



Homer City Hall

491 E. Pioneer Avenue

Homer, Alaska 99603

www.cityofhomer-ak.gov

City of Homer Agenda

Planning Commission Regular Meeting

Wednesday, April 07, 2021 at 6:30 PM

Council Chambers via Zoom Webinar

Webinar ID: 979 8816 0903 Password: 976062

Dial 669 900 6833 or 253 215 8782 or Toll Free 877 853 5247 or 888 788 0099

CALL TO ORDER, 6:30 P.M.

AGENDA APPROVAL

PUBLIC COMMENTS ON ITEMS ALREADY ON THE AGENDA The public may speak to the Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit). Please use the "Raise Hand" icon and the Clerk will unmute your connection.

RECONSIDERATION

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.

- A. Planning Commission Regular Meeting Minutes of March 17, 2021 **p. 3**
- B. Planning Commission Special Meeting Minutes of Jan. 6, Jan. 27 & March 11, 2021 **p.10**
- C. Decisions and Findings for Conditional Use Permit (CUP) 21-03 to allow two duplexes and a triplex at 89 Sterling Hwy **p. 52**
- D. Memorandum PL 21-03, PC Support for Road Maintenance Financial Plan **p. 57**

PRESENTATIONS / VISITORS

REPORTS

- A. Staff Report 21-20, City Planner's Report **p. 58**

PUBLIC HEARINGS

PLAT CONSIDERATION

- A. Staff Report 21-21, Barnett's South Slope Subdivision Quiet Creek Park Replat Lots 35, 36 & 37 Preliminary Plat **p. 60**

PENDING BUSINESS

- A. Staff Report 21-22, Community Design Manual **p. 72**

INFORMATIONAL MATERIALS

- A. City Manager's Report for March 22, 2021 City Council Meeting **p. 104**
- B. Kenai Peninsula Borough Notice of Decisions **p. 114**
- Puffin Acres SVH 2021 Replat Preliminary Plat
 - Vineyard Estates 2021 Preliminary Plat
 - Canyon Trails Amended Forquer 2021 Replat Preliminary Plat
 - DeGarmo Subdivision Three Preliminary Plat Time Extension
 - ROW Acquisition Sterling Hwy. Anchor Point to Baycrest Hill Preliminary Plat Time Extension
 - Oscar Munson No. 25 Preliminary Plat Time Extension

NEW BUSINESS

COMMENTS OF THE AUDIENCE Members of the audience may address the Commission on any subject. (3 min limit)

COMMENTS OF THE STAFF

COMMENTS OF THE COMMISSION

ADJOURNMENT

Next Regular Meeting is Wednesday, April 21, 2021, at 6:30 p.m. A worksession is scheduled for 5:30 p.m. All meetings scheduled to be held via Zoom Webinar in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.

Session 21-08, a Regular Meeting of the Planning Commission was called to order by Chair Scott Smith at 6:30 p.m. on March 11, 2021 at Cowles Council Chambers in City Hall located at 491 E. Pioneer Avenue, Homer, Alaska via Zoom Webinar.

PRESENT: COMMISSIONERS BARNWELL, VENUTI, SMITH, PETSKA-RUBALCAVA, AND
HIGHLAND

ABSENT: COMMISSIONERS BENTZ AND CONLEY (EXCUSED)

STAFF: CITY PLANNER ABBODD
DEPUTY CITY CLERK KRAUSE

The Commission held a worksession at 5:30 p.m. prior to the regular meeting on the agenda was a presentation by Public Works Director, Jan Keiser on the proposed Road Financial Plan.

APPROVAL OF THE AGENDA

Chair Smith read the amendments to agenda **PUBLIC HEARINGS** Staff Report 21-16 Conditional Use Permit 21-02 to allow two duplexes and a triplex at 89 Sterling Hwy, Copy of the Public Notice and Aerial Map; under **PLAT CONSIDERATION** Staff Report 21-17 West Hill Subdivision Harness Addition Preliminary Plat, Memorandum from Deputy City Planner and Revised Drawings

HIGHLAND/VENUTI – MOVED TO APPROVE THE AGENDA AS AMENDED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS ON ITEMS ALREADY ON THE AGENDA

RECONSIDERATION

CONSENT AGENDA

- A. Planning Commission Regular Meeting Minutes of March 3, 2021
- B. Oscar Munson No. 25 Preliminary Plat Time Extension Request

Chair Smith stated for the record that 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 requested a motion.

VENUTI/HIGHLAND – MOVED TO APPROVE THE CONSENT AGENDA.

There was no discussion.

VOTE. NON- OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PRESENTATIONS / VISITORS

REPORTS

A. Staff Report 21-15, City Planner's Report

Chair Smith introduced the item and invited City Planner Abboud to provide his report to the Commission.

City Planner Abboud provided a summary of Staff Report 21-15. He fielded questions from the Commission on the following:

- Roads and increased traffic
- Submittals of asbuilts and compliance enforcement

Commissioner Highland volunteered to attend the March 22nd City Council meeting.

B. Public Works Campus Task Force Report

Chair Smith introduced the item and invited Commissioner Barnwell to provide his report.

Commissioner Barnwell provided a brief report to the Commission on the March 10, 2021 meeting of the Task Force stating that they worked on listing risks and mitigations, plus entertained a lengthy discussion on probability and the maps that he had created using the data provided in the DGGs Inundation Report. The next meeting is scheduled for March 24, 2021. Due to timing of responses needed for information requested they canceled the worksession scheduled for March 17, 2021. He further reported that he put forward the questions that the Commissioners brought forward at their last meeting. The Task Force appreciated the input.

PUBLIC HEARINGS

A. Staff Report 21-16, Conditional Use Permit (CUP) 21-02 to allow two duplexes and a triplex at 89 Sterling Hwy.

Chair Smith introduced the item by reading of the title.

City Planner Abboud provided a summary of Staff Report 21-16 for the Commission. He specifically pointed out the requirement for parking was over the required amount needed for the type of development but since it was required in city code there was nothing that could be done to lessen the number of spaces.

George Swift, applicant, reported that he desired to build housing for their employees. Due to hiring difficulties they are required to bring workers in from Anchorage and other locations throughout Alaska and even the Lower 48. He noted that this is very difficult due to the housing issues in Homer and believed this will solve the problem in a beneficial manner.

Chair Smith opened the public hearing and seeing no public present to provide testimony he closed the public hearing and opened the floor to questions from the Commission for the City planner and Applicant.

There were no questions for the City Planner.

Mr. Swift responded to questions and comments from the Commission regarding:

- Paving parking areas
- Use of local contractors
- The intent of the project was solely to house employees
- There was no intent to use the completed housing for nightly rentals
- Construction in a possible inundation zone

Chair Smith requested a motion hearing no further questions from the Commission.

HIGHLAND/ PETSKA-RUBALCAVA - MOVED TO ADOPT STAFF REPORT 21-16 AND RECOMMEND APPROVAL OF CONDITIONAL USE PERMIT 21-02 TO ALLOW TWO DUPLEXES AND ONE TRIPLEX AT 89 STERLING HIGHWAY WITH FINDINGS 1-10 AND THE FOLLOWING CONDITIONS:

1. PROVIDE A TOTAL OF 11 PARKING SPACES AND ADJUST LANDSCAPING ACCORDINGLY TO PROVIDE A BUFFER FROM THE HIGHWAY.
2. OUTDOOR LIGHTING MUST BE DOWNLIT PER HCC 21.59.030 AND THE COMMUNITY DESIGN MANUAL.

There was a discussion on not addressing the inundation level in their approval and approving projects that could be affected by a Tsunami.

VOTE. NON-OBJECTION. UNNAIMOUS CONSENT.

Motion carried.

PLAT CONSIDERATION

A. Staff Report 21-17, West Hill Subdivision – Harness Addition Preliminary Plat

Chair Smith introduced the item by reading of the title.

City Planner Abboud provided a summary of Staff Report 21-17 for the Commission.

There was no applicant present.

Chair Smith opened the public comment period and seeing no member of the public indicating that they wanted to comment he closed the public comment period and opened the floor to questions of the Commission.

City Planner Abboud facilitated discussion on the following topics:

- Existing zoning and land ownership of neighboring parcels
- Drainage, soils and possible issues

Chair Smith hearing no further questions from the Commission requested a motion.

PETSKA-RUBALCAVA/VENUTI - MOVE TO ADOPT STAFF REPORT 21-17 AND RECOMMEND APPROVAL OF THE WEST HILL SUBDIVISION HARNESS ADDITION PRELIMINARY PLAT WITH COMMENTS 1-5

1. INCLUDE A PLAT NOTE STATING “PROPERTY OWNER SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLAND DESIGNATION IF ANY. PROPERTY OWNERS ARE RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE AND FEDERAL PERMITS
2. COMPLY WITH HOMER CITY CODE 21.10.051 (A) AND GRANT A 15 FOOT UTILITY EASEMENT ALONG ALL RIGHTS OF WAY
3. UPDATE VICINITY MAP TO SHOW CORRECT MUNICIPAL BOUNDARIES
4. SHOW APPROXIMATE LOCATIONS OF SLOPES OVER 20 PERCENT IN GRADE
5. DEDICATE A 30 FOOT DRAINAGE EASEMENT ALONG THE SOUTHERN LOT LINE

There was a brief discussion on the motion reflecting the correction submitted by the Deputy City Planner.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Staff Report 21-18, Barnett’s South Slope Subdivision Quiet Creek Park Lot 38 Replat Preliminary Plat

Chair Smith introduced the item by reading of the title.

City Planner Abboud provided a summary of Staff Report 21-18 for the Commission.

There was no applicant present.

Chair Smith opened the public comment period and seeing there was no audience to comment he closed the public comment period and opened the floor to questions from the Commission.

HIGHLAND/ PETSKA-RUBALCAVA - MOVE TO ADOPT STAFF REPORT 21-18 AND RECOMMEND APPROVAL OF THE BARNETTS SOUTH SLOPE SUBDIVISION, QUIET CREEK PARK LOT 38 PRELIMINARY PLAT WITH COMMENTS 1 AND 2

1. INCLUDE A PLAT NOTE STATING "PROPERTY OWNER SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLAND DESIGNATION IF ANY. PROPERTY OWNERS ARE RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE AND FEDERAL PERMITS
2. CARRY FORWARD ANY RELEVANT PLAT NOTES FROM THE PARENT PLATS

There was a brief discussion on access to the larger parcel.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS

A. Staff Report 21-19, Community Design Manual

Chair Smith Introduced the item by reading of the title and invited City Planner Abboud to provide input on the memorandum provided.

City Planner Abboud provided a status update and reported that Deputy City Planner Engebretsen made a few minor changes but has progressed as far as she can until amendments and or updates have been completed in the remaining section, Architecture, which is hoped to be ready for the Commission's next meeting. He then provided a brief outline of the intent to make the document flexible and update the language so it is easier to understand.

City Planner Abboud facilitated discussion on the intent of the manual and how it should be used and the Commission appreciated the time and effort expended to make this document a better, more relatable to Homer if not Alaska and easily understood document.

The Commission did not offer any changes or corrections.

NEW BUSINESS

INFORMATIONAL MATERIALS

A. City Manager's Report for March 8, 2021 City Council Meeting

City Planner Abboud facilitated discussion on the Climate Action Plan progress report, efforts of city staff in opening up and making the Library available to the public, especially the Seed Library.

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY STAFF

Deputy City Clerk Krause commented that it was a very interesting meeting. Thank you.

COMMENTS OF THE COMMISSION

Commissioner Petska-Rubalcava commented on issues related to the steep slope development requirements in city code and these requirements stifle the development of lots that are especially flag lots. She wanted the Commission to look at this at a future meeting to reconsider the requirements of the percentage to be able to utilize the lots in the Canyon Trails Subdivision where this issue comes up. She requested some input from the City Planner and his opinion.

City Planner Abboud noted that he would need professional assistance with the technical aspects of writing that code to address the issue with steep slope development, flag lots in particular and noted some the difficulties in the subdivision.

Commissioner Highland commented on the thick packet and wanted to express her appreciation to staff for all their hard work.

Commissioner Venuti wished everyone a Happy St. Patrick's Day and commented it was a good meeting.

Commissioner Barnwell echoed the sentiments of a good meeting and thanks to staff.

Chair Smith agreed that it was a good meeting he enjoyed the worksession as well, it was exciting to see that someone has the skills to be able to break down something so complicated as road service across an entire community into bite size pieces like that, it is very commendable. He expressed appreciation for Commissioner Barnwell's comments on the tsunami and it is a moral dilemma to permit housing in a flood zone and if those individuals don't wake up something could happen. My thoughts are is it worth putting some language somewhere and I am not sure it is in city code or the CDM where applicants are applying within the tidal zone area that they are handed a piece of information so that they are at least informed as well as we could possibly make them. There is a good discussion round that topic so he really appreciated that it was brought up.

Chair Smith then announced that he would be out of state from April 9 through the 18th on business but may be longer due to family health issues. He should be able to still join the meetings on Zoom but may have some hurdles to get over first.

Commissioner Highland reminded everyone that they needed to establish a date for the appeal hearing.

City Planner Abboud departed the meeting.

Deputy City Clerk Krause explained the process and that this meeting will be a closed meeting and not advertised. She then facilitated discussion on establishing a meeting date and will be forwarding that information to Commissioner Bentz and Conley and hopefully they will not have any conflicts. It was agreed that the Commission wanted to meet at 5:30 on April 7, 2021 since that was already a scheduled meeting day instead of a worksession. There were some concerns expressed that if they did not conclude in the time allotted could they meet the following day at 5:30 p.m. Everyone present agreed that they were open and available with a preference to getting it done early in April due to scheduling conflicts the remainder of the month.

ADJOURN

Next Regular Meeting is Wednesday, April 7, 2021 at 6:30 p.m. All meetings scheduled to be held virtually by Zoom Webinar from the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission

RENEE KRAUSE, MMC, DEPUTY CITY CLERK

Approved: _____

Session 21-01, a Special Meeting of the Planning Commission was called to order by Acting Chair Roberta Highland at 5:41 p.m. on January 6, 2021 at Cowles Council Chambers in City Hall located at 491 E. Pioneer Avenue, Homer, Alaska via Zoom Webinar. One seat vacant due to resignation.

PRESENT: COMMISSIONERS HIGHLAND, PETSKA-RUBALCAVA, BARNWELL, VENUTI AND BENTZ

ABSENT: COMMISSIONER SMITH (EXCUSED)

STAFF: CITY PLANNER ABBOUD
CITY CLERK JACOBSEN
DEPUTY CITY CLERK KRAUSE

Vice Chair Petska-Rubalcava encountered technical difficulties in connecting and audio. Commissioner Highland opened the meeting and requested the Clerk to perform roll call.

APPROVAL OF THE AGENDA

Acting Chair Highland requested a motion to approve the agenda.

VENUTI/BARNWELL – MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- A. Appeal Hearing on Appeal of the City Planning Staff Issuance of Zoning Permit 1020-782 issued to Scott and Stacy Lowry for their property located at 541 Bonanza Avenue

Acting Chair Highland introduced the item and stated for the record that a motion to continue the appeal hearing has been filed by Jermain, Dunnagan & Owens (JDO), attorneys for the City of Homer, for the purpose of addressing unresolved procedural issues. The documents regarding this motion were provided in a supplemental packet, including the motion to continue from JDO, opposition to the motion submitted by Mr. Griswold, and response to the opposition provided by JDO, along with a proposed order granting continuance.

Acting Chair Highland requested a motion to continue the hearing.

Vice Chair Petska-Rubalcava joined the meeting in progress via telephone at 5:45 p.m.

BENTZ/VENUTI MOVED TO APPROVE THE MOTION TO CONTINUE THE HEARING AS SUBMITTED BY JDO FOR THE PURPOSE OF CLARIFICATION AND AGREEMENT BY PARTIES ON PROCEDURAL ISSUES FOR THE APPEAL HEARING.

Acting Chair Highland opened the floor for discussion, hearing no questions forthcoming from the Commissioners stated she would like additional information on the request for continuation.

Max Holmquist, attorney for the City, explained that the continuation was requested by the City to allow additional time, stating a preference for 14 days delay in lieu of the 10 days mentioned in the motion, due to the availability of all parties, for establishing the procedural process since the City Code is vague on the procedure for appeal hearings before the Commission.

Attorney Holmquist noted the items that generally occur and what is stated in city code. He further stated that without advance notice of the procedure that is going to apply in this hearing the City would be prejudiced in presenting their case.

Attorney Holmquist noted that Mr. Griswold expressed concerns in his briefing on the city's motion and further stated that it is the City's position that it is in the best interests of everyone involved to continue the hearing date to reach a resolution on the procedure with Mr. Griswold.

Attorney Holmquist indicated that Mr. Griswold had presented objections on most of the proposed stipulated hearing procedures offered and believes that with some additional time they will be able to reach an agreement. He also noted the 40 page laydown submitted by Mr. Griswold stating the postponement would allow for review of the material.

Mr. Griswold inquired if he would be allowed to comment.

City Clerk Jacobsen state that it would be appropriate to allow Mr. Griswold to comment briefly at this time.

There was no objection from the Commission.

Mr. Griswold indicated that he had used the raised the hand icon but was not recognized. He continued by stating that he would like to address the issues that were just raised but that he had preliminary matters he wanted to discuss first on the potential disqualification of a commissioner.

Acting Chair Highland interrupted Mr. Griswold and requested clarification on a procedural issue from City Clerk Jacobsen regarding the motion currently on the floor that has nothing to do with disqualification.

City Clerk Jacobsen responded that they are required to dispense with the motion on the floor to determine if there is going to be a continuance. If it is determined that the hearing will be continued Mr. Griswold will have an opportunity to present preliminary issues with participation

of commissioners with bias or conflict of interest. She reiterated that currently the Commission was addressing the motion to continue the hearing.

Mr. Griswold inquired if he may respond to City Clerk Jacobsen.

Acting Chair Highland queried City Clerk Jacobsen if it was appropriate that Mr. Griswold speak only to the motion on the floor.

City Clerk Jacobsen responded that was correct and Mr. Holmquist can correct her if she was wrong, but that was the procedure that they were following at this time to determine whether or not the hearing was going to be continued.

Acting Chair Highland commented that she wanted to sure they were doing this correctly and requested input from Attorney Holmquist.

Attorney Holmquist responded that he appreciated the opportunity but his representation is limited to the City and he did not believe that he could advise the Commission as to this procedure. He noted the city's position and that the commission was allowing Mr. Griswold to provide comment on that issue.

Acting Chair Highland requested Mr. Griswold to limit his comments to the motion on the floor regarding the continuance at this time.

Mr. Griswold stated his objection on the grounds that if a Commissioner has a disqualifying bias then they should not participate in this matter or a future matter. He continued stating he believed that it would be an error not to allow him to raise his issues on the disqualifications and further stated that if a Commissioner participates in one motion prejudices him on eliminating them from future motions. He believed that it should have been brought up earlier. But will proceed if that was the ruling.

Acting Chair Highland requested clarification from City Clerk Jacobsen.

City Clerk Jacobsen responded that typically a motion for continuance is dealt with prior to reaching this point. She did not believe that a Commissioner voting to continue an appeal necessarily obligates that Commissioner to participate when the actual matter comes before the Commission. Biases, conflicts of interest as well as ex parte communications can be addressed. She further explained that if they address bias and conflict now they will not have a quorum to continue this meeting, however that is not a determining factor to continue in this manner.

Acting Chair Highland requested clarification from Mr. Griswold if he was intending to object to the continuance.

Mr. Griswold stated that he intended to address that matter after the preliminary matters were addressed or he could address it at this time.

City Clerk Jacobsen advised Acting Chair Highland to allow Mr. Griswold five minutes to state his preliminary matters and then continue from there.

Mr. Griswold stated that he did not believe that Commissioner Rubalcava signed a proper Oath of Office and did not believe she was qualified to sit as a Commissioner due to signing her Oath on December 30, 2020 which states that she signed it before July 15, 2020 which is impossible, in his mind this constitutes perjury. If she does not have a valid oath then she will not give him equal justice so in his opinion she is not qualified to sit on the Commission.

Mr. Griswold stated he would like a ruling on that issue before raising the second since depending on that ruling they would still have a quorum.

City Clerk Jacobsen requested Mr. Griswold to continue since he still had time remaining in the five minutes allotted.

Mr. Griswold stated his second objection is the participation of Commissioner Venuti due to his statement during the September 2, 2020 Public Hearing portion of the meeting on CUP 20-14 Commissioner Venuti exhibited animosity towards him by characterizing him as a “pain in the neck for long time, which could be considered in a negative manner due to the past litigation. He further commented that Commissioner Venuti said “he seems to be setting policy” and now the City Attorney is asking him to assist the Commission in setting policy, namely this appeal. Due to Commissioner Venuti animosity towards him he does not believe he can be an impartial adjudicator.

Mr. Griswold stated that if the two Commissioners are found disqualified he has been told that a new Commissioner is to be appointed at the Council meeting on January 11, 2021, meaning that this hearing could be continued. He further stated that there is a rule that if there are not enough Commissioners left, then all participate, unless the meeting could be postponed to another time when there could be a quorum. Depending on many Commissioners the Commission disqualifies this meeting could continue at a later date with the new commissioner and the one who is absent.

Acting Chair Highland requested confirmation from City Clerk Jacobsen if a newly appointed Commissioner would be able to participate in the action if continued.

City Clerk Jacobsen confirmed that the new Commissioner would be provided all materials relevant to the appeal to fully participate.

Acting Chair Highland asked for Mr. Griswold comments on the motion on the floor.

Mr. Griswold noted that his time has expired and wished the Commission to proceed.

Attorney Holmquist stated that he was willing to state the City's position to Mr. Griswold's preliminary objections.

Attorney Holmquist stated as to the first issue on the Oath of Office from Commissioner Rubalcava there is no dispute that Commissioner Rubalcava has taken the oath and there is no reason she could not proceed to hear this issue and Mr. Griswold has not presented any legal authority from city code or otherwise that would suggest that the Commissioner Rubalcava could not participate, even assuming the facts are as he suggests they are; as to the second issue of the bias of Commissioner Venuti, Mr. Griswold representations about what was said but has provided no evidence of such and has not sufficiently shown that there is bias by Commissioner Venuti.

City Clerk Jacobsen directed Acting Chair Highland to address the matter on the floor before the commission. Upon further comment she confirmed Mr. Griswold still had the opportunity to respond to Attorney Holmquist's remarks regarding the request for a continuance.

Mr. Griswold stated the following:

- In the reply the City Attorney altered their stated purpose of the proposed continuance as they initially stated the continuance was to allow them to confer with him.
 - o He did not believe there is any merit in doing that
- The Attorney switched gears by stating they could each file a proposed procedure and the Commission could decide and issue a ruling about the hearing procedures in advance of the hearing
- The applicants should not be left out of any of these discussions and in his documents he has made a point to include them but the city attorneys have not and that to him is wrong
- The City Attorney are representing the city and the Commission has no representation, they represent the Planning Department and the City Administration.
- The City Attorneys cannot be expected to recommend hearing procedures that are unfavorable to their clients, the Board of Adjustment are required to legal Counsel I believe the Commission deserves the same.
- He is not an attorney and should not be asked to provide the Commission with legal advice. I am promoting my side of the issue. He should not be asked to perform legal research on procedures and provide recommendations with no recovery for his time.
- Any hearing procedures he recommends would carry no weight
- Any continuance granted should be granted to allow the Commission to hire an attorney

Commissioner Bentz acknowledged what has been brought forward and as outlined in city code the Commission does have guidance for this appeal. Further having receiving the 40 pages as a laydown, she would recommend voting to continue the hearing since she has not been able to go through the materials provided in a deliberate manner.

Commissioner Bentz believes that the Commission should have more time to understand, given the issues that they are having on procedure on this motion to continue. It is obvious that they do not have clear cut guidelines or directions for the Commission, Appellant or the public to be

engaging in this discussion and that the Commission should have clarity before moving forward on the appeal process.

City Clerk Jacobsen noted the time at the request for additional comments on the motion from the parties present or the Commission.

Acting Chair Highland requested the Clerk to read the motion.

Deputy City Clerk Krause read the motion on the floor:

Moved by Commissioner Bentz Seconded by Commissioner Venuti

MOVE TO APPROVE THE MOTION TO CONTINUE THE HEARING AS SUBMITTED BY JDO FOR THE PURPOSE OF CLARIFICATION AND AGREEMENT BY PARTIES ON PROCEDURAL ISSUES FOR THE APPEAL HEARING.

Acting Chair Highland requested the Clerk to perform a roll call vote.

VOTE. YES. VENUTI, BENTZ, PETSKA-RUBALCAVA, BARNWELL, HIGHLAND

Motion carried.

Acting Chair Highland noted that the City Clerk has provided proposed dates of January 19, 21st or 27th for the Appeal Hearing and requested a motion to establish one of those dates or alternative date.

Commissioner Bentz questioned the process according to city code and inquired if the Commission can participate in establishing those procedures or have input on the process.

City Clerk Jacobsen stated the Commission can be involved, as pointed out in city code, the commission can prescribe some rules of procedure. It may require a special meeting or worksession to get the group together to make those decisions but the Clerk's Office will get the meetings noticed and assist the Commission.

Acting Chair Highland requested a motion to set a date hearing no further discussion.

Commissioner Petska –Rubalcava suggested the date of January 27th for discussion purposes.

A brief discussion ensued between City Clerk Jacobsen and the Commissioners on the suggested date and if that would allow for advertising, and working on the procedures with a draft prepared for review by the Commission at their meeting on January 20, 2021. It was noted that an earlier meeting could be facilitated also.

PETSKA-RUBALCAVA/BENTZ MOVED TO CONTINUE THE APPEAL HEARING TO JANUARY 27, 2021 AT 5:30 P.M.

Discussion ensued between all parties that they were available on that date and time.

VOTE. NON-OBJECTION.UNANIMOUS CONSENT.

Motion carried.

COMMENTS OF THE AUDIENCE

Mr. Griswold commented that he was puzzled the Commission did not address his preliminary issues regarding the Commissioner disqualifications. He then stated that the City Clerk informed the parties that laydowns would be accepted until 4:00 p.m. today and now it sounds like you want to change the procedures that were already established and complied with. He was not stating whether that was reasonable or not but wanted to make sure that they knew he did not violate any existing rules. He believed that the commission needed to be careful not to change procedures that the parties were already notified about in the middle of the hearing. He provided an example of hiring a lawyer and requesting an extension so that materials could be reviewed by the newly hired attorney.

