



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

Memorandum

TO: Homer Advisory Planning Commission

THROUGH: Rick Abboud, AICP, City Planner

DATE: December 1, 2021

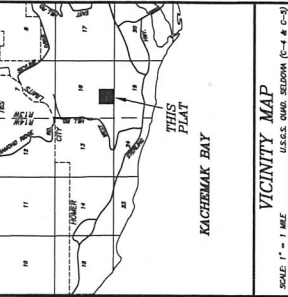
SUBJECT: Supplemental packet No 2

The following comments have been received:

Document List

1. 12/1/21 Terra Bella Laydown (includes depiction of drainage and plat note on the easement)
2. Karen and William Wuestenfeld comments 11/30/21
3. Vicky Gordon comments on Terra Bella 12/1/21
4. Frank Griswold comments 12/1/21 on CUP 21-08
5. City Planner Abboud responses to Mr. Griswold

12/11/21 laydown



THIS PLAT
KACHEMAK BAY
VICINITY MAP
SCALE 1" = 1 MILE
UTMS COORD SYSTEM (NAD 83)

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CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT TERRA BELLA PROPERTIES, LLC IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED IN THE ATTACHED PLAT. I HEREBY ADOPT THIS PLAT OF THE REAL PROPERTY SHOWN AND DESCRIBED IN THE ATTACHED PLAT FOR THE PURPOSES OF DEDICATING ALL RIGHTS OF WAY AND PUBLIC UTILITIES AND GRANTING ALL EASEMENTS TO THE USE SHOWN HEREON.

TERRA BELLA PROPERTIES, LLC
JOSEPH COLUMBUS, MANAGER
ANCHORAGE, ALASKA 99501

NOTARY'S ACKNOWLEDGMENT

FOR JOSEPH COLUMBUS
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2021.

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES _____

CERTIFICATE OF ACCEPTANCE

THE UNDERSIGNED OFFICIAL, IDENTIFIED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPTS ON BEHALF OF THE PENINSULA BOROUGH PLANNING COMMISSION THE REAL PROPERTY TO BE DEDICATED BY THIS PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND OTHER PUBLIC AREAS SHOWN ON THIS PLAT IDENTIFIED AS FOLLOWS:

THE UTILITY EASEMENTS WITHIN THE 15' FEET ADJACENT TO ALL LOT LINES AND THE FRONT 20 FEET WITHIN 5 FEET OF SIDE LOT LINES.

40 FOOT AND 10 FOOT ADDITIONAL WEST FAIRVIEW AVENUE RIGHT-OF-WAY DEDICATION.

THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSE CONSTITUTES THE OFFICIAL ACT OF THE UNDERSIGNED BODY TO CONSTRUCT, MAINTAIN, OR MANAGE IMPROVEMENTS.

BY: ROB DUMBUCHIEL, CITY MANAGER
CITY OF HOMER, ALASKA
DATE: _____

TERRA BELLA SUBDIVISION

THE SUBDIVISION OF A PORTION OF THE SE 1/4 SW 1/4 SECTION 18, T. 6 S., R. 13 W., S. 13, UNINCORPORATED, HOMER, ALASKA, PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA, CONTAINING 39.531 ACRES.

TERRA BELLA PROPERTIES, LLC
1430 K STREET ANCHORAGE, AK 99501

GEORGERA, LLC
PO BOX 3235
HOMER ALASKA 99603

DATE: 11/11/2021
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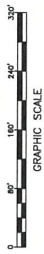
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WASTEWATER DISPOSAL
PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

LINE	BEARING	DISTANCE
1	N 0°07'28" E	30.00'
2	N 0°07'28" W	30.00'



PLAT APPROVAL
THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____ DATE _____

BY: _____
KEMAI PENINSULA BOROUGH

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Karen and William Wuestenfeld
801 Alpine Way
P.O. Box 2150
Homer, AK 99603

November 30, 2021

City of Homer Planning Commission
491 Pioneer Ave.
Homer, AK 99603
planning@ci.homer.ak.us

Subject: Terra Bella Subdivision Revised Preliminary Plat

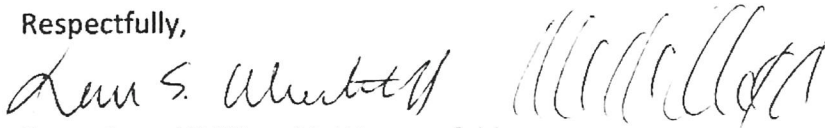
Planning Commission:

We are residents of 801 Alpine Way, Lot 2 Wildflower Ranch Subdivision, and submitted comments on the original preliminary plat on August 31, 2021. We appreciate Terra Bella Properties' responsiveness to our comments. The revised plat has eliminated a proposal to establish Lot 11, which would have had very limited developable area.

