximate location of areas subject to inundation, flooding or storm water overflow. Indicate if a recognized flood plain is present. Identify and locate the major drainage systems.

Staff Response: The plat meets this requirement.

9. Approximate locations of areas subject to tidal inundation including the mean high water line.

Staff Response: The plat meets these requirements (not applicable to this area).

10. Block and lot numbering per Section 20.16.110 of the borough subdivision code.

Staff Response: The plat meets these requirements.

11. The general location of existing water and sewer utilities, and the intent and methods of the subdivision to utilize and access such utilities.

Staff Response: Lots will be served by city water and wastewater.

12. Provide a contour map of the subdivision and road profiles if road grades exceed 6% on arterial and 10% on other streets.

Staff Response: The plat meets these requirements.

13. Identify and locate on the plat all areas in excess of 20% grade.

Staff Response: The plat meets these requirements.

PUBLIC WORKS COMMENTS:

Lot 1-A1 needs a 20 ft curb radius on Noview Ave. & Wright St.
A 20 ft drainage easement, 10 ft on each side of the creek.

FIRE DEPARTMENT COMMENTS: Fire Chief Painter did not have any comments.

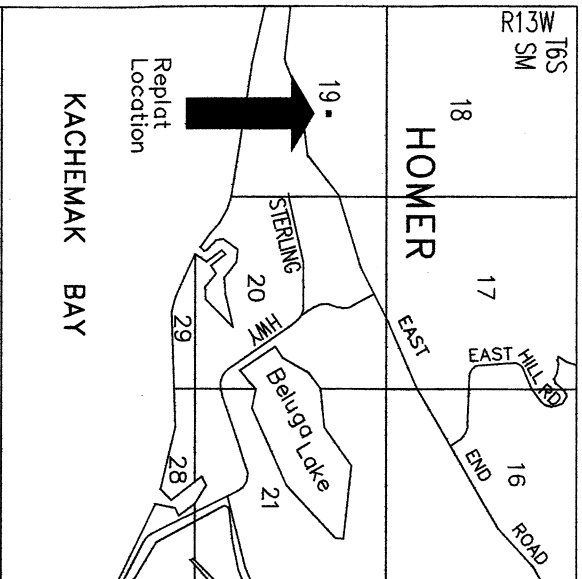
STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission recommend approval of the preliminary plat with the following comments:

1. Dedicate a 20 foot curb radius on Lot 1-A1.
2. Dedicate a 30 foot wide drainage easement centered on the drainage.
3. List all owners for both lots on the plat.

ATTACHMENTS

1. Preliminary Plat
2. Public Notice
3. Aerial Map



VICINITY 1" = 1 mile MAP

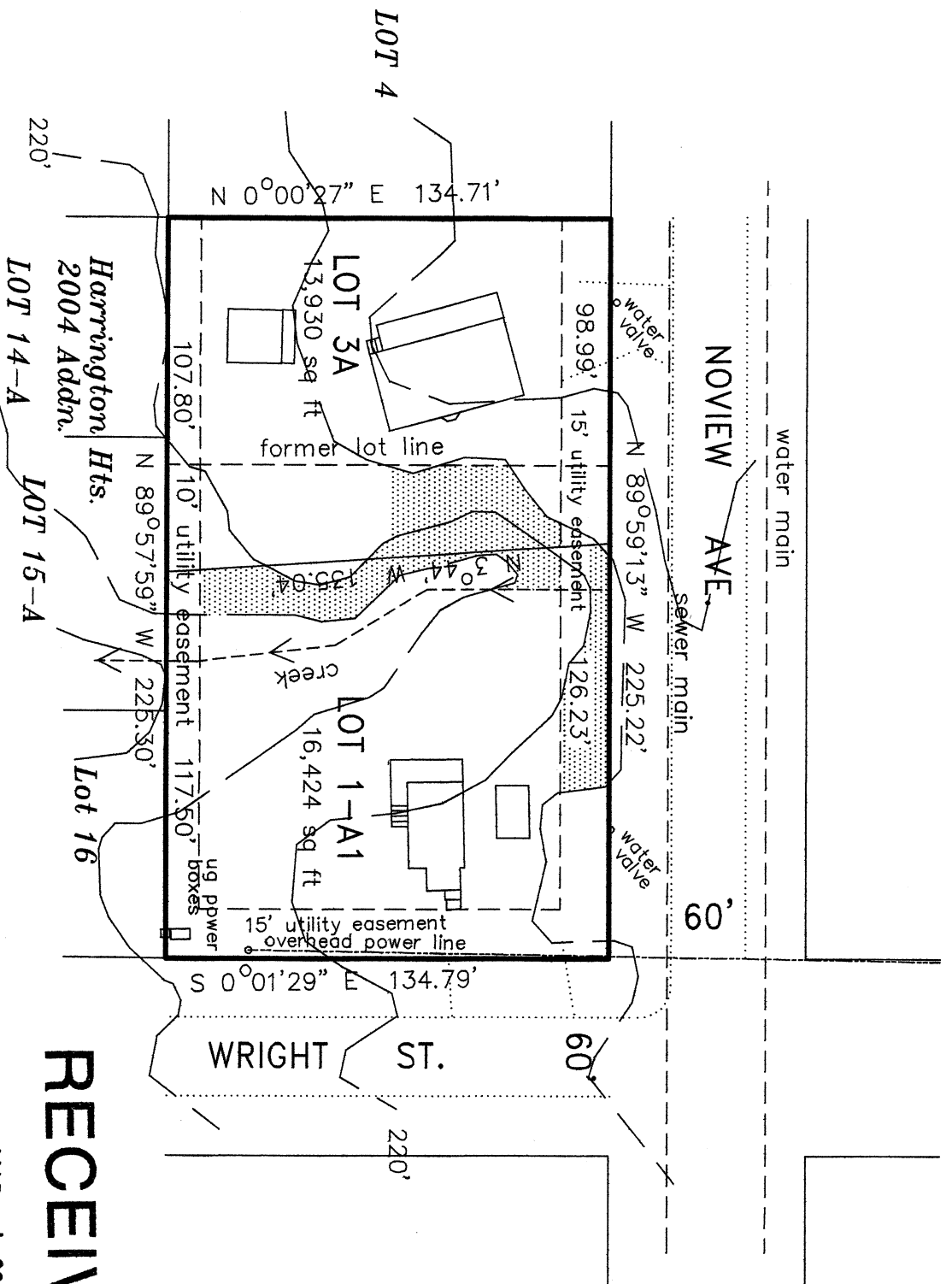
Harrington Heights 2014 Replat PRELIMINARY PLAT

A replat of Lot 3 Block 3 Harrington Heights, HRD 64-626, and Lot 1-A Harrington Heights - Bergman Addition, HRD 2002-66. Located in the NE 1/4 S 19, T6S, R13W, SM, City of Homer, Alaska. Homer Recording District Kendi Peninsula Borough

Prepared for _____ Prepared by _____
 Marsha Korpi Johnson Surveying
 PO Box 1033 Box 27
 Homer, AK 99603 Clam Gulch, AK 99568

SCALE 1" = 50' Area = 30,354 sq.ft.
 27 February, 2014

- NOTES**
1. Development of these lots is subject to the City of Homer Zoning Code.
 2. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
 3. Lots are served by City water & sewer
 4. Contour interval 4'. Shaded areas indicate grades over 20%.



RECEIVED

MAR - 4 2014

CITY OF HOMER
 PLANNING/ZONING

NOTICE OF SUBDIVISION

Public notice is hereby given that a preliminary plat has been received proposing to subdivide or replat property. You are being sent this notice because you are an affected property owner within 500 feet of a proposed subdivision and are invited to comment.

Proposed subdivision under consideration is described as follows:

Harrington Heights 2014 Replat Preliminary Plat

The location of the proposed subdivision(s) affecting you is provided on the attached map(s). A preliminary plat showing the proposed subdivision may be viewed at the City of Homer Planning and Zoning Office. Subdivision reviews are conducted in accordance with the City of Homer Subdivision Ordinance and the Kenai Peninsula Borough Subdivision Ordinance. A copy of the Ordinance is available from the Planning and Zoning Office. **Comments should be guided by the requirements of those Ordinances.**

A public meeting will be held by the Homer Advisory Planning Commission on Wednesday, April 16, 2014 at 6:30 p.m. at Homer City Hall, Cowles Council Chambers, 491 East Pioneer Avenue, Homer, Alaska.

Anyone wishing to present testimony concerning these matters may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

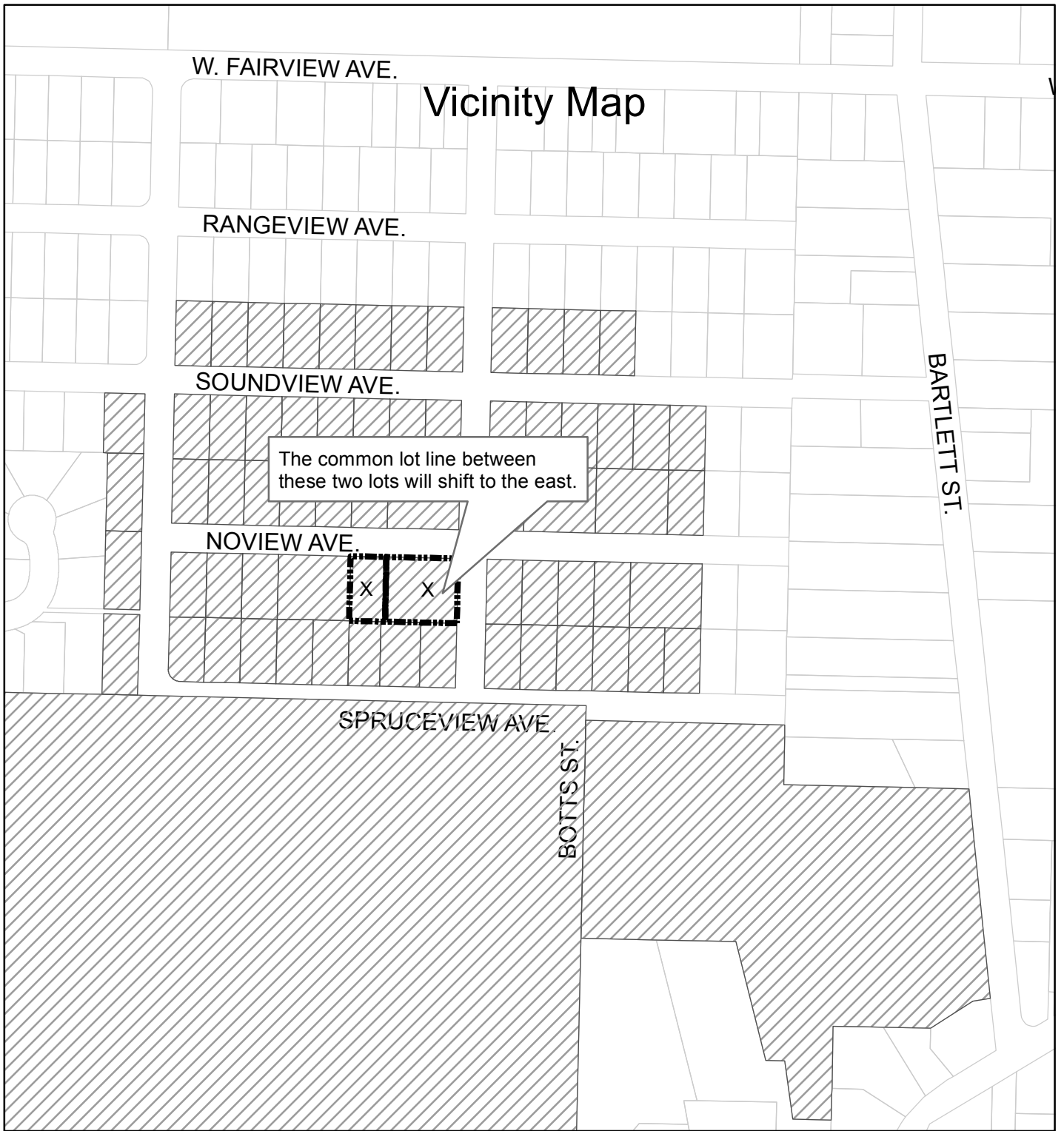
The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Dotti Harness-Foster in the Planning and Zoning Office, 235-3106.

NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 500 FEET OF PROPERTY.

.....

VICINITY MAP ON REVERSE

Vicinity Map

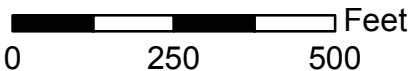


City of Homer
Planning and Zoning Department

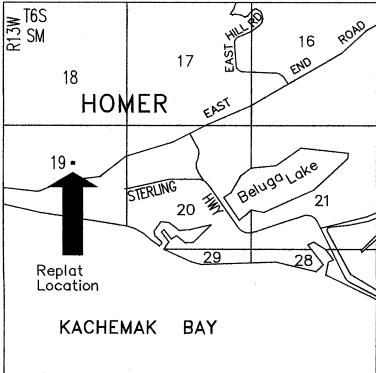
March 20, 2014

Harrington Heights 2014 Replat Preliminary Plat

Marked lots are within 500 feet
and property owners notified.



Disclaimer:
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Harrington Heights 2014 Replat

PRELIMINARY PLAT

A replat of Lot 3 Block 3 Harrington Heights, HRD 64-626, and Lot 1-A Harrington Heights - Bergman Addition, HRD 2002-66. Located in the NE 1/4 S 19, T6S, R13W, SM, City of Homer, Alaska. Homer Recording District Kenai Peninsula Borough

Prepared for

Marsha Korpi
PO Box 1033
Homer, AK 99603

Prepared by

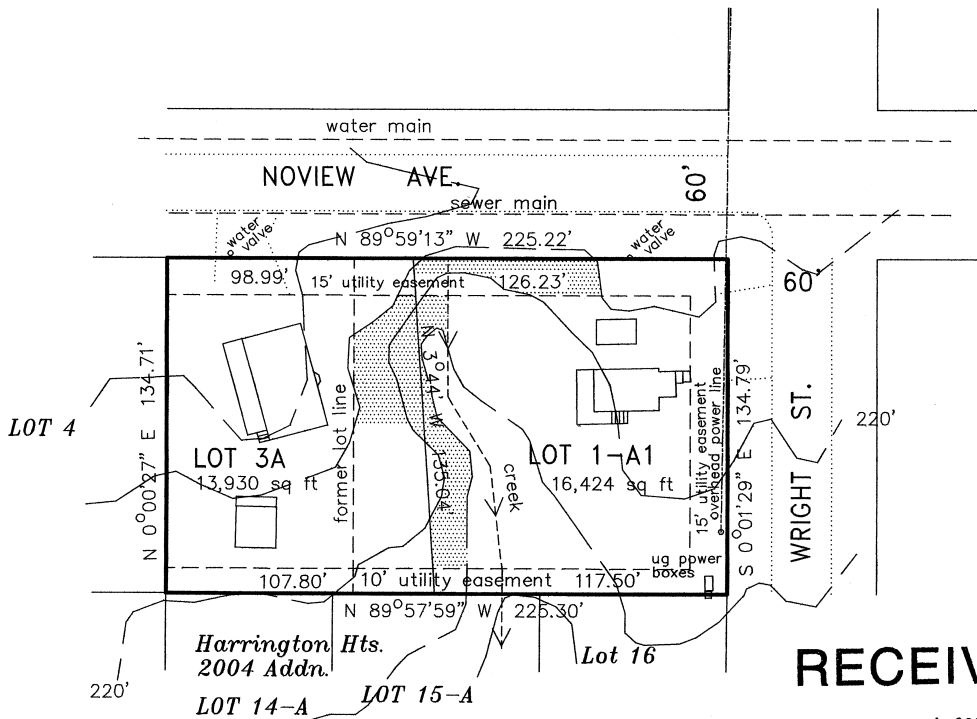
Johnson Surveying
Box 27
Clam Gulch, Ak 99568

VICINITY 1" = 1 mile MAP

SCALE 1" = 50' Area = 30,354 sq.ft.
27 February, 2014

NOTES

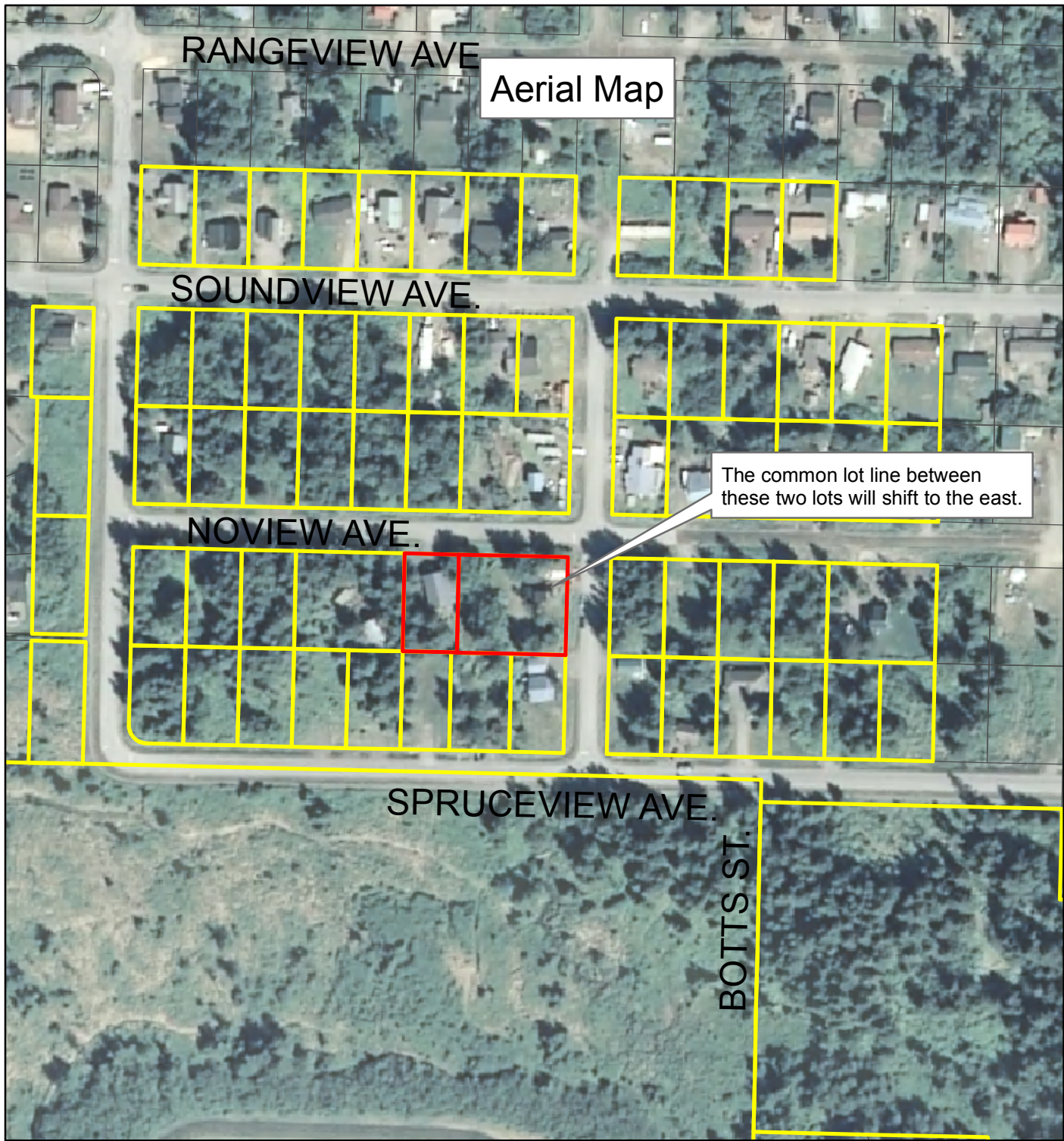
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RECEIVED

MAR - 4 2014

CITY OF HOMER
PLANNING/ZONING



Aerial Map

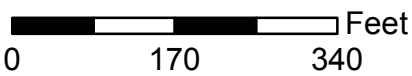
The common lot line between these two lots will shift to the east.



City of Homer
 Planning and Zoning Department
 March 20, 2014

Harrington Heights 2014 Replat Preliminary Plat

Marked lots are within 500 feet
 and property owners notified.



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City of Homer

www.cityofhomer-ak.gov

Planning
491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us
(p) 907-235-3106
(f) 907-235-3118

STAFF REPORT PL 14-36

TO: Homer Advisory Planning Commission
THROUGH: Julie Engebretsen, Deputy City Planner
FROM: Dotti Harness-Foster, Planning Technician
MEETING: April 16, 2014
SUBJECT: Itinerant Merchants (IM) and Mobile Food Service (MFS).

At the February 5, 2014 and the March 3, 2014 HAPC meetings, staff provided information on how Itinerant Merchants (IM) and Mobile Food Service (MFS) vendors are permitted. These are temporary businesses that set-up shop on a piece of property usually during the summer months.

In Homer, the Police Department permits IM and MFS vendors. The Public Works Department may get involved if the vendor is interested in connecting to public water and sewer. The Planning and Zoning Office is limited to Title 21, which describes by zoning district where IM and MFS can locate.

At this time the Planning staff does not feel the time spent by multiple departments would provide significant improvements to this seasonal influx. If the Commission wishes to:

- Not make any code amendments; this will be the last staff report regarding IM and MFS.
- Explore vendor code amendments that involve the Police Department (permitting and length of stay) and Public Works Department (water-sewer connections, or not), the HAPC would need to make that recommendation to the City Manager or City Council.
- Explore Title 21 amendments related to location; the information below will be helpful along with the attached article from the *Business Law Today*.

Location, location, location; whether you're a permanent "brick and mortar" establishment or a mobile vendor, location is at the top of your list. Numerous businesses in Homer have evolved from Itinerant Merchants (IM) and Mobile Food Service (MFS) into permanent "brick and mortar" establishments. Even after these businesses have permanent establishments, some continue to operate their mobile units as a "satellite" or second location.

Due to the rise in popularity of these types of businesses, some communities imposed an array of "not here...over there..." restrictions that are commonly referred to as: *Proximity Bans, Restricted Zones, Public Property Bans, Stop-and Wait Restrictions* or *Duration Restrictions*. Courts have ruled in favor of the mobile vendors when the restrictions make it nearly impossible for a vendor to operate profitably. The key is striking a balance between fostering entrepreneurship and protecting the interests of those with significant year-round investments in established businesses.ⁱ

In Homer, both types of vendors are allowed in the business districts.

Permitted	RR	UR	RO	CBD	TCD	GBD	GC1	GC2	EEMU	MC	MI	OSR	SGCOD	BCWPD
Mobile Food				X	X		X	X	X	X	X			
Merchants				X	X		X	X	X	X	X			

Location restrictions can help relieve concerns from “brick and mortar” owners or businesses. Homer has one such code restriction; Mobile Food Service Vendors “may not operate in front or immediately adjacent to an established business offering the same or similar commodities”, HCC 8.11.070. Oddly, there is no such restriction for Itinerant Merchants, i.e. a merchant that shows up for 60 days or less. So the art or book vendor can locate next-door to the art gallery or book store. There is certainly room for code improvements, but Planning is limited to Title 21 which deals with location. Staff does not recommend code amendments to change the above grid.

Staff Recommendation: Commission discuss and decide if any more staff and Commission time should be spent on this issue, and if so, provide direction to staff.

Attachments

1. *Business Law Today: Keeping Current: UCC Food Truck Regulations Drive Controversy* by Berk and Leib
2. SR 14-13 February 5, 2014 Itinerant Merchants (IM) and Mobile Food Service Vendors (MFS)
3. February 5, 2014 minutes from the HAPC meeting discussing vendors
4. SR 14-25 March 5, 2014 Itinerant Merchants (IM) and Mobile Food Service Vendors (MFS)
5. March 5, 2014 minutes from the HAPC meeting discussing vendors

ⁱ Business Law Today, Keeping Current: UCC Food Truck Regulations Drive Controversy, Berk and Leib, May 2012.

BUSINESS LAW TODAY

The ABA Business Law Section's Online Resource

Keeping Current: UCC Food Truck Regulations Drive Controversy

By [Keith H. Berk](#) and [Alan D. Leib](#)

Are food trucks the underdog of the food industry or are they a force to be reckoned with? In recent years, food trucks have been hitting city streets in record numbers. This trend is driven, not only by the food industry's desire to provide new and innovative dining options, but by individuals' desire to achieve economic independence. For many, mobile vending is an entry point to entrepreneurship and a way to establish a living.