Mr. Griswold continued that he was surprised that the Commission failed to discuss whether they should hire their own legal counsel and he believed that they should. He further noted that Mr. Abboud was a party and indicated he was filing a brief and should not participate in any ex parte communications with the Commission regarding these new procedures that affect an appeal that he is involved with as it could potentially affect him.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 6:29 p.m. The next Regular Meeting is scheduled for Wednesday, January 6, 2021 at 6:40 p.m. All meetings are scheduled to be held virtually by Zoom Webinar from the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska

RENEE KRAUSE, MMC, DEPUTY CITY CLERK

Approved: _____

Session 21-04, a Special Meeting of the Planning Commission was called to order by Chair Scott Smith at 5:45 p.m. on January 20, 2021 at Cowles Council Chambers in City Hall located at 491 E. Pioneer Avenue, Homer, Alaska via Zoom Webinar.

PRESENT: COMMISSIONERS HIGHLAND, PETSKA-RUBALCAVA, BARNWELL, VENUTI, BENTZ, CONLEY AND SMITH

STAFF: DEPUTY CITY CLERK KRAUSE

APPROVAL OF THE AGENDA

Chair Smith requested a motion to approve the agenda.

HIGHLAND/BENTZ- SO MOVED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- a. Appeal Hearing of City Planning Staff Issuance of Zoning Permit 1020-782 issued to Scott and Stacy Lowry for their property located at 541 Bonanza Avenue.

Chair Smith announced the action before the Commission stating the purpose of the hearing was to hear oral argument from the Appellant Frank Griswold; regulations to conduct the appeal and noted the items that were provided to the Commission regarding the action before them.

Deputy City Clerk Krause acknowledged all persons in attendance for the record as follows:

Appellant: Frank Griswold

Appellee: Max Holmquist, Esq. & Michael R Gatti, Esq. Jermain, Dunnagan & Owens, P.C.
Attorneys for the City of Homer

Witnesses For Appellee: Rick Abboud, City Planner and Travis Brown, Planning Technician

Property Owner: Scott & Stacy Lowry

PRELIMINARY ISSUES

Chair Smith stated that the Commission would address preliminary matters at this time. He continued by relaying that at the January 6, 2021 Special Meeting two preliminary matters were raised by Mr. Griswold and a third was outlined in his brief. Due to one of those issues involving Vice Chair Petska Rubalcava and himself, he would pass the gavel to Commissioner Highland to address those preliminary matters raised against them first.

Max Holmquist interjected that the City would like to address a preliminary matter on the notice issue that was discussed in memorandum from City Clerk Jacobsen. He believed that may present an issue with going forward and suggested that the Commission may want to address that matter before other preliminary issues.

Deputy City Clerk Krause responded that the notice issue was referenced in the City Clerk's memorandum and will be handled under additional preliminary issues under the procedural outline provided.

Commissioner Smith turned the meeting over to Commissioner Highland.

Acting Chair Highland addressed what she believed was an error in stating the Zoning Permit number and wanted that corrected for the record and recognizing that the property owners, Scott & Stacy Lowry were present as she believed they were not recognized by the Clerk. She then addressed Mr. Griswold, stating that the Commission has read his brief, asking if he had any additional information to share, not included in his brief, regarding Commissioner Smith.

Mr. Griswold stated that he had other issues, but felt it was explained in his brief and he had nothing to add regarding Mr. Smith.

Acting Chair Highland requested a motion.

BENTZ/PETSKA-RUBALCAVA – MOVED TO EXCUSE MR. SMITH FROM PARTICIPATION IN THIS APPEAL HEARING DUE TO HIS INABILITY TO SERVE AS AN IMPARTIAL ADJUDICATOR AS SUGGESTED BY THE APPELLANT.

City Attorney Holmquist responding for the City stated that in accordance with Homer City Code 1.18.048 Commissioner Smith comments highlighted in Mr. Griswold's brief did not demonstrate that he has any bias or partiality with regard to the Zoning Permit since they were in context of denying the Conditional Use Permit, so in their perspective it is hard to imagine how the comments can be construed as bias in favor of the applicants who were applying for the conditional use permit.

Commissioner Bentz stated a recollection from the September 2, 2020 meeting and believed Commissioner Smith from his tone and demeanor did not exhibit bias but was trying to work

through the issue and trying to make sure that everyone was aware of the process and that the Commission tries to consider all voices and move forward as a service to the city.

Deputy City Clerk Krause noted for the record that the Appellant had his hand raised.

Acting Chair Highland requested clarification from the Clerk if that would be permissible.

Deputy City Clerk Krause stated the Commission allowed the Appellee to comment and so to be fair they should allow the Appellant to comment.

Mr. Griswold stated that the procedures that were cited by the City Attorney indicated that it would be appropriate for Mr. Smith to be included in these discussions. He believed Mr. Smith should be the one that should be asked questions about his potential partiality or animosity. He wanted to further state that just because the Commission denied CUP 20-14 does not mean that Commissioner Smith was not biased or lacked partiality. There was an implied agreement that that request would be denied and quickly replaced by an alternative that would put the Lowry's in the position that they wanted to be in.

Commissioner Bentz acknowledged that typically when motions of conflict are made they do ask the Commissioner if they feel they have a conflict and would put that question to Commissioner Smith.

Commissioner Smith responded that he feels he does not carry any bias, his comments at the time were meant to recognize that there were various players in the discussion including Mr. Griswold's laydown at the time. He is fully aware of the position and process that he represents and that it is a part of the system, public hearing and public testimony, it needs to be there. He fully embraces his role so does not currently, or then, carry bias on the matter.

Acting Chair Highland stated for the record that she was going to exercise caution and vote that Commissioner Smith does have a conflict and should not participate in this matter. She inquired if there were any additional objections, noting her own.

There were no additional comments from the Commission.

Acting Chair Highland called for a roll call vote.

VOTE. NO. BENTZ, PETSKA-RUBALCAVA, CONLEY, VENUTI
VOTE. YES. HIGHLAND.

Motion failed.

Commissioner Highland turned the meeting back over to Chair Smith.

Chair Smith requested Mr. Griswold to address the matter regarding Commissioner Petska-Rubalcava.

Mr. Griswold stated that he expressed his concerns at a previous hearing and believed that the Commission did not address his concerns regarding the oath of office, although that is not as well defined in City Code as bias and conflict of interest. He then acknowledged the memorandum from City Clerk Jacobsen and the circumstances as presented but he will reserve it as a point on appeal because he believed that if someone does not have a valid oath of office anything that they participate in is potentially invalidated. One of his concerns in particular is the issue on appeal is whether the city can allow an “after the fact zoning permit” and in this case, this is an “after the fact oath of office” so that particular connection bothers him and if somebody thinks that an “after the fact oath of office” is okay they might believe “after the fact zoning” is okay.

Chair Smith thanked Mr. Griswold for his comments noting that they were in record.

City Attorney Holmquist stated in rebuttal that Commissioner Rubalcava did not take any action on this matter prior to signing her oath of office and so there is no reason that she should be precluded from participating in this hearing or in this matter.

Chair Smith called for a motion.

HIGHLAND/BENTZ MOVED TO EXCUSE COMMISSIONER PETSKA-RUBALCAVA FROM PARTICIPATION IN THIS APPEAL HEARING DUE TO CONFLICT WITH HER OATH OF OFFICE AS RAISED BY THE APPELLANT.

Commissioner Highland expressed that she would be erring to the side of caution and voting that Commissioner Petska –Rubalcava had a conflict.

Commissioner Bentz requested clarification on the date that the oath of office should have been signed since her reappointment, noting that they have not met in person due to COVID 19 and if the previous oath on record would not be effective.

Deputy City Clerk Krause stated that currently the content of the oaths of office as written expire with the Commissioner’s term of office.

Chair Smith believed that whether or not Commissioner Petska-Rubalcava was in good standing when they addressed CUP 20-14, she is now and is on similar footing as Commissioner Conley and does not believe that technicality, at this level, of not having the piece of paper signed, does not present an issue for this hearing while maybe in higher courts it may. He believed that Commissioner Petska-Rubalcava did not have any divisive intent or trying to work around the rules. He believed the Commissioner to be in good standing as the rest of the commission is today and capable of hearing this appeal with total authority.

Chair Smith inquired if there were any additional comments, hearing none he requested the Clerk to perform a roll call vote.

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

Motion failed.

Chair Smith then requested Mr. Griswold to add to his expressed complaint regarding Commissioner Venuti.

Mr. Griswold proceeded to explain that the motions regarding conflict of interest do not require a second because they are mandatory and when brought forth they are obligated to discuss them but he would hate to see this disregarded just because they did not have a second.

Mr. Griswold continued by stating that Mr. Venuti made derogatory remarks about him that was addressed by Mr. Bob Shavelson at the end of the meeting. Mr. Venuti claimed that because of the past litigation with the city those negative comments were justified and furthermore similar sentiments have been expressed to City Council by Mrs. Venuti, his wife, who thinks that he has too many opportunities to win his cases, suggesting it is not fair to the city that I have appeal rights, but when a city official expresses publically, an appellant or citizen who raises concerns and not only expresses those concerns but encourages others or justifies the negative comments of others, it does show animosity whether overt or implicit it affects Mr. Venuti's ability to be impartial and in this case, Mr. Griswold stated he included in his brief the various reasons that you can look at to determine partiality or when someone has animosity towards one party or favors another.

Chair Smith then asked the Appellee if they wanted to offer rebuttal.

City Attorney Holmquist stated that the city did not have comment on this issue.

Chair Smith requested a motion.

HIGHLAND/BENTZ MOVED TO EXCUSE COMMISSIONER VENUTI FROM PARTICIPTION IN THIS APPEAL HEAIRNG DUE TO HIS BIAS AS SUGGESTED BY THE APPELLANT.

Commissioner Highland stated that she will be voting that Commissioner Venuti has a conflict of bias.

Commissioner Venuti stated that he had no agenda, his purpose in participating in public service is to serve the community in a friendly and inclusive manner. He continued by stating that his mantra has always been to act purposely and with civility in this life and believed that his remarks

were twisted around to become confrontational which deflects from the successful resolution of this appeal.

Commissioner Venuti further stated that his comments were intended to support any individual a right to disagree that the Planning Commission's decisions and absolutely no animosity toward anyone was intended and he is sorry that the Appellant has misinterpreted his remarks and is trying to use this to cloud the issue at hand.

There were no further comments and Chair Smith called for the vote.

VOTE. NO. BENTZ, PETSKA-RUBALCAVA, CONLEY, SMITH.

VOTE. YES. HIGHLAND.

Motion failed.

Chair Smith inquired if Mr. Griswold had any other preliminary issues.

Mr. Griswold noted that there was an issue with the Notice as the City Clerk noted in her memorandum. He then stated that was his understanding on delaying this appeal 21 days in order to notice the neighboring property owners as directed under Homer City Code. He believed a new date was suggested of February 16th which he stated that it would be very prejudicial to his side since he will be preparing for another appeal. He further stated that it would be perilous to proceed in this hearing when the Commission has not properly followed code and notified the property owners within the 300 foot periphery.

Chair Smith stated that currently the Commission cannot obtain legal counsel, the city attorney is representing the city, Mr. Abboud is a witness and stated his understanding of this hearing and he may be wrong but that this meeting did not have a Public Hearing attached to it.

Chair Smith requested input from the other commissioners on this matter.

Chair Smith acknowledged that City Attorney Holmquist would like to offer rebuttal.

Commissioner Bentz stated that in reflecting on city code and echoing her thoughts on the matter about parties eligible to appeal the notice of appearance for the party, witnesses called and did not really want to speak to the public notice for this meeting versus the previous initial public notice that was sent out for this appeal hearing but the fact of new evidence or changed circumstances in the code the Board is not supposed to be accepting new evidence or change of circumstances but making their decision on the record.

Commissioner Highland requested clarification on the sentence that was shown in city code 21.93.100.(b) that the neighboring property owners should have been notified or is Commissioner Smith and Bentz correct.

Chair Smith requested the cited code by Commissioner Highland.

Deputy City Clerk Krause requested a moment to pull up the city code to review the cited language.

Commissioner Bentz read the language as cited in 21.93.100(b) confirming that was done with the Clerk.

Chair Smith stated that this meeting was not a Public Hearing and only a Special Meeting so he opined that it would fall under a different criteria and requested clarification from the Clerk.

Deputy City Clerk Krause noted that city code addresses the appeal hearing which is what this meeting is and city code does not cite what the process is in continuance but notice is required to be sent to the property owners.

Commissioner Bentz recited city code 21.94.030 into the record and believed that it was done prior to the January 6, 2021 meeting which was the first meeting on this matter.

City Attorney Holmquist speaking on behalf of the city and reiterating that they cannot provide legal advice to the Commission and did not find out about the notice issue until this afternoon but believe that notice should be sent out in accordance with 21.94.030 and would request a continuance based on the requirement as cited in city code.

Chair Smith acknowledged Mr. Griswold raised hand and requested he wait just a few moments until he could receive input from the Commission.

There were no further comments from the Commissioners and Chair Smith requested Mr. Griswold make his comment if it was in regards to a continuance.

Mr. Griswold commented on the previous gross misunderstanding on this being a closed record and explaining that it is an open evidentiary hearing and they are supposed to take evidence from parties and the public. The public doesn't just speak when the meeting is over, referring to the adopted procedures, the commission then opens the floor to comments of interested persons and they get 10 minutes, not just three minutes to provide testimony. It would then be part of the record that if later it gets appealed, then it would go to the Board of Adjustment and be a closed record.

Mr. Griswold continued by explaining that if the surrounding property owners have no knowledge of the hearing being conducted then they do not have the opportunity to file briefs or provide testimony on the subject. He further commented on being astounded that people would misinterpret the improper code and deciding that this is not a public hearing and opined that is why the Commission needed their own attorney to keep them straight and he further noted that if they failed to honor the public notice it would be automatic grounds for reversal.

Chair Smith requested a motion for a continuance.

BENTZ/VENUTI MOVED TO CONTINUE THE APPEAL HEARING TO SUCH A TIME AS THAT COULD BE PROPERLY NOTICED.

Chair Smith opened discussion on possible date for continuance opining that this needed to be resolved by a specific date due to time requirements.

Mr. Griswold requested permission to comment relaying that he could resolve that question.

Chair Smith gave the floor to Mr. Griswold who proceeded to state that the Commission would need to decide the issue either 45 or 60 days after the hearing. Until the hearing is completed they are under no deadline. The City Clerk suggested the earliest date that this could be continued to is February 16, 2021 in accordance with her memorandum.

Commissioner Bentz questioned the requirement that all appeals must be heard within 60 days after the appeal record has been prepared and would like to know what date that was completed.

Deputy City Clerk Krause responded that the record was ready on December 30, 2020.

City Attorney Holmquist offered that the continuance is allowed by city code beyond the timeframe for good cause shown and I believe this would be a good cause to continue this hearing further.

Commissioner Highland noted that Mr. Griswold previously stated he could not attend February 16, 2021 and wondering if we can schedule this later in February or March or even for our next meeting date of February 17th instead of a worksession.

The Commissioners briefly discussed possible dates and determined that it would be best to leave it in the hands of the Clerk's Office to arrange a mutually acceptable date between all parties involved.

Chair Smith inquired if Mr. Griswold was acceptable to that solution.

Mr. Griswold responded that for the record he did not state that February 16th was any worse than any other day and that it was not in his best interest to delay this, but he thought of the necessity that it be delayed and that no matter what date it would be, he has another appeal before the Board of Adjustment and it is just a bad situation as he has spent time to be prepared for tonight but he recognizes that it would be improper for the Commission to hold the meeting tonight without the proper notice.

Chair Smith requested confirmation from Mr. Griswold that he was okay with allowing the Clerk to establish a date by March 16th.

Mr. Griswold responded that he would, but hope that it would be done well in advance of that but he was okay with the Clerk contacting parties and establishing a mutually agreeable time.

Chair Smith confirmed with the City Attorney Holmquist and Mr. and Mrs. Lowry regarding the continuance that the procedure would be acceptable.

Chair Smith inquired if there was any further discussion, hearing none he asked if there was any objections to the motion to continue to a date to be determined, there were none.

The Commission agreed by consensus to the continuance of the Appeal Hearing on Zoning Permit 1020-782.

Chair Smith recognized that Mr. Griswold had his hand raised, then confirmed with the Clerk that there were no additional items that they had to address before concluding the meeting.

Chair Smith inquired what Mr. Griswold would like to address.

Mr. Griswold stated that in the memorandum submitted by City Clerk Jacobsen on page two that the city did not have subpoena powers, then proceeded to explain what a subpoena actually was and that the Lowry's were in attendance and that they declined being questioned, but noted that the Commission's recently adopted procedures authorizes parties and the Commission to question the Lowry's. He noted that there is no place in city code or the adopted procedures that allows that the Lowry's can attend but decline to be questioned. The prospective witness, Superintendent Dan Gardner also declined to attend. The city does not require subpoena powers to request a Public Works supervisor with professional knowledge about a critical issue on appeal to attend the hearing and he believed it would be critical to address these issues now.

Chair Smith acknowledged Mr. Griswold's comments, even though it is written regarding the Lowry's decision to attend but not be questioned and even though it is understood about Mr. Gardner's participation, he chose not to attend. The Commission did not plan to address that type of decision at this meeting and he believed it would be appropriate for all parties to be able to prepare for and reflect on what responses to that might be, rather than trying to process that now since the Commission does not have legal counsel now nor will they obtain legal counsel, he believed, in the future over this matter. Chair Smith stated that it would be best for the Commission not to process that request at this time unless there is overwhelming objection by other Commissioners.

Chair Smith opened the floor to comments from the Commission and there were none offered.

Chair Smith opened the floor to City Attorney Holmquist for comment.

City Attorney Holmquist noted that the city was prepared to the respond at this time but would not be opposed to discussing at the beginning of the next hearing as well whichever the Commission would prefer.

Deputy City Clerk Krause confirmed for Chair Smith that a motion was not required, that the Commission dispensed of the motion to continue the hearing, noted Mr. Griswold's objection and stated that it can be addressed at that time.

Chair Smith asked if there were any additional items that required to be addressed at this time.

City Attorney Holmquist stated that Mr. Griswold filed what was title a reply brief and that was not authorized under the hearing procedures that the City Clerk distributed and the City would move to strike it. They can do this in writing following this hearing if that would be the Commission's preference. The City would be prejudiced if the Appellant, Mr. Griswold, is allowed to file an additional brief that was not authorized by the procedure that was given out by the Commission prior to the hearing. The city has not had the same opportunities as Mr. Griswold if that brief is allowed so the city is requesting that the brief be stricken from the record.

Mr. Griswold requested permission to respond.

Chair Smith stated no, he did not think it was appropriate to respond in this situation. He stated that Mr. Griswold would be able to address it at the next meeting.

Mr. Griswold interjected why not and proceeded to state that this showed how bias that Chair Smith was since he was denying him his due process rights to respond to an issue that was brought up by City Attorney Holmquist regarding his reply brief. He opined that it was blatantly bias.

Chair Smith continued to explain that he meant no bias, he was trying to give everyone a fair process, he was no lawyer but that in all fairness Mr. Griswold had submitted an additional brief and the city did not; so the city should also have the ability to submit an additional brief and to not allow them the ability or time to submit one would show bias, so I do not give you, Mr. Griswold, at this time the ability to respond.

Mr. Griswold stated that Chair Smith made his decision without hearing his response and that was prejudicial and that he was unfit to be a Chair or a Commissioner.

Chair Smith recognized Commissioner Highland.

Commissioner Highland noted that the procedures stated that briefs must be filed with the City Clerk by 4:30 p.m. on Monday, January 25, 2021.

Mr. Griswold interjected that he would like the Commission to vote on whether he has an opportunity to respond to the City Attorney's objection to his brief.

Commissioner Bentz referencing the procedural aspect of the issue, but that since the Commission voted to continue the hearing that the issue should be addressed at that time when there would be ample time to discuss their concerns. But since we are at the end of our meeting I believe it would be wise to continue to hear what the three minute comments are to make sure they are hearing the issues fully and then the issues can be addressed when the hearing is continued.

Deputy City Clerk Krause stated that the Commission dispensed with a motion to continue the hearing and should proceed to Comments of the Audience.

Chair Smith noting the comments received he will proceed. He informed Mr. Griswold that if he comments under this topic in rebuttal to City Attorney Holmquist statement they will not be addressed he will have opportunity at the continuance to present his objections.

COMMENTS OF THE AUDIENCE

Frank Griswold commented that he warned the Commission when they were doing the procedures, through emails to the City Clerk that they were not allowing near enough time for any of these different points and that they allocated only 20 minutes for preliminary matters and they have gone well over one hour; he pointed out that in the procedures it states specifically that the hearing parties may testify and among other things submit evidence. He further stated that he had requested from the City Clerk direction on how he was to submit evidence at the meeting if it was being conducted telephonically. She did not respond so he submitted his brief well in advance of the meeting as evidence and that other provision that had a deadline of January 25th that applied to the opening briefs, it did not address reply briefs and you have so stifled the parties from giving testimony that if I had taken the time that you allocated me to present my oral argument, which I would have done in the brief, I would not have had time to question witnesses or anything else, so it's your own actions that have so prejudiced me that I am forced to provide my reply brief as evidence at the meeting. Instead of leisurely giving oral argument so your procedures are to blame, not me and you just categorically say oh, it looks like we are not going to have legal counsel and probably never going to have, well the big question here is all these legal issues that come up, why don't you get legal counsel, you need it more than anybody. You need it more than anybody, the planning department can take care of themselves, the board of adjustment is mandatory that they have legal counsel, you should demand legal counsel. The only reason you don't is the system of hiring legal counsel for the planning department forces you to rely on their legal advice and not your own. This is prejudicial to an appellant and he wished that someday the commissioners would be able to be an appellant and then see how prejudicial this whole system is, you do not want to hear anybody question the authority or a decision of your city planner or planning staff. It is very apparent and this may be implicit but to an outsider the views, the commission may think they are acting properly but when you allow one side to raise

an argument and not allow the other side to respond, you would not do that if I were represented by counsel, if I was represented by a suit and tie you would show more respect. That's all I got good night.

Chair Smith thanked Mr. Griswold for his comments and will carry them forward to the next meeting.

City Attorney Holmquist stated that in regards to those comments the board of adjustment procedure does call for reply briefs specifically, but if you look at the procedure for the Planning Commission appeal hearings it just simply states that any person may file a written brief and the procedure set by the Commission prior to the hearing had a deadline for a written brief so the intention was that each party gets to file the written brief but there are no reply briefs and Mr. Griswold is trying to find a way around that by filing an extra brief. If Mr. Griswold has an extra argument that he would like to make he can certainly do that during oral arguments during the course of this hearing but filing of an extra brief would be prejudicial to the city and it would be disregarding the procedures that were established prior to the hearing.

Commissioner Conley thanked the Lowry's for their patience.

Commissioner Bentz expressed appreciation for the patience from all parties noting that the Commissioners have never dealt with an appeal as the body is composed and that they are learning as they go and are very interested in following due process and are doing the best that they can in their voluntary appointed positions.

Chair Smith agreed with Commissioner Bentz and that they do not mean any disrespect to the parties involved. He believed that it was important to hear all sides and to follow the process that is legal.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 6:48 p.m. The next Regular Meeting is scheduled for Wednesday, February 3, 2021 at 6:30 p.m. A Worksession is scheduled at 5:30 p.m. All meetings are scheduled to be held virtually by Zoom Webinar from the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska

RENEE KRAUSE, MMC, DEPUTY CITY CLERK

Approved: _____

Session 21-07, a Special Meeting of the Planning Commission was called to order by Chair Scott Smith at 5:31 p.m. on March 11, 2021 at Cowles Council Chambers in City Hall located at 491 E. Pioneer Avenue, Homer, Alaska via Zoom Webinar.

PRESENT: COMMISSIONERS BARNWELL, VENUTI, SMITH, CONLEY, PETSKA-RUBALCAVA, BENTZ, AND HIGHLAND

STAFF: CITY CLERK JACOBSEN
DEPUTY CITY CLERK KRAUSE

APPROVAL OF THE AGENDA

Chair Smith requested a motion to approve the agenda.

HIGHLAND/VENUTI – SO MOVED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- A. Appeal Hearing on Appeal of the City Planning Staff Issuance of Zoning Permit 1020-782 issued to Scott and Stacy Lowry for their property located at 541 Bonanza Avenue

Chair Smith stated for the record the action before the Commission being a continuance of the Appeal Hearing for Zoning Permit 1020-782 from January 27, 2021. The notice of appeal and nine allegations of error can be found on page three of the appeal record. The Commission was to hear oral arguments regarding this appeal.

Deputy City Clerk Krause identified the following were in attendance:

- Frank Griswold
- Max Holmquist, City Attorney
- Scott and Stacy Lowry
- Rick Abboud, City Planner
- Travis Brown, Planning Technician

Chair Smith stated that the process for this hearing that was developed, provided to parties, and posted on the City's website in January and will be followed for this meeting. He then reminded those in attendance on the conduct that was expected throughout the hearing.

Chair Smith announced that the Commission will address preliminary matters and asked if any Commissioners needed to make any declarations of conflict of interest or ex parte contacts.

No disclosures were made.

Chair Smith then stated the first preliminary issue to address was a reply brief submitted by Appellant Griswold on January 27, 2021 prior to the last scheduled hearing. Homer City Code 21.93.300 addresses appeals to the Planning Commission and subsection “d” reads that any person may file a written brief or testimony in an appeal before the Commission. He noted that both parties filed their written briefs by the deadline provided in the noticed meeting process and the attorney for the Appellee has filed a motion to strike the reply brief.¹

Chair Smith requested a motion and second.

HIGHLAND/CONLEY MOVED TO STRIKE THE REPLY BRIEF SUBMITTED BY FRANK GRISWOLD.

City Clerk Jacobsen addressed the interference with the audio was due to Mr. Griswold unmuting his connection.

Mr. Griswold called a point of order stating the Chair skipped the ex parte communication.

City Clerk Jacobsen explained to Mr. Griswold since he did not hear, that the question on the matter of ex parte communication was addressed by the Chair.