The entirety of Tract A of the proposed subdivision shares the same constraints as Lot 11, primarily related to steep slopes and drainageways. We recommend the City explore options to extend Karen Hornaday to include all or part of Tract A. The public benefits of such a park or public lands expansion would be many, including maintaining open space and viewsheds, and helping to minimize the severity of flood events.

Thank you for consideration of these comments.

Respectfully,



Karen S. and William M. Wuestenfeld
submitted via email

RECEIVED

DEC 1 - 2021

**CITY OF HOMER
PLANNING/ZONING**

Julie Engebretsen

From: Vicky Gordon <vbirchcreek@gmail.com>
Sent: Wednesday, December 1, 2021 3:24 PM
To: Department Planning
Subject: Revised Terra Bella Subdivision Plat

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

December 1, 2021

To: Planning Commission

I live on Mullikin St directly downstream from this subdivision and have dealt with many difficult drainage issues for the 23 years that I have lived here. I'm writing this letter to further comment (please see letter on first proposed plat) on the revised plat for Terra Bella Subdivision. I was pleased to see some changes, especially the enlargement of lot 9. I still have concerns regarding adverse effects of this subdivision on my drainage issues. Where will all the water from driveways, impermeable surfaces through culverts go? Will it all be directed into my drainage? Any additional water flow through here could cause problems as I mentioned in my first letter. And I still have concerns around disturbed soils and shrubs that are currently holding soil and moisture.

Lot 9 would be a lovely addition to Karen Hornaday Park with access along the creek and into the park.

I would like to be notified of further designs as this progresses.

Thank you

Vicky Gordon
4046 Mullikin St

Julie Engebretsen

From: Frank Griswold <fsgriz@alaska.net>
Sent: Wednesday, December 1, 2021 3:33 PM
To: Department Planning
Cc: Julie Engebretsen; Melissa Jacobsen; Rick Abboud
Subject: Reply to Abboud Responses Re: CUP 21-08

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

Dear Commissioners,

Preliminary Matters

HCC requires that the City Planner determine whether CUP applications are complete. The Application for CUP clearly was not complete and required supplementation as did the record. Proper public notice of the Supplemental Packet was not provided. Accordingly, it would be appropriate to postpone consideration of CUP 2021-08 until public notice requirements are met.

Commissioner Franco Venuti has a disqualifying bias/partiality regarding this matter due to the fact that his wife is an employee of KBC. This is a quasi-judicial matter in which all Commissioners are required to be impartial adjudicators. Commissioner Venuti's ability to be impartial is clearly impaired. HCC 1.18.020 provides as follows:

"Partiality" applies only in quasi-judicial proceedings and means:

1. The ability of a member of the quasi-judicial body to make an impartial decision is actually impaired; or
2. The circumstances are such that reasonable persons would conclude the ability of the member to make an impartial decision is impaired and includes, **but is not limited to**, instances in which:

a. The member has a personal bias or prejudice for or against a party to the proceeding including a party's lawyer;

b. The member or an immediate family member is a party, material witness to the proceeding or represents a party in the proceeding.

Reply

1. Mr. Abboud states "on-street parking is prohibited" but no such condition for approval of proposed CUP 21-08 has been recommended. Illegal on-street parking frequently occurs on Klondike Street and this will be exacerbated by the proposed uses unless adequate on-site parking is mandated.
2. None of the uses listed under HCC 21.55.090 require zero parking spaces. For high schools, HCC 21.55.090(a)(16) requires one parking space per employee plus one for every 10 students based on maximum classroom size.