Social media tools, such as Facebook and Twitter, have greatly impacted the way that many food trucks market to customers. Food trucks rely almost exclusively on social media to advertise their brand, maintain customer relationships, and increase their accessibility. It is now possible for a food truck to tweet locations in advance so that customers can be waiting when the trucks arrive.

The rise in popularity of food trucks has not gone unnoticed. Opponents have attacked the mobile vending industry by arguing that food trucks are unfairly stealing customers away from brick-and-mortar businesses. To many opponents' delight, various cities have imposed a myriad of regulations on food trucks. In some cases, these regulations make mobile vending an impossible or unprofitable business. The purpose of this article is to provide a brief general overview of the types of regulations imposed on mobile vending operations as well as to highlight some recent developments surrounding these regulations.

Overview of Mobile Vending Regulations

Food truck operators must comply with a variety of regulations. Not surprisingly, food truck operators are typically subject to a variety of state and local health and food safety regulations including (1) approval of food truck design, (2) approval for in-truck cooking equipment/configuration, (3) vending permits, (4) requirement for food truck personnel to obtain food safety certification, (5) periodic health inspections and (6) food safety requirements for depots where food stocks are replenished. More controversial, however, are local regulations that dictate how, where and when food trucks can sell food. These types of sale regulations include:

- **Public Property Bans.** More than 10 major cities ban vending on public property, such as on streets and sidewalks. Vendors subject to such bans must contract with private property owners to vend on their property.
- **Restricted Zones.** Many cities restrict the areas in which food trucks may operate. Restricted zones often include potentially lucrative areas, such as downtown commercial districts.
- **Proximity Bans.** Proximity bans limit how close street vendors can park to certain types of businesses, typically brick-and-mortar restaurants. Proximity bans address the complaints of

certain businesses who do not wish to have food trucks park near their place of business.

- **Stop-and-Wait Restrictions (Ice Cream Truck Rules).** A handful of cities make it illegal for food trucks to stop and park in order to wait for customers. Instead, food trucks must be flagged down by a customer before they can park and serve the customer. Stop-and-wait restrictions make it difficult for food trucks to establish regular stops and develop relationships with customers.
- **Duration Restrictions.** Food trucks that are allowed to stop and wait for customers may be limited in the amount of time they can remain in one spot. For instance, in Chicago, a food truck may not sell food for more than two hours on any one block.

Recent Developments in the Mobile Vending Industry

Lawsuit Against the City of El Paso
In *Castenada v. City of El Paso*, No. 3:11-CV-00035-KC (W.D. Tex.) (Jan. 26, 2011), four food truck vendors sued the City of El Paso's regulations over a regulation that banned food trucks from operating within 1,000 feet of restaurants, grocers, and other food-service establishments. These vendors argued that the regulation made it nearly impossible to operate profitably anywhere within El

Paso. As a result, many mobile vendors in El Paso faced the possibility of losing their primary source of income. The food vendors argued that the regulation's only purpose was to protect established businesses, which is not a legitimate government interest that would allow the government to infringe upon the constitutional rights of food vendors. As a result of the lawsuit, El Paso agreed to repeal the regulations.

California Bill Prohibiting School Trucks Near Schools

A proposed California bill recently sparked intense debate over the mobile vending industry. (California Assembly Bill No. 1678.) The bill, spearheaded by Assemblyman Bill Monning, would have prohibited food trucks from vending within 1,500 feet (approximately three blocks) of any elementary, middle, or high school. Opponents of the bill argued that it would eliminate the food truck industry in populated urban areas, where almost the entire city is within 1,500 feet of a school. On the other hand, supporters argued that the presence of mobile food trucks at schools would undermine state efforts to establish nutritious school food programs. On March 29, 2012, after intense pressure from industry groups, Monning released a statement taking the bill out of consideration.

City of Chicago Regulations

The food truck industry has thrived in cities like Los Angeles, New York, San Francisco, and Austin. This is not the case in Chicago where food trucks are subject to a wide array of legal restrictions imposed by the city. These restrictions include prohibitions on preparation of food on a truck or cart, serving customers before 10:00 a.m., and stopping within 200 feet of a restaurant. A bill, which was introduced in the city in June 2011, would lift the ban on food preparation in mobile food vehicles. Mayor Rahm Emanuel originally supported the bill but has recently equivocated on his support. The bill has been tied up in various committees for nearly a year and its future is uncertain at this point.

Impact of Regulating the Mobile Vending Business

Supporters of the mobile vending industry view food trucks as an avenue to entrepreneurship and a way to provide consumers with innovative products. Opponents, on the other hand, cite two primary arguments as reasons for eliminating the industry: health concerns and unfair competition to brick-and-mortar restaurants. For instance, critics of the industry question whether food can be prepared safely and whether health regulations can be properly enforced on a food truck.

Health concerns can be addressed by appropriate regulations. The real issue is whether food trucks unfairly steal customers from brick-and-mortar restaurants. This issue has become a political football in a number of municipalities as politicians attempt to regulate to protect brick-and-mortar restaurants that often have political clout and generate significant sales tax revenues. On the other side, civil liberty groups have taken up the cause of the food truck vendors and have become emboldened by their successful litigation in El Paso. In light of these competing interests, we expect that the regulation of food trucks will continue to generate controversy and litigation. Hopefully, the result will be that regulations strike a balance between fostering entrepreneurship and protecting the interests of those with significant investments in established businesses.

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STAFF REPORT PL 14-13

TO: Homer Advisory Planning Commission (HAPC)
THROUGH: Rick Abboud, City Planner
FROM: Dotti Harness-Foster, Planning Technician
MEETING: February 5, 2014
SUBJECT: Itinerant Merchants (IM) and Mobile Food Service Vendors (MFS).

The goal of this staff report is to present issues related to Itinerant Merchants (IM) and Mobile Food Service vendors (MFS). Attached is an interesting article titled: *Food Truck Feeding Frenzy: Make Sense of Mobile Vending*. On the last page there are several questions that staff would appreciate the HAPC feedback on.

First, who are these vendors? They are a temporary businesses that set-up shop on a piece of property usually during the summer months.

The ‘vendor’ conversation can be complex. In Homer the conversation includes licensing, locations, and water/sewer hook-ups, or not. Across the county, Planning Departments tend to focus on location and design. Location and design can help introduce vitality into sections of town that may have commercial gaps, offer time-saving dining and create a festive atmosphere.ⁱ This is balanced with the need to protect public health, provide low cost economic opportunity for new business while providing a “level playing field” for all. This report describes the issues and concludes with several questions for the HAPC to discuss.

Seasonal pattern: There are endless varieties of mobile vendors, but in Homer they usually arrive in May eager to set-up “shop”. They “roll-in” a mobile unit or “skid-in” a small building, a yurt, a tent, bus, into a highly visible location and leave before the snow flies. Some go dormant and return, perhaps with enough returning clientele to become a permanent member of Homer’s business community. These vendors are licensed through Homer’s Police Department. An Itinerant Merchant license is good for 60 days. A mobile food vendor obtains an annual license which may be renewed each year, HCC 8.11.050(b).

In the spring of 2013, two scenarios brought forth permitting issues the City has struggled with for years:

Scenario One: A vendor places a small building on skids on a vacant commercial lot. The vendor intends to be open for business during the summer months, mid-May to mid-September, or about 120 days. The building has no plumbing. The Planning Office does not have the authority to issue a zoning permit for a “temporary” building, so the vendor obtains a 60 day license from the Police Department. At some point the business/structure no longer has a valid license and becomes “permanent”. By State law this commercial structure requires Fire Marshal approval and is considered a permanent structure which requires connection to the City’s sewer. No wonder the vendor is a bit frustrated.

Scenario Two: A bus rolls onto a commercial lot where water and sewer is available. The vendor wants to connect to City water and sewer, but City code prohibits “RVs” from hooking-up to water and sewer. So the vendor proceeds with bottled water and a porta-potty.

Neither scenario is consistent with the intent of the law, nor does it protect public safety, nor “level the playing field” for all businesses in Homer. In puzzlement vendors soon realize that a structure on skids or a yurt can content to water and sewer (assuming the commercial structure has Fire Marshal approval and has a sink or tiolet), but a wheeled food vendor can’t, then overnight, a pole tent squeezes into this mix.

Permitting: As mentioned above, the vendors obtain a license from the Police Department, an Itinerant or Transient Merchant’s License (HCC 8.08) or a Mobile Food Service License (HCC 8.11). Food vendors are also required to show proof of compliance with the State of Alaska, Food Safety and Sanitation Program.

In either case the Planning Office and the Public Works Department often don’t know the business has arrived until their sign “pops up.” These small structures are allowed 30 sf of signage.

The stakeholders are, in part the:

- Public Works Department for water/sewer connections and trash
- Police Department who currently permit Itinerant Merchants and Mobile Food Vendors
- Economic Development Advisory Commission for fair and equitable business opportunities
- Business owners
- Planning and Zoning Office for locations, and health and safety.

Definitions for Homer City Code:

“Transient or itinerant merchant” means any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the municipality or not, who engages in a **temporary business of selling and delivering goods, and/or services, wares and merchandise** within the City, and who, in furtherance of such purpose, peddles from door to door or hires, leases, uses or occupies any **building, structure, motor vehicle, tent, railroad car, boat, any room in a hotel, lodging house, apartment, shop, or any street, alley, or other place within the municipality, for the exhibition and sale of such goods, wares and merchandise**, and/or the performance of services, either privately or publicly. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer, provided the temporary business is conducted in conformance with HCC Title [21](#) as it pertains to the residential zones which prohibits selling from homes.” HCC 8.08.010

“Mobile Food Service” means a **self-contained food service establishment** that is designed to be readily moveable from location to location, **without being permanently affixed to any site or permanently connected to any water or sewer utility service.**” HCC 8.11.020

Planning issues related to vendors tend to focus on location and design which is crucial to protecting permanent shops while providing a low cost, economic opportunity for new businesses.

Location and buffers: In Homer, vendors are allowed in the commercial districts. A food vendor cannot “operated in front of or immediately adjacent to an established business offering the same or similar commodities from a fixed location, unless a designated vendor parking area has been named.” HCC 8.11.070(c). A Spit food vender can’t operate in “any congested area, to include areas designated as public parking, campgrounds, parks or open space or where his operation might impede or inconvenience the public.” HCC 8.11.070(d). An Itinerant Merchant does not have any buffer standards. In fact, court rulings advise cities to avoid regulations that prevent vendors from operating in certain areas, certain hours, or certain distance from brick-and-mortar competitors. Basing vendor location on health and safety standards is the suggested approach.

If a food vendor (wheeled or not) wants to connect to water and sewer, should they be allowed to? The state’s Food Safety and Sanitation Program allows connection.

Should vendors be located near public restrooms? (Assume they do not have water/sewer)

Length of time (currently described in Title 8 for the Police Department to regulate):

In a nutshell, an IM license expires in 60 days. If they are on-site for more than 60-days, by definition they are now permanent. A food vendor can renew year after year even if it’s on wheels. Are you confused yet? My head is spinning.

Is the 60-day threshold for IM reasonable in Homer? Staff could explore the issues of extending the 60-day threshold to 90 or 120-days.

Att: Arroyo, Rodney and Jill Bahm. “Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending.” American Planning Association: *Zoning Practice*. Issue Number 9. September 2013.

ⁱ *Street Vending: A Survey of Ideas and Lessons for Planners*, by Jennifer Ball. Published by American Planning Association.



AMERICAN PLANNING ASSOCIATION

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PRACTICE FOOD TRUCKS



9

Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending

By Rodney Arroyo, AICP, and Jill Bahm, AICP

Recent economic and cultural trends show an explosion in the popularity of food trucks, or mobile vendors, over the past several years.



Jill Bahm/Clear zoning

➔ One of the hallmarks of the current food truck boom is an increased focus on “in-truck” preparation over preparation at a central commissary.

According to research done by Emergent for the National Restaurant Association, the growth of mobile food trucks will soar in the next five years, generating up to \$2.7 billion in revenue nationally by 2017—up from \$650 million in 2012 (Emergent Research 2012). All across the country, cities, small towns, and suburbs are seeing food trucks popping up, some in unexpected places like office and industrial parks, where zoning ordinances typically preclude res-

taurants. Amplifying the push for food trucks are the twin trends of “buying local” and “food as entertainment” that are enhanced by programs such as the *Great Food Truck Race* on the Food Network. While ice cream trucks and job-site lunch wagons haven’t disappeared, they are increasingly being joined by gourmet trucks and trucks specializing in ethnic offerings.

All across the United States, people are exploring how mobile food vending might

make a difference in their lives and their communities. More resources are starting to become available for potential business owners. Networks for mobile food vendors are growing; the Southern California Mobile Food Vendors Association was formed in 2010 as one of the first associations dedicated to helping vendors break down barriers to business (www.socalmfva.com). And this fall, Roam—a first-ever industry conference for mobile food

ASK THE AUTHOR JOIN US ONLINE!

Go online during the month of September to participate in our “Ask the Author” forum, an interactive feature of Zoning Practice. Rodney Arroyo, AICP, and Jill Bahm, AICP, will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The authors will reply, and Zoning Practice will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of Zoning Practice at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA Zoning Practice web pages.

About the Authors

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Jill Bahm, AICP, is a principal planner with Clearzoning, Inc. She holds a Master of Urban and Regional Planning degree and has worked in both the public and private sectors as a downtown development authority director, city planner, and real estate marketing professional. Bahm’s professional interests include economic development, recreation planning, historic preservation, community participation, and organizational development.

suppliers and owners—will take place in Portland, Oregon.

On the worldwide stage, the World Street Food Congress is the first of its kind to connect and open up fresh ideas and thought leadership in the massive and growing street-food culture and industry throughout the world. This 10-day street-food festival was hosted in Singapore in January 2013 and featured well-known leaders in the food industry (www.wsfcongress.com).

Faced with inquiries from food vendors, many communities turn to their zoning codes, only to discover that mobile food vending isn’t really defined and may not be permitted in the way vendors might like. With the approach to regulating mobile vending varying widely in communities, it can be hard to know where to begin when considering if and how to accommodate food trucks.

WHAT IS MOBILE FOOD VENDING?

Regulatory codes for many communities recognize transient merchants—those goods and services provided by a traveling vendor. The typical ice cream truck would be a good example of a transient merchant who is mobile most of the time, stopping only when requested for a few short minutes. Many operators of today’s food trucks or carts, however, are seeking more than a few minutes on the street, sidewalk, or parking lot, staying in place for a few hours to serve breakfast, lunch, or dinner. In fact, when they are located on private property, some food trucks may be in one location for days, weeks, or even months. It is important to make a dis-

inction between the food vendors that are more transient in nature, like an ice cream truck, and those that seek to move about less frequently. Both types of uses can offer benefits to the community, and they will each have different potential issues to regulate.

Many mobile food vendors utilize self-driven vehicles that permit easy relocation throughout the community. However, mobile food vending also includes trailers, food kiosks, and food carts. Food kiosks are temporary stands or booths that are typically intended to sell prepared foods, including ice cream, pretzels, and the like. Food kiosks may be found inside a large office building or shopping mall, but may also be secured for outside use. Some communities, like Maui County, Hawaii, allow a variety of products to be sold at a kiosk, provided certain standards are met (§30.08.030). While temporary in structure, food kiosks are often stationary with a defined location. Food carts allow the vendor to sell from outside the moveable unit and are often used to sell fresh fruits and vegetables. Typically, the food in kiosks and carts is prepared elsewhere and kept cold or hot in the unit. The city of New York encourages “green carts” that offer fresh produce in certain areas of the city and has special regulations for these uses (www.nyc.gov/greencarts).

In communities across the U.S., mobile food vendors are seeking permits to start these innovative businesses. They often run into roadblocks at city hall, because while many zoning ordinances include provisions for temporary

uses, most do not contain current definitions for mobile food vending nor do they include any standards that specifically relate to vending and the issues that may arise. The net result in many communities, intentional or unintentional, is a prohibition on mobile food vending.

THE PROS AND CONS OF MOBILE FOOD VENDING

Over the past few years, most of the economy has been struggling and the workforce has been challenged to adapt. With laid-off workers trying to reinvent themselves and new immigrants looking for opportunities, the number of people starting new businesses is rising. Mobile food vending seems, for some, like a low-cost way to wade into the pool of business ownership. There are a number of reasons why communities may elect to sanction mobile food vending:

- **It provides an opportunity to increase jobs and businesses.** The cost of starting a food truck business can start at \$25,000, where a traditional bricks-and-mortar establishment may start at \$300,000, according to the National Restaurant Association (Emergent Research 2012).
- **It offers opportunities to provide food choices where zoning precludes restaurants.** Traditional zoning codes tend to restrict the uses permitted in office and industrial districts, only allowing uses that narrowly meet the intent of those districts. Office and industrial parks, in particular, are often isolated from the rest of the community, requiring employees to drive to retail and restaurant areas. In addition, some communities may not have access to variety of

healthy, fresh foods, and therefore decide to encourage such food vendors in certain neighborhoods by relaxing requirements. New York's green carts initiative allows additional permits to be issued over the city's defined limit to mobile food vendors that offer fresh produce in underserved neighborhoods, and Kansas City, Missouri, offers reduced permit fees for mobile food vendors in city parks that meet certain nutritional standards (Parks and Recreation Vending Policy 4.7.08).

- **It can increase activity in struggling business districts** by creating a dynamic environment where people gather around the availability of new and fresh food. The economy has taken a toll on businesses over the past several years. Those that are hanging on in some areas find that their neighboring buildings or businesses are vacant. Food trucks can be a way to enliven an area, generating traffic for existing businesses and possibly spinning off new business activity. The restaurant industry is evolving to meet the demands of patrons who are looking for locally grown, sustainable, healthy, and fast options for dining. When food trucks use social media to communicate about their location schedules, it can build up a certain level of excitement and anticipation that can make a positive social impact. In addition, the rising trend of "cart pods" and "food truck rallies" brings multiple mobile food vendors to one location, creating a festive atmosphere in an area for a short time.

- **They signal to other potential businesses that the community is adapting to the evolving economy and supporting entrepreneurship.** Mobile food trucks are a new way of doing business; in these early years, communities that anticipate the demand from businesses and consumers may also find that this flexibility signals receptivity to new business models.

- **They are a way for restaurateurs to test the local market for future bricks-and-mortar facilities.** Mobile food trucks offer opportunities to interact with a potential market, to test recipes and pricing, and see if the restaurant fits with the community. All across the United States there are examples of food truck businesses evolving into permanent establishments, including El Camion ("the truck") in northwest Seattle that has recently opened a restaurant and bar in the Ballard neighborhood after several years of experience with its two mobile food units. Torchy's Tacos in Austin, Texas, started with a food truck and now has eight bricks-and-mortar restaurants in Austin, Dallas, Fort Worth, and Hous-

ton—and two more opening this year. The Lunch Room in Ann Arbor, Michigan, plans to open its bricks-and-mortar location soon, using social media to solicit fans of its existing "Mark's Carts" to become investors in the restaurant.

Along with these potential benefits can come community impacts and possible conflicts. Some of the challenges associated with

went through an extensive research and public input process, surveying their local chamber of commerce and meeting with prospective mobile food vendors, residents groups, and restaurant owners. Their resulting ordinance language responds to the needs and concerns of the community (Longmont 2011).

ADDRESSING AREAS OF CONCERN THROUGH ZONING

Many communities are updating their codes to accommodate or regulate mobile vending. In June 2012 Grand Rapids, Michigan, included the following statement of intent in a new set of mobile food vending provisions:

Employment and small business growth in the city can occur while providing a broad range of food choices to the public through careful allowances for temporary concession sales. The provisions of this section are intended to prevent predatory practices on bricks-and-mortar restaurants while allowing for new food vending opportunities that can add vitality to vacant parking lots and underutilized sites . . . (§5.9.32.K).

Other cities, including Phoenix, Arizona (§624.D.87); Chapel Hill, North Carolina (§§10-66–74); and Fort Worth, Texas (§5.406)—just to name a few—adopted regulations in 2012 to allow mobile vending or food trucks. Chapel Hill's

provisions note that allowing food trucks will "promote diversification of the town's economy and employment opportunities and support the incubation and growth of entrepreneurial/start-up businesses" but also that food trucks pose "unique regulation challenges."

While specific approaches vary from place to place, communities interested in adding or updating regulations for mobile food vending should start by defining the uses and then consider each of the following questions:

- Where in the community should such uses be permitted?
- How long should a food truck be permitted to stay in one location?



Russ Herschler

- ➔ Food truck gatherings are increasingly common in communities with extensive food truck offerings.

mobile food trucks might include problems with maintenance, trash, parking, noise, and vehicular and pedestrian circulation. In addition, some restaurateurs may be threatened by this new competition and try to prevent mobile food vending. Food trucks also have their own operational challenges, including dealing with unpredictable weather and maintaining an appropriate inventory despite limited storage.

The best way to understand and manage the pros and cons of food trucks in individual communities is to solicit public input and dialogue about the needs and wants of the community. For example, Longmont, Colorado,

- Are these mobile units just for food sales, or can other goods be sold as well?
- Does the community want to increase activity?
- How can the zoning ordinance address upkeep and maintenance?
- When can food trucks operate?
- How are visitor parking and circulation accommodated?
- How are these uses reviewed and permitted?
- What do vendors and their customers want or need?
- How is signage for the mobile unit regulated?
- How is the site lit to ensure safety?

Location

It is common to allow mobile food vending in commercial districts, but some communities add industrial districts or specify mixed use districts. Start with the community's comprehensive plan—is there a need or desire to increase activities in specific parts of the community? Are there concerns about the impact of single-purpose districts (especially office and industrial) on connectivity, traffic congestion, and business

In consideration for existing facilities, some communities decide that there should be a minimum distance between mobile units and bricks-and-mortar restaurants. Some communities try to limit the impact on adjacent residential uses through a distance requirement or by restrictions on hours of operation. Planners should test these locational restrictions to ensure that realistic business opportunities exist. El Paso, Texas, repealed its locational requirement of 1,000 feet from bricks-and-mortar establishments following a 2011 lawsuit to provide sufficient opportunities for mobile food vendors (Berk and Leib 2012). Attorneys Robert Frommer and Bert Gall argue that separation from other establishments is not necessary and that food truck regulations should be narrowly tailored to legitimate health, safety, and welfare concerns, not regulate competition (2012).

The American Heart Association has also looked at location issues related to mobile food vending. They report that several communities across the country prohibit mobile food vending within a certain distance of schools (or

community and often is related to where mobile food vending is permitted. Some communities allow food trucks on public property but prohibit overnight parking. Where on-street parking is at a premium, communities may consider allowing food trucks to utilize public parking spaces for the same duration as other parked vehicles. Chicago requires food trucks to follow posted meter time restrictions, with no more than two hours in one location. In addition, the city also limits mobile food vending to two hours on private property (§4-8).

In contrast, some communities allow food trucks on private property for up to 30 days or more at one location. For example, Grand Rapids allows concession sales for up to 200 consecutive days over 12 calendar months (§5.9.32.K.6).

Regulations like this may impact vendors in terms of the types of food that can be sold and the manner in which they are prepared, especially when preparation is done on-site. Communities may wish to consider whether the allowed duration is reasonable for food vendors as well as adjacent property owners.



➡ This food truck rally in Royal Oak, Michigan, illustrates how a gathering of food trucks can activate an otherwise underutilized space.

retention and recruitment? Are there any areas in the community where the population is underserved by food choices? Planners can take these concerns to the community and invite residents and business owners to share their thoughts on where mobile food vending might be appropriate and desirable.

Some communities make a distinction between vending on public property, which often requires a license but is not regulated by zoning, and private property, which often requires a temporary use permit and is regulated by the zoning ordinance. When permitted on private property, zoning standards should require evidence of property owner approval.

at school release times) to limit the sometimes nutritionally challenged food choices available (2012). Woodland, California, prohibits mobile food vending within 300 feet of a public or private school, but will allow them on school property when approved by the school (§14-15). In a different twist, the Minneapolis Public School System introduced a food truck program this year to offer free nutritious meals to students during the summer months at four different sites in Minneapolis (Martinson 2013).