Chair Smith assured Mr. Griswold he asked the question and repeated the question that he asked of the Commissioners and stated that there were none disclosed.

Chair Smith restated the motion on the floor and asked for confirmation that the Commissioners were able to read the associated documents.

Commissioner Bentz noted that she was unable to review the information due to late submission.

Chair Smith asked if any of the other Commissioners were unable to review the documents.

Commissioner Highland voicing concerns on the interference she was experiencing with regards to the audio, then requested confirmation that the document in question was submitted on January 27, 2021.

¹ Audio interference was experienced when Appellant unmuted their connection throughout the meeting making transcription difficult at times.

Chair Smith responded that it was the brief submitted on January 27, 2021 that was the document in question at this time.

Commissioner Bentz apologized and requested her comment to be stricken as she was referring to the filing of March 9, 2021.

Chair Smith inquired if there was any objection to the motion.

Mr. Griswold requested the opportunity to comment to the motion.

After a brief discussion with Mr. Griswold expressing his right to comment Chair Smith allotted Mr. Griswold three minutes.

Mr. Griswold provided further reasons to allow him to comment as follows:

- City Code allows the Commission to accept new testimony and evidence necessary to develop the record and does not establish time limits.
- The City Attorney does not want the record to be fully established and wanted his evidence stricken so that it cannot be considered by this Commission or future reviewing parties.
- The Commission does not even have to read all this stuff tonight since they have 60 days to deliberate and render a decision.
- This is an evidentiary hearing and to intentionally reject evidence is appealable and if it goes to the Board of Adjustment it will be remanded back.
- The extension of the filing deadline to accommodate the City Attorney and the policy that was set by the Commission was extended twice before and there was no reason that the briefing period could not be extended a third time.

City Clerk Jacobsen noted for the record that it would be appropriate, having given time to the Appellant that the same consideration be extended to the Appellee.

City Attorney Holmquist stated the following as support for striking the documents entitled "Reply Brief" and "Evidence":

- A deadline was established as January 25, 2021 at 4:30 p.m. and both parties filed written briefs by the established deadline.
- In the Commission hearing procedures there were no additional briefings allowed.
- The document entitled, "Evidence" does not actually contain evidence it contains argument, evidence would be other documents or testimony to support the argument.
- Written argument, is also known as a brief
- The City will not object to Mr. Griswold reading his brief entitled "Evidence" into the record
- Objection to the additional filing of written briefing that is contrary to the procedural order in this case as the City would be prejudiced if Mr. Griswold would be allowed to file that additional briefing when the City was not afforded the same opportunity.
- The two untimely additional briefs of Mr. Griswold's are unfair to the City and prejudicial so the City is asking that they be stricken.

There was a brief discussion on clarification of the status of the motion on the floor, that the document in question is the one entitled "Reply Brief" dated January 27, 2021 and if the Commission can allow ample time for the Appellant to read the document into the record to allow for all evidence to be presented.

City Clerk Jacobsen confirmed that it would be addressed separately in response to a question from the Chair on process.

Chair Smith stated that the procedure allows thirty minutes for the Appellant and the Appellee and if the time is extended for one side then it requires the time to be extended to the other party. If the time is extended it is by Commission approval not because either side wants to run long. The Commission's posture is that thirty minutes is sufficient and that both the Appellant and Appellee have had significant time to draft their information and become very familiar and concise with what they want to say during that thirty minutes. The Commission needs to be cautious with extending the time period especially in favor of one party.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Smith read the next preliminary matter into the record: A motion filed by Frank Griswold for Legal Counsel for the Planning Commission. He then recited HCC 21.93.300 (g) into the record and requested a motion.

HIGHLAND/BENTZ MOVED THAT THE COMMISSION REQUEST THE ASSISTANCE OF LEGAL COUNSEL AND OR CITY STAFF AS DESIGNATED BY THE CITY MANAGER IN THE PREPARATION OF THE DECISION AND FINDINGS OF FACT.

Mr. Griswold commented on hiring legal counsel for the Commission to answer the questions that they have and that the only attorney present is for the city and that being the only attorney present the Commission would give deference to his legal opinion and he is partisan and will do anything to make sure his party prevails. He then commented on the meeting may need to be continued because of insufficiency of the public notice like it has been twice already and if it continued, especially if you are going to hire an attorney it will be helpful to have that attorney present at the beginning and save the Commission reversible errors.

Attorney Holmquist acknowledged the motion made by the Appellant and stated that it is the City's position that the Commission can hire attorney if it wants to, it is not required to do so, that it is discretionary. He then noted that in the motion, Mr. Griswold mischaracterized the record by claiming that he provided legal advice to the Commission and the opposite is true. Attorney Holmquist stated he identified the City as his client and advised that he does not represent the Commission and then provided the city's position on the issue that was being discussed.

Commissioner Highland stated that due to all the questions that she does not have answers for she would like to have legal counsel and then questioned addressing the possible issue with public notice.

Commissioner Bentz expressed that she would be voting yes on the motion requesting legal assistance.

Commissioner Petska-Rubalcava questioned who they would be requesting legal counsel from and where those funds would be coming from and how they would obtain legal counsel.

Chair Smith stated that he was unaware of the experience the other Commissioners have regarding a legal hearing and so they are pretty green when it comes to procedure, so they may make procedural errors as far as evaluating a permit application and all the different information surrounding this particular decision he believed that the Commission was competent and capable without legal representation to do so and city code is not overly complicated. This Commission is fairly thorough and because of that he would vote no.

Commissioner Conley questioned that they could consult an Attorney during deliberations considering they were having the hearing now and they can move on.

Chair Smith responded that he believed so but there was still the issue of budget so did not believe it would be possible and noted that they would have to submit the request to Council. He then stated that it would be good for future discussion since it has exposed a need and appreciated the effort to bring this to a motion but without legal representation they would also be extending this meeting all over again.

Commissioner Bentz reminded the Commission that the motion on the floor was for legal counsel for the preparation of the Decision and Findings of Fact. She then confirmed with City Clerk Jacobsen that procedurally the Commission would submit the request for legal counsel to the City Manager.

City Clerk Jacobsen responded that it would be up to the City Manager to decide who would be the appropriate staff person to work with the Commission and the same request for an attorney as well, but unfortunately there is no professional services budget for the Commission so that would require locating the funding.

Commissioner Venuti requested the motion on the floor to be stated.

Chair Smith repeated the motion before the Commission.

VOTE. NO. SMITH, HIGHLAND, CONLEY, BARNWELL, VENUTI
YES. PETSKA-RUBALCAVA, BENTZ

Motion failed.

Chair Smith read the next preliminary item regarding the document filed by Mr. Griswold entitled "Evidence" submitted on March 9, 2021. He then read from Homer City Code 21.93.300 (d) regarding the Commission accepting new testimony or other evidence, including public testimony and hear oral arguments to develop a full record upon which to decide the appeal.

HIGHLAND/BARNWELL - MOVED TO STRIKE THE DOCUMENT ENTITLED "EVIDENCE" SUBMITTED BY FRANK GRISWOLD.

Mr. Griswold stated the following in support of accepting the document entitled "Evidence":

- There is no definition in city code as to what constitutes written evidence
- If they were meeting in person he would have been able to submit the document as a laydown
- The Commission has created a very strict time limit and opined that it would not be sufficient for oral arguments, question witnesses and present evidence.
- HCC 21.93.300 (d) addresses developing a full record and you must allow sufficient time to perform that.
- The Commission while having the authority to write procedures they cannot be contrary to city code.
- The City Attorney did not have objection to him reading the document into the record because it would use up all his time and he not be able to exercise his right to question the parties.

Attorney Holmquist stated the following to support the motion to strike:

- It is not evidence but written argument
- Not objecting to Mr. Griswold reading the document into the record because he has 30 minutes to present oral argument.
- The City objects to the filing of additional briefing that doesn't comply with the procedural order.

Commissioner Conley requested clarification on the filing of the document.

Chair Smith responded that the document was filed on March 9, 2021 at 1:52 p.m.

Commissioner Highland stated that they have a lot of facts from city code and what was presented to the Commission but the Commission established the procedure and January 25, 2021 was the deadline.

City Clerk Jacobsen confirmed for Commissioner Bentz that the procedure that was developed for continued Planning Commission hearings is on the website and was approved by both parties. She further noted that this procedure was developed prior to the first hearing, when the hearing

was continued the Commission did not take any additional action to make amendments to the procedure.

Chair Smith acknowledged Mr. Griswold and noted that his opportunity to speak has passed and it was with the Commission now.

VOTE. YES, PETSKA-RUBALCAVA, HIGHLAND, CONLEY, BARNWELL, VENUTI, SMITH.
NO. BENTZ.

Motion carried.

Chair Smith stated that the next preliminary matter is two emails submitted to the City Clerk on March 10th that have been provided and raise issues regarding notice, opportunity to comment, and parties to the appeal.

City Clerk Jacobsen reported the date and time of the first email and that it raised questions regarding the notice of the appeal hearing. She responded as follows:

- HCC 21.94.020 (b) 1-4 does not apply to Administrative Appeals 21.93 does not require notice in accordance with that section of city code.
- The notice mailed to surrounding property owners does not contain a legal or common description of the property as the appeal section of city code requires written notice of the time and place of the appeal hearing be submitted to the parties as outlined in HCC 21.93.100 (b)
- The newspaper notification does not contain information regarding the review of documents since the section of city code, 21.93.100 (b), as previously stated does not require this to be done. That is outlined under 21.94.020 (b) 1-4 which does not apply to appeals.

City Clerk Jacobsen then addressed the issues raised in the second email after noting the date and time received:

- The second notice of meetings is not addressed by 21.94.020 (b) 1-4
- Regarding the agenda not specifically identifying that the public may provide testimony or comment for up to 10 minutes or written comment since they were not provided with the Commission's procedures all documents regarding this hearing were posted to the City webpages and the meeting was advertised in the local newspaper in accordance with Homer City Code 1.14 Notice of Meetings
- Mr. Abboud is party to this appeal since it is an appeal of an action by the City Planner or his staff
- Scott and Stacy Lowry are the applicants and property owners and the appeal is against the City Planner or his staff for issuance of the permit.
- Travis Brown is not a party since it was addressed to the Planning Office and since Mr. Abboud is the Department Director it was routed through him.

- There was no date on the notice that was mailed out, it was an oversight, the notice was prepared by staff, I reviewed it and signed it. There is an affidavit of distribution noting the mailing date.

City Clerk Jacobsen responded to questions on the following:

- It is at the discretion of the Commission to extend the time at any portion of the agenda.
- The Commission can use their discretion to accepting written testimony submitted by any person by motion as previously done.

City Clerk Jacobsen noted a point of order on finishing discussion on the notice issue raised.

Mr. Griswold stated that the City Clerk is wrong regarding the requirements of notice in city code. He then read the requirement from 21.94.020 requires newspaper notice for all public hearings and then notice to surrounding property owners if stated in 21.94.030, stating that these two are linked and you have to refer to the previous paragraph 21.94.020 (b) 1-4. This outlines the information that must be contained in the notice to property owners, and two items were missing regarding legal description and where they can find information. He further noted that the notice could be mailed to property owners. Mr. Griswold then noted that there was nothing to indicate that members of the public can testify for 10 minutes or submit written briefs. He believed that people were not properly noticed and that it was grounds for automatic reversal.

Attorney Holmquist argued that the notice for this hearing falls under Homer City Code 21.93.100 and it was properly noticed.

Chair Smith called for a motion.

There were no motions offered by the Commission.

Mr. Griswold requested a motion by Commission that the notice was sufficient.

Chair Smith asked the Commission again for a motion. There were none offered.

Chair Smith noted that Mr. Griswold's request was noted and in the record but it appeared the Commission did not feel there was a necessity to address the matter.

Chair Smith asked if Mr. Griswold had any additional preliminary matters and if he did to bring them forward one at a time to be addressed by the Commission.

Mr. Griswold brought forward the issue of who the party or parties are being represented by the City Attorney. He noted that there is no individual listed by name as Appellee.

Commissioner Highland stated that there is no motion on the floor but that it has been very clear that the City Attorney is representing the city and not the Commission.

Commissioners Petska-Rubalcava and Conley echoed those same sentiments.

Chair Smith requested the next preliminary matter from Mr. Griswold.

Mr. Griswold stated that in a parallel but unrelated appeal before the Homer Board of Adjustment the second order of business was identifying the appeal, was “identification of the parties”, this procedure should be followed for this appeal as well. The Commission’s procedure states that, “the Commission may question each of the parties listed above” however the procedure merely cites Appellant and Appellee without naming the associated parties. There are multiple appellees in this appeal including property owners, Scott and Stacy Lowry, they should be recognized as parties and Appellees and subject to questioning. Travis Brown issued the zoning permit and the Commission should make a decision as to whether he is a party to the appeal and an Appellee.

Chair Smith noted that they are not the Board of Adjustment and opinion of procedures being transferred from one board to the Commission unfortunately does not legally apply here and that is his personal opinion. It does not seem logical for the Commission to be governed by the rules of another board when they are not specified in their own code.

Commissioner Petska-Rubalcava requested a brief recess.

Chair Smith called for a five minute recess at 6:45 p.m. The meeting was called back to order at 6:50 p.m.

Chair Smith asked for additional preliminary matters from Mr. Griswold.

Mr. Griswold provided his opinion on how preliminary matters should be addressed by the Commission and that they should vote on a matter regardless. He then requested a determination by the Commission on whether they will allow exclusion of witnesses.

Chair Smith requested Mr. Griswold to provide an example of exclusion of witnesses.

Mr. Griswold provided a definition on how exclusion of witnesses is conducted in Court when testimony may be influenced by a person attending the action before the Court.

City Clerk Jacobsen provided an explanation on how they can separate the two witnesses that are present.

HIGHLAND/BENTZ MOVED THAT THE COMMISSION ALLOW EXCLUSION OF WITNESSES.

Attorney Holmquist stated that the Exclusionary Rule does not always apply in court and it is not used in Administrative Appeals and is not stated anywhere in city code to his knowledge. He

then provided details on how exclusionary rule is applied to witnesses with regard to testimony and cross examination.

Mr. Griswold stated that Attorney Holmquist was wrong he was not speaking of the exclusionary rule which was related to evidence. It does not apply to witnesses. The City Clerk indicated that it was not a problem to exclude the witnesses and if the Commission was interested in honest answers from the witnesses, they should allow it.

Commissioner Highland commented that it was something that was not difficult to do so she was going to vote yes and called for the question.

City Clerk Jacobsen stated for the record that procedurally all debate on the question is done and a vote on the call for the question is conducted in case other people wanted to comment.

VOTE. (Call for the Question). YES. HIGHLAND, CONLEY, BENTZ, BARNWELL, VENUTI
NO. SMITH, PETSKA-RUBALCAVA.

Motion carried.

Deputy City Clerk read the main motion currently on the floor.

VOTE. (Main Motion). NO. PETSKA-RUBALCAVA, SMITH, VENUTI, BARNWELL
YES. BENTZ, CONLEY, HIGHLAND

Motion failed.

Chair Smith requested additional preliminary matters from Mr. Griswold.

Mr. Griswold stated that Scott and Stacy Lowry indicated at the last meeting that they declined to respond to questioning and he believed when they filed this application that they gave consent to pursuant procedures and that there should be some sanction or penalty or they should not be allowed to attend. He then cited information on pleading the fifth (or equivalent) in a non-criminal trial does not have a negative connotation where in a proceeding such as this it could be taken negatively. He would like a determination on if the Lowry's would be allow to participate and not answer questions.

Attorney Holmquist stated the following for the record:

- The Commission does not have subpoena power to compel witnesses to testify like a court could.
- It does not have the authority to hold any party or witness in contempt or impose sanctions.

- The Administrative Procedures Act does not apply to this appeal, the Homer City Code applies and it does not provide the Commission with any authority to subpoena witnesses or compel testimony or hold a party in contempt.
- Mr. Brown and Mr. Abboud are city witnesses and have agreed to testify on the city's behalf. Mr. Griswold will have an opportunity to cross examine them after they testify for the City. The City would object to Mr. Griswold calling Mr. Brown or Mr. Abboud as his witnesses for his case.
- Mr. Griswold has the right to call witnesses and present evidence but does not have the right under city code or a due process right to compel a witness to testify as part of this hearing and neither does the Commission.

City Clerk Jacobsen clarified that Mr. Griswold has requested the Lowry's to be called as witnesses for him and when contacted, they declined to be witnesses but she did not give them any indication that they would not be able to participate as any other interested party would be able to and they were not advised any differently.

Chair Smith acknowledged Mr. Lowry's wish to speak but noted that the time was not appropriate.

City Clerk Jacobsen confirmed that it would not be appropriate to take comments from other parties other than the Appellant or Appellee during preliminary matters.

Chair Smith asked if there was a motion to address this matter.

There was a brief discussion on the ability of the Commission to enforce a person being called as a witness to provide testimony.

City Clerk Jacobsen requested, for clarification to assist the Commission in verbiage, for Mr. Griswold to repeat his request.

Mr. Griswold repeated that he would like the Commission to determine if the Lowry's can be compelled to respond to questioning by the Commission and other parties. He then pointed out that a Commissioner stated Mr. Holmquist said the questioning was voluntary using it as an example that the Commission is taking what he says as legal advice and if the Commission had an independent attorney you might get a very different response so just because Mr. Holmquist does something and I state the opposite every single time. The Commission has sided with Mr. Holmquist and my side is not that week. You also denied Mr. Lowry the right to respond and that is not right as they are the property owner, they are Appellees, they are indispensable parties and if it goes to Superior Court it would be thrown out if I did not list them as parties.

Commissioner Bentz stated that the preliminary matter would be that the Commission would need to vote on whether to compel witnesses to respond to the request for questioning.

City Clerk Jacobsen confirmed that it was the request.

BENTZ/HIGHLAND MOVED THAT THE COMMISSION SHOULD COMPEL WITNESSES TO RESPOND TO REQUEST FOR QUESTIONING.

Discussion ensued regarding the Commission not having the authority to operate at that level of judiciary process.

VOTE. NO. CONLEY, BENTZ, BARNWELL, VENUTI, SMITH, PETSKA-RUBALCAVA, HIGHLAND.

Motion failed.

Chair Smith complimented Mr. Griswold on how clever he was as he addressed each topic in his submission and believed that they have covered them all but noted that they would like to begin oral arguments.

Mr. Griswold stated that they had no idea what preliminary matters he wanted to bring up, he had a right to bring these issues up under preliminary matters whether it was in his evidence or not and he was giving them a heads up so it was a bonus for the Commission. He denied it was clever or devious.

Mr. Griswold requested that the Commission make a determination on the times specified to handle oral arguments, to include time for testimony, cross examination and rebuttal stating that it was not sufficient for him. He would need at minimum one hour. He noted the time allotted in a recent Board of Adjustment Hearing was 45 minutes.

Chair Smith thanked Mr. Griswold and wanted the record to reflect that his comment about Mr. Griswold being clever was by no means nefarious it was a compliment. We will move past that.

Commissioner Highland inquired about a list of witnesses.

City Clerk Jacobsen noted that City Attorney Holmquist is available for comment and then she will address Commissioner Highland's question regarding witnesses.

Chair Smith recognized City Attorney Holmquist.

City Attorney Holmquist stated that with regard to this type of hearing in response to Mr. Griswold's reference to due process a number of times, the following:

- Courts have held that due process for quasi-judicial hearings require notice and an opportunity to be heard.
- Regarding specific hearing procedures, the Courts hold that due process requirements as to the particular procedure employed for the hearing, such as the length of the hearing,

time limits for the hearing, the manner in which evidence can be presented, timeframe to present evidence based on the nature of the issue being decided.

- A very complex issue requires a more elaborate and longer proceeding, a similar issue requires less evidence testimony and argument, so a shorter and simple proceeding satisfies the process that the Commission has the authority under Homer City Code to set a hearing procedure that is appropriate in light of the nature of the appeal.
- This hearing is regarding a zoning permit and is not a complex issue. Mr. Griswold has raised issues that could make it complex but that is not the issue at hand.
- In the potential range of Administrative Hearings, a zoning permit is fairly simple, it has a brief record and the issues are relatively simple.
- Hearing procedures set by the Commission in the city's opinion are adequate to satisfy the due process requirement and the Commission should proceed with the hearing procedure as established in January.
- The City is not taking a position on the time necessary for a full record.

City Clerk Jacobsen commented on the reference to the Board of Adjustment hearing the time allotted was 30 minutes and Mr. Griswold requested additional time and the Board allowed 45 minutes which included his opportunity for rebuttal. Any remaining time could be reserved for rebuttal up to 45 minutes. There was a witness list provided in the materials and on the website.

Chair Smith asked if there was a motion from the Commission to address the request for additional time.

No motion was offered by the Commission.

Mr. Griswold stated that he requested Dan Gardner to appear as a witness and he declined. Mr. Gardner is a city employee and could be compelled to testify as a condition of his employment with the City. He further stated that he believed Mr. Gardner would be able to answer questions.

Attorney Holmquist stated that he believes this falls under the same issue that was discussed previously with regard to compelling witnesses to testify.

Chair Scott requested a motion from the Commissioners to address this matter.

No motion was offered by the Commission.

City Clerk Jacobsen noted that it was the Appellee's opportunity to bring forth preliminary matters before Oral Arguments.

Chair Smith asked City Attorney Holmquist if he had any preliminary matters he would like to address.

City Attorney Holmquist addressing Chair Smith and City Clerk Jacobsen stated that he reviewed his documents and did not have any preliminary matters to bring before the Commission.

Chair Smith announced that they will move to Oral Argument starting with the Appellant. He invited Mr. Griswold to begin, noting that he had 30 minutes to present testimony, other evidence, question witnesses and oral argument.

Mr. Griswold called City Planner Mr. Abboud.

City Clerk Jacobsen noted for the record that witnesses needed to be sworn in.

City Attorney Holmquist objected to Mr. Griswold calling Mr. Abboud stating that he cannot be compelled to testify on behalf of Mr. Griswold. He further noted that it was his understanding that Mr. Abboud was not willing to testify and will defer to Mr. Abboud to tell the Commission himself.

Mr. Abboud stated for the record that he agreed to testify for the City, not for Mr. Griswold.

Commissioner Bentz noted that would be a question procedurally for the Clerk, but the Appellant could call his next witness.

Chair Smith stated that the Commission cannot compel a witness to testify and believed that to be accurate.

Mr. Griswold stated that he was following the procedures and using his time and the Commission would not allow additional time, to question witnesses or accept written evidence and Mr. Abboud was on my list and he cannot question him.

Chair Smith recognized Mr. Griswold's dilemma but stated that the Commission has ruled on those issues. He encouraged Mr. Griswold to continue producing his evidence and testimony.

Mr. Griswold stated his belief of the Chair's partiality and cannot direct him on how to present his case. He then called Mr. Travis Brown as his next witness.

City Attorney Holmquist objected to the calling of Mr. Brown as he is a witness for the City on behalf of their case and cannot be compelled to testify. He will defer to Mr. Brown if he wishes to testify for Mr. Griswold.

Chair Smith noted that Mr. Griswold would have an opportunity to cross exam the witnesses and invited Mr. Griswold to continue.

Mr. Griswold then read into the record, section of the document submitted on March 9, 2021 entitled "Evidence" starting at page 7, first paragraph, line five. This covered the following points:

- The application of a zoning permit by the property owner was for a 360 sf single family dwelling not an accessory dwelling unit.
- HCC 21.70.020(b) requires that the application include the zoning code use and Accessory Dwelling Unit is not shown on the application
- Water and Sewer permits were illegally issued as there cannot be two water and sewer services on one lot
- No finding was found in the record and the converted connex does not constitute an accessory dwelling unit
- Mr. Brown did not have authority under 21.90.020 (b) to issue the zoning permit and there is no evidence in the record that he was being supervised by City Planner Abboud when he did issue the permit.
- HCC 21.70.030 (a) takes precedent over HCC 21.90.020 (b) since it is more specific, stating that the City Planner will review the application to determine if it complies
- HCC 21.70.030 (a) authorized the City Planner to refer the application to other city officials, Mr. Brown is not a city official
- The subject structure is not new construction, it is a converted connex.
- A second single family dwelling on the subject lot would require a conditional use permit per HCC 21.18.030 (j)
- The structures are independent of each other and not occupied by a single family
- Violation of the applicants failure to obtain a zoning permit prior to placement of the converted connex
- The additional fee was not sufficient for the violation.
- The City Planner did not investigate the driveway permit thoroughly.

Mr. Griswold then noted for the record that he would reserve his remaining time for rebuttal.

Chair Smith noted that Mr. Griswold reserved 10.5 minutes and opened the floor to the Appellee noting that he had 30 minutes to present testimony, other evidence, question witnesses and oral argument.

City Attorney Holmquist called the City's first witness Mr. Travis Brown.

Deputy City Clerk Krause swore in Mr. Brown.

City Attorney Holmquist questioned Mr. Brown, and it was brought forward for the record the following information:

- Mr. Brown is an employee of the City of Homer in the Planning Department as the Planning Technician and is supervised by the City Planner
- His responsibilities are Zoning Permits, Code Enforcement and General Office Administration.
- He was involved with the processing of the Zoning Permit Application for 541 Bonanza Avenue in that he initially contacted the owner regarding the dwelling the property owners put on the property as a mobile home and they would need a conditional use permit. The

property owners were cooperative and submitted an application which went forward to the Commission for Public Hearing and approval. The Commission did not approve the Conditional Use Permit since they determined that it did not meet the definition of a mobile home. He consulted with his supervisor, City Planner Abboud, who reviewed city code on how it should be applied to this structure. It was determined that they should consider it an accessory dwelling on a lot. He contacted the property owners who completed the Zoning Permit Application. They worked back and forth until the application was completed. Mr. Brown stated he then reviewed it and issued the permit.

- Mr. Brown inspected the property during this time and while unable to physically get into the structure he was able to view the inside and was able to determine the interior content had appliances and some furniture, cooking facilities, sleeping areas, two entrances/exits.
- Mr. Brown stated that he checked with Public Works Department to verify that the property owners had connected utilities which included sanitation and those were also visible from outside the structure.

Mr. Griswold raised an objection.

Chair Smith acknowledged Mr. Griswold.

Mr. Griswold objected to the leading questions that City Attorney Holmquist was using with his witness.