3. I did not raise issues pertaining to *deviations* from the standards of proposed CUP 21-08 by future owners, I raised issues that would affect future owners *not* deviating from the standards currently proposed. CUPs go with the land. Is KBC expected to provide off-site parking on its campus for some future owner of the subject lot and high tower greenhouse who is unaffiliated with KBC?
4. The fact that KBC was previously granted a CUP for its campus is irrelevant. That CUP applies to a different parcel and has nothing to do with the current application. The fact that the greater campus may have successfully navigated the CDM does not justify waiving CDM requirements for the distinct subject lot. No equivalent alternative design(s) have been proposed. For all intents and purposes, the proposal must be treated as a stand-alone facility. If the proposal cannot meet CDM requirements, it must be denied. HCC 21.71.040(a) mandates that the application shall not be approved unless it is established that the proposal, with conditions if necessary, satisfies the applicable review criteria, including HCC 21.71.30(j) (CDM).
5. No limit has been imposed as to how many people will be allowed to tend the “community” gardens. City Hall should not be providing parking or bathroom facilities for KBC’s guests/clients/students, nor should the city provide free water, free tree cutting, or free utility repair where the damage was caused by KBC’s private contractor.
6. The proposed greenhouse do not reflect the natural conditions of the site and contain no design elements which visually anchor the building to the site.
7. No common architectural treatment has been provided to all buildings on the parcel.
8. The inclusion of a community garden strongly suggests that the lot, or portions thereof, is/are intended for use by the general public. If commercial activity is not anticipated and/or provided for then it should be prohibited as a condition for approval of CUP 21-08.
9. The proposed structure must conform with HCC, not the reverse. If required facade enhancements are not possible, then the proposed uses must be denied.
10. High tunnel buildings per se are not listed uses in the CBD. Greenhouses and garden supplies are listed as conditional uses under HCC 21.18.030(g).
11. The Site Plan depicts no required pedestrian walkways. The fact that common space is provided for on the main campus is irrelevant.
12. The service and delivery area is not oriented away from the street and is not screened by landscaping.
13. Three live trees were cut down in preparation for the proposed use and no replacement trees have been proposed. The natural symmetry of trees is not maintained by cutting them down.
14. While outdoor storage is not proposed, it is also not prohibited and no enclosed storage facilities have been proposed for trash, equipment, or trash.
15. The wire “moose” fencing proposed does not meet CDM standards. The adequate height to deter moose has not been determined. KBC installed an aesthetic non-wire fence on its campus which appears to meet CDM standards and which would deter moose. Mr. Abboud now claims that fencing around the entire lot is “planned” but no such condition for approval has yet been recommended.

16. The lighting for the subject site has nothing to do with the lighting on the greater KBC campus. It appears to be illuminating a large area from a single source, light source is likely not hidden from view and may have an industrial appearance.

17. HCC 21.71.40(b)(14) authorizes the Commission to impose any conditions deemed 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. The proposed agricultural structures lie within a residential neighborhood. Therefore, it would be totally appropriate for the Commission to prohibit the use of pesticides, herbicides and/or toxic chemicals on the subject lot or store creosote pilings on the adjacent city-owned property as prerequisite conditions for approval of CUP 21-08.

18. Mr. Abboud states: "The Planning Commission does not weigh in on technical aspects of water and sewer service hookup." So why does the CUP Application form ask: "Do you have active City water and sewer permits? Status: ____?" HCC 21.71.030(h) requires that the proposal comply with the applicable regulations and conditions specified in this title for such use, including water and sewer permits. HCC 21.71.020(a)(7) requires that the Application include any permits, plans and analyses required by other provisions of the zoning code applicable to the proposed use within the subject zoning district.

19. Land Use Goal 3 is to "Encourage high quality buildings and site development that complement Homer's beautiful natural setting." Contrary to the assertion of Mr. Abboud, this goal is clearly applicable to the uses proposed via CUP 2021-08. I hereby assert that the proposed buildings are not high quality buildings and that the proposal is therefore contrary to Land Use Goal 3. A building that can blow away in a stiff wind does not constitute a high quality building. While some high tower buildings may be of higher quality than others, all high tunnel buildings are inherently low quality when compared to conventional framed buildings with foundations. HCC defines building but not "high quality building" so that is now up to the Commission. Permitting the construction of low quality buildings is clearly contrary to the goal of encouraging the construction of high quality buildings and thus is contrary to Goal 3. Goal 3 does not require high quality buildings but review criteria HCC 21.71.030(i) essentially does. The proposed structures do not comport with any applicable goals and objectives of the Homer Comprehensive Plan but this is irrelevant because that is not the applicable review standard prescribed under HCC 21.71.030(i).

20. Most of the city's ambiguous CUP review standards are totally worthless, especially when they are deliberately misinterpreted by planning staff. If a proposed conditional use merely has to be less deleterious to the value of adjoining property than a railroad then why even bother with this permitting charade? Ever since zoning was adopted in 1982 the City of Homer has developed as if there were no zoning regulations in place whatsoever.