Duration

The length of time food trucks are permitted to stay in one place varies widely by commu-

Goods Available for Sale

Some communities, like College Station, Texas, are very specific that the goods sold from mobile vending to be food related (§4-20). This is often borne of a desire to start with mobile vending on a limited basis to gauge its impact. As mobile food trucks become more prevalent, surely people will explore the ideas of starting other types of businesses in this format. Communities may wish to consider the questions raised earlier about location and assess whether or not it makes sense to allow other goods in addition to food to be sold in designated areas. For example, Ferndale, Michigan, allows a variety of wares to be sold by a mobile

vendor, including apparel, jewelry, household goods, and furnishings (§§7-73–82). That might be just the place for book publisher Penguin Group (USA) to take its recently introduced first mobile bookstore, which aims to make books accessible where big box retailers aren't located (Edsall 2013).

Number of Units in One Location

Some communities that are getting on board with mobile food vending have started allowing them to congregate for certain events and activities. For example, Royal Oak, Michigan, started a food truck “rally” at their indoor farmers market during colder months. It is a good way to utilize the facility as well as provide entertaining food options for city residents. It has now become a great family event every month year-round, with musical entertainment, bouncy houses, and face painting. The city limits the rally to no more than 10 different trucks with a variety of cuisine for the whole family.

units to function on private property as a single business. To address potential negative impacts, each mobile food court must have its own on-site manager, who is responsible for the maintenance of the area (§5.406).

Trash

The type of standards for trash removal and upkeep will vary depending on the location and duration of the vending. Most communities require waste receptacles for every mobile food vending unit and some further require waste to be removed from a site daily. Keep in mind that where communities allow seating along with the mobile food unit, people will generate more trash on-site than in situations where there is no seating provided and people take their food (and trash) to go.

Hours of Operation

Some communities limit hours of operation to around lunchtime (e.g., 10:30 a.m. until 3:30

trucks on private property, communities typically require the vendor to ensure that there is sufficient parking available for its use and any other uses on the site, including the space taken up by the unit itself. Some cities allow public parking areas to be utilized for food trucks, and may even allow metered parking spaces to be used provided the related meter fees are paid. For example, Minneapolis allows a mobile vendor to park at no more than two metered spaces, as long as they are not short-term spaces and are not located within 100 feet of an existing restaurant or sidewalk cafe—unless the restaurant owner gives consent (§188.485.c.7).

Licenses and Permits

Most communities require permits or licenses regardless of whether the trucks operate on public or private property. It is also common for the community to reference compliance with other codes, particularly state or local health codes. These other codes can impact how trucks operate. For example, California's

Health and Safety Code requires trucks to have hand-washing stations if food is prepared in the truck, but does not require them on trucks selling only prepackaged foods like frozen desserts (§114311).

Some communities cap the number of licenses available for food trucks to limit their impact, but many others do not. Grand Rapids

requires a temporary use permit, subject to planning commission approval, and gives standards for consideration (§5.9.32.K.18), including an assessment asking “[w]ill the proposed stand, trailer, wagon or vehicle contribute to the general aesthetic of the business district and include high quality materials and finishes?”

Site Amenities

Some communities specify that no tables or chairs are permitted, or if they are, then sanitary facilities are also required. There may be flexibility in the permitted arrangements for such facilities (for example, having permission to use such facilities within a reasonable distance of the mobile unit). Frisco, Texas, prohibits connections to po-



Site amenities like tables and chairs are often easier to accommodate on private property than in a public right-of-way.

According to Market Master Shelly Mazur, “It’s nice to be able to offer a family-friendly event in a climate-controlled building with renovated bathrooms and seating.”

On the other hand, in its 2010 ordinance, the city of Zillah, Washington, banned mobile food vending altogether, declaring it a “nuisance,” and finding that “when mobile vendors congregate in the same area, the heightened intensity of use negatively impacts the surrounding area, particularly by increased trash” (§8.32). Fort Worth tackled this issue head-on, defining a group of food trucks as a “mobile food court” when two or more mobile vending units congregate. They allow these

p.m.), and others allow sales from early in the morning to late in the evening (e.g., 7 a.m. until 10 p.m.). Some communities place no time limits on these operations in the zoning regulations. Again, consider where these units will be permitted and the potential conflicts with adjacent uses.

Parking and Circulation

Given the mobility of these vendors, they by necessity are typically located in parking areas. Whether in public spaces or a private parking lot, it is important to ensure sufficient parking for existing uses to prevent an undue burden on bricks-and-mortar establishments. For food

Jill Bahmy/Clearzoning

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table water, requiring mobile food vendors to store their water in an internal tank. The city also requires vendors to be located within 50 feet of an entrance of a primary building, and drive-through service is expressly prohibited (§3.02.01.A(20)). King County, Washington, requires that all mobile food vending in the county be located within 200 feet of a usable restroom (§5.34).

Signage

Some communities use their existing sign regulations, but others tailor standards for mobile units. In Michigan, both Grand Blanc Township (§7.4.9.F) and Kalamazoo (§§25-63–68) allow one sign on the mobile vending unit itself, but do not allow any other signage. This is fairly common. In many cases, the truck itself essentially functions as one big sign with colorful graphics. Additionally, many mobile food vendors now use social media to get out the word regarding the time and place they will set up shop, potentially reducing the need for additional signage beyond that on the unit itself.

Lighting

Lighting is not as commonly addressed as other issues, especially if a mobile food vending unit is located in an existing developed area, but it is likely presumed that other applicable lighting requirements appropriate to the location are to be followed. Consider adjacent uses and the impact of light trespass and glare. For example, Grand Blanc Township requires mobile food vending units to be lit with available site lighting. No additional exterior lighting is allowed unless permitted by the zoning board of appeals upon finding that proposed exterior lighting mounted to the mobile vending unit will not spill over on to adjacent residential uses as measured at the property line (§7.4.9.F.10).

TESTING, FOLLOW-UP, AND ENFORCEMENT

One of the nice things about mobile food vending is that it is really easy for a community to put a toe in the water and test the impact of regulations on mobile food vendors, other community businesses, and the public, and to adjust the regulations

as appropriate. The Metropolitan Government of Nashville-Davidson County, Tennessee, initiated a test phase beginning April 2012 that will provide evaluative data for a successful mobile food vendor program. The program will initially be operated under a temporary permit issued by the Metro Public Works Permit Office for two specified zones, the downtown core and outside of it. Oakland, California, has a pilot program for “Food Vending Group Sites,” defined as “the stationary operation of three (3) or more ‘mobile food vendors’ clustered together on a single private property site, public property site, or within a specific section of public right-of-way” (§5.51).

Before embarking on extensive zoning rewrites, review the suggested considerations with the community to anticipate and plan for appropriate ways to incorporate this use in a reasonable way. Mobile food vending is on the rise all over the country, from urban sites to the suburbs. When regulated appropriately, mobile food vending can bring real benefits to a community, including jobs, new businesses, fresh food, and vitality.

Cover image by Rodney Arroyo; design concept by Lisa Barton

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ZONING PRACTICE
AMERICAN PLANNING ASSOCIATION

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HOW DOES YOUR COMMUNITY REGULATE FOOD TRUCKS AND OTHER MOBILE VENDORS?

Question was raised why the applicant is choosing to remove the lot line. City Planner Abboud said his understanding is it's to protect their peace and harmony.

It was confirmed that the 15 foot utility easement is addressed in the plat note.

HIGHLAND/SLONE MOVED TO ADOPT STAFF REPORT PL 14-11 BAYVEIW GARDENS SUBDIVISION ADDITION 2 PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Pending Business

- A. Staff Report PL 14-12, Comp Plan Amendment – Considerations for rezoning property in the Baycrest area

City Planner Abboud reviewed the staff report.

The Commission discussed the area and its current zoning in relation to what is expected with the Comp Plan in the area coming down the hill. There isn't any water and sewer in the area and it isn't expected any time soon. The conditions have changed up there but there doesn't seem to be a logical way to link the different zoning together in the area. They recognized that aside from the previous concerns about the Bayview Inn property, there hasn't been a big push for changes in the area and it would be beneficial to hear from property owners if they want to see changes in the area.

It was noted that Council asked them to review the area based on political pressure they got from people with respect to the Bayview Inn who wanted an exception for the use.

STROOZAS/BOS MOVED TO POSTPONE THE COMPREHENSIVE PLAN AMENDMENT FOR CONSIDERATION OF REZONING PROPERTY IN THE BAYCREST AREA TO A FUTURE DATE.

There was discussion that the City Planner could bring back some ideas about putting a notice out to property owners so they can respond to it.

VOTE: YES: HIGHLAND, STEAD, VENUTI, STROOZAS, SLONE, BOS

Motion carried.

- B. Staff Report PL 14-13, Itinerant Merchants and Mobile Food Service vendors

City Planner Abboud reviewed the staff report. He explained that mobile food vendors are challenging here because in most cases it is a business that parks on a lot and doesn't move for the summer. Mobile food trucks generally drive around to different places throughout their day. He addressed how



HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
FEBRUARY 5, 2014

the definitions of Itinerant Merchant and Mobile Food Vendor overlap in the code. Some things to discuss are how to allow it or whether to permit it so it is clearer what people can do; whether to extend the Itinerant Merchant license be longer than 60 days; or whether to consider proximity to other businesses they compete with.

There was discussion that mobile food vendors are popular in larger urban areas. We don't have many in our area, but as Homer grows that could likely change. In larger areas they move around and their customer base grows and moves with them. It could be an issue in a town the size of Homer. Suggestions included:

- Extend permit to 120 days, annually.
- Gather more information about DEC requirements.
- Should there be a different requirement or temporary permit for a mobile type vendor that is staying on a site?
- Mobile Food Vendor should be treated same as Itinerant Merchant.
- Mobile Food Vendors need have a trash bin associated with their services.
- Change Definition of Mobile Food Service to include they can only stay in one location for no more than two hours, then they have to move.
- Shouldn't be allowed to operate within 10 feet of a surface intended for thru-vehicular traffic.
- It should be written into the permit that prior to leaving a site the operator has to clean up any litter.
- Can't operate within XX number of feet of a restroom due to sanitary reasons.
- Address lighting and signage
- Need to get public input.

The Commission agreed by consensus to extend the meeting until 10:00 p.m.

The Commission had more general discussion about mobile food vendors and agreed to discuss this further at a March worksession.

C. Staff Report PL 14-14, Safe Street Standards

Chair Venuti noted the Commission discussed Safe Street Standards during their worksession.

New Business

None

Informational Materials

A. City Manager's Reports from January 13 and 27, 2014 City Council meetings

Comments of the Audience

Members of the audience may address the Commission on any subject. (3 minute time limit)

None



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STAFF REPORT PL 14-25

TO: Homer Advisory Planning Commission (HAPC)
THROUGH: Rick Abboud, City Planner
FROM: Dotti Harness-Foster, Planning Technician
MEETING: March 5, 2014
SUBJECT: Itinerant Merchants (IM) and Mobile Food Service Vendors (MFS).

The Itinerant Merchants (IM) and Mobile Food Service vendors (MFS) conversation is multi-layered and is bound together with multiple City departments and DEC's Food Safety and Sanitation standards. The purpose of this staff report is to provide an update to the Commission. No action is needed at this time.

At the Feb. 5, 2013 the Commission directed staff to explore:

1. Allowing food vendors to connect to water/sewer connections,
2. Extending an Itinerant Merchant license from 60 days to 120 days per calendar year, and
3. License information about Department of Environment Conservation's (DEC) Food Safety and Sanitation Program.

Water/sewer connections: The Planning Office and the Public Works Department will work together to identify if/when a Mobile Food Vendors can connect to City water/sewer. These standards are in Title 14 Public Services.

60 days to 120 days per calendar year: The Planning Office and the Police Department will work together to identify the pros and cons of extending the time period for an Itinerant Merchant license from 60 days to 120 days per calendar year. Mobile Food Vendors can operate year-round, year-after-year with no limits on the number of days per year, HCC 8.11.050. Why these timelines are different, I don't know. These standards are in Title 8 Permits, Licenses and Regulations which is administered by the Police Department.

DEC: has a statewide program to monitor, inspection and license Mobile Food Service Units. In a nutshell, the licensing program requires basic health, sanitation with nearby garbage containers. DEC allows connection to public water and sewer regardless of the length of stay, a kiosk, a mobile unit with wheels, on the move, or not. Granted water/sewer connections can be expensive, but there are sites where stub-outs are available, yet our standards don't allow connection.

To avoid getting into the weeds of Type 1, Type 2, sink compartments, Food Worker Cards and safe food handling protocols, attached is an outline of DEC's Food Safety & Sanitation Program and the Application for Food Establishment Permit.

Locations: Mobile Food Vendors are allowed on private property and must be setback 15 ft from rights-of-way, HCC 8.11.070. A Mobile Food Vendor may not operate in front or immediately adjacent to an established business offering the same or similar commodities, HCC 8.11.070. There are no location standards for Itinerant Merchants.

Restrooms: The City has no standards for proximity to restrooms. The DEC application asks that a toilet (for employees) be within 200 ft. Ideally there are public restrooms nearby, but it's not a requirement.

Signs: These small structures are allowed 30 sf of signage.

Next steps: No action is needed at this time. Staff will explore possible solutions with the Public Works Department and the Police Department and report back to the Commission.

Att: DEC's Food Safety & Sanitation Program
DEC's Application for Food Establishment Permit.

Division of Environmental Health

Food Safety & Sanitation Program

State of Alaska > DEC > EH > Food Safety and Sanitation Program > Mobile Food Service Units

Guidelines for Mobile Food Service Units

Program Manager: Nancy Napolilli
(907) 269-7501Type I - Units With Prepackaged Food Items, or Non-potentially Hazardous Beverages
Dispensed From Protected Equipment

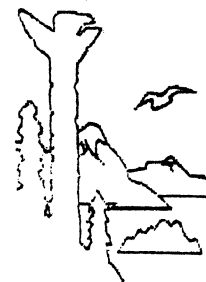
Type II - Units With Food Prep

Type I - Units With Prepackaged Food Items, or Non-potentially Hazardous Beverages
Dispensed From Protected Equipment

1. **SOURCE:** food must be prepared and packaged in approved food service or food processing facility.
2. ***WATER:** an adequate potable water supply system with hot and cold water under pressure must be installed for general sanitation needs.
3. ***WASTEWATER:** a wastewater tank 15% larger than the water supply tank must be installed. Wastewater must be disposed in accordance with law.
4. **EQUIPMENT:** all equipment is to be of easily cleanable design.
 - a. Where needed to maintain temperatures of potentially hazardous foods below 41°F, refrigeration units are required. Effectively insulated units with dry ice or packaged foam may be used to maintain the temperature of precooked products such as frankfurters, and ice cream novelties.
 - b. Where needed to maintain temperatures of potentially hazardous food above 140°F, hot food storage units are required.
 - c. Numerically scaled indicating thermometers must be provided in all units used for food temperature maintenance.
 - d. A one-compartment sink is required for general sanitation needs.
5. **STRUCTURE:** all surfaces are to be finished so smooth, easily cleanable and durable under normal use conditions.
6. ***PROTECTION:** adequate protected storage facilities must be provided in the unit for all food items, condiments and single service items during preparation, transportation, display, service and storage.
7. **FINISHES:** smooth and easily cleanable floors, walls and ceilings with cove molding at floor/wall junctions are required.
8. **LIGHTING:** adequate shielded lighting (50 foot-candles) evenly distributed throughout the unit is needed.
9. **GARBAGE:** easily cleanable covered containers are to be located inside and outside for garbage.
10. **ICE:** ice for drinks, or for storage, must be from an approved source. Food may not be stored in water or undrained ice.
11. **EMPLOYEE PRACTICES:** employees shall wear clean clothing and follow good hygienic practice, including washing hands following any unsanitary practice.

Type II - Units With Food Prep Guidelines

1. **SOURCE:** All food must be from an approved source.
2. **WATER:** an adequate potable water supply system with hot and cold water under pressure must be installed for general sanitation needs.
3. **WASTEWATER:** A wastewater tank 15% larger than the water supply tank must be installed. Wastewater must be disposed in accordance with law.
4. **EQUIPMENT:** All equipment is to be of easily cleanable design.
 - a. Where needed to maintain temperatures of potentially hazardous foods below 41°F, refrigeration units are required. Effectively insulated units with dry ice or packaged foam may be used to maintain the temperature of precooked products such as frankfurters, and ice cream novelties.
 - b. Where needed to maintain temperatures of potentially hazardous food above



Quick Links...

- ▶ Active Managerial Control - Improving Food Safety
- ▶ Recalls and Alerts
- ▶ Contact our Staff
- ▶ Norovirus Information
- ▶ Food Code Proposed Changes Summary

Of Interest...

- ▶ Seafood & Other Food Processors
- ▶ Food Establishments
- ▶ Public Facilities
- ▶ Training
- ▶ Consumers

- c. Numerically scaled indicating thermometers must be provided in all units used for food temperature maintenance.
5. STRUCTURE: All surfaces are to be finished so smooth, easily cleanable and durable under normal use conditions.
 6. * PROTECTION: Adequate protected storage facilities must be provided in the unit for all food items, condiments and single service items during preparation, transportation, display, service and storage.
 7. FINISHES: Smooth and easily cleanable floors, walls and ceilings with cove molding at floor/wall junctions are required.
 8. LIGHTING: Adequate shielded lighting (50 foot-candles) evenly distributed throughout the unit is needed.
 9. GARBAGE: Easily cleanable covered containers are to be located inside and outside for garbage.
 10. ICE: Ice for drinks, or for storage, must be from an approved source. Food may not be stored in water or undrained ice.
 11. HANDWASH: A handwash sink with soap and dispensed towels is required in the food prep area.
 12. *DISHWASHING: A three compartment sink with drainboards on both sides, and hot and cold water to each sink is required for utensil washing.
 13. VENTILATION: A hood and grease collection system is required for equipment, which produces grease vapors.
 14. EMPLOYEE PRACTICES: Employees shall wear clean clothing and follow good hygienic practices, including washing hands following any unsanitary practice. Hair restraints must be worn. Outer clothing and personal items shall be stored in a storage unit provided for this purpose.
 15. *GENERAL CLEANING: Mop sink is required for general cleaning.

*Consideration would be given to waiving indicated items if provided at the commissary.

A letter of agreement between the mobile operator and approved commissary would need to be submitted in conjunction with any waiver requests, and would need to stipulate those services to be provided at the approved commissary.

The above are guidelines only and do not supersede compliance with 18 AAC 31.

State of Alaska myAlaska DEC Staff Directory Webmaster DEC Home EH Home Division Info EH Contacts



Application for Food Establishment Permit

Alaska Department of Environmental Conservation
Division of Environmental Health
Food Safety and Sanitation Program



Permit ID: _____

Section 1 - GENERAL INFORMATION (All applicants complete entire section - please print)

Purpose (check one) New Information Change Extensive Remodel Change of owner/operator Reactivate

Owner/Business Information	Name of Entity or Owner Responsible for Food Service		AK Business License #	
	Business/Corporate Mailing Address	City	State	Zip
	Business/Corporate Phone	Email		
	Owner(s) or Corporate Officer(s) & Title(s) or Responsible Party			Fax
Type of Entity <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other:				

Establishment Information	Establishment Name	Physical Location	Nearest Community	
	Establishment Mailing Address	City	State	Zip
	Establishment Phone	Fax	Contact Person	
	Establishment Physical Address	City	State	Zip

SEATING: (Food Service Only) N/A 25 or less 26-100 > 101

TYPE OF OPERATION Please describe the type of facility you plan to open below (i.e. restaurant, bar, grocery store, etc.)

SECTION 2 - NEW OR EXTENSIVELY REMODELED FACILITIES

a. A plan review will be required if your facility has never been permitted by the Alaska's Food Safety and Sanitation Program; has not had an active permit in the last five years; will be extensively remodeled; or is a new construction. If any of these apply, a Plan Review Application is required to process your application. Have you attached the Plan Review Application? Yes No

SECTION 3 - COMPLETE FOR ALL FOOD ESTABLISHMENTS (Check all that apply)

FOOD SERVICE ESTABLISHMENTS

a. A copy of your menu will be required. Have you attached a copy of the proposed menu? Yes No

b. Attach appropriate label, placard, or menu notation for the consumer advisories if you serve:
 Wild Mushrooms Unpasteurized juices Farmed halibut, salmon, or sablefish
 Raw/undercooked animal foods such as beef, shell eggs, lamb, pork, poultry, seafood, and shellfish.

c. Methods of food preparation (check the one that most closely describes the establishment):
 Assembly of Ready to Eat Foods Cook and Serve
 Hot or cold Service for 2 hours or more is done
 Complex (Preparation 1 day or more in advance, cooling and reheating is done).

d. Style of Service: Counter Service Self Service (i.e. buffet line, salad bar) Table Service
 Other:

e. Do you plan to operate as a caterer? Yes No

If yes, list all the equipment used to protect food from contamination and maintain product temperature during:
Transportation: _____ Hot or Cold Holding: _____

Permit ID(s) _____

Establishment Name(s) _____

- f. Will your food establishment be a kiosk or mobile unit? Yes No
- Are employee toilets available within 200 feet? Yes No
If you have an agreement with another business to use their restrooms, please attach written verification.
- Portable water tanks, plumbing, and hoses are NSF or FDA approved components? Yes No
- If you have a kiosk, is it located outside of a building? Yes No
- Will you have a service provide water or remove wastewater? Yes No
If yes, provide a letter of agreement from water hauler or wastewater hauler outlining services provided and frequency.

- g. Will another permitted food establishment (commissary) provide support to your facility? If yes, attach a copy of the Commissary Agreement. Yes No

FOOD PROCESSORS

- a. A copy of a label for each type of product you will produce is required. Have you attached food labels of each product to be produced? Yes No
- b. Describe who you will be distributing your product to (i.e. grocery stores, etc):

- c. Will you be doing any of the following processes? Check all that apply.
- Reduced Oxygen Packaging Smoking Other:
- Low Acid Canned Foods Curing
- Shelf Stable Acidified Foods Dehydrating
- Be sure to check with your local Environmental Health Officer for any applicable forms and FDA requirements.*

- d. Do you have a HACCP Plan? Yes No N/A
Required for high hazard food processors such as smoking, curing, acidifying, dehydrating, thermally processing low acid foods, reduced oxygen packaging, etc.

- e. You are required to have a product coding system and a recall plan. Have you attached a copy of the coding system and recall procedures? Yes No

MOBILE RETAIL VENDOR SELLING SEAFOOD

- a. A list of products that you will be selling is required. Have you attached a copy of the list of products? Yes No
- b. Provide names of suppliers where you will be purchasing your product:
- c. Will **all** of your product be prepackaged? Yes No
- d. Will another permitted food establishment (commissary) provide support to your facility? If yes, attach a copy of the Commissary Agreement. Yes No

MACHINES VENDING POTENTIALLY HAZARDOUS FOODS

- a. Have you attached the label that will be affixed to the front of each machine with name, physical address, and phone number of the permitted food establishment servicing the machine? Yes No

SECTION 4 – Food Managers Certification/Alaska Safe Food Worker Card

- a. Have you attached a copy of a Food Manager's Certification? Yes No N/A
The operator of a food establishment that serves and prepares unwrapped or unpackaged food, except for a bar, tavern, or limited food service, must have at least one Certified Food Protection Manager who is involved in the daily operations of the establishment.
- b. Does everyone who works or will work at the food establishment have a Food Worker Card? Yes No N/A
An operator of a food establishment shall keep on file a copy of the Food Worker Card issued by the department for each employed food worker and make the copy available to the Department upon request.

I declare, under penalty of unsworn falsification, that this application (including any accompanying statements) has been examined by me and to the best of my knowledge and belief is true, correct, and complete. I agree to pay all fees before operating.

Applicant's Signature	Date
Applicant's Printed Name	Title

water quality that much. The purpose of the area is exclusively to protect the water, aside from that, it's outside the city.

They reviewed the area designated as GC2 and discussed heliport and helipad uses.

SLONE MOVED TO COMBINE THE TWO TERMS AND CALL THEM HELICOPTER OPERATIONS IN CONJUNCTION WITH CUP'S.

Motion failed for lack of a second.

City Planner Abboud said they can continue to work on this topic at future meetings.

C. Staff Report PL 14-25, Itinerant Merchant (IM) and Mobile Food Service Vendors (MFS)

City Planner Abboud reviewed the staff report that included feedback from their February 5th meeting. This is an update and staff will continue to explore solutions with Public Works and the Police Department, and then report back to the Commission.

The Commission didn't have additional input. At their last meeting they had talked about having a hearing in the spring to get feedback from interested parties.