Chair Smith noted that this was not a court of law but a hearing to gather information. Mr. Griswold's objection is noted for the record.

City Attorney Holmquist noted for the record that the procedural orders for the hearing state that they need not be conducted according to technical rules relating to evidence and witnesses which is the nature of the objection.

Mr. Brown continued his response to questions:

- Homer City Code 21.18.020 (ii) allows for the detached accessory dwelling unit
- Initially there was some missing information and this is typical when the Planning Department receives an application for zoning permits, they usually work through the deficiencies with the applicant who were responsive and provided the missing information so that they could review the application to see that it was meeting city code.
- The application was complete when approved, Mr. Brown confirmed he signed this permit himself and that this work was completed under the supervision of the City Planner.

City Attorney Holmquist stated that his questions for this witness is now complete and he calls on his next witness, Rick Abboud.

Deputy City Clerk Krause swore in Mr. Abboud.

City Attorney Holmquist posed numerous questions to Mr. Abboud who responded with the following information:

- He is employed as the City Planner for Homer.
- His responsibilities include reviewing applications and decisions on zoning applications and enforcement of City Code regarding zoning.
- He did review the appeal record in this case.
- He was involved with the consideration of the application for the zoning permit for 541 Bonanza Avenue and the applicants desired to build an dwelling on the lot and there was an opportunity to have an accessory dwelling on the lot which is more specific than the general dwelling.
- Provided a description of the project as a secondary structure onto the lot and needed to meet all requirements for such in city code.
- He confirmed that zoning code allows for a zoning permit for that purpose and that Homer City Code 21.18.020 (ii)
- He did not agree with Mr. Griswold interpretation of 21.18.020 (ii) that an accessory dwelling unit must be occupied by the same family as the single family home on the lot because they were talking about one structure the accessory dwelling which is a dwelling designed for use by one family.
- No conditional use permit was required as construct or place the accessory dwelling unit as it was not listed in the city code 030 section which lists the specific uses that require a conditional use permit. He confirmed that the 020 section of code lists the permitted uses that can be approved by his office.
- Mr. Abboud described his involvement with the application stating that once the Commission determined that this structure was not a mobile home, it looks like a dwelling by definition and by association is an accessory dwelling by measures of becoming secondary to the principle primary dwelling.
- The zoning permit application was complete and there was no missing information or documentation.
- The zoning permit does not specifically state it is for an accessory dwelling unit does that affect the application in making it incomplete, there is a dwelling there and circumstances on the dictate that it is an accessory dwelling unit.
- Mr. Abboud confirmed that there were conversations with the applicant about the fact that this would be considered an accessory dwelling unit and was required to apply for the zoning permit.
- Mr. Abboud confirmed that the applicants started the project prior to getting a zoning permit, he then stated that the applicants paid the zoning permit fee of \$300 which included a penalty for starting the project prior to obtaining that permit. He provided a breakdown of the permit fee of \$200 plus a \$100 violation fee.
- Mr. Abboud did not feel that this structure met the city code for nuisance, it was converted to a dwelling as described by city code and with the features it now has as a dwelling it would not be suitable for the use of a container.

- Mr. Abboud stated that Mr. Brown signed and has authority to sign the permit, he was working under his supervision and it is stated in city code, but could not recall the citation.
- Mr. Abboud stated that new construction is new on the lot whether it is prefabbed or not, it was connected to the ground improvements were done to it.
- Public Works Department handles the driveway, water and sewer permits and they received these permits from the Public Works. He noted that they have copies of the driveway permits and no driveway permit had been excluded or abandoned to his knowledge. There is only one connection to water and sewer for the lot and did not understand the accusation and this was confirmed by the technician at Public Works.

City Attorney Holmquist noted that he had seven minutes left and would use that time for oral argument. He thanked the Commission for their time and acknowledged that they are volunteers dealing with this matter. He then made the following points to support the Commission upholding the issuance of Zoning Permit 1020-782:

- The zoning code allows a property owner to construct an accessory dwelling unit in the commercial business district.
- It is an outright permitted use listed in city code.
- The application included all the required information for Planning Department to review the application.
- The Planning Department appropriately interpreted code to allow the accessory dwelling.
- The appropriate fees were charged and paid by the applicant

Chair Smith opened the floor for comments of interested persons noting they had 10 minutes.

Larry Slone, city resident, stated that he did not have any evidence but wanted to make comment on the procedures. He believed that the Planning Commission should definitely consider obtaining legal counsel, with respect to the appellant process, Mr. Griswold is clearly an unusually technically, knowledgeable, dedicated, and persistent appellant, which regularly demonstrated his capacity to introduce highly nuanced procedural issues that the Commission and staff are not prepared to legally and definitively refute not that they should necessarily be expected to. The Commission is composed of ordinary citizens without necessary legal background or experience as admitted by the Chairman, to properly evaluate Mr. Griswold's extensive arguments, particularly with regard to whether or not to apply city code, administrative procedure or legal procedures. While I think the Planning Commission and staff are fully capable of engaging in mutually beneficial background discussion, intersection and interaction with the vast majority of those applying for development or a development permit in a manner that serves their desire, allows guided development within the city, while also maintaining fundamentally the integrity of the city code, the Staff is not an expert in a specialized field either. Nor in any case were they able or allowed to participate in procedural discussion. While he believed that the issuance of the zoning permit to the Lowry's was substantially consistent with city code, it was also evident that, as Mr. Griswold stated, undisputed items, procedural items, the Commission has relied on interpretations by the City Attorney, in their uncertainty, as a basis for many of their decisions. Past experience in the case of Mr. Griswold, will utilize any undisputed or any disputed issues as

a basis for subsequent court action that ultimately will cost the city more money. So when an Appellant raises the bar for thought processes procedurally, as is evident here, the city needs to up the quality of its game also.

Chair Smith opened the floor to the Appellant for cross examination of witnesses and rebuttal comments.

Mr. Griswold confirmed with Chair Smith that he still had his 10.5 minutes from oral arguments.

Mr. Griswold called Mr. Abboud for cross examination. Mr. Abboud provided the following responses:

- The Planning Commission does not issue stop orders.
- The Planning Department enforces the zoning code and the most recent incident was in February 2021, a person was occupying a lot that they should not on Mariner Drive.
- He did not recall stating at a meeting that it was a “saving grace” not to be required to enforce the zoning code.
- To his knowledge no asbuilt survey has been submitted as required for Zoning Permit 1020-782
- The difference between a single family dwelling and a detached accessory dwelling unit is the relationship to another structure. It is associated with the primary principal dwelling. The connex meets the definition of an accessory dwelling unit. It is subsequent to the mobile home due to being smaller and less prominent.
- A second structure could be subordinate to another just due to size, subordinate in this case means subsequent and smaller, less prominent and incidental means subsequent or even not in greater stature.
- The zoning permit does not specifically state that the application was for an accessory dwelling unit, it stated that it was for a residential one bedroom, one bath 360 square foot structure, it did not state a single family dwelling but that is what a single family residence is.
- Mr. Abboud could not confirm or deny he was physically present in the office when Mr. Brown issued the Zoning permit on October 5, 2021
- Mr. Abboud did not recall the amount of time or the degree of his involvement in review of the application prior to issuance. He did not personally inspect the interior of the converted connex.
- Mr. Abboud stated that Mr. Brown is authorized under his supervision to issue the zoning permit and it is standard office procedure. He did not waive or ignore HCC 21.70.030 (a) and it is customary to delegate the issuance of zoning permits to subordinate members of the planning staff.

Chair Smith noted that the Appellant had used his time allotted.

Mr. Griswold requested to use his reserve time.

City Clerk Jacobsen noted that Mr. Griswold reserved his time at the end of his testimony and the Chair agreed to that at that time. It would be appropriate to honor that agreement and allow the additional 10.5 minutes.

There was no objection from the Commission and Chair Smith requested Mr. Griswold to continue.

Mr. Griswold repeated the last question to Mr. Abboud regarding the customary delegation of issuing zoning permits to subordinate planning staff in which Mr. Abboud responded affirmatively. Mr. Abboud then provided the following responses to additional questions:

- Mr. Abboud stated he has personally issued zoning permits but did not have that information to specifically cite which ones or the time period he did.
- Mr. Abboud provided no guarantees nor implied that he would not issue any enforcement action with regards to the connex.
- Mr. Abboud stated that he had conversations with the Lowry's but none since the filing of the appeal regarding Zoning Permit 1020-782. He additionally affirmed that he has had no conversations with the Planning Commission regarding this subject either.
- Mr. Abboud was not prepared to respond to the question of his actions if the Commission denies Zoning Permit 1020-782 and the property owners do not bring the converted connex into compliance with Homer City Code
- Mr. Abboud stated that he believed last year, there was one commissioner who attended training this year, he would have to review the calendar when the last training session was offered but he believed it was a year ago. He did not recall the information on who provided the training so was unable to provide accurate information.

City Attorney Holmquist objected to the line of questioning as irrelevant.

Mr. Griswold noted that this was an informal proceeding and official court proceeding do not apply.

Mr. Griswold inquired who made the decision to hire the City Attorney for the Planning Department.

City Attorney Holmquist directed Mr. Abboud not to respond as that was Attorney Client privilege.

Mr. Griswold objected to the Commission allowing City Attorney Holmquist to interject without permission from the Commission. He then requested to cross examine Mr. Brown.

City Clerk Jacobsen confirmed that Mr. Brown was still under oath as was Mr. Abboud.

Mr. Griswold then proceeded to cross examine Mr. Brown who provided the following responses:

- He has an environmental undergraduate degree in urban development, he is not a member of AICP

- He is always under supervision by Mr. Abboud and issued the permit under his direction.
- Mr. Abboud was present in the office when he approved the permit.
- He could not provide the percentage of time that he was directly in communication and supervision but Mr. Abboud was consulted throughout the permit process which is typical. He signs most of the zoning permits issued.
- Mr. Brown was unable to respond to the questions regarding the City Planner signing zoning permits outlined in city code since he did not have that code citation in front of him.
- He affirmed that he personally viewed the interior of the structure.
- He affirmed that he knew the difference between a single family dwelling and a detached accessory dwelling unit when he signed the zoning permit.
- Since he did not have the record in front of him so he could not state what the description on the permit was for the structure but it could be looked up
- He issued a permit for a single family dwelling but it was an accessory dwelling on the lot.

Chair Smith interrupted Mr. Griswold stating that he has reached his time limit. He confirmed with City Clerk Jacobsen that this concluded the hearing and thanked everyone who participated and that the Commission will deliberate the matter and render their decision within the 60 day timeframe allowed.

Chair Smith then noted that City Attorney Holmquist appeared and reviewing his agenda, stated that it was his understanding that they were at the conclusion of the public hearing and requested clarification from the City Clerk.

City Clerk Jacobsen clarified that it was an appeal hearing, not public hearing for the record.

Commissioner Highland stated that the Commission has an opportunity to ask questions at this time.

Chair Smith reported he was missing a part of his agenda and requested clarification from the City Clerk.

City Clerk Jacobsen clarified for the Chair referring to the procedures that the Commission had the opportunity to ask questions.

Chair Smith opened the floor to questions from the Commission hearing none he opened the floor to audience comments.

COMMENTS OF THE AUDIENCE

Larry Slone, city resident, apologized for commenting earlier he was unclear on when he was to comment. He referred to the comments made about additional procedure which allowed him to

make comments at the end of this procedure. He reiterated his recommendation that the Commission hire legal representation.

Chair Smith requested clarification from City Clerk Jacobsen on who constituted a member of the audience.

City Clerk Jacobsen responded that anyone in attendance can comment for three minutes with the restriction that they cannot provide additional evidence or testimony regarding the hearing.

Frank Griswold commented that Mr. Slone just proved his point about notification of the public and used to be a Planning Commissioner and he could not figure out when or how much time he had to present testimony, evidence or otherwise and I would like to point out that the Chair at the very conclusion of my remarks, that you asked Mr. Holmquist if the Chair had the authority to give Mr. Holmquist time for rebuttal that is a question you would ask of your attorney, you are treating the city attorney, who represents my opposition, as your attorney, and you are not even aware of it.

City Attorney Holmquist thanked the Commission for their time and consideration.

Commissioner Venuti questioned when they would be setting a date for deliberations.

Chair Smith responded that they would leave that to the Clerk to coordinate and sort out the calendar for that.

Commissioner Barnwell commented that it strikes him as a simple case, not a complex case and he thought that what they have heard here and what their role as a Planning Commissioner and in recent training performed by the American Planning Association he was told that the foremost function of a Planning Commission is to ensure compliance with the Comprehensive Plan and they stressed that key function. What he has been hearing at this meeting and in the last couple of months is calling our role into analyzing and judging the proper procedural conduct of the planning department and the city staff and he does not believe that is their role. He believed that they should be in a watch dog role but not in a higher capacity to oversee in detail planning function such as making recommendations on zoning permits such as this one. So he had to say that he has perceived this to be an inordinately excessive amount time not only by the Commission but by staff, which costs money in this case and that he states this carefully and guardedly as he fully respects Mr. Griswold's right to question city procedures but I just want to say that this has been an inordinately excessive use of Commission time.

City Clerk Jacobsen expressed her appreciation for everyone's work tonight.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 8:47 p.m. The next Regular Meeting is scheduled for Wednesday, March 17, 2021 at 6:30 p.m. A

worksession is scheduled prior to the regular meeting at 5:30 p.m. All meetings are scheduled to be held virtually by Zoom Webinar from the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska

RENEE KRAUSE, MMC, DEPUTY CITY CLERK

Approved: _____



City of Homer

www.cityofhomer-ak.gov

Planning

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Homer, Alaska 99603

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(p) 907-235-3106

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HOMER PLANNING COMMISSION

Approved CUP 2021-02 at the Meeting of March 17, 2021

Address: 89 Sterling Highway

Legal Description: T 6S R 13W SEC 20 SEWARD MERIDIAN HM 0850128 GLACIER VIEW SUB NO 18 LOT 2

DECISION

Introduction

George Swift/Homer Residences, LLC (the “Applicant”) applied to the Homer Planning Commission (the “Commission”) for a Conditional Use Permit (CUP) under Homer City Code HCC 21.18.030(j), for more than one building containing a permitted principle use on a lot in the Central Business Zoning District (CBD).

The applicant proposes to construct a two duplexes and one triplex with one bedroom/efficiency units for employee housing.

The application was scheduled for a public hearing as required by Homer City Code 21.94 before the Commission on March 17, 2021. Notice of the public hearing was published in the local newspaper and sent to 5 property owners of 10 parcels within a 300-foot periphery of the site.

At the March 17, 2021 meeting of the Commission with both Commissioner’s Bentz and Conley being excused, the Commission voted with the unanimous consent of the five commissioners present to approve CUP 2021-02, with findings 1-10 and conditions 1 & 2.

Evidence Presented

City Planner Abboud reviewed the staff report. The Applicant testified and there was no public testimony.

Findings of Fact

After careful review of the record, the Commission approves Condition Use Permit 2020-02 with findings 1-10 and conditions 1 & 2.

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.

Finding 1: The applicable code authorizes three buildings consisting of 2 duplexes and a multiple family dwelling in the Central Business District.

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

Finding 2: The proposed use and structures are compatible with the purpose of the zoning district.

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.

Finding 3: The proposed improvements are not expected to negatively impact the adjoining properties greater than other permitted or conditional uses.

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

Finding 4: The proposal is compatible with existing uses of surrounding land.

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

Finding 5: Existing public, water, sewer, and fire services are adequate to serve the proposal.

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.

Finding 6: The Commission finds the proposal will not cause undue harmful effect upon desirable neighborhood character as described in the purpose statement of the district.

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

Finding 7: The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area and the city as a whole when all applicable standards are met as required by city code.

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

Finding 8: The proposal will comply with applicable regulations and conditions specified in Title 21 when successfully navigating the permit procedures.

Condition 1: Provide a total of 11 parking spaces and adjust landscaping accordingly to provide a buffer from the highway.

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

Finding 9: The proposal is not contrary to the applicable land use goals and objects of the Comprehensive Plan.

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

Finding 10: Project shall comply with the applicable provisions of the CDM per condition 2.

Condition 2: Outdoor lighting must be down lit per HCC 21.59.030 and the CDM.

- 1. Special yards and spaces:** No specific conditions deemed necessary
- 2. Fences and walls:** No specific conditions deemed necessary
- 3. Surfacing of parking areas:** No specific conditions deemed necessary.
- 4. Street and road dedications and improvements:** No specific conditions deemed necessary.
- 5. Control of points of vehicular ingress and egress:** No specific conditions deemed necessary.
- 6. Special provisions on signs:** No specific conditions deemed necessary.
- 7. Landscaping:** No specific conditions deemed necessary.
- 8. Maintenance of the grounds, building, or structures:** No specific conditions deemed necessary.
- 9. Control of noise, vibration, odors or other similar nuisances:** No specific conditions deemed necessary.
- 10. Limitation of time for certain activities:** No specific conditions deemed necessary.
- 11. A time period within which the proposed use shall be developed:** No specific conditions deemed necessary.
- 12. A limit on total duration of use:** No specific conditions deemed necessary.
- 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.

Conclusion: Based on the foregoing findings of fact and law, Conditional Use Permit 2020-02 is hereby approved, with Findings 1-10 and the following conditions 1 & 2.

Condition 1: Provide a total of 11 parking spaces and adjust landscaping accordingly to provide a buffer from the highway.

Condition 2: Outdoor lighting must be down lit per HCC 21.59.030 and the CDM.

Date

Chair, Scott Smith

Date

City Planner, Rick Abboud AICP

NOTICE OF APPEAL RIGHTS

Pursuant to Homer City Code, Chapter 21.93.060, any person with standing that is affected by this decision may appeal this decision to the Homer Board of Adjustment within thirty (30) days of the date of distribution indicated below. Any decision not appealed within that time shall be final. A notice of appeal shall be in writing, shall contain all the information required by Homer City Code, Section 21.93.080, and shall be filed with the Homer City Clerk, 491 East Pioneer Avenue, Homer, Alaska 99603-7645.

CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to the below listed recipients on _____, 2021. A copy was also delivered to the City of Homer Planning Department and the Homer City Clerk on the same date.

Date

Travis Brown, Planning Technician

George Swift, Homer Residences. LLC
1310 26th Avenue NW
Gig Harbor, WA 98335-7841

Rob Dumouchel
City Manager
491 E Pioneer Avenue
Homer, AK 99603

Michael Gatti
Jermain, Dunnagan & Owens
3000 A Street, Suite 300
Anchorage, AK 99503



City of Homer

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Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum PL 21-03

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
FROM: HOMER PLANNING COMMISSION
THRU: RENEE KRAUSE, MMC, DEPUTY CITY CLERK
DATE: MARCH 31, 2021
SUBJECT: PROPOSED ROAD MAINTENANCE FINANCIAL PLAN

Public Works Director Keiser presented the proposed Road Maintenance Financial Plan developed by the Public Works Department that provides methodologies for assessing roads in the city at the regular worksession on March 17, 2021.

Public Works Director Keiser facilitated a brief discussion on the proposed plan and responded to questions and comments on evaluation of roads that need attention and those that do not need as much attention; consideration of some listed roads that were used as connectors roads for certain neighborhoods; the approach in compiling the report using GIS and creating a database of all city roads; this plan does not address state roads within the city limits and the city does not hold any weight with getting repairs conducted sooner rather than later.

The plan was well received by the Commissioners who expressed their appreciation for the development of the proposed road financial plan. They commented that it was a well thought out complete plan.



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(p) 907-235-3106

(f) 907-235-3118

TO: Homer Planning Commission
FROM: Rick Abboud, AICP, City Planner
DATE: April 7, 2021
SUBJECT: Staff Report 21-20 , City Planner's Report

City Council 3.22.21

Ordinance 21-16, An Ordinance of the City Council of Homer, Alaska, Amending the 2021 Capital Budget and Authorizing Expenditure of \$50,000 from the HART-Road fund and \$50,000 from the Water CARMA fund to pay for Ground Water Research in the City Limits and Bridge Creek Reservoir Watershed. City Manager/Public Works Director.

Recommended dates Introduction March 22, 2021 Public Hearing and Second Reading April 12, 2021.

Memorandum 21-047 from Public Works Director as backup

4.12.22

Ordinance 21-16, An Ordinance of the City Council of Homer, Alaska, Amending the 2021 Capital Budget and Authorizing Expenditure of \$50,000 from the HART-Road fund and \$50,000 from the Water CARMA fund to pay for Ground Water Research in the City Limits and Bridge Creek Reservoir Watershed. City Manager/Public Works Director. Introduction March 22, 2021 Public Hearing and Second Reading April 12, 2021.

Memorandum 21-047 from Public Works Director as backup

Resolution 21-0xx, A Resolution of the City Council of Homer, Alaska Accepting the 2021 Road Maintenance Plan and Declaring it be Updated as part of the City's Budget Cycle. City Manager/Public Works Director.

Commissioner report to City Council

4/12 _____

4/26 _____

5/10 _____

5/24 _____

Commission Calendar

We had scheduled to hear for borough planning in March. We anticipated that the borough would have adopted some new code pertaining to platting, as of yet, they have not. We will plan on scheduling a report and training regarding items forwarded to the borough.

Economic Development Commission

- At their March meeting, the EDC heard an update from Public Works Director Kaiser on the roads financial plan, Mariner Lagoon, and Hornaday Park.
- Julie attended the monthly Chamber Board meeting. The Chamber is expecting relatively few foreign visitors this year, but high visitation by Alaskans and tourists from the lower 48.
- The Wayfinding RFP garnered three proposals. A recommendation will be made to the City Council in time for the April 12th meeting.
- There is a vacancy on the EDC. If you know someone interested in wayfinding - that will be the primary focus of the group over the summer.
- KPEDD will be hosted by the Chamber and EDC to hold a workshop on April 13th, via Zoom. Executive Director Tim Dillon will be in town that week to meet with the Homer and Kachemak City Councils. While he is here, he will give a presentation on the new KPEDD workforce development website. It has tools for everyone from recent high school graduates, to experienced workers looking for a new career.



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Staff Report 21-21

TO: Homer Planning Commission
FROM: Julie Engebretsen, Deputy City Planner
THROUGH: Rick Abboud, City Planner
DATE: 4/7/2021
SUBJECT: Barnett's South Slope Subdivision Quiet Creek Park Replat Lot35, 36, 37

Requested Action: Approval of a preliminary plat to reconfigure three lots into two lots.

General Information:

Applicants:	Gary Harris Geovera, LLC PO Box 3235 Homer, AK 99603	Derotha Ferraro PO Box 3544 Homer, AK 99603	Courtney Martin Patrick Carter PO Box 342 Homer, AK 99603
Location:	Northeast of Homer High School, on Nelson Ave		
Parcel ID:	17502127, 17502128, 1750129		
Size of Existing Lot(s):	0.44, 0.54 and 0.51 acres		
Size of Proposed Lots(s):	0.785 and 0.714 acres		
Zoning Designation:	Rural Residential District		
Existing Land Use:	Vacant		
Surrounding Land Use:	North: Vacant residential South: Residential East: Vacant residential West: Vacant residential		
Comprehensive Plan:	Implementation 1-D-2 Encourage a concentrated development pattern to reduce the need for vehicle trips and encourage non-motorized transportation.		
Wetland Status:	Wetlands are not shown on the plat. Staff will address drainage later in the staff report.		
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 59 property owners of 57 parcels as shown on the KPB tax assessor rolls.
----------------	---

Analysis: This subdivision is within the Rural Residential District. This plat changes the property lines between three parcels, reducing them to two parcels.

Drainage and wetlands: The parent plat, Barnett's South Slope Sub Quiet Creek Park Unit 2 (attached) shows the new common lot line area as having a drainage and jurisdictional wetland. This information should be carried forward on the replat.

Homer City Code 22.10.051 Easements and rights-of-way

- A. The subdivider shall dedicate in each lot of a new subdivision a 15-foot-wide utility easement immediately adjacent to the entire length of the boundary between the lot and each existing or proposed street right-of-way.

Staff Response: The plat meets these requirements.

- B. The subdivider shall dedicate in each lot of a new subdivision any water and/or sewer easements that are needed for future water and sewer mains shown on the official Water/Sewer Master Plan approved by the Council.

Staff Response: The plat meets these requirements.

- C. The subdivider shall dedicate easements or rights-of-way for sidewalks, bicycle paths or other non-motorized transportation facilities in areas identified as public access corridors in the Homer Non-Motorized Transportation and Trail Plan, other plans adopted by the City Council, or as required by the Kenai Peninsula Borough Code.

Staff Response: The plat meets these requirements.

Preliminary Approval, per KPB code 20.25.070 Form and contents required. The commission will consider a plat for preliminary approval if it contains the following information at the time it is presented and is drawn to a scale of sufficient size to be clearly legible.

- A. Within the Title Block:
 - 1. 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 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;

Staff Response: The plat meets these requirements.

- B. North point;

Staff Response: The plat meets these requirements.

- 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;

Staff Response: The plat meets these requirements.

- 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;

Staff Response: The plat meets these requirements.

- 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 limitation of reservations that could affect the subdivision;

Staff Response: The plat meets these requirements.

- F. The names and widths of public streets and alleys and 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: The plat meets these requirements.

- G. Status of adjacent lands, including names of subdivisions, lot lines, lock numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

Staff Response: The plat meets these requirements.

- H. Approximate location of areas subject to inundation, flooding or storm water overflow, the line of ordinary high water, wetlands when adjacent to lakes or non-tidal streams, and the appropriate study which identifies a floodplain, if applicable;

Staff Response: The plat does not meet these requirements. Carry over the parent plat drainage and wetlands information.

- I. Approximate locations of areas subject to tidal inundation and the mean high water line;

Staff Response: The plat meets these requirements.

- J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;

Staff Response: The plat meets these requirements.

- K. Within the limits of incorporated cities, the approximate location of known existing municipal wastewater and water mains, and other utilities within the subdivision and immediately abutting thereto or a statement from the city indicating which services are currently in place and available to each lot in the subdivision;

Staff Response: The plat meets these requirements. Information is on file with the City of Homer Public Works Department.

- 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;

Staff Response: The plat meets these requirements. No rights of way are proposed.

- M. Approximate locations of slopes over 20 percent in grade and if contours are shown, the areas of the contours that exceed 20 percent grade shall be clearly labeled as such;

Staff Response: The plat meets these requirements.