Frank Griswold

Response to Griswold email of 12.1.21, Rick Abboud

Preliminary Matters

HCC requires that the City Planner determine whether CUP applications are complete. The Application for CUP clearly was not complete and required supplementation as did the record. Proper public notice of the Supplemental Packet was not provided. Accordingly, it would be appropriate to postpone consideration of CUP 2021-08 until public notice requirements are met.

No such requirements exists, it is routine for City Council meeting to have a supplemental packet the day of the meeting,

Commissioner Franco Venuti has a disqualifying bias/partiality regarding this matter due to the fact that his wife is an employee of KBC. This is a quasi-judicial matter in which all Commissioners are required to be impartial adjudicators. Commissioner Venuti's ability to be impartial is clearly impaired. HCC 1.18.020 provides as follows:

"Partiality" applies only in quasi-judicial proceedings and means:

1. The ability of a member of the quasi-judicial body to make an impartial decision is actually impaired; or
2. The circumstances are such that reasonable persons would conclude the ability of the member to make an impartial decision is impaired and includes, **but is not limited to**, instances in which:
 - a. **The member has a personal bias or prejudice for or against a party to the proceeding** including a party's lawyer;
 - b. The member or an immediate family member is a party, material witness to the proceeding or represents a party in the proceeding.

This should be a discloser and discussion of the Commission

Reply

1. Mr. Abboud states "on-street parking is prohibited" but no such condition for approval of proposed CUP 21-08 has been recommended. Illegal on-street parking frequently occurs on Klondike Street and this will be exacerbated by the proposed uses unless adequate on-site parking is mandated.

On-street parking is regulated by code and enforced by the Police Department, plenty of parking is located on campus.

2. None of the uses listed under HCC 21.55.090 require zero parking spaces. For high schools, HCC 21.55.090(a)(16) requires one parking space per employee plus one for every 10 students based on maximum classroom size.

One space is provided on-site. The program is classroom based and students park on campus for their classes.

3. I did not raise issues pertaining to *deviations* from the standards of proposed CUP 21-08 by future owners, I raised issues that would affect future owners *not* deviating from the standards currently proposed. CUPs go with the land. Is KBC expected to provide off-site parking on its campus for some future owner of the subject lot and high tower greenhouse who is unaffiliated with KBC?

KPB is expected to conform with their application and so will any successor. Changes will need Commission approval, if/when they might occur.

4. The fact that KBC was previously granted a CUP for its campus is irrelevant. That CUP applies to a different parcel and has nothing to do with the current application. The fact that the greater campus may have successfully navigated the CDM does not justify waiving CDM requirements for the distinct subject lot. No equivalent alternative design(s) have been proposed. For all intents and purposes, the proposal must be treated as a stand-alone facility. If the proposal cannot meet CDM requirements, it must be denied. HCC 21.71.040(a) mandates that the application shall not be approved unless it is established that the proposal, with conditions if necessary, satisfies the applicable review criteria, including HCC 21.71.30(j) (CDM).

The basis for compliance with the CDM is provided, any argument needs to address just how this may not be appropriate as presented.

5. No limit has been imposed as to how many people will be allowed to tend the "community" gardens. City Hall should not be providing parking or bathroom facilities for KBC's guests/clients/students, nor should the city provide free water, free tree cutting, or free utility repair where the damage was caused by KBC's private contractor.

This is a KPC program, there has been no evidence presented that the campus will not appropriate accommodations for gardeners. The Commissioners are expected to use their common sense in addressing such an item.

6. The proposed greenhouse do not reflect the natural conditions of the site and contain no design elements which visually anchor the building to the site.

The site will be populated with planters and plants. Not sure which natural conditions are expected to be incorporated.

7. No common architectural treatment has been provided to all buildings on the parcel. Opaque coverings used for greenhouses are a common feature.

8. The inclusion of a community garden strongly suggests that the lot, or portions thereof, is/are intended for use by the general public. If commercial activity is not anticipated and/or provided for then it should be prohibited as a condition for approval of CUP 21-08.

I am unaware of the threats of a community garden. Planting watering and harvesting pose no significant threat to public welfare.

9. The proposed structure must conform with HCC, not the reverse. If required facade enhancements are not possible, then the proposed uses must be denied.

This is not true, the commission the design manual is not meant for strict adherence. What would an enhancement provide to a fenced off site that produces agricultural products.