New Business

None

Informational Materials

- A. KPB Plat Committee Notice of Postponement Re: Barnett's South Slope Subdivision Quiet Creek Park Preliminary Plat
- B. KPB Planning Commission Notice of Subdivision/Replat Re: Barnett's South Slope Sub Quiet Creek Park
- C. Email from KPB Platting Staff to Homer Planning Staff with revised Quiet Creek Preliminary Plat
- D. City Manager's Report from the February 24, 2014 City Council Meeting

Comments of the Audience

Members of the audience may address the Commission on any subject. (3 minute time limit)

None

Comments of Staff

There were no staff comments.

Comments of the Commission

Commissioner Highland wanted to make sure that the storm water and green infrastructure will be put on the agenda.



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Staff Report 14-35

TO: Homer Advisory Planning Commission
FROM: Julie Engebretsen, Deputy City Planner
DATE: April 16, 2014
SUBJECT: Discussion on moving a lot line in the Bridge Creek Watershed Protection District, decreasing the size of a lot.

Requested action: Discuss the concept of moving lot lines, based on watershed boundaries.

Introduction

Mr. Treat owns the property and home at 1270 Don's Drive. He is requesting two actions from the Commission. Mr. Treat applied for exclusion from the BCWPD and there is a separate staff report for the Commission's consideration. This staff report deals only with the concept of moving lot lines, so they follow the watershed boundaries.

Mr. Treat hired a surveyor, who provided a schematic of both of Mr. Treat's properties. The surveyor provided one foot contour information from a field survey, and drainage arrows showing the direction of surface runoff. The drawing shows a proposed shifting of the common lot line, to follow the watershed boundaries. (This is not a preliminary plat, its for discussion only). This shift would create one larger lot completely outside the watershed regulations if SR 14-34 is approved, and one smaller lot within the district. This lot line shift is not currently allowed under the BCWPD regulations.

Analysis

Currently, code only allows for an exemption from the watershed regulations if the entire lot drains away from the watershed. Mr. Treat would like to shift the lot lines, to increase the size of Lot 4 (labeled as 4A). This would decrease the size of the existing Lot 5. This parcel is already nonconforming because it is less than the 4.5 acre minimum lot size of the BCWPD. Shifting the lot line would increase this nonconformity, which is not allowed by HCC 21.40.135(b). However, staff thinks since exclusions from the district are allowed in code, it is reasonable for the Commission to consider if it is appropriate for lots to be replatted along the watershed boundaries. Lots would still need to meet the minimum lot sizes required by Kenai Peninsula Borough Code, and the Rural Residential District when in the City. It may also be reasonable to consider exempting a portion of a lot from the watershed boundary, and not require a subdivision.

Ultimately, Mr. Treat would like to build a shop. Since he owns adjoining lots, he has identified two options:

1. Build a small home and the shop on the northern lot, within the watershed, or

2. If SR 14-34 is approved, shift the lot lines, and build the shop on the same lot as his home. His home and shop would be on one lot, outside the watershed. The northern lot would still be large enough for a small home in the future.

Staff thinks this is an appropriate situation for the Commission to consider. If the Commission agrees with the concept of shifting watershed boundaries based on drainage, staff can draft a code amendment, and Mr. Treat can eventually pursue a replat. If the Commission disagrees with this approach, Mr. Treat can still pursue development on his northern lot.

Staff Recommendation:

Please discuss the concept of

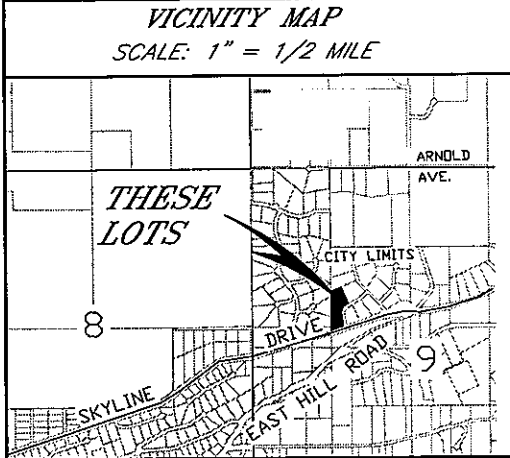
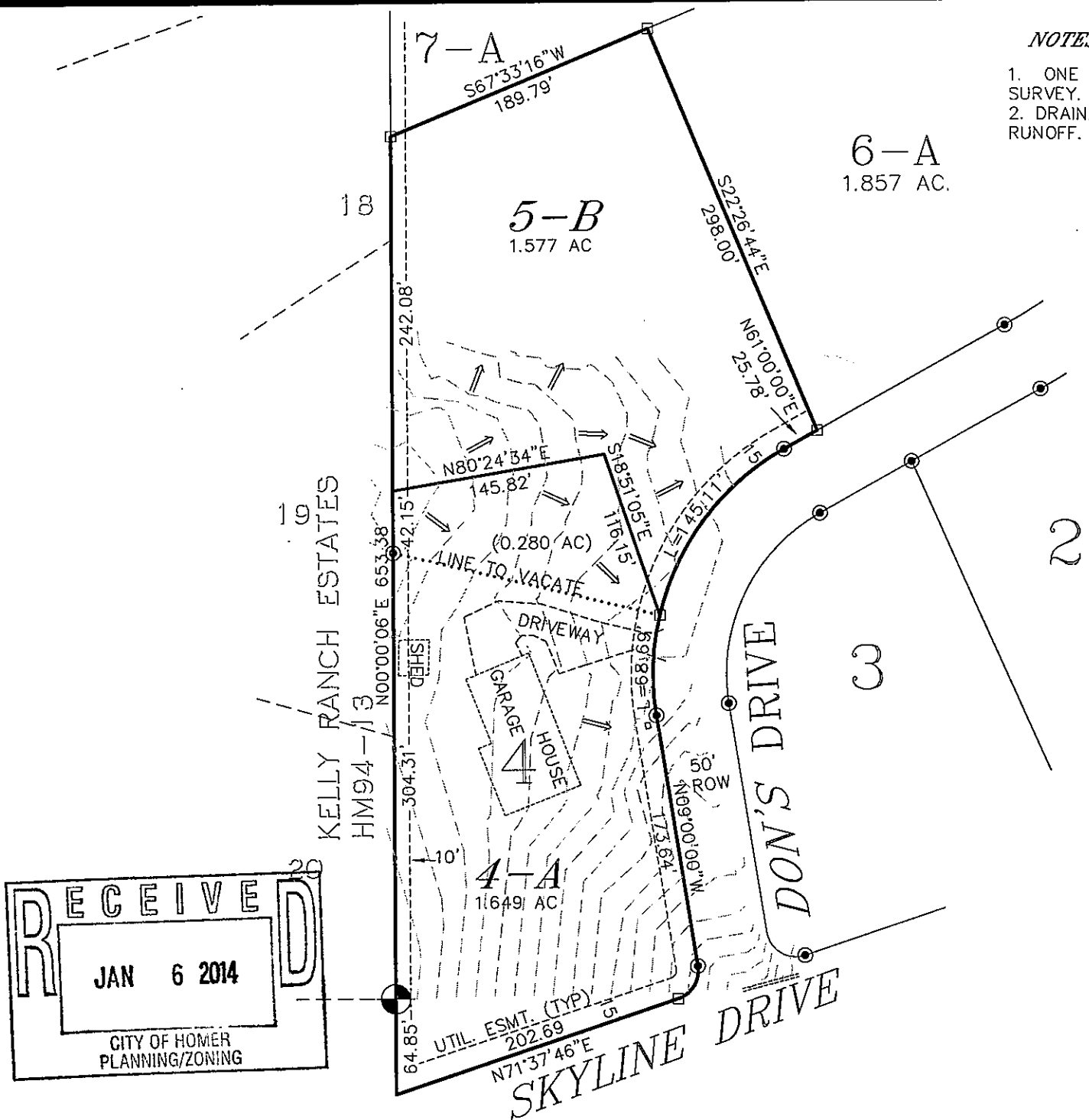
1. Allowing lots to be platted along watershed boundaries, which may result in lots less than 4.5 acres within the watershed.
2. Allowing a portion of a lot to be excluded from the watershed boundary.

Attachments

1. Proposed lot configuration

NOTES:

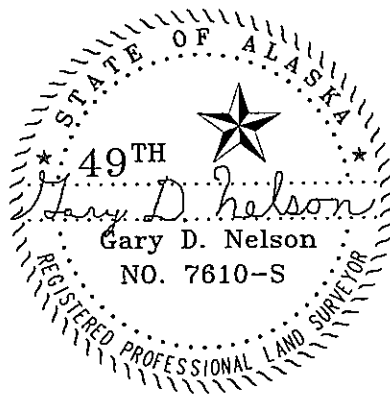
1. ONE FOOT CONTOUR INTERVAL FROM FIELD SURVEY.
2. DRAINAGE ARROWS SHOW DIRECTION OF SURFACE RUNOFF.



**REPLAT
EXHIBIT**
OF LOT 4,
TULIN EAST HIGHLANDS
(PLAT #91-33),
AND LOT 5-A, (HM97-3)
IN THE NW1/4, SEC 9,
T6S, R13W, S.M.,
CITY OR HOMER,
KENAI PENINSULA BOROUGH,
THIRD JUDICIAL DISTRICT,
STATE OF ALASKA,
HOMER RECORDING DISTRICT,

DATE	1/4/2014
SCALE	1"=100'
JOB No.	4743
DRAWING:	4743_4732

ABILITY SURVEYS
GARY D. NELSON, P.L.S.
(907)235-8440
152 DEHEL AVE., HOMER, ALASKA



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MANAGER'S REPORT

March 24, 2014

TO: MAYOR WYTHE / HOMER CITY COUNCIL

FROM: WALT WREDE

UPDATES / FOLLOW-UP

NOTE: Some of these items appeared in the last report. I have updated them and brought them back in case the Council wanted to discuss.

1. Parks and Recreation Needs Assessment: The Parks and Recreation Commission will hold a special meeting on Thursday, March 20 to discuss the Needs Assessment. The Commission has been briefed on this project before but this meeting is significant because it will be the first public meeting and hearing focused mainly on the needs assessment. The focus will be on the mission statement and the goals for the research project. This is the first big chance for the public to weigh in. On March 24, the PARC Committee will meet to finalize the draft RFP in anticipation of it going out at the end of the month.
2. Citizens Academy: We are now moving into session 5 on Thursday the 20th. The focus of this session will be the Police and Fire Departments. Presentations will start at City Hall and then tours will be given for the two facilities. Last week's session at Public Works seemed to be well received. The participants seemed particularly interested in the Sewer Treatment Plant, and we spent a lot of time there.
3. Kachemak Bay Research Reserve Funding Threatened: Work continues in the attempt to get state funding restored, at least for the next year so that a new State partner can be identified. An effort to restore the money to the Senate Operating Budget appeared to be successful at the time this was written. Senator Micciche, Senator Stevens and Representative Seaton are working hard to get the funding restored. The City is providing staff and lobbying support where appropriate. Some of the information provided is attached.
4. Intergovernmental Agreement with Kachemak City. Attached is a letter from Kachemak City regarding sewer rates for your information. At the time this report was written, I had not yet responded. My intent is to send a letter confirming that we have accepted partial payment, a statement of the balance owed, and the amount of interest that will be applied to the unpaid balance.
5. Bay Welding / Overhead Power Lines / Kachemak Drive and East End Road Area. Attached is a letter from Bay Welding Services which is signed and endorsed by 13

businesses which are located and do business in the general area of the Northern Enterprises Boat Yard. Overhead power lines in the area are restricting business operations and potential growth, expansion, and diversification. The businesses cannot afford to pay the entire cost of putting the lines underground themselves. HEA has policies and tariffs it needs to follow and it cannot simply absorb this cost and pass it on to ratepayers. Bay Welding is looking for some sort of compromise solution and because this could have significant economic development implications, is asking the City for assistance. Please let me know how and if you would like the City to proceed.

6. HERC Building: At the last meeting we discussed the land allocation plan. During that discussion, one of the things that came up was whether we could put out an RFP to lease the HERC Building. I could not remember, and my notes were not clear, whether this was just a general discussion, or whether the Council as a body wanted us to do that. I think the discussion was during the workshop and I do remember some talk about bringing a resolution authorizing an RFP to this meeting or attaching words to that effect to the land allocation plan approval resolution which is before you. If Council wishes to do this, I hope we can have some discussion first. It seems like we are moving on too many tracks all at once when it comes to the HERC building. I would suggest that we wait at least until the Public Safety Building site selection process is complete before we RFP again. A long term lease where the lessee makes significant improvements to the building is inconsistent with using the site for a public safety building. Short term leases for uses that pass Fire Marshall muster could work if that is what the Council had in mind.
7. Employee Health Insurance: You will recall that we discussed bringing the employee health insurance issue back to you at around mid-year. The idea was to address the issue before we started budget preparation in the fall. Right now, we are targeting the first meeting in August or a special meeting / workshop on an off-Monday (preferable). This would be a workshop forum. Jeff Paxton, our broker would be present for a presentation. The idea would be to present the data we have for the first 8 months of the new plan to look at impacts on costs and employee utilization. We would also present you with the bids we have received from private sector insurance companies. The goal would be for Council to be able to make an informed decision going forward re: staying self insured vs. the private sector. Starting the process this early will help with budget preparation, will give us time to make all of the necessary transfers, and give employees adequate notice.
8. PERS: As you know, the Governor has proposed transferring \$3 billion into the PERS account to reduce the unfunded liability, reduce future payments, and improve the state's credit rating. The Council has passed a resolution in support of this. The Legislature is currently discussing this proposal. One proposal that is being discussed is raising the municipal contribution from 22% to 24% in exchange for transferring the \$ 3 Billion. This idea is being opposed by AML and the Muni's. If this proposal were to be implemented, it would cost the City an additional \$114,000 per year. Not good.
9. Kachemak Drive: Enstar is having difficulty obtaining the easements it needs to construct the proposed gasline along Kachemak Drive. Some property owners say they will only grant easements if the line is bored in front of their property (expensive). Some are just flat refusing to grant an easement. At last report, they had about 75% of the easements they needed but the remainder parcels are difficult. If this issue is not resolved in a timely manner, it could mean that some or all of Kachemak Drive might not receive gas as part of this assessment district. Kachemak Drive is part of Phase II and it will be one of the

most expensive sections in the City. Putting this line in now as part of the assessment district is a real bargain and it will be tough to explain to the property owners who want it that they might not get it because a handful of their neighbors are not inclined to be cooperative. The project is due to wrap up in late August. Pushing the Kachemak Drive work off to year 3 is not a viable option for a variety of reasons including cost, contractual obligations, and loan agreements with the Borough.

10. Washington DC Trip: The City of Homer prevailed in the Auction Block v. City of Homer case as was previously reported. Auction Block has decided to appeal that decision. A hearing for oral argument has been scheduled before the Federal Maritime Commission on April 3, in Washington DC. City Attorney Holly Wells has requested that I be present for the hearing. While there, I will also take the opportunity to visit with the Congressional Delegation to discuss capital projects and federal issues of concern to the Homer City Council. I will take some personal leave while on the East Coast, in part to attend a memorial service, and will be back in the office on April 16. I will miss the April 14 Council meeting.

ATTACHMENTS

1. Letter from Kachemak City RE: Sewer Rates
2. KBBR information provided to Legislature
3. Letter From Bay Welding
4. Cook Inlet Oil and Gas Lease Sale
5. Kenai Peninsula Tourism Marketing Council Bed Tax Proposal
6. Finance Department Info

Faith Lutheran Church Planning Board

1000 Soundview Ave.

Homer, AK. 99603

To: Homer Advisory Planning Commission

City of Homer

Planning and Zoning Office

491 E. Pioneer Ave.

We at Faith Lutheran Church need to replace our sign. We are located at the corner of Soundview and the Sterling Hwy, across from West Homer Elementary in the Gateway Business District. Our current sign is falling over and looks run down. Last summer we put out banners attached to our current sign to notify the public about various events and services such as Easter service, Vacation Bible School, Faith Lutheran Youth Group etc. We received a letter from planning and zoning that these banners violate the sign code in our zoning district. In the fall of 2013 we voted as a congregation to replace our sign with a new sign having our church name on top and an area of changeable type on the bottom. Upon receiving a quote for an acceptable sign, we took the new sign plan to the Planning and Zoning department and learned that changeable copy, internally lit signs are not allowed in the Gateway Business District. As a church, we have various events for the community throughout the year and would like to be able to communicate times and dates to the passing public. The sign that we are wanting to install does this in a clean, simple manner and complies with the rest of the sign code.

We at Faith Lutheran Church are requesting an amendment to Homer City Code 21.60.060 Table 3 to allow changeable copy signs in the Gateway Business District.

We would also request to amend Homer City Code 21.60.060 Table 3 to allow an internally illuminated sign in the Gateway Business District.

According to HCC 21.95.010, a member of the Planning Commission may initiate an amendment to this Title.

Respectfully submitted:

Faith Lutheran Church Planning Board

Buck Jones, President

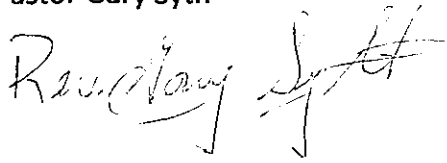
Buck Jones 299-1857

RECEIVED

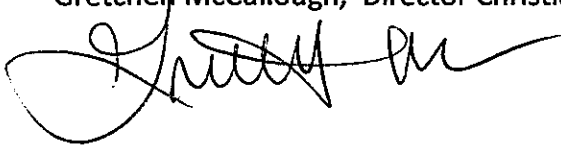
MAR 19 2014

CITY OF HOMER
PLANNING/ZONING

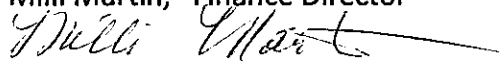
Pastor Gary Syth



Gretchen McCullough, Director Christian Education



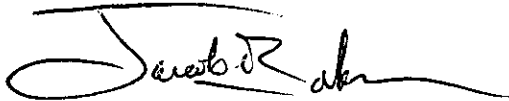
Milli Martin, Finance Director



John Baker, Elders Board



Jacob Baker, Director Church Properties



Tamekia Jones, Director of Education

Carol Clark, Director of Parish Activities

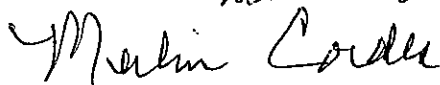


Martha Hendrickson, Director of Pre-School Education

Carol Cordes, Secretary



Merlin Cordes, Past President
Past Director of Finance
Past Director of Church Properties



KENAI PENINSULA BOROUGH PLAT COMMITTEE
GEORGE A. NAVARRE ADMINISTRATION BUILDING
144 NORTH BINKLEY STREET
SOLDOTNA, ALASKA 99669

6:30 p.m. March 24, 2014

Tentative Agenda

MEMBERS:

Paulette Bokenko-Carluccio
City of Seldovia
Term Expires 2015

Sandra Holsten
East Peninsula
Term Expires 2016

Harry Lockwood
Ridgeway
Term Expires 2016

Robert Ruffner
Clam Gulch/Kasilof
Term Expires 2015

ALTERNATES:

Mari Anne Gross
Southwest Borough
Term Expires 2014

James Isham
Sterling
Term Expires 2015

Jason Tauriainen
Northwest Borough
Term Expires 2014

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA, EXCUSED ABSENCES, AND MINUTES
 - 1. Agenda
 - 2. Member/Alternate Excused Absences
 - 3. Minutes
 - a. March 10, 2014 Plat Committee Minutes
- D. PUBLIC COMMENT
(Items other than those appearing on the agenda. Limited to five minutes per speaker unless previous arrangements are made.)
- E. SUBDIVISION PLAT PUBLIC HEARINGS
 - 1. Seater View Subdivision 1
KPB File 2009-085 [Integrity/Seater]
Location: North of Kenai Spur Hwy in Nikiski
Postponed from September 13, 2010 Mtg.
- F. FINAL SUBDIVISION PLAT PUBLIC HEARING
- G. OTHER / NEW BUSINESS
- H. MISCELLANEOUS INFORMATION -- NO ACTION REQUIRED
- I. ADJOURNMENT

NEXT REGULARLY SCHEDULED MEETING
NEW LOCATION FOR THIS MEETING ONLY

The next regularly scheduled Plat Committee meeting will be held **Monday, April 14, 2014** in the Quarterdeck Room of Lands End Resort, 4786 Homer Spit Road, Homer, Alaska at 144 North Binkley, Soldotna, Alaska at **5:30 p.m.**

PLANNING DEPARTMENT

Phone: 907-714-2215 Fax: 907-714-2378
Phone: toll free within the Borough 1-800-478-4441, extension 2215
e-mail address: planning@borough.kenai.ak.us
web site: www.borough.kenai.ak.us/planningdept



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

www.borough.kenai.ak.us

MIKE NAVARRE
BOROUGH MAYOR

March 13, 2014

NOTICE OF DECISION KENAI PENINSULA BOROUGH PLAT COMMITTEE MEETING OF MARCH 10, 2014

RE: Barnett's South Slope Subdivision Quiet Creek Park Revised Preliminary Plat

The Plat Committee reviewed and granted conditional approval of the subject revised preliminary plat during their regularly scheduled meeting of March 10, 2014 based on the findings that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.12; 20.14 and 20.20.

Amendment A

An amendment motion passed by unanimous consent to grant exception to KPB 20.20.030, extending right-of-way to Lot 8 AA Mattox Subdivision 1958 Addition based on the following facts and findings.

Fact 1. That special circumstances or conditions affecting the property have been shown by application.

Findings

1. Lot 8 AA Mattox Subdivision 1958 Addition is land locked.
2. Lot 8 AA Mattox Subdivision 1958 Addition was created in 1958, prior to formation of KPB.
3. Lot 8 AA Mattox Subdivision 1958 Addition contains 1 acre.
4. Lot 8 AA Mattox Subdivision 1958 Addition could be further subdivided if it is served by city water and/or sewer.
5. Based on its size, the number of new lots that can be created by further subdivided Lot 8 AA Mattox Subdivision 1958 Addition is limited.
6. The subdivision is within the City of Homer.
7. Development within the subdivision is subject to the Corps of Engineers permit and requirements of the zoning district.
8. A 60-foot public access to easement to Lot 8 AA Mattox Subdivision 1958 Addition would satisfy the access requirement for fire department access.
9. Sufficient rights-of-way do not exist to serve the surrounding properties.
10. The subdivision is affected by creeks, drainages, and low wet areas that have been shown and labeled.
11. Two-foot contours have been provided.
12. Wet and steep terrain limits the locations that are feasible for road construction.
13. Homer Advisory Planning Commission did not recommend a 60-foot dedicated right-of-way be extended to Lot 8 AA Mattox Subdivision 1958 Addition.
14. A conditional agreement for a 30-foot wide ingress/egress easement for a driveway and utilities crossing Lots 53 and 54 shown on Exhibit B was signed by the subdivider and Michael Ronda in 2006.
15. One condition of the easement agreement was recordation of the plat that would create Lots 53 and 54 over which the ingress/egress easement was granted within five years of 2006.
16. The plat that should have created Lots 53 and 54 was not recorded.
17. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is willing to accept 30-foot wide shared utility and access/trail easement in lieu of a 60-foot fee right-of-way.
18. An existing trail is between the subject property and Lot 8 AA Mattox Subdivision 1958 Addition.
19. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working on a new easement agreement.
20. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working with the City of Homer Public Works Department to ensure a 30-foot wide access easement is acceptable.

Fact 2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title.

Findings

1. Lot 8 AA Mattox Subdivision 1958 Addition is land locked.
2. Lot 8 AA Mattox Subdivision 1958 Addition was created in 1958, prior to formation of KPB.
3. Lot 8 AA Mattox Subdivision 1958 Addition contains 1 acre.
4. Lot 8 AA Mattox Subdivision 1958 Addition could be further subdivided if it is served by city water and/or sewer.
5. Based on its size, the number of new lots that can be created by further subdivided Lot 8 AA Mattox Subdivision 1958 Addition is limited.
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8. A 60-foot public access to easement to Lot 8 AA Mattox Subdivision 1958 Addition would satisfy the access requirement for fire department access.
9. Sufficient rights-of-way do not exist to serve the surrounding properties.
10. The subdivision is affected by creeks, drainages, and low wet areas that have been shown and labeled.
11. Two-foot contours have been provided.
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18. An existing trail is between the subject property and Lot 8 AA Mattox Subdivision 1958 Addition.
19. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working on a new easement agreement.
20. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working with the City of Homer Public Works Department to ensure a 30-foot wide access easement is acceptable.