- N. Apparent encroachments, with statement indicating how the encroachments will be resolved prior to final plat approval; and

Staff Response: The plat meets these requirements.

- O. If the subdivision will be finalized in phases, all dedications for through streets as required by KPB 20.30.030 must be included in the first phase.

Staff Response: The plat meets these requirements.

Public Works Comments:

No comments. Generally when there is a lot line vacation, public works would require the abandonment of a set of water and sewer services. In this case we will make an exception due to Nelson Avenue being newly constructed and paved.

Staff Recommendation:

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

1. Include a plat note stating “Property owner should contact the Army Corps of Engineers prior to any on-site development or construction activity to obtain the most current wetland designation (if any). Property owners are responsible for obtaining all required local, state and federal permits.”
2. Carry over the parent plat drainage and wetlands information.

Attachments:

1. Preliminary Plat
2. Surveyor’s Letter
3. Barnett’s South Slope Sub Quiet Creek Park Unit 2
4. Public Notice
5. Aerial Map

NOTES

1. BASIS OF BEARING FOR THIS SURVEY IS FROM THE PLAT OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40).
2. ALL LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO CITY OF HOMER ZONING REGULATIONS. REFER TO THE HOMER CITY CODE FOR ALL CURRENT SETBACK AND SITE DEVELOPMENT RESTRICTIONS. OWNERS SHOULD CHECK WITH THE CITY OF HOMER PLANNING DEPARTMENT PRIOR TO DEVELOPMENT ACTIVITIES.
3. THE FRONT 15 FEET ALONG RIGHTS-OF-WAY AND THE FRONT 20 FEET WITHIN SIDE LOT LINES IS A UTILITY EASEMENT. NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
4. THESE LOTS ARE SERVED BY CITY OF HOMER WATER AND SEWER.
5. THESE LOTS ARE AFFECTED BY EASEMENTS OF RECORD WITH NO DEFINED LOCATION GRANTED TO HOMER ELECTRIC ASSOCIATION (BK 318, PG 927 HRD, BK 48, PG. 77 HRD AND BK 90, PG 166 HRD).
6. THERE IS A 15 FOOT WIDE NATURAL GAS EASEMENT CENTERED ON THE NATURAL GAS PIPELINES INSTALLED UNDER, OVER, UPON AND THROUGH THIS SUBDIVISION GRANTED TO ENSTAR NATURAL GAS COMPANY RECORDED JUNE 7, 2018 (HM 2018-001611-0). THE GAS MAIN IS INSTALLED WITHIN THE 15 FOOT UTILITY EASEMENT ADJACENT TO THE SOUTH EDGE OF THE NELSON STREET RIGHT-OF-WAY.
7. PROPERTY OWNERS SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLANDS DESIGNATION (IF ANY).
8. DEVELOPMENT IN ORIGINAL LOTS 35, 35 AND 37, OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40) IS SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS AND/OR EASEMENTS PER 2018-003491-0 (HRD) AND AMENDMENTS PER 2018-003524-0 (HRD).

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 82°31'23" E	56.55'

CURVE TABLE

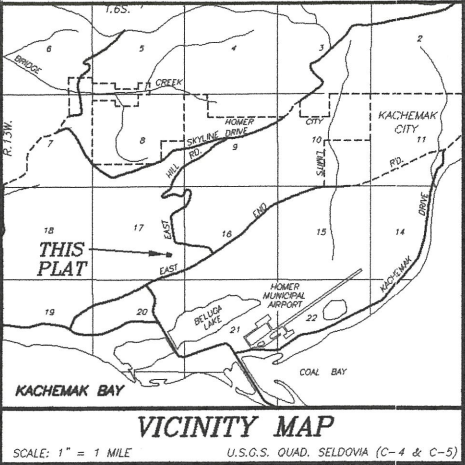
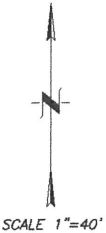
CURVE	DELTA	RADIUS	LENGTH	CHORD BRNG	CHORD DIST
C1	17°50'04"	470.00'	146.30'	S 73°36'21" E	145.71'

PLAT APPROVAL

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

BY: _____ AUTHORIZED OFFICIAL
KENAI PENINSULA BOROUGH

DATE _____



CERTIFICATE OF OWNERSHIP

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

GARY E. HARRIS
PO BOX 3544
HOMER, ALASKA 99603

DEROTHA FERRARO
PO BOX 3544
HOMER, ALASKA 99603

COURTNEY MARTIN
PO BOX 342
HOMER, ALASKA 99603

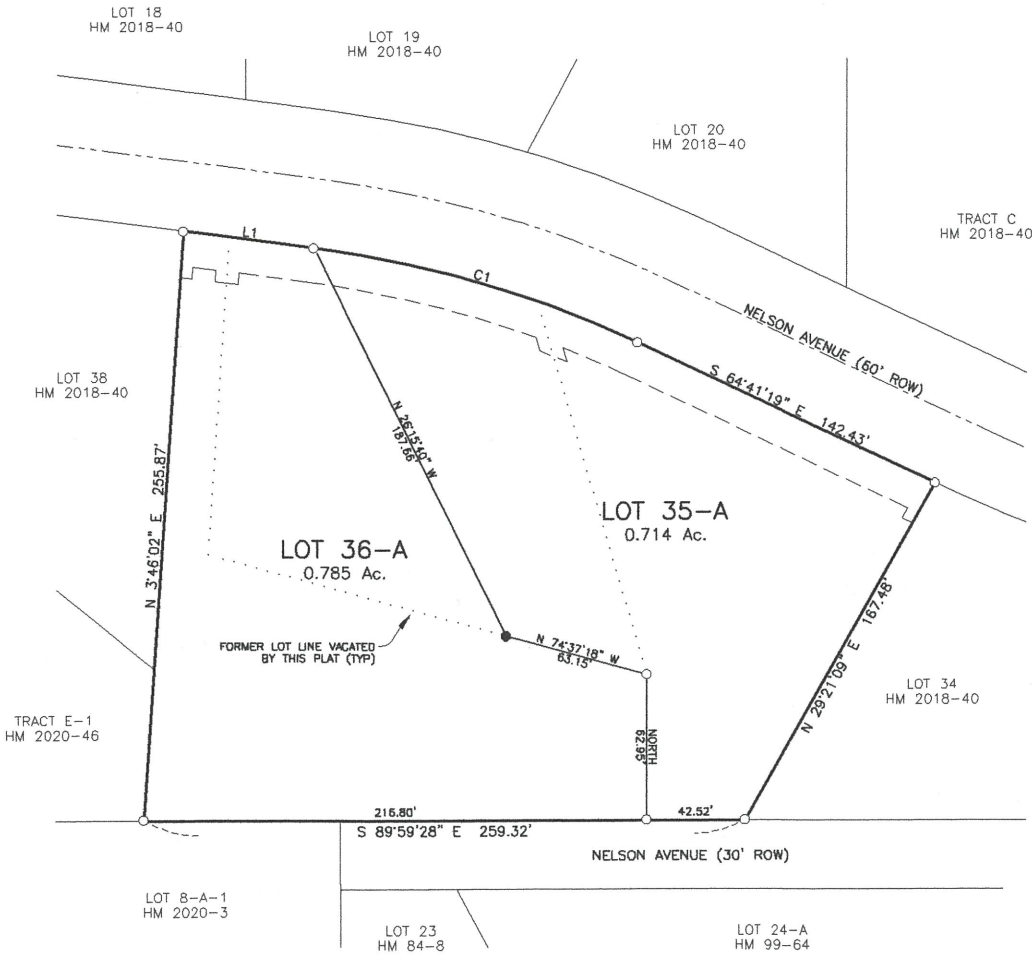
PATRICK CARTER
PO BOX 342
HOMER, ALASKA 99603

NOTARY'S ACKNOWLEDGMENT

FOR: GARY E. HARRIS & DEROTHA FERRARO
ACKNOWLEDGED BEFORE ME THIS _____
DAY OF _____, 2021.

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES: _____

RECEIVED
MAR 09 2021
CITY OF HOMER
PLANNING/ZONING



WASTEWATER DISPOSAL

PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

SURVEYOR _____ LICENSE # _____ DATE _____

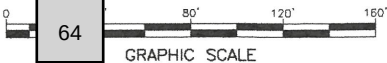
LEGEND

- INDICATES 2" ALCAP (7968-S 2018) RECOVERED THIS SURVEY
- INDICATES 2" ALCAP ON 5/8" REBAR (7538-S, 2021) SET THIS SURVEY
- ▤ INDICATES AREAS WITH SLOPES GREATER THAN 20%

NOTARY'S ACKNOWLEDGMENT

FOR: COURTNEY MARTIN & PATRICK CARTER
ACKNOWLEDGED BEFORE ME THIS _____
DAY OF _____, 2021.

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES: _____



HOMER RECORDING DISTRICT KPB FILE No. 2021-???

BARNETT'S SOUTH SLOPE SUBDIVISION
QUIET CREEK PARK
REPLAT LOTS 35, 36 & 37

A REPLAT OF LOTS 36, 37 AND 38
BARNETT'S SOUTH SLOPE SUBDIVISION
QUIET CREEK PARK UNIT 2 (HM 2018-40)

LOCATED WITHIN THE N1/2 SE1/4, SEC 17,
T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI
PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA
CONTAINING 1.500 ACRES

OWNERS:
LOTS 36 & 37: GARY E. HARRIS & DEROTHA FERRARO
PO BOX 3544 HOMER, ALASKA 99603
LOT 35: COURTNEY MARTIN & PATRICK CARTER
PO BOX 342 HOMER, ALASKA 99603

GEOVERA, LLC

PO BOX 3235
HOMER ALASKA 99603
(907) 399-4345
EMAIL: scsmith@gci.net

DRAWN BY: SCS DATE: MARCH 2021 SCALE: 1" = 40'
CHK BY: SCS JOB #2020-26 SHEET 1 OF 1

Geovera, LLC

PO Box 3235 • Homer, Alaska 99603 • (907) 399-4345 • scsmith@gci.net

March 9, 2021

City of Homer
Planning Department
Julie Engebretsen, Deputy City Planner
491 E. Pioneer Ave.
Homer, Alaska 99603

RE: Barnett's South Slope Subdivision Quiet Creek Park Replat Lots 35, 36 & 37 Preliminary Plat Submittal

Julie,

Please find enclosed (1) full size copy and (2) 11X17 copies of the preliminary plat of Barnett's South Slope Subdivision Quiet Creek Park Replat Lots 35, 36 & 37, and a \$300.00 check for the submittal fee.

This plat splits existing Lot 37 with half of the area combining with Lot 35 and half combining with Lot 36. This plat reconfigures three existing parcels into two resulting in a net increase of minus one parcel.

No rights-of-way are being dedicated by this plat. All three original lots are served by City of Homer water and sewer and have access from Nelson Avenue. No additional utility easements are being granted by this plat. No subdivision or construction agreement is required for this plat.

Please let me know if you have any questions. You can reach me at any time at (907) 399-4345. Thanks!

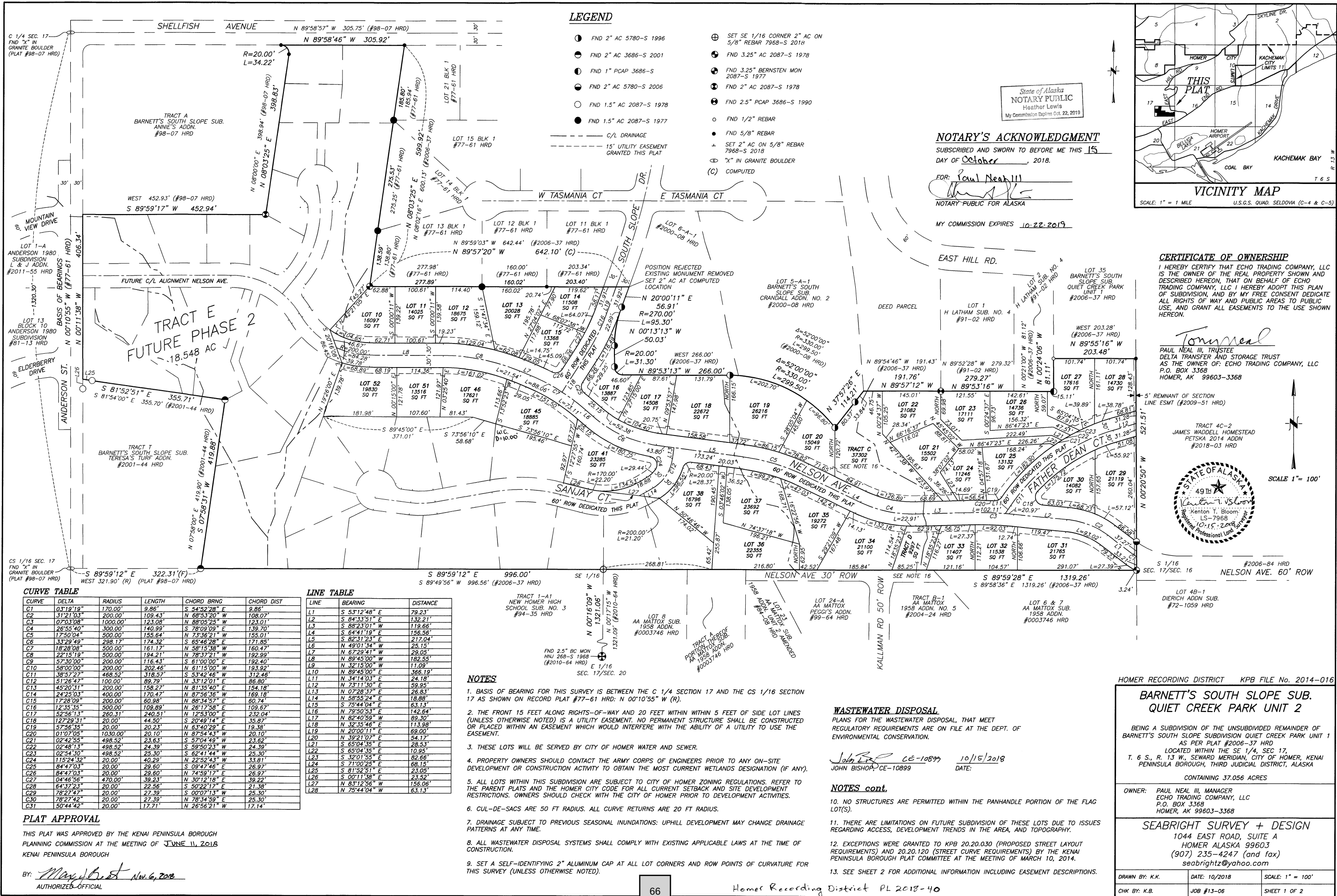
Sincerely,

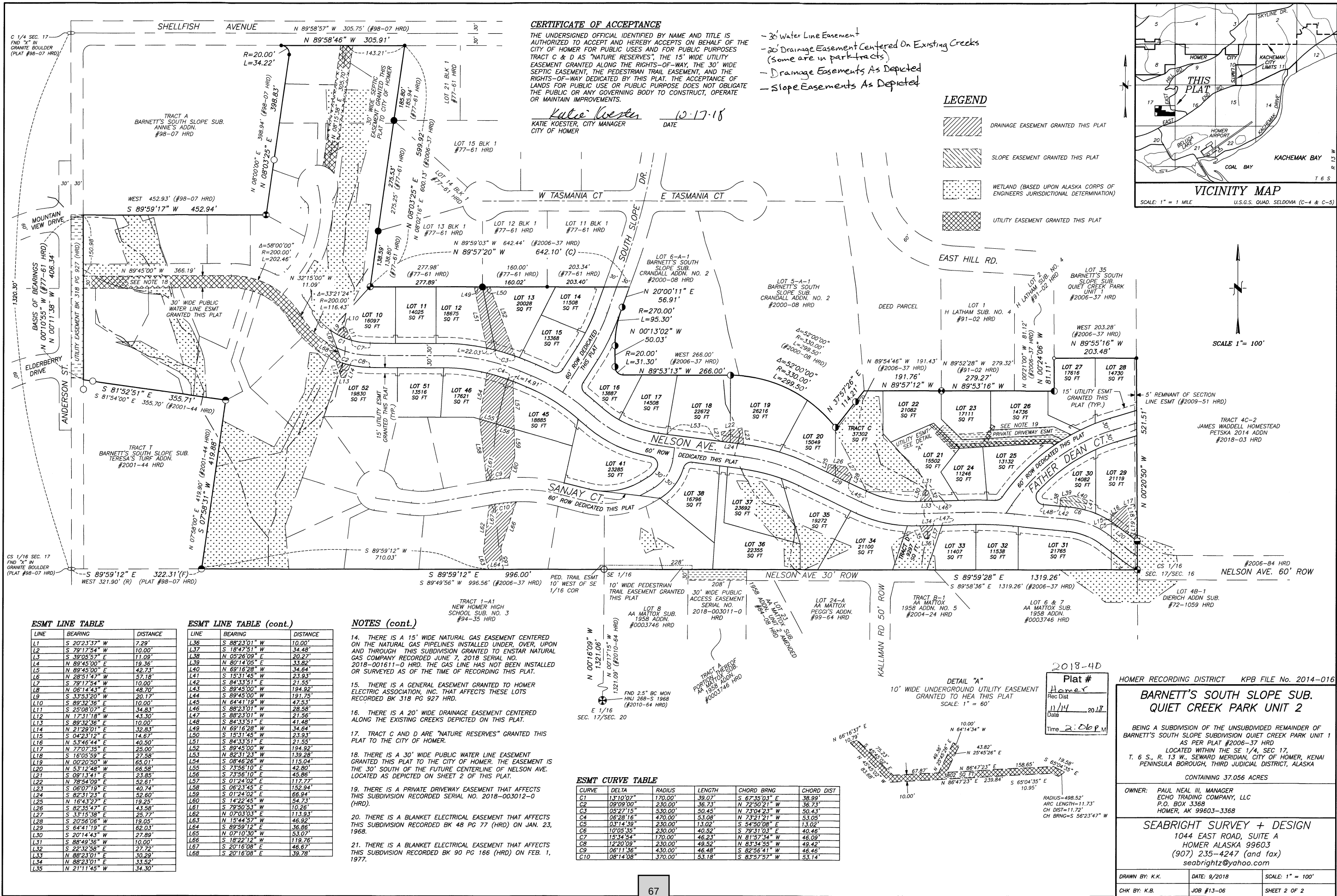
Stephen C. Smith P.L.S.

RECEIVED

MAR 09 2021

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:

Barnett's South Slope Subdivision Quiet Creek Park Replat Lots 35, 36 & 37 Preliminary Plat

The location of the proposed subdivision affecting you is provided on the attached map. 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 Planning Commission on Wednesday, April 7, 2021 at 6:30 p.m. The meeting will be held virtually.

Anyone wishing to view the complete proposal, attend or participate in the virtual meeting may do so by visiting the Planning Commission Regular Meeting page on the City's online calendar at <https://www.cityofhomer-ak.gov/calendar>. The proposal and meeting information will be posted by 5pm on the Friday before the meeting.

Visit the link above or call the City Clerk's Office to learn how to provide verbal testimony during the meeting via telephone or the Zoom online platform. Written comments can be emailed to planning@ci.homer.ak.us or mailed to Homer City Hall, 491 E. Pioneer Ave., Homer, AK, 99603. They may also be placed in the Homer City Hall drop box at any time. Comments must be received by 4pm on the day of the meeting.

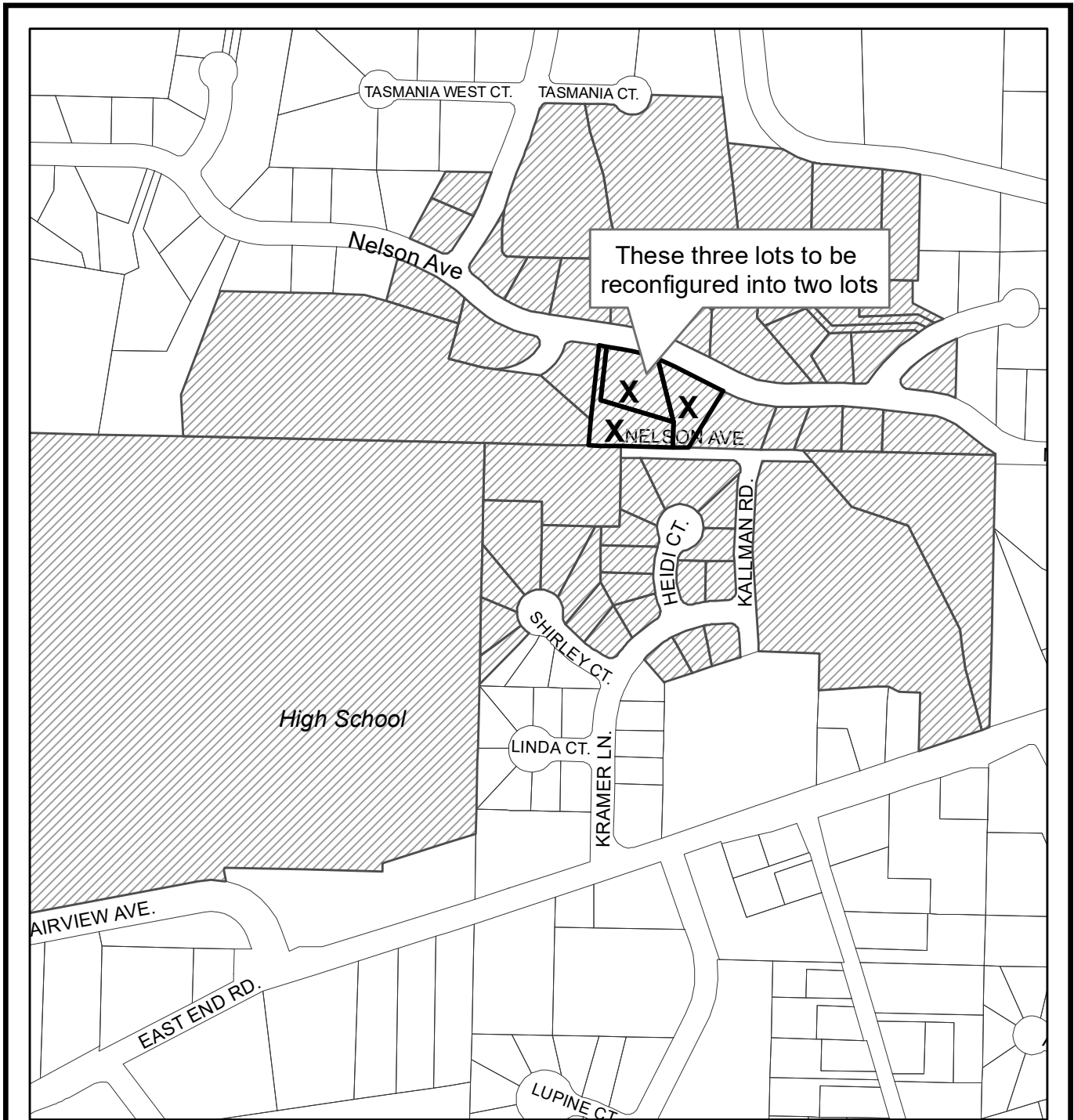
If you have questions or would like additional information about the proposal, please contact Rick Abboud at the Planning and Zoning Office at 235-3106. If you have questions about how to participate in the virtual meeting, please contact the City Clerk's Office at 235-3130.

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 24, 2021

Request for Barnett's South Slope Sub Quiet Creek Park Replat Lots 35,36,37 Preliminary Plat

Marked lots are within 500 feet and
property owners notified.

0 150 300 600 Feet



*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. BASIS OF BEARING FOR THIS SURVEY IS FROM THE PLAT OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40).
2. ALL LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO CITY OF HOMER ZONING REGULATIONS. REFER TO THE HOMER CITY CODE FOR ALL CURRENT SETBACK AND SITE DEVELOPMENT RESTRICTIONS. OWNERS SHOULD CHECK WITH THE CITY OF HOMER PLANNING DEPARTMENT PRIOR TO DEVELOPMENT ACTIVITIES.
3. THE FRONT 15 FEET ALONG RIGHTS-OF-WAY AND THE FRONT 20 FEET WITHIN SIDE LOT LINES IS A UTILITY EASEMENT. NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
4. THESE LOTS ARE SERVED BY CITY OF HOMER WATER AND SEWER.
5. THESE LOTS ARE AFFECTED BY EASEMENTS OF RECORD WITH NO DEFINED LOCATION GRANTED TO HOMER ELECTRIC ASSOCIATION (BK 318, PG 927 HRD, BK 48, PG. 77 HRD AND BK 90, PG 166 HRD).
6. THERE IS A 15 FOOT WIDE NATURAL GAS EASEMENT CENTERED ON THE NATURAL GAS PIPELINES INSTALLED UNDER, OVER, UPON AND THROUGH THIS SUBDIVISION GRANTED TO ENSTAR NATURAL GAS COMPANY RECORDED JUNE 7, 2018 (HM 2018-001611-0). THE GAS MAIN IS INSTALLED WITHIN THE 15 FOOT UTILITY EASEMENT ADJACENT TO THE SOUTH EDGE OF THE NELSON STREET RIGHT-OF-WAY.
7. PROPERTY OWNERS SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLANDS DESIGNATION (IF ANY).
8. DEVELOPMENT IN ORIGINAL LOTS 35, 35 AND 37, OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40) IS SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS AND/OR EASEMENTS PER 2018-003491-0 (HRD) AND AMENDMENTS PER 2018-003524-0 (HRD).