10. High tunnel buildings per se are not listed uses in the CBD. Greenhouses and garden supplies are listed as conditional uses under HCC 21.18.030(g).

A greenhouse is not relegated to a specific structure type.

11. The Site Plan depicts no required pedestrian walkways. The fact that common space is provided for on the main campus is irrelevant.

We make a condition for the applicant to provide a walkway. Common space is not required per CDM for less than 5000 square feet (not 'greater' – a typo on page 2 of the CDM review.

12. The service and delivery area is not oriented away from the street and is not screened by landscaping.

In light of having a corner lot, it is not practical to orient the delivery area away from both streets. It is screened from Klondike as the site is addressed and where the entrance is located.

13. Three live trees were cut down in preparation for the proposed use and no replacement trees have been proposed. The natural symmetry of trees is not maintained by cutting them down.

It is not required to maintain all trees on a lot.

14. While outdoor storage is not proposed, it is also not prohibited and no enclosed storage facilities have been proposed for trash, equipment, or trash.

It is not proposed to store any trash on-site. Adequate facilities are found on campus.

15. The wire "moose" fencing proposed does not meet CDM standards. The adequate height to deter moose has not been determined. KBC installed an aesthetic non-wire fence on its campus which appears to meet CDM standards and which would deter moose. Mr. Abboud now claims that fencing around the entire lot is "planned" but no such condition for approval has yet been recommended.

The Commission is allowed to determine if the proposed fencing meets standards.

16. The lighting for the subject site has nothing to do with the lighting on the greater KBC campus. It appears to be illuminating a large area from a single source, light source is likely not hidden from view and may have an industrial appearance.

It is a light over a door that is proposed to be a cut off luminaire that meets code requirements.

17. HCC 21.71.40(b)(14) authorizes the Commission to impose any conditions deemed 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. The proposed agricultural structures lie within a residential neighborhood. Therefore, it would be totally appropriate for the Commission to prohibit the use of pesticides, herbicides and/or toxic chemicals on the subject lot or store creosote pilings on the adjacent city-owned property as prerequisite conditions for approval of CUP 21-08.

The Commission may take this up, there is no presence for this condition to be made.

18. Mr. Abboud states: "The Planning Commission does not weigh in on technical aspects of water and sewer service hookup." So why does the CUP Application form ask: "Do you have active City water and sewer permits? Status: ____?" HCC 21.71.030(h) requires that the proposal comply with the applicable regulations and conditions specified in this title for such use, including water and sewer permits. HCC 21.71.020(a)(7) requires that the Application include any permits, plans and analyses required by other provisions of the zoning code applicable to the proposed use within the subject zoning district.

Water and sewer permits are dealt with by the Public Works Department, if they are to be used they must meet their requirements.

19. Land Use Goal 3 is to "Encourage high quality buildings and site development that complement Homer's beautiful natural setting." Contrary to the assertion of Mr. Abboud, this goal is clearly applicable to the uses proposed via CUP 2021-08. I hereby assert that the proposed buildings are not high quality buildings and that the proposal is therefore contrary to Land Use Goal 3. A building that can blow away in a stiff wind does not constitute a high quality building. While some high tower buildings may be of higher quality than others, all high tower buildings are inherently low quality when compared to conventional framed buildings with foundations. HCC defines building but not "high quality building" so that is now up to the Commission. Permitting the construction of low quality buildings is clearly contrary to the goal of encouraging the construction of high quality buildings and thus is contrary to Goal 3. Goal 3 does not require high quality buildings but review criteria HCC 21.71.030(i) essentially does. The proposed structures do not comport with any applicable goals and objectives of the Homer Comprehensive Plan but this is irrelevant because that is not the applicable review standard prescribed under HCC 21.71.030(i).

The use is one contemplated by code and should not be ruled out by a purpose built design.

20. Most of the city's ambiguous CUP review standards are totally worthless, especially when they are deliberately misinterpreted by planning staff. If a proposed conditional use merely has to be less deleterious to the value of adjoining property than a railroad then why even bother with this permitting charade? Ever since zoning was adopted in 1982 the City of Homer has developed as if there were no zoning regulations in place whatsoever.

It seems obvious that there is nothing that can be done to satisfy Mr. Griswold's opposition to any particular development he doesn't see fit, regardless of code. The CUP process contain qualitative determinations made by a group of citizens volunteering to serve on the Commission. Mr. Griswold takes the opportunity to make any argument in opposition regardless of context or content. This is not argument it is just another ranting to bash the integrity of staff and the city.