Fact 3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

Findings

5. Based on its size, the number of new lots that can be created by further subdivided Lot 8 AA Mattox Subdivision 1958 Addition is limited.
6. The subdivision is within the City of Homer.
7. Development within the subdivision is subject to the Corps of Engineers permit and requirements of the zoning district.
8. A 60-foot public access to easement to Lot 8 AA Mattox Subdivision 1958 Addition would satisfy the access requirement for fire department access.
13. Homer Advisory Planning Commission did not recommend a 60-foot dedicated right-of-way be extended to Lot 8 AA Mattox Subdivision 1958 Addition.
16. The plat that should have created Lots 53 and 54 was not recorded.
17. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is willing to accept 30-foot wide shared utility and access/trail easement in lieu of a 60-foot fee right-of-way.
18. An existing trail is between the subject property and Lot 8 AA Mattox Subdivision 1958 Addition.
19. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working on a new easement agreement.

20. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working with the City of Homer Public Works Department to ensure a 30-foot wide access easement is acceptable.

Amendment B

The Plat Committee concurred that an exception request to KPB 20.20.090, Length of Cul-de-Sac was not required.

Amendment C

An amendment motion passed by unanimous consent to grant exception to KPB 20.20.120, Radius of Curve 11 based on the following facts and findings.

Fact 1. That special circumstances or conditions affecting the property have been shown by application.

Findings

1. The radius is located at the intersection and is perpendicular with Nelson Avenue.
2. The area adjoining Curve 11 is not affected by a drainage, low wet area, or slopes greater than 20 percent per the submittal.
3. Lot 30 (west of Curve 11) contains 23,101 square feet.
4. Lot 22 (east of Curve 11) contains 19,781 square feet.
5. Curve 11 is at the intersection of the southern cul-de-sac.
6. Through traffic will not be possible on the cul-de-sac so vehicular travel will not be as busy as Nelson Avenue.
7. The plat is within the City of Homer.
8. Roads within the plat will be developed per Homer City Code requirements.
9. Homer Advisory Planning Commission approved the plat on January 2, 2014 with no request for additional right-of-way or slope easement adjoining Curve 11.

Fact 2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title.

Findings

1. The radius is located at the intersection and is perpendicular with Nelson Avenue.
2. The area adjoining Curve 11 is not affected by a drainage, low wet area, or slopes greater than 20 percent per the submittal.
3. Lot 30 (west of Curve 11) contains 23,101 square feet.
4. Lot 22 (east of Curve 11) contains 19,781 square feet.
5. Curve 11 is at the intersection of the southern cul-de-sac.
6. Through traffic will not be possible on the cul-de-sac so vehicular travel will not be as busy as Nelson Avenue.
7. The plat is within the City of Homer.
8. Roads within the plat will be developed per Homer City Code requirements.
9. Homer Advisory Planning Commission approved the plat on January 2, 2014 with no request for additional right-of-way or slope easement adjoining Curve 11.

Fact 3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

Findings

1. The radius is located at the intersection and is perpendicular with Nelson Avenue.
2. Through traffic will not be possible on the cul-de-sac so vehicular travel will not be as busy as Nelson Avenue.
3. The plat is within the City of Homer.
4. Roads within the plat will be developed per Homer City Code requirements.
5. Homer Advisory Planning Commission approved the plat on January 2, 2014 with no request for additional right-of-way or slope easement adjoining Curve 11.

Amendment D

By unanimous consent an amendment motion passed to bring the final plat back to the Plat Committee for final review.

Please contact the Planning Department if you need additional information.

This notice and unapproved minutes of the subject portion of the meeting were sent March 13, 2014 to:

City of: City of Homer
491 E. Pioneer Avenue
Homer, AK 99603

Advisory Planning Commission/Community Council: Homer Advisory Planning Commission
491 E. Pioneer Avenue
Homer, AK 99603

Survey Firm: Seabright Survey + Design
1044 East Road, Suite A
Homer, AK 99603

Subdivider/Petitioner: Tony Neal, Manager
Quiet Creek Park, LLC
PO Box 3368
Homer, AK 99603-3368

Gwen Neal
PO Box 3368
Homer, AK 99603-3368

Interested Parties: Margaret Anderson
PO Box 115
Homer, AK 99603

Laura Murphy
561 Mountain View Dr.
Homer, AK 99603

Maren Bennett
PO Box 115
Homer, AK 99603

Diane Novak
4495 East Hill Rd.
Homer, AK 99603

Clyde Boyer, Jr.
Vivian Finley
455 Elderberry Dr.
Homer, AK 99603

Rebecca Paul
502 Mountain View Drive
Homer, AK 99603

Virginia Espenshade
Paul Gavenus
PO Box 1752
Homer, AK 99603

Francie Roberts
495 Mountain View Drive
Homer, AK 99603

Katherine George
542 Mountain View Drive
Homer, AK 99603

John & Jocelyn Rohde
552 Elderberry Drive
Homer, AK 99603

Mike Gracz
PO Box 15301
Fritz Creek, AK 99603

Michael Ronda
7710 15th Avenue SW
Seattle, WA 99106

Tom Kizzia
PO Box 467
Homer, AK 99603

William & Marianne Schlegelmilch
PO Box 2086
Homer, AK 99603

Devony Lehner
devonylehner@gmail.com

Diana Sedor
PO Box 15358
Homer, AK 99603
Ladydi1339@yahoo.com

Kate McNulty
421 Mountain View Dr.
Homer, AK 99603

Larry Slone
Larryslone222@yahoo.com

Kathy Smith
4139 Kachemak Way
Homer, AK 99603

Marianne Snowden
1112 Aurora Ct.
Homer, AK 99603-7700

Leo & Nancy Vait
PO Box 1532
Homer, AK 99603

William S. Walters
PO Box 2224
Homer, AK 99603-2224

KPB File Number: 2014-016

AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

5. Barnett's South Slope Subdivision Quiet Creek Park Revised Preliminary Plat (name to change)
KPB File 2014-016; Seabright/Neal
POSTPONED FROM FEBRUARY 10, 2014

Staff Report given by Patti Hartley

Plat Committee Meeting: 3/10/14

Location: City of Homer
Proposed Use: Residential
Water/Sewer: City
Zoning: Rural Residential
Assessing Use: Vacant
Parent Parcel Number(s): 177-020-89

Supporting Information:

Based on the submittal date, this platting action is being reviewed under KPB 20.12, 20.20, and 20.16.

December 4, 2013

The Homer Advisory Planning Commission conducted a public hearing for Barnett's South Slope Subdivision Quiet Creek Park preliminary plat. The public hearing was carried forward to their next meeting.

January 2, 2014

The Homer Advisory Planning Commission recommended approval of the preliminary plat subject to:

1. Increase the size of Lot 2 to meet the dimensional size requirement of 10,000 square feet. Elimination or reduction in size of Park A to meet this requirement is acceptable.
Borough staff comments: Lot 2 contains 10,307 square feet, and Park A has been incorporated into the right-of-way for Nelson Avenue on the revised preliminary plat.

*Lot 55 and Park C contain less than 10,000 square feet. The City of Homer does not have standards for park lots so the required minimum lot size must comply with the standards established for residential lots in this zoning district. **Staff recommends** all lots comply with the minimum lot size requirement for the zoning district.*

2. A development agreement is required.
*Borough staff comments: **Staff recommends** compliance per KPB 20.16.060.*
3. The shared driveways shall meet fire department access requirements.
Borough staff comments: Shared driveway easements are not proposed to be granted by the revised preliminary plat. Several lots front right-of-way using a flag lot design.

*Based on KPB 20.08.063 ("Flag lot" means a lot with two discernible portions, one a building site portion not fronting on or abutting a street and the second portion abutting on the street and providing private access to the building site portion) and 20.20.180.B (The access portion of a flag lot shall not be less than 20 feet wide), **staff recommends** the surveyor confirm all flags can be reasonably constructed to provide practical access to each building site portion, including side slope easements if required.*

4. The developer shall clarify with Public Works prior to final platting which creeks shown on the plat have a drainage easement and the width of the easements.
Borough staff comments: The submittal provided for KPB review depicts the drainages on Sheet 2. KPB Code does not provide guidance for drainage or bank maintenance easements. Since the City of Homer is going to accept responsibility for the drainage easements and stream bank maintenance easements, it would be prudent to clearly label them including the width.

5. Continue the 15 foot utility easement around the bulb of Sophie Court.
Borough staff comments: Plat Note 2 grants a 15-foot utility easement along all rights-of-way. Plat Note 2 is sufficient to grant these easements. It is not necessary to also graphically depict these easements.
6. Work with the City of Homer and the Kenai Peninsula Borough addressing officer on E911 compliant street names.
*Borough staff comments. **Staff recommends** compliance per KPB 20.20.150. Carrie Henson, Addressing Officer, checks and approves street names for KPB and may have helpful suggestions.*
7. During the first phase of construction, build Nelson Avenue and Ronda Street from East End Road all the way to the intersection with South Slope Drive, and that portion of South Slope Drive within the subdivision.
Borough staff comments: This is a development matter to be worked out with the City of Homer prior to final plat.
8. Construct fire hydrants as part of the subdivision.
Borough staff comments: This is a development matter to be worked out with the City of Homer prior to final plat.
9. Dedicate the area shown as Park "A" as future right of way providing access to the south of the subdivision.
Borough staff comments: Park "A" was incorporated into Nelson Avenue right-of-way and Lot 2 on the revised preliminary plat
10. A fire department accessible shared driveway provides reasonable access to Lot 8 and Tract A, AA Mattox Sub 1958 Addn, in lieu of a full right of way dedication to these lots.
Borough staff comments: The revised preliminary does not grant a shared driveway to Lot 8 or Tract A, AA Mattox Subdivision 1958 Addition. Tract A fronts 30-foot wide Nelson Avenue. Lot 8, which was created in 1958, is land locked. Lot 8 contains 1 acre so it can be further subdivided into multiple lots.

*Per KPB 20.20.030, **staff recommends** right-of-way be extended to Lot 8 AA Mattox Subdivision 1985 Addition. Since the number of lots that can be created by further subdividing Lot 8 is limited, staff would encourage the Committee to consider options, such as a recorded public access easement, that may require exceptions to KPB Code.*

January 6, 2014

Homer Planning Commissioner Slone gave notice of reconsideration of the Commission's January 2 action on Barnett's South Slope Subdivision Quiet Creek Park preliminary plat.

January 15, 2014

The motion to reconsider the Homer Advisory Planning Commission's action on Barnett's South Slope Subdivision Quiet Creek Park failed. The January 2, 2014 decision stands.

February 10, 2014

The KPB Plat Committee postponed action to March 10, 2014 to allow time for the Homer City Council to review the plat and provide comments.

February 19, 2014

The Planning Director and Platting Officer met with the owner and developer to discuss concerns with the preliminary plat design.

February 24, 2014

The Homer City Council considered Resolution 14-033, Disapproving the Decision to Approve the Barnett's South Slope Subdivision Quiet Creek Park Preliminary Plat. The resolution asked the KPB Plat Committee to reconsider the plat to include all documents that were submitted. Findings to support disapproval of the plat were not included in Resolution 14-033.

KPB staff included all documents provided by the Homer Planning and Zoning Department in the Committee's meeting packet. Documents that arrived too late to be included in the mailout packet were placed in the desk packet.

The Homer City Council defeated Resolution 14-033 on February 24, 2014.

February 24, 2014

A revised preliminary plat based on the February 19 meeting with staff was submitted for the Committee's March 10 meeting.

March 10, 2014

Submittal of the revised preliminary plat arrived too late for the mailout deadline for the subdivision plat public hearing notice for March 10. Copies of the preliminary plat were mailed to owners within 600 feet, interested parties, and agencies.

Per the revised preliminary plat submittal, this subdivision will be finalized in phases.

The revised preliminary plat creates 71 lots ranging in size from 9,297 square feet to 1.6 acres. The subdivision will be served by city water and sewer. The following dedications are being provided by the revised preliminary plat:

- 1) 60-foot right-of-way for Nelson Avenue that connects the existing Nelson Avenue on the eastern boundary to Anderson Street on the western boundary.
- 2) Two cul-de-sacs north of Nelson Avenue (CDS #1 and CDS #3).
- 3) 60-foot right-of-way off Nelson Avenue that connects with South Slope Drive.
- 4) Cul-de-sac south of Nelson Avenue (CDS #2).

Per Planning Commission Resolution 2000-25, if the Certificate to Plat indicates any beneficial interests affect this property, they will be notified and given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

A physical address has not been assigned to the parent parcel.

Staff recommends that notes be placed on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

Exception(s) Requested:

- A. Extending right-of-way to Lot 8 AA Mattox Subdivision 1958 Addition (KPB 20.20.030)

Staff Discussion: Per a conversation with staff prior to the plat public hearing, the owner stated a preference to extend a public access easement to Lot 8 AA Mattox Subdivision 1958 Addition rather than a 60-foot dedicated right-of-way.

A public access easement may be granted by plat as long as it complies with KPB 20.16.130. If the public access easement is granted by document, the recording information will be noted on the final plat. If the Committee approves granting a public access easement, staff recommends it be shown and labeled on the final plat.

Findings

1. Lot 8 AA Mattox Subdivision 1958 Addition is land locked.
2. Lot 8 AA Mattox Subdivision 1958 Addition was created in 1958, prior to formation of KPB.
3. Lot 8 AA Mattox Subdivision 1958 Addition contains 1 acre.
4. Lot 8 AA Mattox Subdivision 1958 Addition could be further subdivided if it is served by city water and/or sewer.
5. Based on its size, the number of new lots that can be created by further subdivided Lot 8 AA Mattox Subdivision 1958 Addition is limited.
6. The subdivision is within the City of Homer.
7. Development within the subdivision is subject to the Corps of Engineers permit and requirements of the zoning district.
8. A 60-foot public access to easement to Lot 8 AA Mattox Subdivision 1958 Addition would satisfy the access requirement for fire department access.
9. Sufficient rights-of-way do not exist to serve the surrounding properties.
10. The subdivision is affected by creeks, drainages, and low wet areas that have been shown and labeled.
11. Two-foot contours have been provided.
12. Wet and steep terrain limit the locations that are feasible for road construction.
13. Homer Advisory Planning Commission did not recommend a 60-foot dedicated right-of-way be extended to Lot 8 AA Mattox Subdivision 1958 Addition.

Staff reviewed the exception request and recommends granting approval. Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following facts, and vote on the exception in a separate motion.

20.24.010 provides that the commission (committee) may authorize exceptions to any of the requirements set forth in Title 20. This section also states - The commission (committee) shall find the following facts before granting any exceptions:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-13 support this fact.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-13 support this fact.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 5-8 and 13 support this fact.

Exception Requested:

- B. Length of south cul-de-sac; CDS #2 (KPB 20.20.090). The cul-de-sac is approximately 786 feet along the centerline. The reason is due to topography. There is a large ravine west that precludes extending the right-of-way to the property line. We are accessing this cul-de-sac with three public trail easements.

Staff Discussion: Per KPB 20.20.090, maximum cul-de-sac length is 1,000 feet. An exception is not required.

Exception Requested:

- C. Radius of Curve 11 (KPB 20.20.120). The radius is located at the intersection and is perpendicular with Nelson Avenue.

Staff Discussion: Per HCC 11.04.060.c., in hilly terrain (as defined by the Design Criteria Manual), the minimum curve radius for residential collector streets may be reduced to 275 feet, and the minimum curve for

local residential streets may be reduced to 120 feet upon approval of the City Public Works Engineer.

The radius is 100 feet. If the radius is redesigned to 120 feet and written approval is provided by the City Public Works Engineer, an exception to KPB 20.20.120 is not required because the design can be accepted per KPB 20.20.250.

If the City Public Works Engineer is not willing to approve the 120-foot radius, an exception to KPB 20.20.120 is required.

Findings

1. The radius is located at the intersection and is perpendicular with Nelson Avenue.
2. The area adjoining Curve 11 is not affected by a drainage, low wet area, or slopes greater than 20 percent per the submittal.
3. Lot 30 (west of Curve 11) contains 23,101 square feet.
4. Lot 22 (east of Curve 11) contains 19,781 square feet.
5. Curve 11 is at the intersection of the southern cul-de-sac.
6. Through traffic will not be possible on the cul-de-sac so vehicular travel will not be as busy as Nelson Avenue.
7. The plat is within the City of Homer.
8. Roads within the plat will be developed per Homer City Code requirements.
9. Homer Advisory Planning Commission approved the plat on January 2, 2014 with no request for additional right-of-way or slope easement adjoining Curve 11.
10. Large vehicles may have trouble negotiating the intersection approaching from the west.

Staff reviewed the exception request and recommends granting approval. Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following facts, and vote on the exception in a separate motion.

20.24.010 provides that the commission (committee) may authorize exceptions to any of the requirements set forth in Title 20. This section also states - The commission (committee) shall find the following facts before granting any exceptions:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-9 support this fact.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-9 support this fact.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1 and 6-9 support this fact.

STAFF RECOMMENDATION: Grant approval of the revised preliminary plat subject to any above recommendations, and the following conditions and findings:

REVISE OR ADD TO THE PRELIMINARY PLAT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN KPB 20.12 (FORM AND CONTENTS), KPB 20.14 (WASTEWATER DISPOSAL), AND KPB 20.20 (DESIGN REQUIREMENTS) AS FOLLOWS:

1. **20.12.060. - Form and contents required. The preliminary plat shall be drawn to scale of sufficient size to be clearly legible and shall show the following:**

Platting staff comments: The plat complies with the following portions of 20.12.060: B, C, and M.

Platting staff comments: The following portions of 20.12.060 are not applicable to the subject plat: I

Platting staff comments: Additional information is provided for the following portions of 20.12.060 or additional information, revision or corrections are required

A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract or subdivision of land in the borough, of which a map or plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion,
2. Legal description, location date, and total area in acres of the proposed subdivision,
3. Name and address of owner, and registered land surveyor;

*Platting Staff Comments: **Staff recommends:***

- *The plat is a phase of HM 2006-37. Rename the plat to reflect the phased development, such as Barnett's South Slope Subdivision Quiet Creek Park Unit 2.*
- *Verify the total acreage; KPB records show 37.07 acres.*
- *Revise the legal description to reflect the unsubdivided remainder of the first phase: Barnett's South Slope Subdivision Quiet Creek Park Unit 1 (HM 2006-37).*

D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries and prominent natural and manmade features, such as shorelines or streams;

*Platting Staff Comments: **Staff recommends** the Township and Range be labeled.*

E. All parcels of land including those intended for private ownership and those to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision, together with the purposes, conditions or limitations of such reservations;

Platting Staff Comments: The City of Homer's acceptance statement for the park lots can contain conditions and/or limitations, if any.

F. The names and widths of public streets and alleys and easements, existing and proposed, within the subdivision;

*Platting Staff Comments: The public pedestrian trails easements have been shown and labeled on Sheet 2 of 2. **Staff recommends:***

- *Label the widths of the rights-of-way being dedicated by this plat.*
- *Label the widths of the trail easements to be accepted by the City of Homer.*
- *Label the 5-foot section line easement affecting the eastern boundary of the subdivision per HM 2009-51.*

G. The names of adjacent subdivisions or an indication that the adjacent land is not subdivided;

*Platting Staff Comments: **Staff recommends** status labels be provided for:*

- *Lot 23, HM 84-8.*
- *Lot 24-A, HM 99-64*
- *Unsubdivided between HM 2000-08 and HM 91-02.*
- *Clarify the status labels for Tasmania Court. The segment west of South Slope Drive is West Tasmania Court. The segment east of South Slope Drive is East Tasmania Court.*

H. Approximate locations of areas subject to inundation, flooding or storm water overflow; when adjacent to lakes or non-tidal streams the line of ordinary high water, wetlands. If applicable, cite the appropriate study which identifies a flood plain;

Platting Staff Comments: Low wet areas have been shown and labeled. Copies of the Corps of Engineers wetland permits and wetlands delineation are in the plat file. Plat Notes 5 and 6 put the public on notice that the Corps of Engineers and City of Homer need to be contacted prior to development.

J. Block and lot numbering per Section 20.16.110 and approximate dimensions and total numbers of proposed lots;

Platting Staff Comments: The lot numbers generally follow a north/south pattern crisscrossing rights-of-way. Blocks were not created.

- K. Within the limits of first class cities, the approximate location of known existing municipal sewers, water mains, and other utilities within the subdivision and immediately abutting thereto;
Platting Staff Comments: Homer Advisory Planning Commission did not recommend city lines be shown and labeled. A map showing the city's lines per KPB GIS mapping is in the plat file.
- L. Contours at suitable intervals when any roads are to be dedicated unless the planning director or commission finds evidence that road grades will not exceed 6 percent on arterial streets, and 10 percent on other streets.
Platting Staff Comments: The preliminary plat provided 2-foot contours. Staff would like to review the proposed roadway design drawings when available.

20.12.070. - Statement required when—Contents. Information which is not shown on the plat shall be presented in written or mapped form and shall include:

Platting staff comments: The submittal complies with 20.12.070 (A-D).

- 2. **KPB 20.14 -- Wastewater Disposal**
Platting Staff Comments: City water and sewer serve the subdivision. The appropriate wastewater disposal note is on the plat.
- 3. **KPB 20.20 Design Requirements -- 20.20.010. - Standards applicable.**

Platting staff comments: The plat complies with the following portions of 20.20: 20.20.035, 20.20.060, 20.20.090, 20.20.140, 20.20.200, 20.20.210, and 20.20.235.

Platting staff comments: The following portions of 20.20 are not applicable to the subject plat: 20.20.020, 20.20.050, 20.20.100, 20.20.130, 20.20.230, and 20.20.240.

Platting staff comments: Additional information is provided for the following portions of 20.20 or additional information, revision or corrections are required

20.20.040. - Easements—Requirements.
Platting Staff Comments: Staff recommends compliance with the recommendations submitted by the utility providers. ENSTAR, HEA, and ACS submitted statements of non-objection to the preliminary plat design.

20.20.070. - Alleys.
Platting Staff Comments: Homer Advisory Planning Commission did not recommend alleys.

20.20.080. - Streets—Grades required.
Platting Staff Comments: The submittal shows rights-of-way being dedicated by this platting action cross slopes greater than 20 percent, low wet areas, and drainages. The Corps of Engineers issued permits and wetland determinations for the subdivision. Slope and drainage easements are being granted by this plat. The subdivision is within the City of Homer, and development within the plat must comply with the requirements of the zoning district. The Homer Advisory Planning Commission conditionally approved the plat.

Per 20.16.060, evidence of compliance with any city ordinances concerning the installation of improvements shall be provided by the subdivider in the form of a written statement from the appropriate city official that improvements required by city ordinance are or will be installed. Such evidence of compliance shall be a part of the final plat submission and the time for action by the commission as required by Section 20.16.170 shall not commence until said evidence is submitted.

20.20.110. - Streets—Width requirements.

*Platting Staff Comments: **Staff recommends** the widths of the rights-of-way being dedicated be labeled. It appears all dedications being provided by this plat are at least 60 feet wide.*

20.20.150. - Streets—Name requirements.

*Platting Staff Comments: **Staff recommends** the new street names conform to 20.20.150.*

The Nelson Avenue dedication provided by this platting action will create a duplicate street name. The City of Homer will resolve duplicate street names.

20.20.160. - Blocks—Length requirements—Generally.

Platting Staff Comments: The proposed plat brings the property into compliance with block length.

20.20.170. - Pedestrian ways required when.

Platting Staff Comments: Public pedestrian trail easements are shown on Sheet 2 of 2. The City of Homer will sign an acceptance statement for the pedestrian trail easements.

20.20.180. - Lots—Dimensions.

*Platting Staff Comments: **Staff recommends** the following note be placed on the final plat: No structures are permitted within the panhandle portion of the flag lot(s).*

*Some flag lots are large enough to be further subdivided, and the flag widths are less than 60 feet. **Staff recommends** a note be placed on the final plat indicating possible limitations on further subdivision based on access issues, development trends in the area, or topography*

20.20.190. - Lots—Minimum size.

*Platting Staff Comments: **Staff recommends** redesign so Lot 55 and Park C comply with the zoning district's minimum lot size of 10,000 square feet (HCC 21.12.040).*

20.20.220. - Lots—Double frontage prohibited when.

Platting Staff Comments: Lots 4, 8, 22, 25, 30, 33, 50, 59, 69, and 71 have double frontage and are less than 250 feet deep.

All double frontage lots are corner lots, which by their nature have double frontage. Redesign to make each lot larger is the only way all of them will comply with 20.20.220.