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 82°31'23" E	56.55'

CURVE TABLE

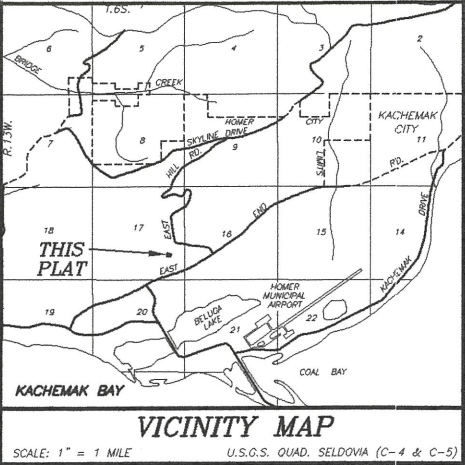
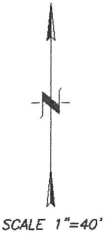
CURVE	DELTA	RADIUS	LENGTH	CHORD BRNG	CHORD DIST
C1	17°50'04"	470.00'	146.30'	S 73°36'21" E	145.71'

PLAT APPROVAL

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

BY: _____ AUTHORIZED OFFICIAL
KENAI PENINSULA BOROUGH

DATE _____



CERTIFICATE OF OWNERSHIP

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

GARY E. HARRIS
PO BOX 3544
HOMER, ALASKA 99603

DEROTHA FERRARO
PO BOX 3544
HOMER, ALASKA 99603

COURTNEY MARTIN
PO BOX 342
HOMER, ALASKA 99603

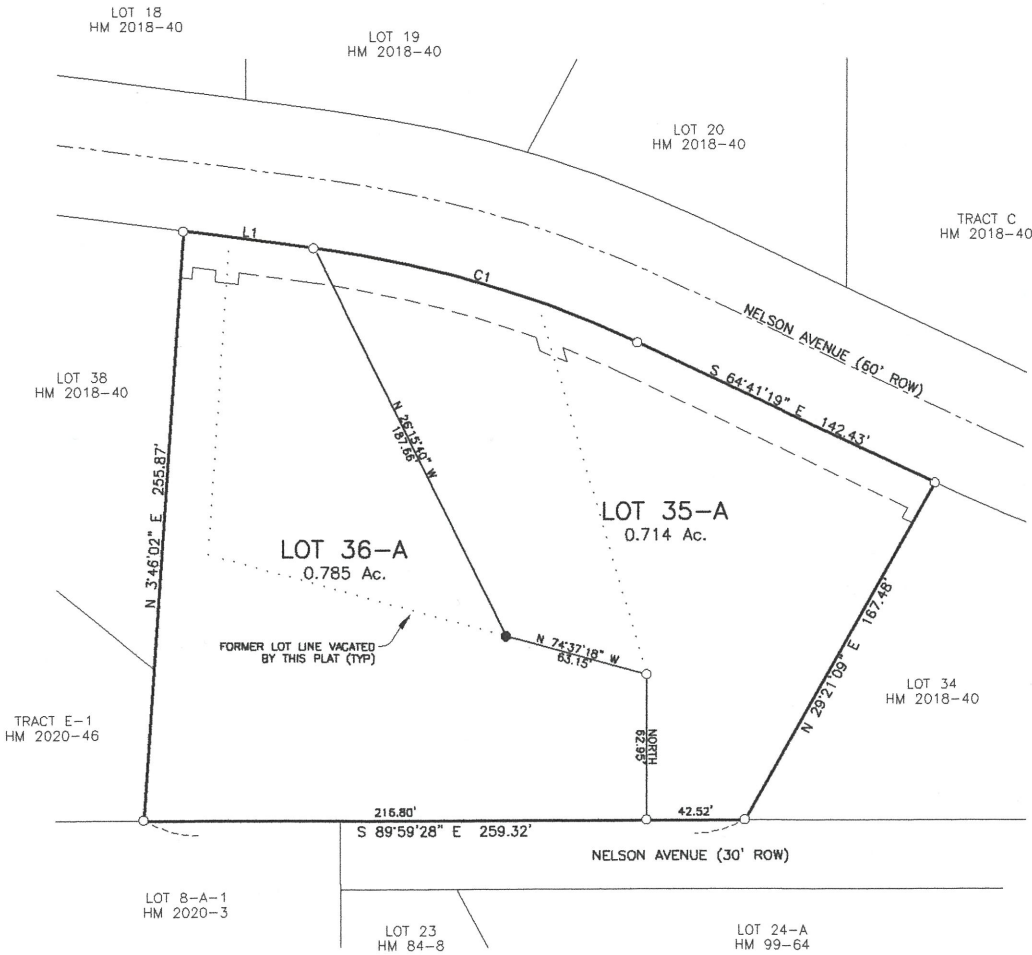
PATRICK CARTER
PO BOX 342
HOMER, ALASKA 99603

NOTARY'S ACKNOWLEDGMENT

FOR: GARY E. HARRIS & DEROTHA FERRARO
ACKNOWLEDGED BEFORE ME THIS _____
DAY OF _____, 2021.

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES: _____

RECEIVED
MAR 09 2021
CITY OF HOMER
PLANNING/ZONING



WASTEWATER DISPOSAL

PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

SURVEYOR _____ LICENSE # _____ DATE _____

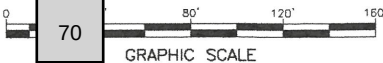
LEGEND

- INDICATES 2" ALCAP (7968-S 2018) RECOVERED THIS SURVEY
- INDICATES 2" ALCAP ON 5/8" REBAR (7538-S, 2021) SET THIS SURVEY
- ▤ INDICATES AREAS WITH SLOPES GREATER THAN 20%

NOTARY'S ACKNOWLEDGMENT

FOR: COURTNEY MARTIN & PATRICK CARTER
ACKNOWLEDGED BEFORE ME THIS _____
DAY OF _____, 2021.

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES: _____



HOMER RECORDING DISTRICT KPB FILE No. 2021-???

BARNETT'S SOUTH SLOPE SUBDIVISION
QUIET CREEK PARK
REPLAT LOTS 35, 36 & 37

A REPLAT OF LOTS 36, 37 AND 38
BARNETT'S SOUTH SLOPE SUBDIVISION
QUIET CREEK PARK UNIT 2 (HM 2018-40)

LOCATED WITHIN THE N1/2 SE1/4, SEC 17,
T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI
PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA
CONTAINING 1.500 ACRES

OWNERS:
LOTS 36 & 37: GARY E. HARRIS & DEROTHA FERRARO
PO BOX 3544 HOMER, ALASKA 99603
LOT 35: COURTNEY MARTIN & PATRICK CARTER
PO BOX 342 HOMER, ALASKA 99603

GEOVERA, LLC

PO BOX 3235
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(907) 399-4345
EMAIL: scsmith@gci.net

DRAWN BY: SCS DATE: MARCH 2021 SCALE: 1" = 40'
CHK BY: SCS JOB #2020-26 SHEET 1 OF 1



Google Earth
2019?



100%

Maxar Techn

71

Camera: 1,701 m

59°39'27"N 151°29'40"W

44 m



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 21-22

TO: Homer Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Deputy City Planner
DATE: April 7, 2021
SUBJECT: Community Design Manual

Introduction

Staff has continued to revise the Community Design Manual (CDM). This is the last major section – Architecture! There are a few items to discuss and make decisions on. At this meeting, I'd like to address parking lot slopes, prominent facades, siding and trim, and color.

Discussion Points:

1. Parking lots on a slope. One of the things the CDM recommends is that land be developed without altering slopes too much. Buildings and parking lots should work with the land, rather than requiring lots of dirt work. But there is a balance! On the bottom of page 2/top of page 3, the CDM mentions terracing parking lots. Staff thinks this is not always practical and may be in conflict with City Code.

HCC 21.55.040 (b) states:

“The surface of a parking lot shall be graded to drain properly. Except where the City Engineer approves a greater slope, the surface of a parking stall shall have a longitudinal slope not exceeding three percent and a transverse slope not exceeding five percent, and the surface slope of an aisle shall not exceed five percent in any direction.”

Examples:

- City hall parking lot is about 5% slope. Can you imagine pushing a cart of groceries, or rolling luggage up that incline during icy or snowy conditions?
- The High School parking lot has aisles that are almost 10%, although that is a predominantly pedestrian environment, and designed for a population that can easily use stairs and is not carrying a heavy load (expect maybe a backpack!).

Staff recommends cutting the diagram and diagram text at the top of page 1-2.

2. Page 1-4, Prominent Facades. This section of the CDM is intended to ensure that the visible sides of the building are attractive. The CDM then goes on to prescribe design guidelines that apply to these major building fronts. The key item here is to define exactly when a building has a prominent facade – because these architectural features have added cost and complexity. So we want the CDM to be clear on what applies to each side of the building.

There are two definitions provided:

“C: Prominent facades include all building facades visible from arterials, and activity centers, and also facades which face the roads(s) providing primary access to the buildings site.”

C(1) is slightly different: “All building facades prominently visible to public rights of way shall meet the following requirements....” The distinction is an arterial is a main road such as the Sterling Highway and we don’t have many arterials, vs the second definition which is ANY public right of way.

Let’s use the Post Office as an example, imagining that it was being built today. The Sterling Highway is an arterial, and there are access points from Heath and Snowbird Streets. Those three walls of the building would be considered prominent facades and need to meet the CDM. But what about the back of the building? Its visible as one travels downhill on Heath and Snowbird; should the back wall also meet the CDM? Backside of the library is another similar example, as are backside of the banks on Hazel Ave.

Staff recommends the following: Prominent facades are building faces along arterials, adjacent to activity centers, or which face the roads providing primary access to the building site. (Staff will work on the wording, but please discuss the idea!)

3. Siding and Trim Discussion: The CDM currently discourages some commonly used siding materials, and requires Commission approval of them. For example, today’s fiber cement board siding comes in many styles and is a quality building material. I can’t see why we would discourage its use! Staff would like to discuss with the Commission how you feel about this section and any suggestions. We see some really creative uses of these materials; how can we encourage this pattern, rather than discourage?

Section D, page 1-9 and 10 Siding and Trim(2)....”The following materials must receive Commission approval...” the CDM goes on to say small sections of these materials are OK, but should not be used as the main siding. The list includes ribbed metal panels (used on the police station and Pratt Museum), sheet siding such as t1-11, concrete panels (City hall has quite a bit of sheet concrete board on the south and west sides) and vertically ribbed or grooved material (such as Wildberry siding, some log and some enhanced t1-11).

Staff recommends the CDM continue to discourage tile, and smooth concrete block. **What does the Commission think about the rest of the materials listed?**

4. Section E, Color (page 1-10). When this manual was written for Gig Harbor WA in the early 2000's, the color schemes described fit that era and location. But today the color schemes don't feel very modern, nor do they reflect our colorful community. **Please read over this section and bring any suggestions or ideas!**

Attachments

1. Chapter 1, Architecture revised copy
2. "Track Changes" version with notes

Chapter 1. ARCHITECTURE

A sense of place cannot be achieved with a single building. It is the cumulative effect of each building and their relationship to surrounding buildings that creates rhythm and pattern and defines scale in the city's streetscapes. The following design standards will help to achieve this:

Applicability: This Chapter applies to all non-residential uses and uses with more than 12 residential units in the Central Business and Gateway Business Districts, to all uses except single family dwellings and duplexes in the Scenic Gateway Corridor Overlay District, and to other districts as required by City Code.

The sections in this chapter include:

- A. The Building and its Setting**
- B. Hierarchy in Building Design**
- C. Prominent Facades**
- D. Siding and Trim**
- E. Color**
- F. Roofing Material**
- G. Building Lighting**
- H. Miscellaneous Architectural Devices**
- I. Parking Garages**

A. THE BUILDING AND ITS SETTING

Buildings shall be designed to reflect the natural conditions of the site and shall include design elements which visually "anchor" the building to the site:

- 1. Incorporate building design elements into landscaped areas.** Without some form of transition between the ground and the building wall, structures can appear to be unrelated to, rather than part of, the site. This is especially true of stand-alone buildings in large open spaces. By extending secondary structural elements from the building out into the site, a transition between the ground and the building wall can be achieved. Low walls, stairs, walkways, or small plazas, for example, can help anchor and transition the building to the site.
- 2. Respect natural topography.** Buildings shall be designed to fit natural slopes rather than forcing the slope to fit a particular building design. Buildings shall be designed with both up-hill and downhill floor plans if the site involves significant slopes. Minimize cut & fill by developing designs which compliment and take advantage of natural topography. Sloped lots may require terraced parking lots and multi-level buildings

designed to follow the slope.

Parking lot follows natural terrain



Parking lot designs should maintain natural topography as closely as possible.

Walkway and steps provided from parking lot to building



ACCEPTABLE



UNACCEPTABLE

STRUCTURE SHOULD BE DESIGNED TO FIT NATURAL SLOPES.

AVOID SIGNIFICANT REGRADES BY SELECTING DESIGNS WHICH FIT NATURAL TOPOGRAPHY.

3. In the Scenic Gateway Overlay District changes to slopes can be made to maintain views.

B. Hierarchy in Building Design

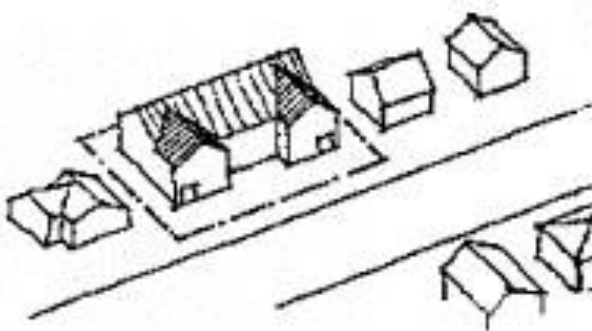
Visual interest in the urban-scape can be achieved through a hierarchical approach to design. For example, strategically located structures, architectural elements or site amenities designed as focal points create a visual "draw" and suggest a point of activity. These serve also as a reference point for all subordinate structures. This concept is particularly applicable to large parcels with multiple structures. Multiple "carbon-copy" buildings provide no visual hub and shall be avoided.

- 1. Design primary structure as a focal point.** Primary structures are those which serve as a visual draw to a site. Primary structures shall be included on all commercial sites with more than one building, on commercial sites with a one or more multiple tenant buildings. Primary structures shall be designed as follows:

a. Primary structures shall be the focal point of development.

b. Primary structures shall include a prominent entrance. The entrance may be defined by a projecting porch or portico or a clearly defined doorway designed as a focal point, in the facade design.

2. **Include area for outdoor leisure for Primary Structure.** Primary structures shall incorporate either a prominent portico or plaza which is visible to the public and useable to customers or clients. Its size shall be at least 10% of the main level interior floor area. It must be incorporated into the building design. (This may or may not be the prominent entrance described above and may be applied toward requirement for a commercial common area described on page 20XX (site design chapter).
3. **Incorporate multiple tenant spaces into hierarchy of building design.** Required facade and height variation will provide some degree of hierarchy in a building's design. Where possible, facade and height variation should reflect the location of individual tenant spaces.
4. **Provide a common architectural treatment to all buildings on the same parcel or which are part of the same development.** In order to provide an overall pleasing development, all buildings shall employ a complimentary architectural style and finish.
5. **Integrate secondary structures as support buildings.** Secondary structures may be much simpler in design and still provide interest to the site plan or streetscape. Architectural interest is of less importance with secondary structures but they must meet all other design criteria for commercial buildings.
6. **Reflect mass and scale of adjacent structures.** Structures shall reflect the mass and scale of adjacent structures. If a larger structure is built next to a smaller structure, it must include projections in the facade which approximate the smaller structure's massing.



The projections in the facade of this larger building appropriately reflect the scale and spacing of the adjacent structures

1. In the Scenic Gateway Overlay District- In addition to the above, building placement and scale will be set to foster a village type of feel. Several buildings or the use of modulation and design elements that give the appearance of smaller street frontages are favored over single building masses with large monolithic faces visible along street frontages.

C. Prominent Facades

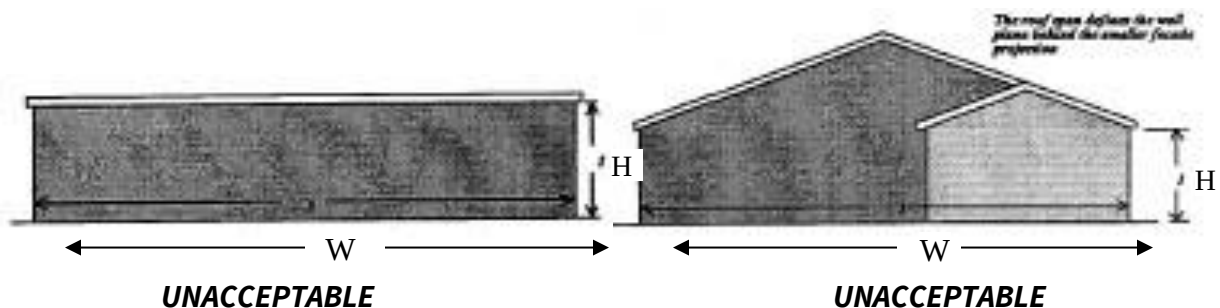
Prominent facades include all building facades visible from arterials, and activity centers, and also facades which face the road(s) providing primary access to the building's site. Prominent facades may not be sterile wall planes void of architectural interest. They shall be detailed with added relief, shadow lines, and visual depth unless screened with landscaping. Prominent facades, whether the front, side or rear of the building, are subject to full design review and shall comply with all design criteria stated herein unless full on-site screening by vegetation can be achieved within 3 years.

1. **Provide consistent architectural interest to all prominent facades.** All building facades prominently visible to public rights-of-way shall meet the following facade requirements.

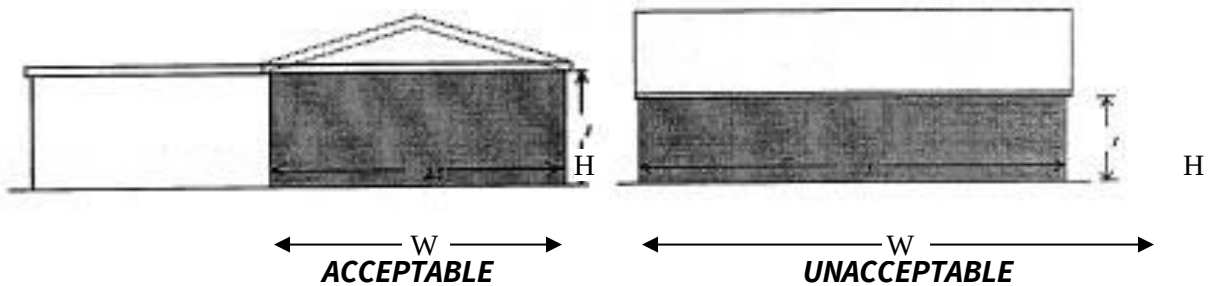
- a. Prominent facades shall not be blank walls.
- b. Prominent facades shall reflect the same design and detailing which typify the building's front including roof design, window proportion, facade variation, and building materials.
- c. Prominent facades may not be concealed behind high walls or privacy fences. Lower fences and walls not exceeding 3 feet in height are acceptable.

2. Building Scale and Mass

- a. **Avoid long, low wall planes.** Prominent facades shall have no wall plane wider than 2.5 times the height of the wall plane.



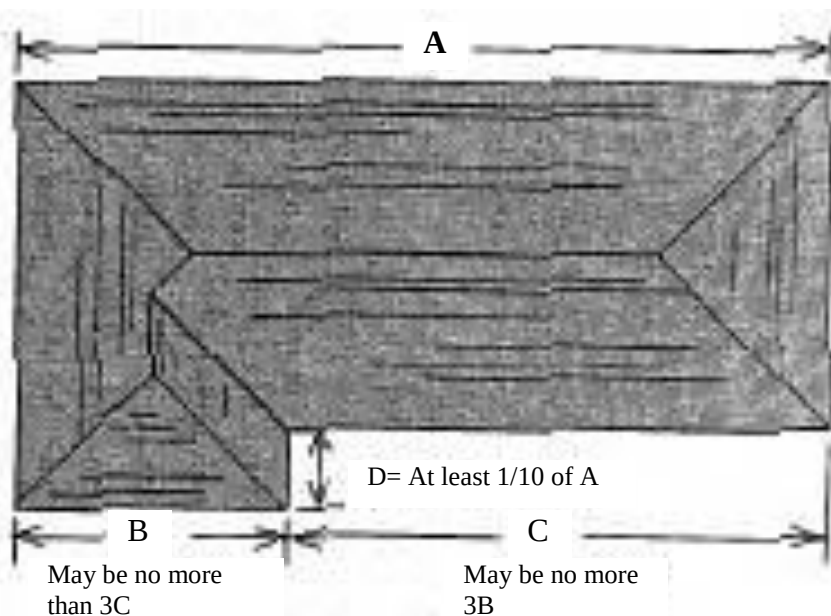
Height/Width proportions apply
with or without gable



3. Provide substantial shifts in walls and roof surfaces. Wall and roof surfaces shall be broken down into smaller planes using substantial shifts in building footprints that result in substantial shifts in roof lines as follows:

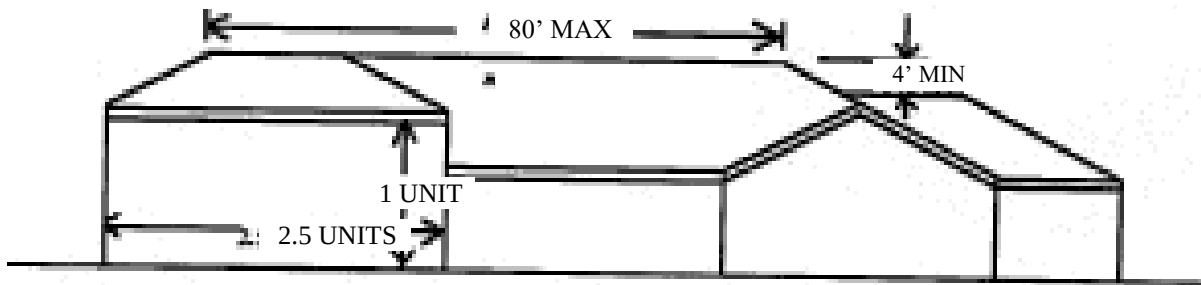
a. Limit roof areas in the same plane. The total roof area in a single plane shall not exceed 5000 square feet.

b. Horizontal shift - No portion of a prominent facade may exceed 60 feet in length without a shift in the building footprint measuring $\frac{1}{10}$ of the facade length. This shift may be broken down into smaller shifts of at least 4 feet each. Horizontal shifts, when required, shall be reflected by a shift or alteration in the roof design. To assure that footprint shifts are evenly distributed across the building facade, shifted wall planes shall have a width proportion of between 1-to-1 and 3-to-1 the width of adjacent wall planes on the same facade.



Horizontal shifts required if "A" exceeds 60 feet in length

c. Vertical shift - No single run of ridge, cornice, or fascia (excluding eave overhang) shall exceed 60 feet without a minimum 4-foot transition in height.



4. Provide visual terminus to tops of buildings. In order to avoid a truncated look at the top of the building, all structures shall have a visual "cap". This may include either a pitched roof or a flat roof. Pitched roofs shall have the appearance of true hips and gables with a defined ridge where opposing roof planes meet. Roof designs must conform to one of the following options:

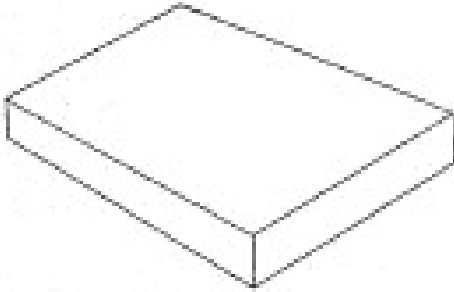
a. Lower pitched roofs with extended eaves - A lower pitch roof with a 4/12 pitch or less is allowed provided eaves extend at least 2 feet beyond exterior building walls. A minimum of a 4/12 pitch is preferred.

b. Steep pitch hip or gable roof form - conforming to the following roof pitch requirements:

- Minimum pitch - 4/12 in all areas;
 - Maximum pitch - 12/12 in all areas.
- Exceptions: Steeples, bell towers and other ancillary structures.

c. False pitch roof with appearance of true hip or gable - Single story and multiple story buildings may, have a flat roof with a false pitch if:

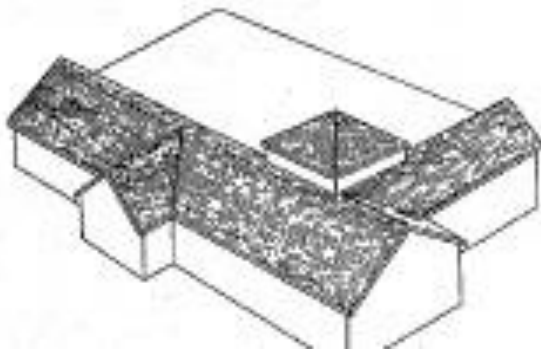
- The roof appears to be a true hip or gable from all public vantage points, and
- There are extending wings on each corner of the building which allow for a true hip or gable to extend out from the false hip or gable (this will avoid a mansard roof appearance).
- These roofs shall have a minimum 4/12 pitch, with eaves extending at least 2' beyond exterior walls.



UNACCEPTABLE - A *simple box-like structure.*



UNACCEPTABLE - The *box structure with simulated mansard.*



ACCEPTABLE - Notice how the *gable ending beyond the corner of this box structure provides the appearance of a true gable from the public's vantage point.*

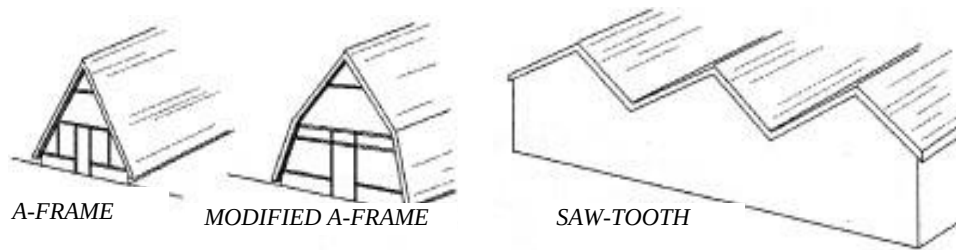
5. Avoid unusual or atypical roof forms on all structures. A-frame, modified A-frame, curvilinear, domed, and mansard style roofs and other unusual or atypical roof forms are discouraged. Multiple gables over a single-mass structure forming a "saw-tooth" design are also discouraged. These discouraged roof forms may only be considered through Commission review.



Curvilinear



Geodesic Dome

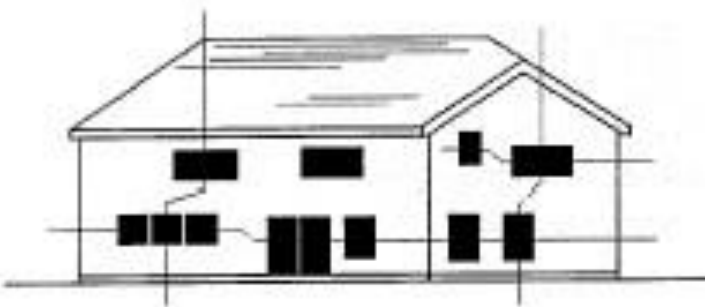


Examples of discouraged roof forms. Mansard roof forms are also discouraged.