The subdivision is within the City of Homer. Development within the subdivision must comply with the permits issued by the Corps of Engineers and the requirements of the zoning district. Homer Advisory Planning Commission conditionally approved the plat on January 2, 2014 with no mention of concerns about the double frontage lots.

***Staff recommends** the Committee concur that the double frontages are acceptable based on other physical conditions.*

20.20.250. - Different standards in cities.

Platting Staff Comments: Homer Advisory Planning Commission did not recommend application of different standards.

20.20.260. - Flood plain requirements.

Platting Staff Comments: The City of Homer administers a floodplain program through HCC 21.41 Flood Prone Areas. Per the Homer City staff report, the subdivision is within Flood Zone D, flood hazards undetermined.

Per the River Center review, the subdivision is not affected by the Anadromous Waters Habitat Protection District.

Per KPB GIS mapping, no anadromous streams flow through the subdivision.

4. Additional requirements for administrative approval of the final plat (KPB 20.16) -- 20.16.010. - Preparation requirements generally.

The Homer Advisory Planning Commission did not review the revised preliminary plat. The final plat can be reviewed by the Homer Advisory Planning Commission per KPB 20.12.050.D. (Final plats submitted to the borough for approval will be submitted by the borough to said city for review when the design deviates from the preliminary plat in a manner which has not been recommended by the city. In such instances, the city advisory planning commission shall have 49 days from the date of receipt in which to review the final plat and take action.)

Platting staff comments: The plat complies with the following portions of 20.16: 20.16.100

Platting staff comments: The following portions of 20.16 are not applicable to the subject plat: 20.16.035 and 20.16.070.

Platting staff comments: Additional information is provided for the following portions of 20.16 or additional information, revision or corrections are required

20.16.020. - Filing—Form and number of copies required.

*Platting Staff Comments: **Staff recommends** two full size copies of the plat be provided for final review. Electronic submission is not acceptable.*

20.16.030. - Certificate of borough finance department required.

*Platting Staff Comments: **Staff recommends** compliance with 20.16.030.*

20.16.040. - Dedication of public use lands. Any land shown on a plat as an open to public use park or other public area must be dedicated on the final plat to a tax exempt governmental entity. Any dedication on the plat of an open to public use park, recreational, or other area will be deemed an irrevocable offer of the subject land for the dedicated purpose. The planning commission may disapprove or reject any such dedication but acceptance of the plat shall not constitute final acceptance of any irrevocable offer to dedicate the land. The borough shall not be deemed to be the owner of any such dedicated lands until the borough specifically accepts ownership of the dedicated lands.

*Platting Staff Comments: **Staff recommends** an acceptance statement and signature line be provided for the City of Homer to accept the park lots.*

20.16.045. - Dedication and construction of anadromous waterbody crossings.

Platting Staff Comments: Per KPB GIS mapping, the creeks are not anadromous.

20.16.046. - Dedications parallel to waterbodies.

Platting Staff Comments: Corps of Engineers permits and wetland determinations have been obtained.

20.16.050. - Plat specifications.

*Platting Staff Comments: **Staff recommends** compliance with 20.16.050.*

20.16.060. - Improvements—Installation agreement required.

*Platting Staff Comments: Per Homer City staff report PL 13-96, an installation agreement is required. **Staff recommends** compliance with 20.16.060.*

20.16.080. - Dimensional data required.

*Platting Staff Comments: Several bearings are missing. **Staff recommends** compliance with 20.16.080.*

20.16.090. - Accuracy of measurements.

*Platting Staff Comments: The GIS Division will confirm closure meets 20.16.090 when the final plat is submitted. **Staff recommends** compliance with 20.16.090.*

20.16.110. - Block and lot numbering.

*Platting Staff Comments: **Staff recommends** the lots be renumbered so they are sequential. Creation of blocks may be helpful with numbering the lots.*

20.16.120. - Utility easements.

*Platting Staff Comments: **Staff recommends** compliance with the recommendations submitted by the utility providers. The revised preliminary plat was emailed to the utility providers, including the City of Homer.*

20.16.130. - Easements.

*Platting Staff Comments: **Staff recommends** compliance with 20.16.130.*

EV-3-044 (HM 2009-51) vacated 28 feet of the 33-foot section line easement affecting the eastern boundary of the subdivision.

Statements for the trail, slope, drainage, and bank maintenance easements to be accepted by the City of Homer are on the plat.

20.16.140. - Other data required by law.

*Platting Staff Comments: **Staff recommends** compliance with 20.16.140.*

20.16.145. - Plat notes.

Platting Staff Comments: Additional plat notes may be required based on easements/covenants in the final Certificate to Plat.

Plat Note 4 is a duplicate of Plat Note 6. Plat Note 4 may be removed.

Staff recommends the spelling of is be corrected in Plat Note 1.

20.16.155. - Certificates, statements and signatures required.

*Platting Staff Comments: **Staff recommends** compliance with 20.16.155.*

Staff recommends the year in the Notary's Acknowledgement be corrected.

*An LLC owns the property. The State of Alaska corporation database lists one person who owns 50 percent of the LLC. **Staff recommends** the plat be signed and acknowledged by an individual(s) under authority granted by its board of directors. **Staff recommends** documentation of such authority, such as a corporate resolution, be submitted with the final plat. An acceptable option is for all owners to sign the plat.*

20.16.160. - Survey and monumentation.

*Platting Staff Comments: **Staff recommends** compliance with 20.16.160*

20.16.170. - Approval—Authority—Certificate issued when.

Platting Staff Comments: If the Plat Committee conditionally approves the preliminary plat, staff recommends compliance with 20.16.170.

20.16.180. - Administrative approval.

Platting Staff Comments: If the Plat Committee conditionally approves the preliminary plat and the final plat conforms to the conditions, staff will issue an administrative approval with notice to the Planning Commission as set forth in 20.16.180.

20.16.190. - Disapproval. When a plat has been disapproved by the planning commission, it may be refiled once more with corrections for approval within 28 days of notification of first disapproval. If disapproved again, said plat shall be void. A new fee will be required for subdivision of the property in the voided plat.

Platting Staff Comments: If the Plat Committee disapproves the proposed plat, staff recommends findings be cited and adopted in support of the denial.

NOTE: REVIEW OF A DECISION OF THE PLAT COMMITTEE MAY BE HEARD BY THE PLANNING COMMISSION ACTING AS PLATTING BOARD BY FILING WRITTEN NOTICE THEREOF WITH THE BOROUGH PLANNING DIRECTOR ON A FORM PROVIDED BY THE BOROUGH PLANNING DEPARTMENT. THE REQUEST FOR REVIEW SHALL BE FILED WITHIN 10 DAYS AFTER NOTIFICATION OF THE DECISION OF THE PLAT COMMITTEE BY PERSONAL SERVICE OR SERVICE BY MAIL.

A REQUEST FOR REVIEW MAY BE FILED BY ANY PERSON OR AGENCY THAT PARTICIPATED AT THE PLAT COMMITTEE HEARING EITHER BY WRITTEN OR ORAL PRESENTATION. THE REQUEST MUST HAVE AN ORIGINAL SIGNATURE; FILING ELECTRONICALLY OR BY FACSIMILE IS PROHIBITED. THE REQUEST FOR REVIEW MUST BRIEFLY STATE THE REASON FOR THE REVIEW REQUEST AND APPLICABLE PROVISIONS OF BOROUGH CODE OR OTHER LAW UPON WHICH THE REQUEST FOR REVIEW IS BASED.

NOTICE OF THE REVIEW HEARING WILL BE ISSUED BY STAFF TO THE ORIGINAL RECIPIENTS OF THE PLAT COMMITTEE PUBLIC HEARING NOTICE. CASES REVIEWED SHALL BE HEARD DE NOVO BY THE PLANNING COMMISSION ACTING AS THE PLATTING BOARD (KPB 2.40.080).

END OF STAFF REPORT

STAFF REPORT ADDENDUM

Staff Report Addendum given by Patti Hartley

Plat Committee Meeting: 3/10/14

Based on 13 findings, staff recommended granting an exception to extending fee right-of-way to Tract 8 AA Mattox Subdivision 1958 Addition. After the meeting packet was mailed, a request was received to grant a 30-foot easement to Tract 8 AA Mattox Subdivision 1958 Addition.

Staff recommends owner/surveyor demonstrate that streets and driveways can be readily constructed in accordance with current KPB and local standards by providing additional fee with dedications and appropriate slope construction and maintenance easement areas. Area(s) for utility installations also need to be considered if they are proposed to be installed within the driveway or flag pole portion of any flagged lots. This constructability demonstration shall be in the form of plan and profile drawings with cross-sectional views at critical points such as the areas of greatest cut or fill.

Rather than split the exception between the staff report and addendum, the exception is re-printed in full below.

Staff recommends that notes be placed on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

Exception(s) Requested:

- A. Extending right-of-way to Lot 8 AA Mattox Subdivision 1958 Addition (KPB 20.20.030)

Staff Discussion: Per a conversation with staff prior to the plat public hearing, the owner stated a preference to extend a public access easement to Lot 8 AA Mattox Subdivision 1958 Addition rather than a 60-foot dedicated right-of-way.

A public access easement may be granted by plat as long as it complies with KPB 20.16.130. If the public access easement is granted by document, the recording information will be noted on the final plat. If the Committee approves granting a public access easement, staff recommends it be shown and labeled on the final plat.

The plat reviewed by the City of Homer extended a private driveway to Lot 8 AA Mattox Subdivision 1958 Addition. Concurrence from the City of Homer is needed to ensure a 30-foot public access easement is

sufficient for the city's needs, such as emergency service providers, the public works department, and the utility companies.

A conditional easement agreement between Quiet Creek Park LLC and Michael Ronda was signed in 2006. The easement was a private easement for ingress/egress including a driveway and utilities crossing Lots 53 and 54. One condition of the easement was if Quiet Creek Park Subdivision was not recorded within five years, the easement agreement would be null and void. The plat was not recorded so Lots 53 and 54 shown on Exhibit B do not exist.

Comments from Michael Ronda indicate he is working on a new draft easement agreement.

Findings in the Staff Report

1. Lot 8 AA Mattox Subdivision 1958 Addition is land locked.
2. Lot 8 AA Mattox Subdivision 1958 Addition was created in 1958, prior to formation of KPB.
3. Lot 8 AA Mattox Subdivision 1958 Addition contains 1 acre.
4. Lot 8 AA Mattox Subdivision 1958 Addition could be further subdivided if it is served by city water or sewer.
5. Based on its size, the number of new lots that can be created by further subdivided Lot 8 AA Mattox Subdivision 1958 Addition is limited.
6. The subdivision is within the City of Homer.
7. Development within the subdivision is subject to the Corps of Engineers permit and requirements of the zoning district.
8. A 60-foot public access to easement to Lot 8 AA Mattox Subdivision 1958 Addition would satisfy the access requirement for fire department access.
9. Sufficient rights-of-way do not exist to serve the surrounding properties.
10. The subdivision is affected by creeks, drainages, and low wet areas that have been shown and labeled.
11. Two-foot contours have been provided.
12. Wet and steep terrain limit the locations that are feasible for road construction.
13. Homer Advisory Planning Commission did not recommend a 60-foot dedicated right-of-way be extended to Lot 8 AA Mattox Subdivision 1958 Addition.

Additional Findings

(Based on New Information Provided after the Staff Report was Prepared)

14. A conditional agreement for a 30-foot wide ingress/egress easement for a driveway and utilities crossing Lots 53 and 54 shown on Exhibit B was signed by the subdivider and Michael Ronda in 2006.
15. One condition of the easement agreement was recordation of the plat that would create Lots 53 and 54 over which the ingress/egress easement was granted within five years of 2006.
16. The plat that should have created Lots 53 and 54 was not recorded.
17. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is willing to accept 30-foot wide shared utility and access/trail easement in lieu of a 60-foot fee right-of-way.
18. An existing trail is between the subject property and Lot 8 AA Mattox Subdivision 1958 Addition.
19. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working on a new easement agreement.
20. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working with the City of Homer Public Works Department to ensure a 30-foot wide access easement is acceptable.

Staff considered the additional information provided and still recommends granting approval to the exception to 20.20.030, subject to:

- a. Granting a minimum 30-foot wide public access easement to Lot 8 AA Mattox Subdivision 1958 Addition with the location to be worked out in writing between the subdivider and owner of Lot 8.
- b. Recording the public access easement by separate document with the easement depicted on the plat along with the recording information, or granting the public access easement on the plat in compliance with KPB 20.16.130.
- c. Obtaining written approval from the City of Homer for the minimum 30-foot public access easement to

serve Lot 8 AA Mattox Subdivision 1958 Addition. Said easement shall be wide enough to contain a travelway and side slopes with room for emergency service vehicle ingress and egress, and any necessary utility installations.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following facts, and vote on the exception in a separate motion.

If the Committee denies the exception, staff recommends findings in support of denial be accepted and adopted by separate motion.

20.24.010 provides that the commission (committee) may authorize exceptions to any of the requirements set forth in Title 20. This section also states - The commission (committee) shall find the following facts before granting any exceptions:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-20 support this fact.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-20 support this fact.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 5-8, 13, and 16-20 support this fact.

STAFF RECOMMENDATION: Staff recommends approval of the exception to KPB 20.20.030 and compliance with staff recommendations and conditions for the revised preliminary plat in the March 10, 2014 staff report.

NOTE: Review of a decision of the plat committee may be heard by the planning commission acting as platting board by filing written notice thereof with the borough planning director on a form provided by the borough planning department. The request for review shall be filed within 10 days after notification of the decision of the plat committee by personal service or service by mail.

A request for review may be filed by any person or agency that participated at the plat committee hearing either by written or oral presentation. The request must have an original signature; filing electronically or by facsimile is prohibited. The request for review must briefly state the reason for the review request and applicable provisions of borough code or other law upon which the request for review is based.

Notice of the review hearing will be issued by staff to the original recipients of the plat committee public hearing notice. Cases reviewed shall be heard de novo by the planning commission acting as the platting board (KPB 2.40.080).

END OF STAFF REPORT ADDENDUM

Chairman Ruffner opened the meeting for public comment.

1. Ginny Espenshade, 566 Rainbow Court, Homer
Ms. Espenshade stated that her property was west and south of the proposed subdivision. She lives west of Homer High School. Ms. Espenshade thanked the staff for the professional and responsive way they have treated the public. She realized that this is a very complex subdivision and they have had a lot of questions. The public has always felt the staff has dealt with them professionally and responsively.

Ms. Espenshade stated that she has some photos and a couple videos to show the committee.

There were several people who planned on coming to the meeting however they chose not to because of the road conditions. She requested additional time to represent those who could not be at the meeting.

Ms. Espenshade stated the first video was shot by Bob Shavelson, Executive Director at Cook Inlet Keeper on January 17, 2014. It is the culvert by SBS which is down Lake Street from the high school. The second video is the same day in the same general location which showed the drainage going under the parking lot down to Beluga slough. The third video was filmed by Katherine George and was shot behind Homer High School on January 17, 2014. There were some still photos that she showed in a PowerPoint presentation. The first three photos were taken on January 17, 2014 at the intersection of Mountain View Dr which was looking at the northwest corner of Quiet Creek plat.

Ms. Espenshade stated they shared the videos and photos because they felt that one of the most concerning elements of this plat was the runoff. She stated there were some procedural situations and felt some of the documents that addressed runoff issues were left out of the packet. It is because of the fact that those were never addressed in a public hearing and therefore were never given to the developer to respond. Ms. Espenshade asked that the committee take particular care to look at those exhibits which are on pages 223-232 of the plat committee packet. She asked the committee to address the substance of the documents and ask the developer to address the substance. They are pertinent to public concerns about runoff as well as being in direct response to questions that the commissioners from the Homer Advisory Planning Commission asked at their December 4 meeting. Most of their questions were about runoff issues. Given that Katherine George and others went to get more information about those very issues and the exhibits that were not included in the packet was part of what they came up with from some experts and outside people that work in this field. She asked again that the committee pay particular attention to the items.

Ms. Espenshade stated there is an important detail with this plat that is very confusing regarding an Army Corp of Engineers permit. Sometimes the developer has said that he has a permit and other times his surveyor says that they are working on it. The developer himself told the Homer Advisory Planning Commission that they were good to go. She felt they were not good to go. The Army Corp of Engineers permit expired which is shown on page 360 of the packet. Ms. Espenshade checked with the Army Corp of Engineers and found that no extensions have been granted. This is of particular importance because the manner in which the Corp approaches mitigation issues has changed since this plat was first approved and since the developer received his first permit. She asked that the committee make a specific finding that the developer must show and prove that they are submitting for a new Army Corp of Engineers permit under the existing procedures.

Ms. Espenshade referred to the vicinity map in the packet. She stated that people have asked them why they are so concerned since the proposed subdivision isn't any worse than the density at Mountain View to the west of the subdivision or the Kramer area to the south and southeast of the subdivision. She stated those neighborhoods are zoned urban residential and the proposed subdivision is zoned rural residential. The equivalent density of the subdivision would be more like the urban residential neighborhoods with it having 71 lots plus some unusable spaces. The big concern that comes with that density has to do with traffic and runoff issues with the compacting soils that will happen when the roads are developed and built. Also there will be impacts from the driveways, impervious surface area and the roofs,

Ms. Espenshade felt that it was legitimate for the public to ask the developer to put in safeguards which is all they are asking for. They are not asking for this subdivision to be stopped but asking for safeguards to be put in. She was available to answer questions and thanked the committee for the extra time.

Chairman Ruffner thanked Ms. Espenshade for bringing the visuals which helps them to understand the public's concerns.

Chairman Ruffner asked if there were questions for Ms. Espenshade.

Commissioner Tauriainen asked for clarification regarding the Army Corp of Engineers permit. Ms. Espenshade replied that the Army Corp of Engineers permit was on page 360 of the packet which shows the permit has expired.

Commissioner Tauriainen referred to the first video that showed the drainage but stated that it was a significant distance away from where this proposed subdivision is located. He understood there was a lot of stuff that comes off of the hill and that there was a lot of development around there. He asked what that had to do with this particular situation. Ms. Espenshade replied that the video shows the volume and strength of the runoff with that entire hillside above the high school and the natural vegetation and natural habitat. In 2002, they had a 100 year flood event. The runoff from the properties above the high school was so great that it blew out a land bridge for the cross country trail and ended depositing debris on the high school football field which is at the lower part of the high school property. The debris then came down and clogged Turkington's culvert at SBS and put debris in the parking lot. She stated that yes, it was some ways away but it shows the extent of the concern about runoff. There was debris from above the high school on the SBS parking lot. Ms. Espenshade referenced an article from the Homer News that was part of her testimony at the Homer City Council meeting.

Commissioner Tauriainen felt that the water would be coming from other locations as well. It seemed like it was its own issue with the amount of drainage that they have in the downtown area and with what is going on up on the hill. He felt it was a separate issue of whether they can construct in areas that are not runoff areas and to not construct in areas that are obviously not going to be very constructible because of trenches and water running through there during break up. When looking at the plat there is obviously the formations of land and where the water runs through is a separate issue to him. Ms. Espenshade stated that she was not a wetlands expert but understood that the slope right now works as a sponge. She agreed that there was runoff coming from other areas. Ms. Espenshade referred to page 229 of the packet which was the impervious surface map that was included as an exhibit with her comments. This proposed subdivision will extremely add to the impervious surface area of that slope. The soil studies are not just that the area that the spruce trees absorb the snow but that it is a natural habitat that is working as a sponge. She agreed that the City of Homer has a huge community wide issue with storm water planning.

Ms. Espenshade asked that the committee be aware of the concerns of the public and recommended that they don't give this developer any shortcuts; they don't take anything at face value; and to be sure to get his safeguards in writing. The whole issue with the Corp of Engineer permit should have been crystal clear from the start and it hasn't been. She presented the information and trusted that the committee would apply it to their role as they know how to but felt it was a valid concern. All of the codes are grounded to adhering to the public welfare, health and safety as well as for the property owners' use, enjoyment and value of their adjoining properties. She felt the information presented was pertinent to the committee's decisions.

Commissioner Isham referred to the aerial photo on page 110 of the packet and asked where SBS was in relation to the subdivision plat. Ms. Espenshade stated that SBS was off of Pioneer Ave and Lake Street. Commissioner Isham asked if the drainage ditch was shown on the aerial. Ms. Espenshade replied that the drainage ditch was along Lake St in front of SBS.

Commissioner Tauriainen asked to watch the first video again. Ms. Espenshade showed the video again and explained what the committee was looking at.

Commissioner Isham asked if her concerns were concerning the additional drainages that would happen if the subdivision was developed. Ms. Espenshade replied exactly, she had concerns about the added volume and the contents and chemicals of the runoff from driveways.

Commissioner Lockwood asked if that was the year around creek. Ms. Espenshade replied that there are mallards there in the spring there with year around drainage. There is also a drainage area and creek up by the high school. She expressed concern about the capacities of the drainages. The Borough installed an increased size of the culvert after the flood put dirt and debris on the football field. They don't know whose responsibility it would be if the subdivision developer is not held accountable for not changing that flow.

Commissioner Holsten asked what things were in the Corp of Engineer permit that the developer has not answered if they reissued the permit. Ms. Espenshade understood that the Corp permit from 2007 relied a great deal on swales on the southern edge of the subdivision. They have not seen the developers plan but were told that it would be more of a rain gardens approach. There was concern expressed of what was a rain gardens going to do if the ground was frozen. Also there was concern that rain gardens are designed more for filtration than storm control. She couldn't answer the question without knowing more detail. The developer was not required to do a storm water plan for the City Advisory Planning Commission.

Commissioner Holsten asked what kinds of safeguards would she like to see built into this project. Ms. Espenshade replied that she would like the committee to look at the 2005 Homer Advisory Planning Commission did with some of these concerns. She attached those things to her comments which were included in the packet. Ms. Espenshade thought the subdivision agreement could be more specific in addition to some criteria of what needs to be in there. They don't know who the individual will be who will eventually develop this subdivision once it is recorded. She felt it all needs to be in writing.

Chairman Ruffner clarified that several things that have been brought up are outside the realm of their authority to address. Specifically, Homer is supposed to have the Storm Water Management Plan which is the City of Homer's function to address those concerns about run off transfer. The Plat Committee can make some recommendations of their concerns but that was really about as far as they could go. He stated that the Army Corp of Engineer permit, whether they have that in hand before or after doesn't really matter. He has personally had conversations with the Army Corp about having a permit in place before a paper plat was done. The response from them is that they couldn't keep up with demand if they did that for every platting action that they took so they wait to do their permitting function until the applicants are ready to construct. The permit has a five year life. One of the things he expects to have happen is that the applicant will have to reapply for the permit and it may change the planning function if there are things that the Corp finds that would be a requirement of the development. Mr. Voeller agreed with Chairman Ruffner's comments.

Chairman Ruffner encouraged her to continue to follow the ball in both the regulatory permit process as well as continuing to do her best to address the storm water plan issues with the City of Homer. Ms. Espenshade stated that she understood that and appreciated the clarification. She just brought it up so that the record is straight that there is currently not a Corp permit.

Commissioner Holsten asked staff if the Borough delegates the Borough Code approval authority to the incorporated areas. Mr. Voeller replied that there is a clause in the code which states that the City can impose City Code in lieu of the Borough's. Commissioner Holsten asked if it was a practice if they can recommend to the City to include a Storm Water Plan with this development. Mr. Voeller replied yes, they could but Homer City has a Storm Water Plan requirement. Commissioner Holsten asked if it would be appropriate to included it in the committee's recommendation. Mr. Voeller replied that they could suggest that they implement a storm water plan.

There being no further comments or questions, the public hearing continued.

2. Paul Gavenus, 566 Rainbow Court, Homer

Mr. Gavenus stated that it mentioned three times in the staff report that there was a current Corp permit but now they know there isn't a current permit.

Mr. Gavenus stated that the best wetlands map is what is shown on the Borough GIS website. The Corp, EPA, NRSC, Fish & Game, Kenai Watershed Forum and others were involved in identifying the wetlands. They did not only identify the wetlands but ranked the property in the western third in the southeast corner high valued wetlands. These are the most important wetlands.

Mr. Gavenus stated that one person who was involved in wetlands mapping was Mike Gracz. He read a portion of Mr. Gracz submitted written comments which may help the Committee understand the Lake Street situation. The comments he read into the record are below:

"The density proposed for that area and its proximity to wetlands at the headwaters of a stream flowing past the Homer High School, under East End Road, and along Lake Street could potentially cost the citizens of Homer more than the revenue the proposed subdivision will bring to the City. The current configuration and proximity of the subdivision to a stream flowing through town appears to be an accident waiting to happen."