6. Window and Door Fenestration

The primary purpose of windows to the interior portion of a building is to let in light and air. To the outside of a building, windows can make an architectural statement. The challenge to the architect is to make sure that both objectives are met. Windows placed primarily to serve interior functions may appear to have been haphazardly placed on the outside of the building or may be completely lacking due to a reliance on mechanical systems for light and air. This shall be avoided. Windows can and should serve as a pleasing focal point in a building's design or emphasize a shift in a wall or roof plane. Windows should relate to, align with, or complement exterior design features of the building.

a. Maintain balance in the placement of windows. To the extent possible, multiple windows on a single wall plane should be regularly spaced and aligned with other windows and doors on the same wall plane. Single or grouped windows on a wall plane should relate to other architectural features such as roof forms, doors, or facade projections.



AVOID

The scattered and haphazard arrangement of windows on this facade result in poor balance in the overall building design.



PREFERRED

The careful alignment of windows provides visual balance to this facade. Notice that it is not always necessary to center windows on a wall plane. Usually, however, non-centered windows look better below a hip than below a gable

b. Conform to solid/void ratio requirements. Generally, windows and doors shall constitute a minimum of 25 - 30 percent of prominent facade wall planes. In situations where this is not practical, emphasis shall be placed on the building's form and texture. The following type of options may, in limited applications, be acceptable alternatives:

- Vertical and/or horizontal shifts in the facade combined with roof forms which accentuate facade variations.
- Variations in texture.
- Variations in exterior lighting.
- Vegetative screening.

c. Reflective glass is discouraged. The use of reflective glass shall generally not be allowed but may be considered by the Commission in limited applications.

D. SIDING AND TRIM

Traditional building materials such as brick, stone or wood reflect human handicraft and provide texture to building exteriors. Materials for new construction and remodeling should convey similar visual qualities.

1. Use materials which simulate quality traditional building materials. Finish materials must individually be characterized by texture, grain, or color variation. Individual components shall be small enough so that their collective application provides interest and texture to building facades and reflects human handicraft. Non-traditional materials shall be used sparingly unless they can be shown to have similar visual qualities of traditional materials or contribute to overall design character.

2. Discouraged siding materials: The following materials must receive Commission approval. Creatively applied small sections of these materials may add architectural

interest, but their use is discouraged as the predominant siding material.

- Corrugated or ribbed metal panels
- Sheet siding (e.g., T1-11)
- Concrete panels
- Tile
- Smooth Concrete Blocks
- Vertically ribbed or vertically grooved material
- Smooth or Flat metal panels

E. COLOR

Color is an important and dominant aspect of building design. When selecting colors, consider carefully the different materials and levels of detail that color can emphasize. The field or base color is one of the most dominating features of the building; trim colors are used on the building's secondary features, while accent colors can emphasize the finer, more characteristic elements of the building's design. Typically, no more than three colors should be used on one building, but additional colors may be considered if they are a close shade of one of the other three colors.

1. Keep field colors subdued. Field or base colors (the main color of the exterior walls) are limited to the more subtle earth tone colors. White, soft sands, grays, light pastels, and deep rich clay colors are appropriate field colors.

2. Limit bold or bright trim colors. Trim colors (fascia, cornice, window & door trim, kick panels, etc) may contrast or compliment the field color. Using a lighter or darker shade of the field color is always an appropriate trim color as is white.

3. Finer details may be accented with brighter colors. Accent colors can generally be brighter than field or trim colors. Accent colors should be used with restraint. Appropriate areas for accent colors are those details that might otherwise go unnoticed such as moldings or molding indentations, medallions, and shadow lines of window and door frames. Doors are also an appropriate location for accent colors.

F. ROOFING MATERIALS

Views of roofs from the ground and from higher elevations play an important role in the architecture of the city. Roofing materials shall be selected according to the following criteria.

1. Use roof materials which provide texture and shadow lines. Ribbed metal roofing or architectural or laminated shingles are encouraged.

2. Avoid bright-colored, reflective or unsightly roofing materials. The following roofing materials are discouraged and may only be considered by the Commission in unusual cases:

- a. Gravel.
- b. Untreated aluminum or metal (copper may be used).
- c. Reflective materials (including aluminized hot-mopped roofs, white or light gray metals which have a metallic appearance in bright sun).
- d. Brightly colored, highly visible roofing materials.
- e. Red bar-tiles common to Spanish architecture
- f. Urethane foam, painted and unpainted

G. BUILDING LIGHTING

Lighting may be used to accent a building but shall not be used to denote a corporate or commercial image except on allowed signage. Lighting may be directed to a building but should generally not emanate from a building.

1. **Avoid back-lit panels and awnings.** Translucent panels and awnings illuminated from behind are prohibited. This shall not exclude soft light being emitted from windows.
2. **Keep light source hidden from public view.** Except for decorator lights with frosted lenses or which use clear bulbs (e.g., candelabra bulbs) light sources shall be concealed behind soffits, within recessed containers, behind shrubbery, etc.
3. **Avoid bright lighting on outdoor surfaces of buildings.** Outdoor building lighting is limited to low levels except that more intense lighting is allowed at building entrances.
4. **Avoid colored lighting on buildings.** Colored lighting is limited to temporary holiday lighting only.
5. **Apply utility lighting sparingly.** Utility light fixtures which have an industrial or utilitarian appearance may be used for security lighting on buildings, but shall not be used in areas of concentrated lighting (e.g., service station canopies) unless the fixtures are not seen from public rights-of way.

H. MISCELLANEOUS ARCHITECTURAL DEVICES

Building design should be executed in a straightforward manner. Tack-on devices may not be used to mitigate poor design or to promote a particular theme. If a particular style or theme is desired, it should be reflected in the building's form and general detailing.

1. **Architecturally integrated artwork is encouraged.** Artisans are encouraged to create art and sculpture which compliment building architecture and the community.
2. **Avoid Architectural Gimmicks and fads.** Types of gimmickry to be avoided include, but are not limited to, the following:

a. Tenant-specific motifs. Detailing or color used to promote a particular theme or to identify a specific tenant should be avoided. Signage shall be used for this purpose.

b. Neon Outlining. Architectural features shall not be outlined in neon, linear lights, or tube-type lights. This includes exposed and concealed lights.

c. Back-lit Awnings. Awnings may not be backlit or otherwise illuminated from behind unless the awning fabric is completely opaque so that it blacks out all light.

d. Non-functional Awnings. Awnings shall be limited to traditional locations over windows walkways, and entrances or over other architectural features where weather protection is needed. Awnings must be applied to walls or posts and may not be applied to existing projections over walkways or windows.

3. **Maintain consistency in awning design.** Multiple awning designs are not permitted on a single building.
4. **Avoid awnings which obscure or dominate the building design.** Awnings, canopies and marquees may not obscure architectural details of the facade and may not be the prominent design element of the building. They must appear as a secondary and complimentary element of the building design.



This continuous awning overpowers the building design and hides the original parapet or cornice detail.

I. PARKING GARAGES

The following requirements are intended to soften the visual impacts of parking garages as seen from the street face.

1. **Recess vehicle entries in main facade.** Garage doors and open vehicle entries must be recessed at least 6 feet from the front facade plane.
2. **Screen parking garage facade.** Parking garage facades which are visible from the street shall conform to one or a combination of the following options:

a. A landscaped screen. Screening may be trees, shrubs or wall clinging plantings on a trellis.

b. Store fronts. The parking garage may be faced with storefronts or display-windows.

c. Simulated storefront. The openings of the garage may be designed to reflect or simulate the window pattern and material choice of the primary structure on the site. The door and window fenestration requirements on this page should be used as a guide.

3. **Acquire Commission approval for all parking garages over 1 story or which enclose 20 cars or more.** In making its determination of compliance, the Commission shall consider the design criteria under 1 & 2 directly above, and may also determine how much screening or architectural embellishment is required based upon projected lines of sight from the pedestrian's perspective.

ARCHITECTURE

GENERAL REGULATIONS

A sense of place cannot be achieved with a single building. It is the cumulative effect of each building and their relationship to surrounding buildings that creates rhythm and pattern and defines scale in the city's streetscapes. The following design standards will help to achieve this:

Applicability: This Chapter applies to all non-residential uses and uses with more than 12 residential units in the Central Business and Gateway Business Districts and to all uses except single family dwellings and duplexes in the Scenic Gateway Corridor Overlay District.

Commented [JE1]: And other districts as required by code.

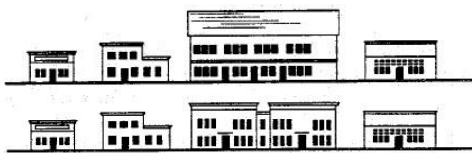
A. The building and its setting:

Buildings shall be designed to reflect the natural conditions of the site and shall include design elements which visually "anchor" the building to the site:

1. **Incorporate building design elements into landscaped areas.** Without some form of transition between the ground and the building wall, structures can appear to be unrelated to, rather than part of, the site. This is especially true of stand-alone buildings in large open spaces. By extending secondary structural elements from the building out into the site, a transition between the ground and the building wall can be achieved. Low walls, stairs, walkways, or small plazas, for example, can help anchor and transition the building to the site.

2. ~~In the Scenic Gateway Overlay District development, such as fences, buildings and landscaping, that blocks over 50% of the existing scenic vistas or contains development visible over 50% of the street frontage is strongly discouraged.~~

Commented [JE2]: SGOD -



UNACCEPTABLE

This large single mass building is out of scale with adjacent structures.

ACCEPTABLE

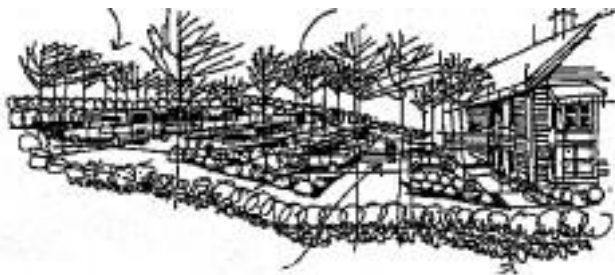
Although this building is large, it includes projections which are similar in height and scale to adjacent structures

4. **Respect natural topography.** Buildings shall be designed to fit natural slopes rather than forcing the slope to fit a particular building design. Buildings shall be designed with both up-hill and downhill floor plans if the site involves significant slopes. Minimize cut & fill by developing designs which compliment and take advantage of natural topography. Sloped lots may require terraced parking lots and multi-level buildings designed to follow the slope.

Commented [JE3]: Terraced parking lots....

Parking lot follows natural terrain

Parking lot designs should maintain natural topography as closely as possible.



Walkway and steps provided from parking lot to building



ACCEPTABLE

STRUCTURE SHOULD BE DESIGNED TO FIT NATURAL SLOPES.
AVOID SIGNIFICANT REGRADES BY SELECTING DESIGNS WHICH FIT NATURAL TOPOGRAPHY.



UNACCEPTABLE

5. In the Scenic Gateway Overlay District changes to slopes can be made to maintain views.

Commented [JE4]: Why here? Shouldn't this be OK in all of Homer?

Building Lighting:

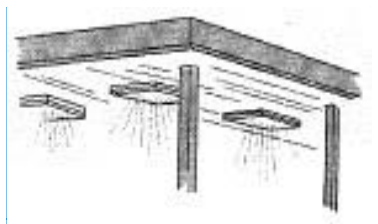
Commented [JE5]: Move all lighting to the lighting section

Lighting may be used to accent a building but shall not be used to denote a corporate or commercial image except on allowed signage. Lighting may be directed to a building but should generally not emanate from a building.

1. **Avoid back-lit panels and awnings.** Translucent panels and awnings illuminated from behind are prohibited. This shall not exclude soft light being emitted from windows.
2. **Keep light source hidden from public view.** Except for decorator lights with frosted lenses or which use clear bulbs (e.g., candelabra bulbs) light sources shall be concealed behind soffits, within recessed containers, behind shrubbery, etc.
3. **Avoid bright lighting on outdoor surfaces of buildings.** Outdoor building lighting is limited to low levels except that more intense lighting is allowed at building entrances.
4. **Avoid colored lighting on buildings.** Colored lighting is limited to temporary holiday lighting only.
5. **Apply utility lighting sparingly.** Utility light fixtures which have an industrial or utilitarian appearance may be used for security lighting on buildings, but shall not be used in areas of concentrated lighting (e.g., service station canopies) unless the fixtures are not seen from public rights-of way.

Commented [JE6]: Code?

~~High intensity light sources may not be visible to the public. Fixture designs of an industrial or utility appearance shall be avoided.~~



Commented [JE7]: Duplicate with lighting chapter

Prominent Facades:

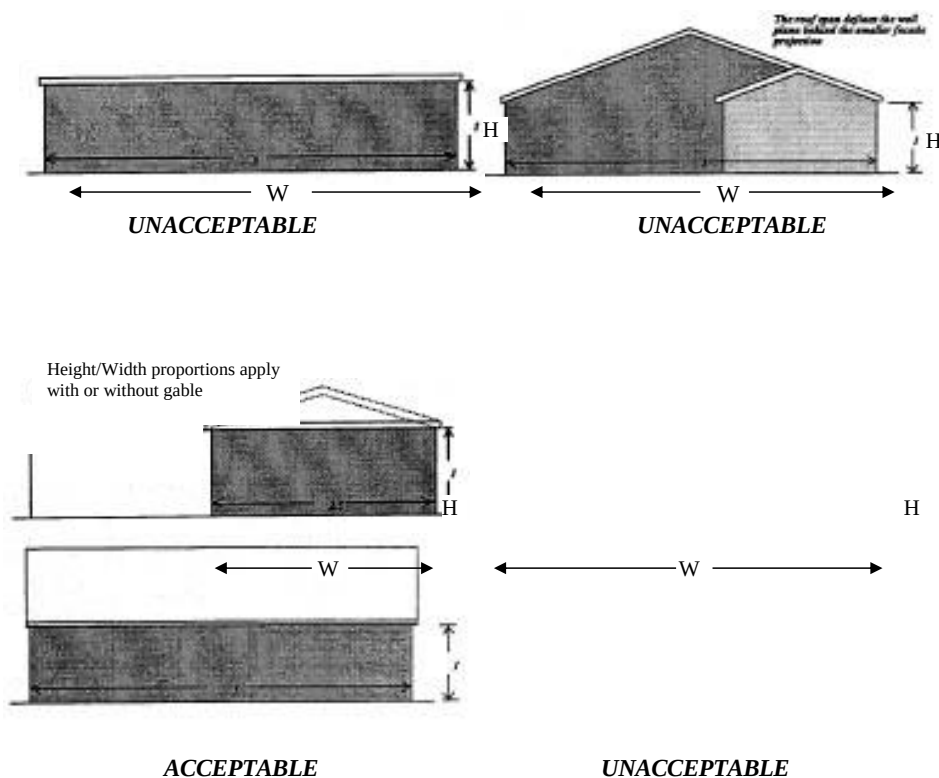
Commented [JE8]: Numbering and lettering

Prominent facades include all building facades visible from arterials, and activity centers, and also facades which face the road(s) providing primary access to the building's site. Prominent facades may not be sterile wall planes void of architectural interest. They shall be detailed with added relief, shadow lines, and visual depth unless screened with landscaping.

1. **Apply all design criteria to prominent facades.** Prominent facades, whether the front, side or rear of the building, are subject to full design review and shall comply with all design criteria stated herein unless full on-site screening by vegetation can be achieved within 3 years.

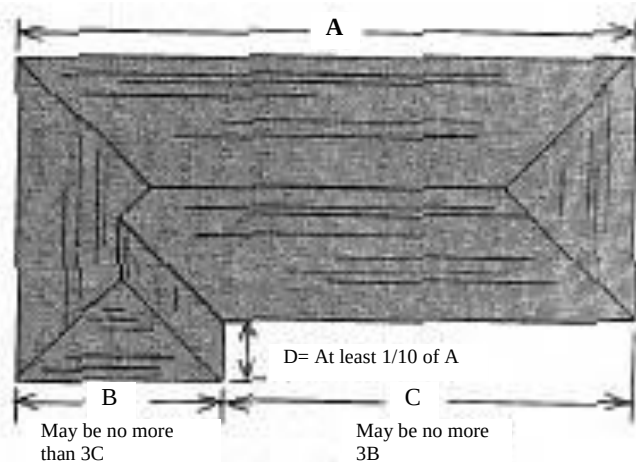
Building Scale and Mass:

1. **Avoid long, low wall planes.** Prominent facades shall have no wall plane wider than 2.5 times the height of the wall plane.



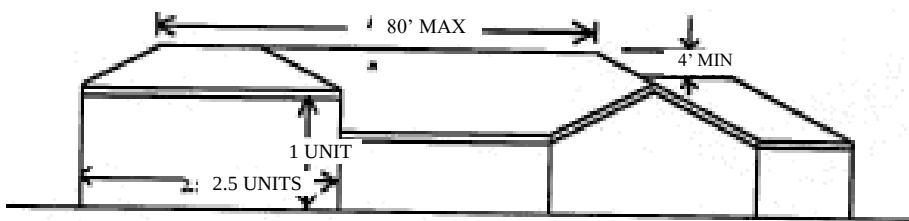
2. **Provide substantial shifts in walls and roof surfaces.** Wall and roof surfaces shall be broken down into smaller planes using substantial shifts in building footprints that result in substantial shifts in roof lines as follows:

- a. Horizontal shift - No portion of a prominent facade may exceed 60 feet in length without a shift in the building footprint measuring 1/10 of the facade length. This shift may be broken down into smaller shifts of at least 4 feet each. Horizontal shifts, when required, shall be reflected by a shift or alteration in the roof design. To assure that footprint shifts are evenly distributed across the building facade, shifted wall planes shall have a width proportion of between 1-to-1 and 3-to-1 the width of adjacent wall planes on the same facade.



Horizontal shifts required if "A" exceeds 60 feet in length

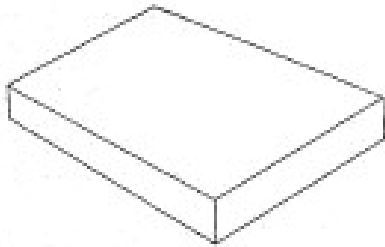
- b. Vertical shift - No single run of ridge, cornice, or fascia (excluding eave overhang) shall exceed 60 feet without a minimum 4-foot transition in height.



3. **Provide visual terminus to tops of buildings.** In order to avoid a truncated look at the top of the building, all structures shall have a visual "cap". This may include either a pitched roof or a flat roof. Pitched roofs shall have the appearance of true hips and gables with a defined ridge where opposing roof planes meet. Roof designs must conform to one of the following options:

Commented [JE9]: Talk more about roof types and why. Also. Viewshed vs roofing..

- a. Lower pitched roofs with extended eaves - A lower pitch roof with a 4/12 pitch or less is allowed provided eaves extend at least 2 feet beyond exterior building walls. A minimum of a 4/12 pitch is preferred.
- b. Steep pitch hip or gable roof form - conforming to the following roof pitch requirements:
- Minimum pitch - 4/12 in all areas:
 - Maximum pitch - 12/12 in all areas.
- Exceptions: Steeples, bell towers and other ancillary structures.
- c. False pitch roof with appearance of true hip or gable - Single story and multiple story buildings may, have a flat roof with a false pitch if :
- The roof appears to be a true hip or gable from all public vantage points, and
 - There are extending wings on each corner of the building which allow for a true hip or gable to extend out from the false hip or gable (this will avoid a mansard roof appearance).
 - These roofs shall have a minimum 4/12 pitch, with eaves extending at least 2' beyond exterior walls.

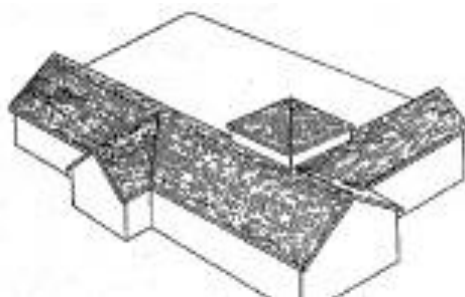


UNACCEPTABLE - A *simple box-like structure.*



UNACCEPTABLE - The *box structure with simulated mansard.*

ACCEPTABLE - Notice how the gable ending beyond the corner of this box structure provides the appearance of a true gable from the public's vantage point.



4. **Avoid unusual or atypical roof forms on all structures.** A-frame, modified A-frame, curvilinear, domed, and mansard style roofs and other unusual or atypical roof forms are discouraged. Multiple gables over a single-mass structure forming a "saw-tooth" design are also discouraged. These discouraged roof forms may only be considered through Commission review.



Curvilinear



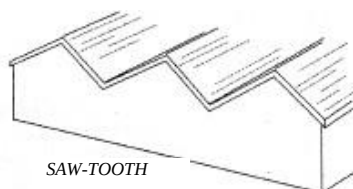
Geodesic Dome



A-FRAME



MODIFIED A-FRAME



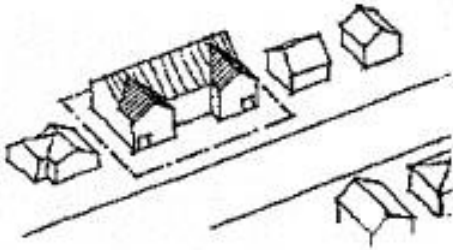
SAW-TOOTH

Examples of discouraged roof forms. Mansard roof forms are also discouraged.

5. **Limit roof areas in the same plane.** The total roof area in a single plane shall not exceed

5000 square feet.

6. **Reflect mass and scale of adjacent structures.** Structures shall reflect the mass and scale of adjacent structures. If a larger structure is built next to a smaller structure, it must include projections in the facade which approximate the smaller structure's massing.



The projections in the facade of this larger building appropriately reflect the scale and spacing of the adjacent structures

7. In the Scenic Gateway Overlay District- In addition to the above, building placement and scale will be set to foster a village type of feel. Several buildings or the use of modulation and design elements that give the appearance of smaller street frontages are favored over single building masses with large monolithic faces visible along street frontages.

Parking Garages:

The following requirements are intended to soften the visual impacts of parking garages as seen from the street face.

1. **Recess vehicle entries in main facade.** Garage doors and open vehicle entries must be recessed at least 6 feet from the front facade plane.
2. **Screen parking garage facade.** Parking garage facades which are visible from the street shall conform to one or a combination of the following options:
 - a. **A landscaped screen.** Screening may be trees, shrubs or wall clinging plantings on a trellis.
 - b. **Store fronts.** The parking garage may be faced with storefronts or display-windows.
 - c. **Simulated storefront.** The openings of the garage may be designed to reflect or simulate the window pattern and material choice of the primary structure on the site. The door and window fenestration requirements on this page should be used as a guide.
3. **Acquire Commission approval for all parking garages over 1 story or which enclose 20 cars or more.** In making its determination of compliance, the Commission shall consider the design criteria under 1 & 2 directly above, and may also determine how much screening or architectural

Commented [JE10]: Basis? Placement/Location of this requirement?

Commented [JE11]: What to do with this section? Feels dated and BMPS are evolving. Are parking garages a CUP? Why not have reference in code? Takes up space here and its not utilized. Appendix? Indexpage #'s?

Commented [JE12]: <ove this section to end of this chapter. Don't interrupt flow of doc

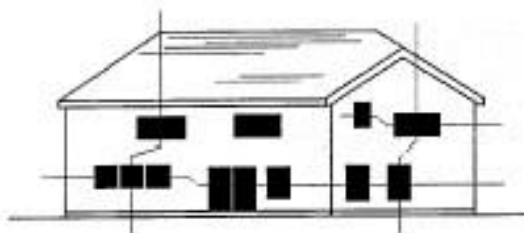
embellishment is required based upon projected lines of sight from the pedestrian's perspective.

Window and Door Fenestration:

The primary purpose of windows to the interior portion of a building is to let in light and air. To the outside of a building, windows can make an architectural statement. The challenge to the architect is to make sure that both objectives are met. Windows placed primarily to serve interior functions may appear to have been haphazardly placed on the outside of the building or may be completely lacking due to a reliance on mechanical systems for light and air. This shall be avoided. Windows can and should serve as a pleasing focal point in a building's design or emphasize a shift in a wall or roof plane. Windows should relate to, align with, or complement exterior design features of the building.

1. **Maintain balance in the placement of windows.** To the extent possible, multiple windows on a single wall plane should be regularly spaced and aligned with other windows and doors on the same wall plane. Single or grouped windows on a wall plane should relate to other architectural features such as roof forms, doors, or facade projections.

Commented [JE13]: Are we still talking prominent facades?



AVOID

The scattered and haphazard arrangement of windows on this facade result in poor balance in the overall building design.



PREFERRED

The careful alignment of windows provides visual balance to this facade. Notice that it is not always necessary to center windows on a wall plane. Usually, however, non-centered windows look better below a hip than below a gable

2. **Conform to solid/void ratio requirements.** Generally, windows and doors shall constitute a minimum of 25 - 30 percent of prominent facade wall planes. In situations where this is not practical, emphasis shall be placed on the building's form and texture. The following type of options may, in limited applications, be acceptable alternatives:

Commented [JE14]: Is this a true cold climate consideration?

- Vertical and/or horizontal shifts in the facade combined with roof forms which accentuate facade variations.
- Variations in texture.
- Variations in exterior lighting.
- Vegetative screening.

3. **Reflective glass is discouraged.** The use of reflective glass shall generally not be allowed but may be considered by the Commission in limited applications.

Siding and Trim:

Traditional building materials such as brick, stone or wood reflect human handicraft and provide texture to building exteriors. Materials for new construction and remodeling should convey similar visual qualities.

1. **Use materials which simulate quality traditional building materials.** Finish materials must individually be characterized by texture, grain, or color variation. Individual components shall be small enough so that their collective application provides interest and texture to building facades and reflects human handicraft. Non-traditional materials shall be used sparingly unless they can be shown to have similar visual qualities of traditional materials or contribute to overall design character.

2. **Discouraged siding materials:** The following materials must receive Commission approval. Creatively applied small sections of these materials may add architectural interest, but their use is discouraged as the predominant siding material.