Mr. Gavenus stated that they did not just use aerial photographs to decide that these were wetlands but actually did a site visit. He asked that the Committee disapprove preliminary plat for health and safety reasons. He felt that for an area of such importance would adhere to the Borough Code.

Mr. Gavenus referred to his written comments where it reference Borough Code which is stated below.

20.20.180 Lots--Dimensions

- A. *...Lots shall be no less than 60 feet wide on the building setback line. The minimum depth shall be no less than 100 feet,*

Lots 7, 28, and 45 fail to meet the 60' wide at setback standard.

Lots 2, 54 and 55 fail to meet the minimum 100' depth standard. Others may as well, notably Lots 7, 8, and 58 but due to their shape in relation to the street I do not know how you calculate such lots.

20.20.140 Streets--Intersections

- A. *Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle of less than 60 degrees. Where acute street intersections are designed, a minimum 50-foot radius corner at the right-of-way line of the acute angle shall be provided.*

The radius corner on the acute angle side of CDS #1 does not meet the 50-foot standard.

Mr. Gavenus stated that the staff report recommended that the developer redesign Lots 55, Park C because they didn't meet Homer Code to be a minimum of 10,000 feet. It also recommended that they include the easement to the lot on the southern side of the subdivision. He stated that none of those have been done on the new revised preliminary plat.

Mr. Gavenus felt that the new revised preliminary plat should have to following the regulations of the new updated Chapter 20 – Subdivision Code. If the Committee agrees, then the access portion of flag lots 13, 62, and 63 are all above the 150 foot maximum. There is a reason that 150 foot maximum was put in the new revised code.

Mr. Gavenus also felt that the revised preliminary plat should be disapproved due to so many lots being out of compliance.

Mr. Gavenus relayed the following quotes. One quote was from the environmental consulting firm that the developer used on a 2006 plat which stated, *"Roadside ditches will be used to retain increase storm water runoff.* He stated this violates another portion of the Borough Code, 14.06.170 which can be obtained through 20.20.080 to prevent ponding of runoff waters in roadside ditches.

Another quote was given from the Army Corp of Engineers. *"The cumulative effect of numerous piecemeal changes can result in a paramount of wetland resources."*

Another quote was given from the Alaska Coastal Management program. *"QCP, Quiet Creek Park development will cause substantial runoff due to harden surfaces throughout the site. The cumulative impact at the downstream properties due to increase water volume is a substantial concern on the*

Homer bench."

Mr. Gavenus asked that the committee disapprove this subdivision.

Chairman Ruffner asked if there were questions for Mr. Gavenus.

Commissioner Lockwood asked what the City of Homer made other homeowners do who have built on the hill. Mr. Gavenus replied that there were not a lot of houses above this proposed subdivision.

There being no further comments or questions, the public hearing continued.

3. Gwen Neal, 41016 Hancock Dr.

Ms. Neal is one of the owners of the Quiet Creek Park Subdivision. She requested that the Plat Committee approve the subdivision plat. In January 2014, it was recommended for approval by the Homer Advisory Planning Commission on two different occasions. The plat meets and exceeds the requirements of the City of Homer and the Kenai Peninsula Borough. Ms. Neal stated that there is a Storm Water Retention Plan.

Ms. Neal stated that this was a beautiful subdivision with 71 affordable lots, parks and trails. There has been discussion about documents that were left out but those documents were provided to the Homer Advisory Planning Commission for their January 15, 2014 meeting and the City provided them to the Borough.

In conclusion, Ms. Neal stated that the plat meets and exceeds the requirements so she asked that the plat be approved.

Chairman Ruffner asked if there were questions for Ms. Neal.

Commissioner Tauriainen stated that she said there was a Storm Water Retention Plan however they were looking for a drainage plan in this particular situation. Ms. Neal deferred to the surveyor to answer that question.

There being no further comments or questions, the public hearing continued.

4. Kenton Bloom, Seabright Surveying

Mr. Bloom is a licensed surveyor and a resident of the City of Homer. He stated he was perplexed on how to approach this in the most effective way so he was going to keep this very simple and very clear in terms of what he has to say.

Mr. Bloom stated that the original subdivision plat was approved in 2006-2007 with 91 lots. After a period of time the owner stated that he wanted to make some changes. He told the owner that he would have to be willing to go through a substantial reduction with the number of lots. The owner reduced the lots by a 20% reduction. He increased most of the lot sizes and retained public land in terms of parks.

Along with that they have endeavored to have all of the elements that are required by the City and the Borough addressed in a competent fashion to facilitate this process.

Mr. Bloom stated they met with the Army Corp of Engineers. They talked about what they had in terms of the jurisdictional determination that was approved and the original permit. They all agreed to go through the preliminary platting process then they would attend to the permitting process to follow similar to what Chairman Ruffner described earlier. Concurrent to that they also hired an engineer who did some initial flow studies looking at what the peak storm was based on the City current standards. It should be noted that the City requirements for storm water planning are related to developments in the CBD area and don't apply to subdivisions. Their testimony at the Homer Advisory Planning Commission public hearing clearly states that they are doing storm water planning

and doing it in conformance with the standards that the City of Homer now has.

Mr. Bloom stated that some of these factors cannot be finally addressed because they are at the conceptual approval stage. From here they can go to the Corp and to the City and deal with the development planning and meet all the standards.

Mr. Bloom stated that the testifiers' comments are well taken. He certainly takes them serious and appreciated the amount of effort they put into bringing to attention of what their concerns are. He felt that somewhere along the way there has to be a place where the water levels out and say that these are the standards that they will deal with today. The best standards that they have are what the City has today. They are not required to do it but are doing it because they want to give people as much benefit of seeing transparently what they are trying to do here.

Mr. Bloom looked at the site every day for three weeks doing an intricate topo. He had the chance to gauge the stream flow since his office is directly below this property and he walks up there quite often. There have been many opportunities to gauge the stream flow. One of things that is not seen in this subdivision in terms of the banks is that there isn't any erosion or collapsing from storm events. The debris that is coming through is coming from above, coming off the bluffs and gets mixed up with the flow and rolls out.

Mr. Bloom stated that this is an issue that is a bigger issue for the community and is not something this subdivision either creates or exacerbates. There is no question there is an issue from each house, driveway and road being built and that there is potential for increased flow. He stated there are ways these matters are being addressed technically in the world of drainage which is the process in which they will follow. He was available to answer questions.

Chairman Ruffner asked if there were questions for Mr. Bloom.

Commissioner Lockwood referred to Exhibit H on page 237 of the packet. He asked is that was a huge drainage ditch. Mr. Bloom replied that all the drainages start out really heavy at the top and then fan out and turns into a one foot wide drainage. That is why there is the problem down below because there is no carrying capacity. They go from a ravine to basically an alluvial fan. He stated that is why Lake St has wider swale drainage because they know they are carrying this creek.

Commissioner Holsten asked if the houses that would be built would have covenants or criteria put on them. Mr. Bloom replied that one of the ways they have decided to address these sites is to make the terraces that the building pads are formed after. They will do the initial driveway formation and the initial pad formation then they will reseed each one. He stated that they will have rain gardens that will collect the drainage that is coming through each site. While that may not seem like much when it is frozen ground but the little bit of retention in the rain gardens can stop what they are trying to deal with, which is the two hour storm surge. They are trying to retain some of the water so that all of it is not just jumping straight into the ditch and running downhill. Mr. Bloom stated that in addition to that, the Storm Water Analysis has shown that they will have, similar the original plat, along some of these drainages some areas when the rise of the water happens that it fans out into some of the lower areas. He referred to the topography map where it shows that there is a lot of width between those dashed lines so there is a lot of room to work with as far as creating little areas that can rise and fall with the rise of the water. Mr. Bloom stated that was not necessarily going to change the effect of everything that is coming off of the bluff but he felt that this will address some of the volumes that they are proposing to add to the system in an effective way.

Commissioner Holsten stated that it sounds like that it is the old volume times the velocity. She asked if they were trying to slow the velocity down in these areas. Mr. Bloom replied that on the input side they are trying to slow down the volume which will reduce the velocity.

Commissioner Holsten asked what concerns he had that were the hardest to address in terms of getting this water slowed down and reducing the amount going into the drainage. Mr. Bloom replied that he approaches design in a way where he wants to show where he thought the building sites should be and how it works which

is why they decided to build it this way. It is because it addresses the concerns. He stated that no one knows what is being talked about when arms are waved around and things are said about what was going to be done. When something is actually shown how it works then people see and say that works great. It also people to look at things as they go along and say that this is working better than this idea or maybe if they change that idea and enhance that a little bit then it may turn out to be a better outcome. Mr. Bloom also stated that it goes to about what they described about the roadside ditch retention. He felt that ditch retention was not the way to go. No one has all the answers at this point but he was not trying to convince anyone to just have faith in him because he has it all figured out.

Mr. Bloom promised that both by his experience and the work that he has already done which the beauty of that is that he has examples of work like this that had more people hollering about it but has turned out really nice and everybody is satisfied with the outcome. At some level his experience leads him to believe that there is a way to do this responsibly. He has always said that if there is a reason to believe that a lot doesn't work or won't perform in a way they want it to in relation to these drainages then it will be dropped. Based on the analysis and site specific survey these lots all have viable context.

Commissioner Holsten asked if people would have to build on the pay they designate if she were to buy a lot in this subdivision. Mr. Bloom replied yes, that was right which is one of the limitations of his model. He found that people tend to move to the very north property line to get as high up the slope as they possibly can which moves them closer to being in front of their neighbor. It eliminates that and keeps the drainage from being pinched by doing the terraces.

Commissioner Tauriainen asked if all the lots were going to be developed for houses. Mr. Bloom replied that some lots will be developed as parks. The Borough doesn't have parks designation but the city was willing to take some of the lots as parks. Technically, he has to designate them as lots but they are technically park areas. Commissioner Tauriainen referred to the contour map and the other maps that showed a ravine going through there. He asked if those were the areas that were being considered parks. It appeared that those areas couldn't be built upon. Mr. Bloom replied that no one was planning on building in those areas. He would have to look at what he referred to, to make sure that he was responding accurately. Commissioner Tauriainen referred to the map on page 226 of the packet. There were probably three areas on this map that appeared to be very tight with the contour lines which makes him worried. He asked for clarification that those were the areas that they planned on not building. Mr. Bloom replied yes. Commissioner Tauriainen asked if that was clearly labeled in the plat plan. Mr. Bloom replied that he submitted three sheets so that they had every opportunity to have the information. He stated he could give a couple of design considerations that they took that were different than before.

Mr. Bloom described the different drainage areas of the property. The first drainage was coming from east to west with a depth of that particular area being about 9 or 10 feet and is probably 50 feet across. The second drainage is in the middle which are a couple of seasonal drainages. The third drainage was on the left that comes through and down northwest to a southeast type direction and has a flow that has a historical channel. Somehow the development that happened across the road sort of intersected that and dumped it out on this property and not a defined drainage. What they are trying to do is get that in a good channel, slow it down and put it to bed. He stated that they are not doing anything in the areas where there is heavy contours and steep gullies. There are areas in the original Corp permit that allowed them to fill certain areas defined in the permit that basically had to do with some small areas above cul-de-sac #3 and a little bit in between the two larger drainages. Basically their studies showed them that they were going to be either equal to or less than the amount of fill that was going to be affecting any of those smaller patches. Also there was some discussion on the Borough wetlands mapping. A jurisdictional determination was actually approved by the Corp of Engineers which is public record and has been submitted to the City of Homer.

Commissioner Tauriainen asked about the constructability of Lots 50, 51, 52, 53, 54, 68, 69, 70, 71 because they looked like they would have potential problems and issues. Mr. Bloom replied that there are some concerns but most of the flows are coming in at the northwest corner and just melting out and eventually flows into the drainage that goes to what is called Park D. He stated that most of Lot 68 was put in the drainage with the building site being in the southwest corner and the drainage is all protected from the north to the east. It is the same for Lot 67 which is why those lot sizes are so big. The same is for Lots 62 and 63. Those lots are

basically dealing with drainages. Mr. Bloom submitted in the submittal a handout that showed where the building sites were plotted.

Commissioner Tauriainen asked about the permeable and impermeable surfaces and the whole fanning out thing if there is less area for it to permeate and fan out to. He asked if this problem would potentially get worse or would the rain garden concept with rain gutters help this problem. Mr. Bloom replied that rain gutters will feed the water into the drainage collection areas of the rain gardens. Normally what happens is that at any particular site the water hits the roof and filters into the ditch and runs into the streets and runs down to the creek and off it goes. He stated that based on the City, who is one of the biggest proponents of using rain gardens, which is a good place to start in terms of impeding this excess flow during a storm event. The problem isn't that they are going to put a little extra water in the creek on a normal, everyday occurrence but the problem is the storm events where the flush of water from up above is already way bigger than everything can handle and no one knows what to do about it. They don't want to add a bunch more flush at the same time so they are really trying to impede that. It made sense to them to look at each lot as an entity that has a construction that allows them to understand how that would actually happen. Mr. Bloom stated that is why they want to do it first, then they see over it and it can rest there until someone wants to build on it. He commented that it would be in a stabilized seeded fashion so that there is no actual issue until the hard surfacing happens.

Chairman Ruffner expressed concern with the runoff but appreciated the explanations. He asked about the pole portion of the flag lots. Some of them are quite long but he was trying to interpret how those might lay on the landscaped using the LIDAR based topography. The longest ones look like they run parallel to contour so they don't look like they would be a bit deal. He asked if Mr. Bloom had any concerns about the constructability. Mr. Bloom replied that they originally were approaching this in what they affectionately called the shared driveway approach which they mediated in relation to the concerns that staff had. One of the things that is important to know is that every time a street is put in they are putting in a 90 foot corridor of clearing and reshaping. He stated that driveways have 18-20 foot surface. They are caught between two elements so they are trying to negotiate that. For example, the CD#1 at the very east end tucks up in there with about a 6-7% grade. The contours over to Lots 12 and 13 are generally flat except at the very end going into Lot 13. It is an example of them trying to make the best out of a difficult site due to the fact that there are side slope and don't want excessive roads everywhere. The point was that it was an important factor to minimize those. Mr. Bloom stated that the other two long flag lots are in a very interesting area with lots 60 and 61 being on a big prominent knoll. He looked hard at all that and tried to prove that it wasn't viable but found out that it was workable with beautiful land on Lots 61 and 62. They moved those flag lots to better fit the topography which was a recommendation from staff.

Commissioner Tauriainen asked if the lots would have shared driveways. Mr. Bloom replied they went away and were no longer being proposed for shared driveways. Commissioner Tauriainen asked if Lots 62 and 63 would have their own driveways. Mr. Bloom replied that the way they have designed the subdivision is that they are capable of having their own driveway. Commissioner Tauriainen asked if they may or may not have separate driveways. Mr. Bloom asked if he was asking if they have the right to share a driveway. Commissioner Tauriainen replied yes. Mr. Bloom replied that it would make sense. When they do the original terracing then it will be one driveway. Commissioner Tauriainen stated that it made sense to have one driveway and split off to each individual house. Mr. Bloom stated that they are meeting that standard but were going to approach it with a single driveway as far the roughing out and reseeding aspect. He stated they have had some really great luck with shared driveways. Staff had some really good concerns of making sure they were organized with the correct language in the easements. Those things have been sorted out over time.

Chairman Ruffner asked how the LIDAR information was for him in matching the information out in the field. Mr. Bloom replied that it was plus or minus four feet. Chairman Ruffner understood that it was within four feet. Mr. Bloom stated it was good enough for an approximation for preliminary design. If they lived in a three dimensional world then it would be within one foot. He stated that with what he did he found it to be within one foot of quality.

There being no further comments or questions, the public hearing continued.

Seeing and hearing no one else wishing to speak, Chairman Ruffner closed the public comment period and opened discussion among the Commission.

Chairman Ruffner called a meeting recess at 7:05 p.m. Chairman Ruffner reconvened the meeting at 7:13 p.m.

MAIN MOTION: Commissioner Tauriainen moved, seconded by Commissioner Holsten to grant approval of the Barnett's South Slope Subdivision Quiet Creek Park revised preliminary plat subject to staff recommendations and findings.

AMENDMENT A MOTION: Commissioner Tauriainen moved, seconded by Commissioner Holsten to grant exception to KPB 20.20.030, extending right-of-way to Lot 8 AA Mattox Subdivision 1958 Addition; citing the 20 findings and tying them to the three facts in the following manner.

Fact 1. That special circumstances or conditions affecting the property have been shown by application.

Findings

1. Lot 8 AA Mattox Subdivision 1958 Addition is land locked.
2. Lot 8 AA Mattox Subdivision 1958 Addition was created in 1958, prior to formation of KPB.
3. Lot 8 AA Mattox Subdivision 1958 Addition contains 1 acre.
4. Lot 8 AA Mattox Subdivision 1958 Addition could be further subdivided if it is served by city water and/or sewer.
5. Based on its size, the number of new lots that can be created by further subdivided Lot 8 AA Mattox Subdivision 1958 Addition is limited.
6. The subdivision is within the City of Homer.
7. Development within the subdivision is subject to the Corps of Engineers permit and requirements of the zoning district.
8. A 60-foot public access to easement to Lot 8 AA Mattox Subdivision 1958 Addition would satisfy the access requirement for fire department access.
9. Sufficient rights-of-way do not exist to serve the surrounding properties.
10. The subdivision is affected by creeks, drainages, and low wet areas that have been shown and labeled.
11. Two-foot contours have been provided.
12. Wet and steep terrain limits the locations that are feasible for road construction.
13. Homer Advisory Planning Commission did not recommend a 60-foot dedicated right-of-way be extended to Lot 8 AA Mattox Subdivision 1958 Addition.
14. A conditional agreement for a 30-foot wide ingress/egress easement for a driveway and utilities crossing Lots 53 and 54 shown on Exhibit B was signed by the subdivider and Michael Ronda in 2006.
15. One condition of the easement agreement was recordation of the plat that would create Lots 53 and 54 over which the ingress/egress easement was granted within five years of 2006.
16. The plat that should have created Lots 53 and 54 was not recorded.
17. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is willing to accept 30-foot wide shared utility and access/trail easement in lieu of a 60-foot fee right-of-way.
18. An existing trail is between the subject property and Lot 8 AA Mattox Subdivision 1958 Addition.
19. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working on a new easement agreement.
20. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working with the City of Homer Public Works Department to ensure a 30-foot wide access easement is acceptable.

Fact 2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title.

Findings

1. Lot 8 AA Mattox Subdivision 1958 Addition is land locked.
2. Lot 8 AA Mattox Subdivision 1958 Addition was created in 1958, prior to formation of KPB.
3. Lot 8 AA Mattox Subdivision 1958 Addition contains 1 acre.

4. Lot 8 AA Mattox Subdivision 1958 Addition could be further subdivided if it is served by city water and/or sewer.
5. Based on its size, the number of new lots that can be created by further subdivided Lot 8 AA Mattox Subdivision 1958 Addition is limited.
6. The subdivision is within the City of Homer.
7. Development within the subdivision is subject to the Corps of Engineers permit and requirements of the zoning district.
8. A 60-foot public access to easement to Lot 8 AA Mattox Subdivision 1958 Addition would satisfy the access requirement for fire department access.
9. Sufficient rights-of-way do not exist to serve the surrounding properties.
10. The subdivision is affected by creeks, drainages, and low wet areas that have been shown and labeled.
11. Two-foot contours have been provided.
12. Wet and steep terrain limit the locations that are feasible for road construction.
13. Homer Advisory Planning Commission did not recommend a 60-foot dedicated right-of-way be extended to Lot 8 AA Mattox Subdivision 1958 Addition.
14. A conditional agreement for a 30-foot wide ingress/egress easement for a driveway and utilities crossing Lots 53 and 54 shown on Exhibit B was signed by the subdivider and Michael Ronda in 2006.
15. One condition of the easement agreement was recordation of the plat that would create Lots 53 and 54 over which the ingress/egress easement was granted within five years of 2006.
16. The plat that should have created Lots 53 and 54 was not recorded.
17. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is willing to accept 30-foot wide shared utility and access/trail easement in lieu of a 60-foot fee right-of-way.
18. An existing trail is between the subject property and Lot 8 AA Mattox Subdivision 1958 Addition.
19. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working on a new easement agreement.
20. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working with the City of Homer Public Works Department to ensure a 30-foot wide access easement is acceptable.

Fact 3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

Findings

5. Based on its size, the number of new lots that can be created by further subdivided Lot 8 AA Mattox Subdivision 1958 Addition is limited.
6. The subdivision is within the City of Homer.
7. Development within the subdivision is subject to the Corps of Engineers permit and requirements of the zoning district.
8. A 60-foot public access to easement to Lot 8 AA Mattox Subdivision 1958 Addition would satisfy the access requirement for fire department access.
13. Homer Advisory Planning Commission did not recommend a 60-foot dedicated right-of-way be extended to Lot 8 AA Mattox Subdivision 1958 Addition.
16. The plat that should have created Lots 53 and 54 was not recorded.
17. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is willing to accept 30-foot wide shared utility and access/trail easement in lieu of a 60-foot fee right-of-way.
18. An existing trail is between the subject property and Lot 8 AA Mattox Subdivision 1958 Addition.
19. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working on a new easement agreement.
20. The owner of Lot 8 AA Mattox Subdivision 1958 Addition is working with the City of Homer Public Works Department to ensure a 30-foot wide access easement is acceptable.

AMENDMENT A VOTE: The motion passed by unanimous consent.

CARLUCCIO ABSENT	GROSS ABSENT	HOLSTEN YES	ISHAM YES	LOCKWOOD YES	RUFFNER YES	TAURIAINEN YES	5 YES 2 ABSENT
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AMENDMENT B: The Plat Committee concurred that the exception request to KPB 20.20.090, Length of Cul-

de-sac, CDS #2 was not required since it was not exceeding the maximum length of the cul-de-sac.

Commissioner Tauriainen asked for clarification if exception to KPB 20.20.120 was needed. Mr. Voeller replied that he emailed the City of Homer Public Works Engineer to get his comments regarding the design of the radius. He did not receive any response so an exception to that code is required.

AMENDMENT C MOTION: Commissioner Tauriainen moved, seconded by Commissioner Holsten to grant exception to KPB 20.20.120, Radius of Curve 11; citing the 10 findings and tying them to the three facts in the following manner.

Fact 1. That special circumstances or conditions affecting the property have been shown by application.

Findings

1. The radius is located at the intersection and is perpendicular with Nelson Avenue.
2. The area adjoining Curve 11 is not affected by a drainage, low wet area, or slopes greater than 20 percent per the submittal.
3. Lot 30 (west of Curve 11) contains 23,101 square feet.
4. Lot 22 (east of Curve 11) contains 19,781 square feet.
5. Curve 11 is at the intersection of the southern cul-de-sac.
6. Through traffic will not be possible on the cul-de-sac so vehicular travel will not be as busy as Nelson Avenue.
7. The plat is within the City of Homer.
8. Roads within the plat will be developed per Homer City Code requirements.
9. Homer Advisory Planning Commission approved the plat on January 2, 2014 with no request for additional right-of-way or slope easement adjoining Curve 11.

Fact 2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title.

Findings

1. The radius is located at the intersection and is perpendicular with Nelson Avenue.
2. The area adjoining Curve 11 is not affected by a drainage, low wet area, or slopes greater than 20 percent per the submittal.
3. Lot 30 (west of Curve 11) contains 23,101 square feet.
4. Lot 22 (east of Curve 11) contains 19,781 square feet.
5. Curve 11 is at the intersection of the southern cul-de-sac.
6. Through traffic will not be possible on the cul-de-sac so vehicular travel will not be as busy as Nelson Avenue.
7. The plat is within the City of Homer.
8. Roads within the plat will be developed per Homer City Code requirements.
9. Homer Advisory Planning Commission approved the plat on January 2, 2014 with no request for additional right-of-way or slope easement adjoining Curve 11.

Fact 3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

Findings

1. The radius is located at the intersection and is perpendicular with Nelson Avenue.
6. Through traffic will not be possible on the cul-de-sac so vehicular travel will not be as busy as Nelson Avenue.
7. The plat is within the City of Homer.
8. Roads within the plat will be developed per Homer City Code requirements.
9. Homer Advisory Planning Commission approved the plat on January 2, 2014 with no request for additional right-of-way or slope easement adjoining Curve 11.

Commissioner Tauriainen understood that the exception was required just in case they needed it. Mr. Voeller

replied yes, they would need the exception request as it is being proposed to be designed now.

AMENDMENT C VOTE: The motion passed by unanimous consent.

CARLUCCIO ABSENT	GROSS ABSENT	HOLSTEN YES	ISHAM YES	LOCKWOOD YES	RUFFNER YES	TAURIAINEN YES	5 YES 2 ABSENT
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Commissioner Isham mentioned to the people in the audience that this is the very first part of the process. They can bring their questions again when it comes up for final plat approval since it could change from now until then. He thanked everyone for coming and voicing their concerns.

Commissioner Tauriainen asked for staff comments regarding the flag lots and the shared driveway concept. He asked staff if they felt that the plan adequately addresses access to the lots without issues of the drainages. Mr. Voeller replied that they requested that constructability be demonstrated for all the flag lots both as to gradient and side slope for widths. If they needed extra easements for drainages and side slopes or ditches then they needed to be provided. It is a condition of approval that those flag lots will indeed work and allow for emergency vehicle ingress / egress.

Commissioner Tauriainen asked if they would be updated on the final plat if they needed to be changed. Mr. Voeller replied that was something that could be modified with their design and shown on the final plat. He thought it wouldn't need to be revisited if they demonstrated that they could be constructed to decent gradient and width.

Chairman Ruffner stated that Mr. Gavenus cited Borough Code and pointed out some questions. The Code is not super clear on how they would measure the width perpendicular to the right of way. He asked staff to address the 100 foot width. Mr. Voeller replied that the building setback is now a function of the City of Homer zoning. All the building setbacks are determined by City zoning however it is not an issue with the streets here. He stated that Lot 2 where it was approached from Nelson Ave on the north was the critical lot with meeting the 100 foot depth. It appeared that it was four feet shy but looking at entering the subdivision and through the radius then they got well over 100 feet which is developable. Mr. Gavenus just showed him the problems that are on the northern reaches of this but thought the surveyor could adjust any of those dimensions and come up with 100 foot depth for all of those lots. The critical lot would be Lot 2 which was a little bit narrow.

Chairman Ruffner stated that the motion was subject to staff recommendations. He asked if it was staff's recommendation to make sure that those lots comply with that 100 foot width. Mr. Voeller showed the plat and explained that the lots are well over 100 feet in depth. Chairman Ruffner asked if he thought that all the lots met the 100 foot width requirement. Mr. Voeller replied yes, as far as with developable ability and use. Chairman Ruffner asked if that included the northern lots. Mr. Voeller replied that the one northern lot was 7 square feet shy of 10,000 so he wasn't sure if the surrounding area could be. The frontage off Shellfish Ave was 92 feet on the east however felt the surveyor could work that out. He felt the 100 foot requirement was met and believed that the surveyor could do that on the northern lots with final design for the upper lots. Chairman Ruffner asked if that was something staff would like them to add as a specific recommendation. Mr. Voeller replied no, he felt it was covered well enough.

Mr. Voeller clarified that normally a final plat was not brought back to the Plat Committee unless it was asked for it to be brought back for review. Commissioner Tauriainen asked if they could make a recommendation that the final plat be brought back to the Plat Committee for review. Mr. Voeller replied yes.

Chairman Ruffner asked if the 30 foot easement to the landlocked parcel would be a public easement. Mr. Voeller replied yes, that was correct. Chairman Ruffner asked if the jurisdiction for the 30 feet easement would fall under the jurisdiction of the City of Homer. Mr. Voeller thought it was the City of Homer. Chairman Ruffner thought that too because they maintain the other streets within their jurisdiction. Mr. Voeller stated that the public easement would end at that lot and if the owner of that landlocked parcel wished to subdivide then he would have to have a public easement to his lot and extend one into it. Chairman Ruffner recommended that there be communication and clarifications with the City regarding the details of the public

easement.

AMENDMENT D MOTION: Commissioner Tauriainen moved, seconded by Commissioner Isham to bring the final plat back to the Plat Committee for final review.

Commissioner Lockwood asked if it would be brought forward to the Planning Commission. Chairman Ruffner stated that it would. Commissioner Tauriainen asked for clarification from staff regarding the plat being brought back. Ms. Sweppy clarified that if the Plat Committee requested that the final plat be brought back to them then it would be brought back to the Plat Committee. The Planning Commission would not review the final plat. Commissioner Tauriainen asked if it would be brought back to the Plat Committee without the motion to bring it back. Ms. Sweppy replied that the final plat would be reviewed by staff unless the design was substantially different from the one that the Plat Committee approved. A couple of examples of major changes would be in the number of lots or the road design which would automatically trigger a new review by the Plat Committee. Commissioner Tauriainen understood that if there were no major changes then staff would review it and it would not come back to either the Plat Committee or the Planning Commission. Ms. Sweppy replied yes, that was correct.

Commissioner Tauriainen asked to ask a question of Mr. Bloom. He asked if the pads and terracing as well as the drainage plan that he spoke about were noted on a map that was submitted for review. Mr. Bloom replied that was an element that would be designed when the roads were designed which would need to be ironed out with the City. After that then they could match the driveway grades off of that, match the driveway grades and then match the pad elevations after that. Commissioner Tauriainen asked if that would be before or after the final plat. Mr. Bloom replied that it would be before. Commissioner Tauriainen asked if they would be able to see that. Mr. Bloom replied that they would be able to see the articulation of the site. Commissioner Tauriainen stated that he would be interested in seeing that because of all the drainage concerns. He asked if the surveyor supported providing that. Mr. Bloom replied yes, but this subdivision will be done as a phased approach. He stated that each phase would be brought back to the Plat Committee for approval. Commissioner Tauriainen asked if it would be a hardship for the surveyor to bring the final plat back to the committee for review. Mr. Bloom replied no, he may time it for a time when the committee comes to Homer for a meeting. It is always a pleasure to drive up to Soldotna.

Commissioner Isham asked if they had control of when this would come back to the committee. Mr. Voeller replied that the committee meets in Homer once a year. Chairman Ruffner asked how long preliminary approval was granted for. Mr. Voeller replied that this plat falls under the old Code requirements so it would be granting a one year approval with extensions as applied for.

Commissioner Tauriainen stated he supported the motion because of the concerns of the drainage issues. It appears that the surveyor and owner want to address the concerns properly as well as the concerns brought up by the public. He thought it would be appropriate to give it a little more time in the public view.

AMENDMENT D VOTE: The motion passed by unanimous consent.

CARLUCCIO ABSENT	GROSS ABSENT	HOLSTEN YES	ISHAM YES	LOCKWOOD YES	RUFFNER YES	TAURIAINEN YES	5 YES 2 ABSENT
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Commissioner Tauriainen asked if staff requires a submittal for a rain terracing concept. Mr. Voeller replied no. Commissioner Tauriainen asked if that was something that should be added to that motion. Chairman Ruffner thought that they were starting to ask for an installation agreement or the development plan where they see all the parts and pieces but the Borough does not have any jurisdiction over that since it is in the City. Mr. Voeller stated that it would be nice to see that plan and see what they have in mind but thought they couldn't weigh very hard in it.

Chairman Ruffner asked the surveyor or owner to address what they would like to see come back before them.

Mr. Bloom understood that the committee would like to see a final Storm Water Drainage Plan so that they can

make an evaluation as to whether what they are saying is happening now has really happened which would help them feel better about this process. Commissioner Tauriainen stated that it would be nice to see that even if it was something that they didn't have the power to make a decision on. It would be up to the surveyor to provide that in good faith. Mr. Bloom replied that he would be willing to do that. The best possible way is to be transparent and show everything they are doing. Commissioner Tauriainen stated that he was interested in seeing the information. Mr. Bloom stated that he didn't expect everything to be understood but thought it would be looked at more as a work session going over the information.

Commissioner Holsten thought it would good education for her in a work session format. Mr. Bloom stated that he would do his best in providing really elegant graphics so that the committee could look at it in a 3 dimensionally way so that they could see it that way.

Chairman Ruffner clarified that staff has a recommendation that the City of Homer provide written verification of accepting jurisdiction of the subject public easement.

There being no further comments or questions, Chairman Ruffner called for a roll call vote.

MAIN MOTION VOTE: The motion passed by unanimous consent

CARLUCCIO ABSENT	GROSS ABSENT	HOLSTEN YES	ISHAM YES	LOCKWOOD YES	RUFFNER YES	TAURIAINEN YES	5 YES 2 ABSENT
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AGENDA ITEM F. FINAL PLAT PUBLIC HEARINGS - None

AGENDA ITEM G. OTHER / NEW BUSINESS

AGENDA ITEM H. MISCELLANEOUS INFORMATION -- NO ACTION REQUIRED

AGENDA ITEM I. ADJOURNMENT

MOTION: Commissioner Tauriainen moved, seconded by Commissioner Holsten to adjourn. Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

The meeting adjourned at 7:41 p.m.

Patti Hartley



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

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**MIKE NAVARRE
BOROUGH MAYOR**

March 11, 2014

NOTICE OF DECISION KENAI PENINSULA BOROUGH PLAT COMMITTEE

MEETING OF MARCH 10, 2014

RE: Mattox Subdivision 2014 Preliminary Plat

The Plat Committee reviewed and granted conditional approval of the subject preliminary plat during their regularly scheduled meeting of March 10, 2014 based on the findings that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.25; 20.30 and 20.40.

Please contact the Planning Department if you need additional information.

This notice and unapproved minutes of the subject portion of the meeting were sent March 11, 2014 to:

City of: City of Homer
491 East Pioneer Avenue
Homer, AK 99603

Advisory Planning Commission/Community Council:
Homer Advisory Planning Commission
491 East Pioneer Avenue
Homer, AK 99603

Survey Firm: Ability Surveys
152 Dehel Ave
Homer, AK 99603

Subdivider/Petitioner: Kenai Peninsula Housing Initiatives, Inc.
3751 Sterling Hwy
Homer, AK 99603

Interested Parties: Virginia Tornes
PO Box 2497
Homer, AK 99603

KPB File Number: 2014-25

CARLUCCIO ABSENT	GROSS ABSENT	HOLSTEN YES	ISHAM YES	LOCKWOOD YES	RUFFNER YES	TAURIAINEN YES	5 YES 2 ABSENT
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AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

2. **Mattox Subdivision 2014**
 KPB File 2014-25
 Ability/Kenai Peninsula Housing Initiatives, Inc.

Staff Report given by Patti Hartley

Plat Committee Meeting: 3/10/14

Location: City of Homer
 Proposed Use: apartment buildings
 Water/Sewer: city
 Zoning: residential office
 Assessing Use: general commercial, commercial apartment
 Parent Parcel Number(s): 179-061-01, 179-061-04

Supporting Information:

The proposed subdivision reconfigures an interior lot line to allow for a better location of a structure. City water and sewer serve the subdivision. The plat fronts Mattox Road. Lot 18-A1 also fronts paved State maintained East End Road.

Homer Advisory Planning Commission approved the preliminary plat on January 15, 2014 subject to:

1. Show existing water line along East End Road.
Borough staff comments: The plat submitted for KPB review showed the water line as requested.
2. Provide a 20 foot property line radius curb return at the intersection of East End Road and Mattox Street [HCC 11.04.090].
Borough staff comments: The radius return was dedicated on the plat provided for KPB review.
3. Provide a 15-foot utility easement along the northern property line.
Borough staff comments: The plat submitted for KPB review granted the requested utility easement.
4. Provide a 10-foot wide drainage easement on each side of the creek (20 feet total).
Borough staff comments: The plat submitted for KPB review provided the requested easement.
5. Show the proposed 15-foot wide driveway easement along the northern portion of Lot 10-A-1, as suggested.
Borough staff comments. The submittal does not have Lot 10-A-1; it appears the reference should be 19-A1. The plat submitted for KPB review grants the requested easement.

Per the Certificate to Plat, multiple deeds of trust held by one beneficial interest holder affect this property. They were notified and given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

Physical addresses may be affected by the replat. Homer Planning and Zoning Department can answer questions about the effect of the replat on addresses.

STAFF RECOMMENDATION: Grant approval of the preliminary plat subject to any above recommendations, and the following conditions and findings:

REVISE OR ADD TO THE PRELIMINARY PLAT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AS FOLLOWS:

20.25.070 - Form and contents required.

Platting staff comments: The plat complies with the following portions of 20.25.070: B, E-H, J, K, and M.

Platting staff comments: The following portions of 20.25.070 are not applicable to the subject plat: I, L, N, and O.

Platting staff comments: Additional information is provided for the following portions of 20.25.070 or additional information, revision or corrections are required

A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
2. Legal description, location, date, and total area in acres of the proposed subdivision; and
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor;

Platting Staff Comments: Staff recommends:

- *The parent plat's name be corrected: Mattox Subdivision Birch Terrace Replat Amended, HM 2006-42.*
- *Verify the owner's address; KPB records show 3751 Sterling Highway.*

C. The location, width and name of existing or platted streets and public ways, railroad rights-of-way, and other important features such as section lines or political subdivisions or municipal corporation boundaries abutting the subdivision;

Platting Staff Comments: Staff recommends:

- *Correct the suffix for Mattox Road.*
- *Label the width of East End Road.*

D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries, and prominent natural and manmade features, such as shorelines or streams;

Platting Staff Comments: Staff recommends East Road be corrected to East End Road.

20.25.080. Petition required. A petition shall be submitted with each subdivision, abbreviated subdivision and plat waiver subdivision and shall include:

Platting staff comments: *The submittal complies with 20.25.080 (A-F).*

KPB 20.30 Design Requirements

Platting staff comments: The plat complies with the following portions of 20.30: 20.30.050, 20.30.090, 20.30.120, 20.30.150, 20.30.170, 20.30.190, 20.30.200, 20.30.210, 20.30.220, and 20.30.250.

Platting staff comments: The following portions of 20.30 are not applicable to the subject plat: 20.30.020, 20.30.040, 20.30.100, 20.30.110, 20.30.140, 20.30.240, and 20.30.260.

Platting staff comments: Additional information is provided for the following portions of 20.30 or additional information, revision or corrections are required

20.30.030. Proposed street layout-Requirements.

Platting Staff Comments: Notice of the proposed plat was mailed to DOT as part of the routine agency notification process.

Staff recommends the following note be placed on the plat: No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation.

20.30.060. Easements-Requirements.

Platting Staff Comments: Staff recommends compliance with 20.30.060.

20.30.070. Lots on major streets-Access requirements.

Platting Staff Comments: Based on the physical addresses assigned, driveway access for both lots is off Mattox Road. Any driveways off East End Road need to be approved in advance by the State Department of Transportation.

20.30.080. Alleys. Alleys are prohibited unless allowed by city ordinance.

Platting Staff Comments: Homer Advisory Planning Commission did not request alleys.

20.30.130. Streets-Curve requirements.

Platting Staff Comments: The plat is dedicating 20-foot radius curve per Homer Advisory Planning Commission's recommendation.

20.30.160. Streets-Name requirements. Streets shall be named to conform to KPB Chapter 14.10

Platting Staff Comments: The dedication will assume the existing street name.

20.30.180. Pedestrian ways required when.

Platting Staff Comments: Homer Advisory Planning Commission did not request pedestrian ways. HM 2008-9 granted a 10-foot pedestrian easement along the southern boundary of Lot 19-A1.

20.30.230. Lots-Double frontage prohibited when.

Platting Staff Comments: Lot 18-A1 is less than 250 feet deep. The double frontage is acceptable since it is a corner lot.

20.30.270. Different standards in cities.

Platting Staff Comments: Homer Advisory Planning Commission did not request application of different standards.

20.30.280. Floodplain requirements.

Platting Staff Comments: The City of Homer administers a floodplain program through HCC 21.41 Flood Prone Areas. Per the Homer City staff report, the plat is within Zone D, flood hazards undetermined.

Per KPB GIS mapping, the subdivision is not affected by the Anadromous Waters Habitat Protection District.

Per KPB GIS mapping and the river center review, no anadromous streams flow through the subdivision.

KPB 20.40 -- Wastewater Disposal

Platting Staff Comments: A soils report is not required. Staff recommends the wastewater disposal note per KPB 20.40.070 be placed on the final plat.

Additional requirements for administrative approval of the final plat (KPB 20.60)

Platting staff comments: The plat complies with the following portions of 20.60: 20.60.130, and 20.60.140.

Platting staff comments: The following portions of 20.60 are not applicable to the subject plat: 20.60.040, 20.60.050, 20.60.060, 20.60.090, and 20.60.100.

Platting staff comments: Additional information is provided for the following portions of 20.60 or additional information, revision or corrections are required

20.60.010. Preparation requirements generally.

Platting Staff Comments: **Staff recommends** compliance with 20.60.010, remove the water and sewer lines for clarity on the final plat.

20.60.020. Filing-Form and number of copies required. The subdivider shall file a standard number of prints as determined by the planning director. All prints shall be folded as required by KPB 20.25.030 except those to be recorded with the

Platting Staff Comments: **Staff recommends** compliance with 20.60.020.

20.60.030. Certificate of borough finance department required.

Platting Staff Comments: **Staff recommends** compliance with 20.60.030.

20.60.070. Plat specifications. The final subdivision plat shall be clearly and legibly drawn to scale on good quality polyester film at least 3 mm in thickness. All lines, letters, figures, certifications, acknowledgements and signatures shall be clear and legible. The plat shall be so made, and shall be in such condition when filed, that legible prints and negatives can be made therefrom. Sheets shall be one of these sizes: 8 1/2" x 14"; 11" x 17"; 18" x 24"; and 24" or 30" x 36". When more than one sheet is required, an index map shall be provided on the first sheet showing the entire subdivision and indicating the portion contained on each sheet. Each sheet shall show the total number (e.g. sheet 1 of 3). When more than one sheet is submitted, all sheets shall be the same size. Indelible ink or sealant shall be used to insure permanency.

Platting Staff Comments: **Staff recommends** compliance with 20.60.070.

20.60.080. Improvements-Installation agreement required.

Platting Staff Comments: **Staff recommends** compliance with 20.60.080.

20.60.110. Dimensional data required.

Platting Staff Comments: **Staff recommends** the complete boundary distance be shown for all boundary lines.

20.60.120. Accuracy of measurements.

Platting Staff Comments: KPB GIS will verify the plat closes per 20.60.120. **Staff recommends** compliance with 20.60.120.

20.60.150. Utility easements.

Platting Staff Comments: **Staff recommends** compliance with 20.60.150.

20.60.160. Easements.

A. The plat shall clearly show the location, width, and use of all easements. The easements must be clearly labeled and identified and, if already of record, the recorded reference given. If public easements are being granted by the plat, they shall be properly set out in the owner's certification of dedication.

1. Special purpose easements being granted by the plat shall be clearly defined for allowed use. Special purpose easements may require a signed acceptance statement on the plat.

B. Private easements may not be granted on the plat.

Platting Staff Comments: **Staff recommends** all easements be shown and labeled.

20.60.170. Other data required by law.

Platting Staff Comments: Per the Certificate to Plat, the subdivision is affected by private restrictive covenants. **Staff recommends** a note be placed on the final plat for the covenants including the recording information.

The borough will not enforce private covenants, easements, or deed restrictions per KPB 21.44.080.

20.60.180. Plat notes. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

Platting Staff Comments: Additional plat notes may be required based on easements/covenants in the final Certificate to Plat.

Staff recommends the spelling of measured be corrected in Plat Note 7.

20.60.190. Certificates, statements, and signatures required.

Platting Staff Comments: Staff recommends compliance with 20.60.190.

A corporation owns the property. Staff recommends the plat be signed and acknowledged by an individual(s) under written authority granted by its board of directors or shown by official documentation appropriate to the entity. Staff recommends documentation of such authority, like a corporate resolution, be submitted with the final plat.

Per the Certificate to Plat, title has been vested in two variations of the corporation's name. Staff recommends an aka (also known as) be provided on the final plat.

This platting action was reviewed under KPB 20.30. Staff recommends reference to 20.04.070 (previous abbreviated plat process) be removed.

The plat is granting a drainage easement and a small section of right-of-way. Staff recommends compliance with 20.60.190. Staff recommends a certificate of acceptance for the City of Homer and signature line for the city official signatory be provided on the final plat.

The new code revised the Notary's Acknowledgement so it is actually an acknowledgement instead of a mixture of an acknowledgement and a jurat:

Notary's Acknowledgement

*For: _____
Acknowledged before me this ___ day of _____, 20__.*

(Notary seal affixed)

Notary Public for Alaska

My commission expires: _____

20.60.200. Survey and monumentation.

Platting Staff Comments: Staff recommends compliance with 20.60.200:

- 1. Include a symbol for monument found at centerline of East End Road;*
- 2. Combine notes for NW corner Lot 18-A1 monumentation as duplication exists. A drawing detail may make this note unnecessary;*
- 3. Reference Note 7 on the west boundary; and*
- 4. Note the source(s) of all record measurements. A LEGEND symbol may help to eliminate repetitive notes on the face of the plat. An expanded LEGEND may also help with overall clarity with the numerous symbols and calls on this drawing.*

20.60.210. Approval-Authority-Certificate issued when.

Platting Staff Comments: If the Plat Committee conditionally approves the preliminary plat, staff recommends compliance with 20.60.210.

20.60.220. Administrative approval.

Platting Staff Comments: If the Plat Committee conditionally approves the preliminary plat and the final plat conforms to the conditions, staff will issue an administrative approval with notice to the Planning Commission as set forth in 20.60.220.

The planning director may refer the final plat to the planning commission when:

1. Major redesign was a condition of preliminary approval by the planning commission or the advisory planning commission of the city in which the subdivision is located;
2. Final approval by the commission was a condition of preliminary approval; or
3. The planning director determines there are other conditions to support referral to the commission.

KPB 20.70 – Vacation of Right-of-way

Platting Staff comments: 20.70 is not applicable to the proposed plat.

NOTE: REVIEW OF A DECISION OF THE PLAT COMMITTEE MAY BE HEARD BY THE PLANNING COMMISSION ACTING AS PLATTING BOARD BY FILING WRITTEN NOTICE THEREOF WITH THE BOROUGH PLANNING DIRECTOR ON A FORM PROVIDED BY THE BOROUGH PLANNING DEPARTMENT. THE REQUEST FOR REVIEW SHALL BE FILED WITHIN 10 DAYS AFTER NOTIFICATION OF THE DECISION OF THE PLAT COMMITTEE BY PERSONAL SERVICE OR SERVICE BY MAIL.

A REQUEST FOR REVIEW MAY BE FILED BY ANY PERSON OR AGENCY THAT PARTICIPATED AT THE PLAT COMMITTEE HEARING EITHER BY WRITTEN OR ORAL PRESENTATION. THE REQUEST MUST HAVE AN ORIGINAL SIGNATURE; FILING ELECTRONICALLY OR BY FACSIMILE IS PROHIBITED. THE REQUEST FOR REVIEW MUST BRIEFLY STATE THE REASON FOR THE REVIEW REQUEST AND APPLICABLE PROVISIONS OF BOROUGH CODE OR OTHER LAW UPON WHICH THE REQUEST FOR REVIEW IS BASED.

NOTICE OF THE REVIEW HEARING WILL BE ISSUED BY STAFF TO THE ORIGINAL RECIPIENTS OF THE PLAT COMMITTEE PUBLIC HEARING NOTICE. CASES REVIEWED SHALL BE HEARD DE NOVO BY THE PLANNING COMMISSION ACTING AS THE PLATTING BOARD (KPB 2.40.080).

END OF STAFF REPORT

Chairman Ruffner opened the meeting for public comment. Seeing and hearing no one wishing to speak, Chairman Ruffner closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Holsten moved, seconded by Commissioner Lockwood to grant approval of the replat of the proposed subdivision configuring 3 lots into 1 subject to staff recommendations and findings.

Commissioner Holsten asked if Enstar would get their easement as requested in their comment letter. Mr. Voeller replied yes, Enstar would receive a 10 foot wide gas easement as requested with plat approval subject to staff recommendations.

VOTE: The motion passed by unanimous consent

CARLUCCIO ABSENT	GROSS ABSENT	HOLSTEN YES	ISHAM YES	LOCKWOOD YES	RUFFNER YES	TAURIAINEN YES	5 YES 2 ABSENT
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AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

3. Eagles Nest Sub 2014 Replat
KPB File 2014-26; Johnson/Estate of Trudy Webb

Staff Report given by Patti Hartley

Plat Committee Meeting: 3/10/14

Location: On Webb Ramsell Road in Cohoe Area
 Proposed Use: Residential
 Water/Sewer: On-site
 Zoning: Unrestricted