- Corrugated or ribbed metal panels
- Sheet siding (e.g., T1-11)
- Concrete panels
- Tile
- Smooth Concrete Blocks
- Vertically ribbed or vertically grooved material
- Smooth or Flat metal panels

Commented [JE15]: These 'commission approvals' scattered throughout should go.

Commented [JE16]: I feel this whole section is out of date, or doesn't get us where we want to go.

Miscellaneous Architectural Devices:

Building design should be executed in a straightforward manner. Tack-on devices may not be used to mitigate poor design or to promote a particular theme. If a particular style or theme is desired, it should be reflected in the building's form and general detailing.

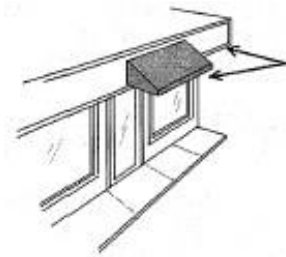
1. **Architecturally integrated artwork is encouraged.** Artisans are encouraged to create art and sculpture which compliment building architecture and the community.
2. **Avoid Architectural Gimmicks and fads.** Types of gimmickry to be avoided include,

but are not limited to, the following:

- a. Tenant-specific motifs - Detailing or color used to promote a particular theme or to identify a specific tenant should be avoided. Signage shall be used for this purpose.
- b. Neon Outlining - Architectural features shall not be outlined in neon, linear lights, or tube-type lights. This includes exposed and concealed lights.
- c. Back-lit Awnings - Awnings may not be backlit or otherwise illuminated from behind unless the awning fabric is completely opaque so that it blacks out all light.
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Commented [JE17]: Conflicts w lighting section?

Avoid layering awnings over existing projections



Commented [JE18]: Cut pic

3. **Maintain consistency in awning design.** Multiple awning designs are not permitted on a single building.

Commented [JE19]: This was cut earlier, cut here?



These awnings are consistent in design. Limiting their location to individual doors and windows assures that they do not overpower the building facade.

Commented [JE20]: cut

4. **Avoid awnings which obscure or dominate the building design.** Awnings, canopies and marquees may not obscure architectural details of the facade and may not be the prominent design element of the building. They must appear as a secondary and complimentary element of the building design.

Commented [JE21]: in function, what does this look like? And in a northern climate?

This continuous awning overpowers the building design and hides the original parapet or cornice detail.



cut here drawing

Roofing Materials:

Views of roofs from the ground and from higher elevations play an important role in the architecture

of the city. Roofing materials shall be selected according to the following criteria.

1. **Use roof materials which provide texture and shadow lines.**

Commented [JE22]: Example: ribbed metal roofing, or architectural or laminated shingles are encouraged

2. **Avoid bright-colored, reflective or unsightly roofing materials.** The following roofing materials are discouraged and may only be considered by the Commission in unusual cases:

Commented [JE23]: Commission approval again

- a. Gravel.
- b. Untreated aluminum or metal (copper may be used).
- c. Reflective materials (including aluminized hot-mopped roofs, white or light gray metals which have a metallic appearance in bright sun).
- d. Brightly colored, highly visible roofing materials.
- e. Red bar-tiles common to Spanish architecture
- f. Urethane foam, painted and unpainted

Color:

Color is an important and dominant aspect of building design. When selecting colors, consider carefully the different materials and levels of detail that color can emphasize. The field or base color is one of the most dominating features of the building; trim colors are used on the building's secondary features, while accent colors can emphasize the finer, more characteristic elements of the building's design. Typically, no more than three colors should be used on one building, but additional colors may be considered if they are a close shade of one of the other three colors.

1. **Keep field colors subdued.** Field or base colors (the main color of the exterior walls) are limited to the more subtle earth tone colors. White, soft sands, grays, light pastels, and deep rich clay colors are appropriate field colors.

Commented [JE24]: Dated. Solutions? Avoid bright colors?

2. **Limit bold or bright trim colors.** Trim colors (fascia, cornice, window & door trim, kick panels, etc) may contrast or compliment the field color. Using a lighter or darker shade of the field color is always an appropriate trim color as is white.

Commented [JE25]: Counter to homer...book store is purple w green/turquoise

3. **Finer details may be accented with brighter colors.** Accent colors can generally be brighter than field or trim colors. Accent colors should be used with restraint. Appropriate areas for accent colors are those details that might otherwise go unnoticed such as moldings or molding indentations, medallions, and shadow lines of window and door frames. Doors are also an appropriate location for accent colors.

Hierarchy in Building Design:

Commented [JE26]: Move up in doc

Visual interest in the urban-scape can be achieved through a hierarchical approach to design. For

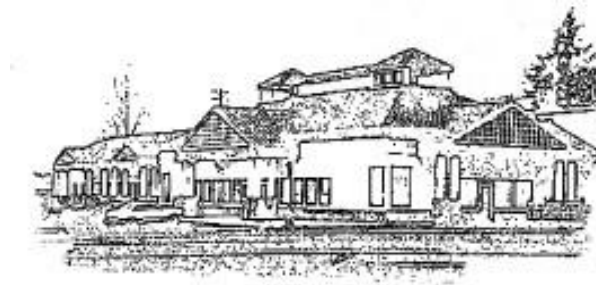
example, strategically located structures, architectural elements or site amenities designed as focal points create a visual "draw" and suggest a point of activity. These serve also as a reference point for all subordinate structures. This concept is particularly applicable to large parcels with multiple structures. Multiple "carbon-copy" buildings provide no visual hub and shall be avoided.

1. **Design primary structure as a focal point.** Primary structures are those which serve as a visual draw to a site. Primary structures shall be included on all commercial sites with more than one building, on commercial sites with a one or more multiple tenant buildings. Primary structures shall be designed as follows:

- a. Primary structures shall be the focal point of development.

~~Even as a stand-alone building, hierarchy is evident in this design, making it appropriate as either a multiple-tenant building or as a primary structure on a multiple-building site.~~

-Cut here



- b. Primary structures shall include a prominent entrance. The entrance may be defined by a projecting porch or portico or a clearly defined doorway designed as a focal point, in the facade design.

~~This more simple structure design, would be appropriate as a secondary building in conjunction with the primary building design above.~~



cut visual

2. **Include area for outdoor leisure for Primary Structure.** Primary structures shall incorporate either a prominent portico or plaza which is visible to the public and useable to customers or clients. Its size shall be at least 10% of the main level interior floor area. It must be incorporated into the building design. (This may or may not be the prominent entrance described above and may be applied toward requirement for a commercial common area described on page 20XX).
3. **Integrate secondary structures as support buildings.** Secondary structures may be much simpler in design and still provide interest to the site plan or streetscape. Architectural interest is of less importance with secondary structures but they must meet all other design criteria for commercial buildings.
4. **Incorporate multiple tenant spaces into hierarchy of building design.** Required facade and height variation will provide some degree of hierarchy in a building's design. Where possible, facade and height variation should reflect the location of individual tenant spaces.
5. **Provide consistent architectural interest to all prominent facades.** All building facades prominently visible to public rights-of-way shall meet the following facade requirements.
 - a. Prominent facades shall not be blank walls.
 - b. Prominent facades shall reflect the same design and detailing which typify the building's front including roof design, window proportion, facade variation, and building materials.

Commented [JE27]: Tool shed, machine shop....what if this relied more on if the structure was visible from an arterial?

Commented [JE28]: Placement?

Commented [JE29]: Conflicts w prominent façade as described elsewhere as arterials... not every public road. In fact this section doesn't make a lot of sense... safetyway...

c. Prominent facades may not be concealed behind high walls or privacy fences. Lower fences and walls not exceeding 3 feet in height are acceptable.

6. **Provide a common architectural treatment to all buildings on the same parcel or which are part of the same development.** In order to provide an overall pleasing development, all buildings shall employ a complimentary architectural style and finish.

Commented [JE30]: Hard to do if it's a conglomeration of parcels and buildings over time....



City of Homer

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(f) 907-235-3148

Memorandum

TO: Mayor Castner and Homer City Council
FROM: Rob Dumouchel, City Manager
DATE: March 17, 2021
SUBJECT: City Manager's Report for March 22, 2021 Council Meeting

FY22/23 Budget

The Council met for a work session on March 15th to discuss the Administration Department, Finance Department, and Admin Fees. There was discussion throughout which will help staff move forward with their budget preparations. The Admin Fees discussion was productive and I am aiming to include a follow up discussion on the March 31st budget work session agenda which will also include Police, Fire and an introduction to fleet issues. We'll move CARMA to budget work session #3 with Public Works and Harbor.

Natural Gas Line Loan is Paid Off!

Council passed Ord 21-13 at the March 8th meeting which allowed for the payoff of the Natural Gas Line loan with the Kenai Peninsula Borough. The very next day the Finance Department worked with our banking partners to pull the funds together and get a check written for the full payoff amount of \$2,511,190.83. The day after, Finance gathered the necessary signatures and deposited the check into the respective Borough bank account.

Harbor Bond Refunding

The City issued its Harbor Revenue Bond in June 2013, in the principal amount of \$3,735,000. The bond was purchased by the Alaska Municipal Bond Bank. The Bond Bank began the process of refinancing local government bonds in 2020 (including the City's Harbor Bond) but was delayed because of a ruling by the Alaska Supreme Court. The Bond Bank is again moving forward with the refinancing which is expected to close in early June. If the City participates in the refinancing, approximately \$2 million par amount of the City's bond would be refinanced.

The refinancing is intended to achieve at least a 3% savings for local government. The Bond Bank provided us with a preliminary analysis of potential savings for the City. With current market rates, the City could save approximately \$185,918, which represents roughly 8.9% in savings. The range of potential market movement provided by the Bond Bank was 35 basis points. Within that range, the worst savings is said to be \$113,992 (6.7%) and the best is \$247,053. (11.8%). However, bond markets are volatile and the potential savings can change drastically depending on market movements.

Known expenses related to participating in this refinancing is the contract for bond counsel services which has been quoted to be \$15,000. The City would only occur this expense if the refinancing by the City is successful. This costs would be included in the cost of the refinancing transaction. A bond ordinance authorizing the City's participation in the transaction is expected to be introduced to Council in early April.

Cybersecurity Update

At the very beginning of March, [Microsoft reported](#) that hackers based in China had discovered and exploited four security weaknesses in Microsoft Exchange servers, which are used for handling email. Hackers could potentially steal emails, distribute malware through the server, or introduce changes to the system that would give them greater control over its operations. On March 2, Microsoft released patches for the security holes, and all these patches were quickly applied by IT staff to the City's servers. We are not aware of any breach of security to the City's systems, although other entities may have been attacked as early as January 6th.

Ice Plant is Open for Business

The Ice Plant closes down seasonally for maintenance, but it officially reopened for business on March 10th. There is ice in the bin to sell, the cold storage room is ready for customers to store their season's bait, and some halibut have already been landed. Burt Gregory, the Ice Plant/Fish Dock Supervisor (shown in the photo below), tells us that the plant is "running like a well-oiled sowing machine."



Recreational Trails Program

Administration is planning to apply for a Recreational Trails Program grant to construct an ADA accessible trail in Karen Hornaday Park. The trail will run parallel and adjacent to a redesigned park entrance road and the parking configuration, and will be of similar design as the Poopdeck Platt Trail. This improvement addresses Karen Hornaday Park pedestrian safety and accessibility concerns which are prioritized in the City's Capital Improvement Plan and the ADA Transition Plan. The grant, if successful, requires a 10% local match which will be requested from the HART Trails Fund. We will bring a resolution before Council in April expressing Council support for the project and authorizing the application for the matching grant as required by the Recreational Trails Program.

Building Data

At the March 8th Council meeting and March 15th work session, I mentioned that I had Planning preparing some data regarding building trends in Homer. 2020 was a particularly strong year for new residential structures. See the attached memo from the City Planner showing the trends in permits pulled for residential and commercial buildings and additions.

Library Fireplace Lounge Speaker Upgrade

The Friends of Homer Library (FHL) donated equipment and expertise while the City's Building Maintenance Division handled the actual installation of some new speakers and a small cabinet. The small cabinet was crafted specifically to blend in with the shelving and was built by the spouse of a FHL board member.



Employee Updates

Congrats to Sean Perry for his promotion to Patrol Sergeant at HPD on March 8th! Sean came to HPD in 2014 as a lateral hire from the Unalaska Police Department, where he served as a Police Officer for two years. With over eight years of police experience, Sean is ready to serve the Homer community in his new role. Thanks for your hard work Sean!



COVID-Related Updates

COVID Risk Status

On February 1st I moved the City from the “Red” to “Orange” level on our COVID risk framework and we remain in Orange today. This reopened the HERC and the Library to use by appointment. The Harbor will be opening their lobby to walk-in visitors (with full masking and social distancing protocols) on March 22nd. At the last City Council meeting there were questions about how the changes in CDC guidelines may impact City operations. At this time, they don’t. The updated CDC guidelines for those who have received vaccines is focused on private gatherings, not conduct in public spaces. No changes are being made at this time in City facilities, but we will continue to monitor the guidelines as they evolve.

Vaccine POD

On March 12th, the Unified Command hosted another vaccine clinic at Homer High School. I was one of about 600 individuals who received a shot that day. The teamwork between the City, the hospital, and other community partners is really great to see. The vaccine distribution is friendly and efficient.



Enclosures:

1. Recreational Trails Program draft notification and map for Karen Hornaday Park Trail/ADA project
2. Memo from City Planner Re: Trends in Permitting
3. Memo from Special Projects Coordinator re: DHSS COVID-19 Funding to Support Community Vaccine & Testing



**RECREATIONAL TRAILS PROGRAM GRANT APPLICATION
PUBLIC NOTICE**

Project Title: Karen Hornaday Park Pedestrian Trail

Organization Name: City of Homer

Date Public Notice Posted: March 22, 2021

Brief Description of Proposed Project:

The City of Homer intends to apply for a Recreational Trails Program grant to construct a landscaped ADA accessible trail (with similar construction as the Land Trust Poopdeck Trail) which will run parallel and adjacent to a redesigned park entrance road. This improvement is prioritized in the City's Capital Improvement Plan and the ADA Transition Plan to address pedestrian safety and accessibility concerns.

Proposed Timeline of the Project:

Project Start Date: _____

Project End Date: _____

Applicant Contact Information:

Contact Name: Jennifer Carroll, City of Homer Special Projects Coordinator

Phone Number: 907-435-3101

Email Address: jcarroll@ci.homer.ak.us

Mailing Address: 491 E Pioneer Avenue
Homer, AK 99603

Public Comment or Opposition can be submitted via methods listed above.

Deadline for Public Comment: April 22, 2021

Map of Project Area:



The Alaska Recreational Trails Program is the possible funding agency for this proposed project. For information regarding the Alaska Recreational Trails Program, please visit the State website at <http://dnr.alaska.gov/parks/grants/trails.htm>.





City of Homer

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Planning

491 East Pioneer Avenue
Homer, Alaska 99603

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(f) 907-235-3118

Memorandum PL 21-02

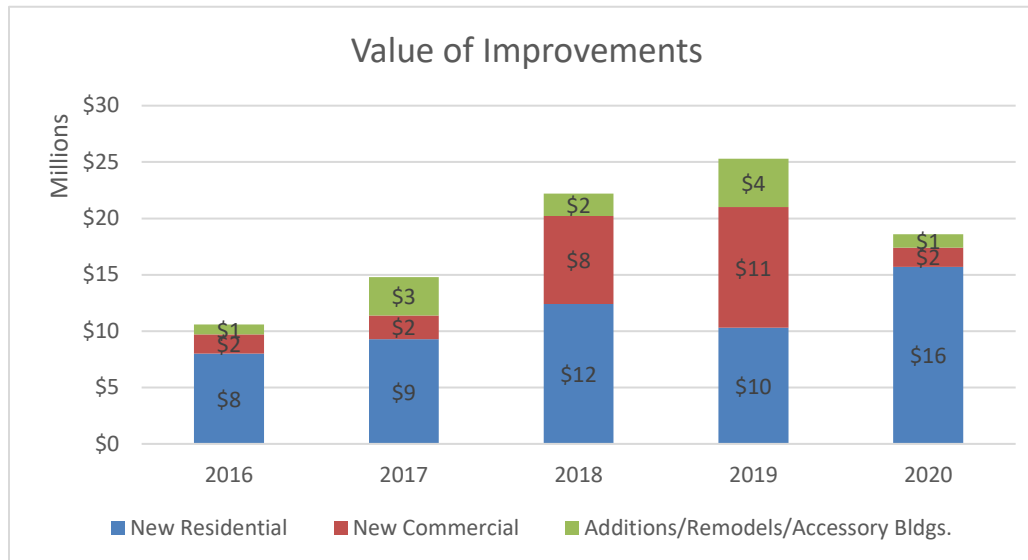
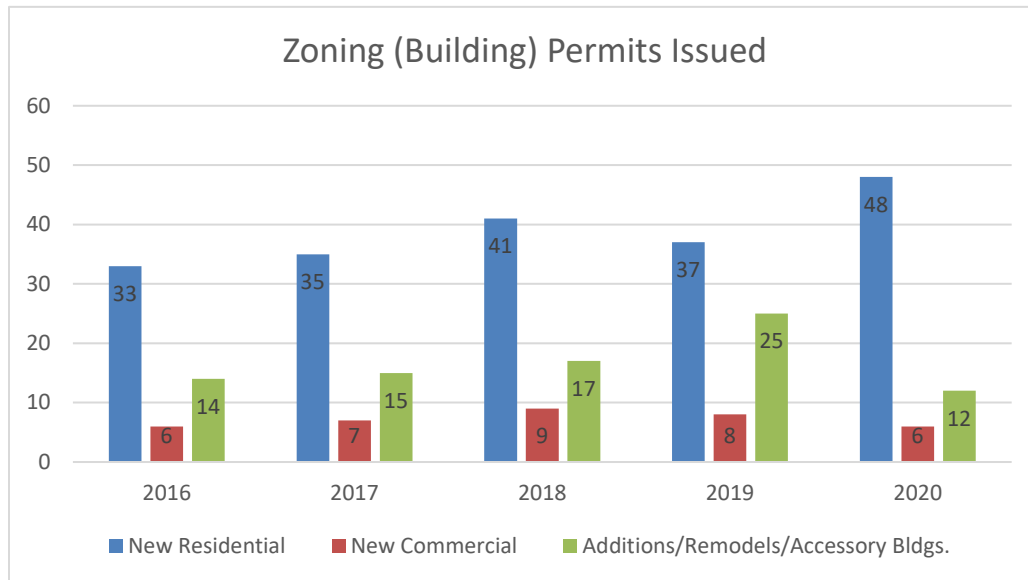
TO: Rob Dumouchel
FROM: Rick Abboud, AICP, City Planner
DATE: 3/16/21
SUBJECT: Trends in Permitting

Zoning permit trends

Over the past six years, permitting numbers in Homer have remained steady. We have experienced an increase in the number of new dwellings being built, time will tell if this is an anomaly or not. While this could be a specific trend in response to the unique conditions of a pandemic year, I feel that there is a good probability of this trend continuing. I recognize more people moving to Homer as a refuge of sorts from undesirable physical and social conditions found elsewhere.

Year	Residential Zoning Permits Issued		Commercial Zoning Permits Issued		Total
	New Construction	Additions/Remodels /Accessory	New Construction	Additions/Remodels /Accessory	
2020	48	10	6	2	66
	\$15.7 million	\$670,000	\$1.7 million	\$480,000	\$18.6 million
2019	37	20	8	5	70
	\$10.3 million	\$1 million	\$10.7 million	\$3.3 million	\$25.3 million
2018	41	12	9	5	67
	\$12.4 million	\$1.0 million	\$7.8 million	\$1.0 million	\$22.2 million
2017	35	12	7	3	57
	\$9.3 million	\$450,000	\$2.1 million	\$2.9 million	\$14.8 million
2016	33	14	6	0	53
	\$8 million	\$850,000	\$1.7 million	0	\$10.6 million
2015	38	14	5	3	60
	\$9.8 million	\$878,900	\$2.4 million	\$125,000	\$13.1 million
2014	37	10	10	5	62
	\$9.3 million	\$370,000	\$5.5 million	\$240,000	\$15.4 million
2013	36	14	11	3	64
	\$6.9 million	\$580,000	\$3 million	\$2.1 million	\$12.6 million

- Permit values are provided by applicants, we routinely revise some residential values when they are unrealistic.



Notable recent projects include:

2019 - Homer Police Station Valued at \$7.5 million

2018 -Aspen Hotel Valued at \$4.5 million



City of Homer

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Office of the City Manager

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(f) 907-235-3148

Memorandum

TO: Mayor Castner and Homer City Council
FROM: Jenny Carroll, Special Projects & Communications Coordinator
THROUGH: Rob Dumouchel, City Manager
DATE: March 16, 2021
SUBJECT: DHSS COVID-19 Funding to Support Community Vaccine & Testing

The State of Alaska DHSS made funding available to local units of government statewide to support COVID-19 testing and vaccine administration. These funds have been allocated on a per capita basis and Boroughs and local governments have been invited to develop plans to utilize these funds to engage one or more communities and/or partner organizations to increase access to COVID-19 testing and vaccines, with special focus on lowering barriers to vaccine access among hard-to-reach populations.

On Monday March 16, we submitted a request in partnership with South Peninsula Hospital and Kachemak City to utilize the City of Homer's \$254,040 allotment and Kachemak City's \$24,376.44 allotment to support Homer Unified Command's future efforts to distribute COVID-19 vaccinations to residents of the Southern Kenai Peninsula. These funds will support:

- Seven additional mass vaccine POD clinics (similar to what we have hosted at the Christian Community Church initially, and now at Homer High School) which distributes approximately 600 doses per clinic;
- Four drive-through or pop-up vaccine events to reach underserved segments of the community such as the homeless or those at risk of homelessness, seasonal workers, and workers in the commercial fishing industry;
- Contract services to assist PIOs with targeted outreach to underserved populations to increase awareness of pop-up vaccine opportunities and for general advertising of mass vaccine clinic opportunities.

DHSS funding decisions will be announced March 31, 2021; if selected, the State will offer the City of Homer funding through a Memorandum of Agreement with a period of performance of one year and with the understanding that should conditions change within six months, the State is willing to amend MOA's accordingly.

The first opportunity to bring the Memorandum of Agreement to Council for consideration is the April 12, 2021 Council meeting. However, because the first event the funding will support is April 16, 2021, I wanted to give you a heads up that we will be introducing the MOA through an Emergency Ordinance so that costs

incurred at the April 16 mass vaccine clinic will be eligible for reimbursement through the State grant program.

We greatly appreciate that the State is making funds available to support a prompt and robust roll out of vaccines and we thank Kachemak City Council for their partnership to leverage combined municipal funds in support area vaccine efforts.



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

March 16, 2021

NOTICE OF DECISION KENAI PENINSULA BOROUGH PLAT COMMITTEE MEETING OF MARCH 15, 2021

Re: Puffin Acres SVH 2021 Replat Preliminary Plat
KPB File Number: 2021-013

The Plat Committee reviewed and granted conditional approval of the subject preliminary plat during their regularly scheduled meeting of March 15, 2021 based on the findings that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.25; 20.30; 20.40 and 20.60.

AMENDMENT A MOTION

An amendment motion to grant exception to KPB 20.30.170 blocks-length requirements, passed by unanimous vote based on the following findings of fact.

Findings

1. East End Road is a constructed and improved right of way maintained by the SOA DOT.
3. Kachemak Drive is a constructed and improved right of way maintained by the SOA DOT.
5. Little Fireweed Lane is partly constructed and maintained by the City of Homer.
7. The land is zoned commercial.
8. The current land use is commercial with boat yards, commercial buildings, and storage facilities.
9. The City of Homer did not state that access was an issue.
10. No parcels will be denied access.
11. A public right of way would allow access through a commercial property and a boat yard.

AMENDMENT B MOTION

An amendment motion to grant exception to KPB 20.30.210 – Lots – Access to street for Lot 2-B-1, passed by unanimous vote based on the following findings of fact and the exception cannot be carried forward for any future subdivision of proposed Tract 4-A and any further subdivision may require a right of way dedication.

Findings

3. Legal access to Lot 2-B is by way of a 30 foot access easement.
5. Parent plat Puffin Acres No. 2 – subdivided Lot 2 into Lots 2A and 2B to split a business from a residence, which were on one parcel.
6. KPB Planning Commission granted an exception to fronting on a dedicated right of way for Lot 2B based on an easement being granted to provide access.

A party of record may request that a decision of the Plat Committee be reviewed by the Planning Commission by filing a written request within 10 days of notification of the decision in accordance with KPB 2.40.080.

For additional information please contact the Planning Department, 907-714-2200 (1-800-478-4441 toll free within the Kenai Peninsula Borough).



Planning Department

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Charlie Pierce
Borough Mayor

March 16, 2021

**NOTICE OF DECISION
KENAI PENINSULA BOROUGH PLAT COMMITTEE
MEETING OF MARCH 15, 2021**

Re: Vineyard Estates 2021 Preliminary Plat
KPB File Number: 2021-014

The Plat Committee reviewed and granted conditional approval of the subject preliminary plat during their regularly scheduled meeting of March 15, 2021 based on the findings that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.25; 20.30; 20.40 and 20.60.

A party of record may request that a decision of the Plat Committee be reviewed by the Planning Commission by filing a written request within 10 days of notification of the decision in accordance with KPB 2.40.080.

For additional information please contact the Planning Department, 907-714-2200 (1-800-478-4441 toll free within the Kenai Peninsula Borough).



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Charlie Pierce
Borough Mayor

March 16, 2021

**NOTICE OF DECISION
KENAI PENINSULA BOROUGH PLAT COMMITTEE
MEETING OF MARCH 15, 2021**

Re: Canyon Trails Amended Forquer 2021 Replat
KPB File Number: 2021-016

The Plat Committee reviewed and granted conditional approval of the subject preliminary plat during their regularly scheduled meeting of January 25, 2021 based on the findings that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.25; 20.30; 20.40 and 20.60.

A party of record may request that a decision of the Plat Committee be reviewed by the Planning Commission by filing a written request within 10 days of notification of the decision in accordance with KPB 2.40.080.

For additional information please contact the Planning Department, 907-714-2200 (1-800-478-4441 toll free within the Kenai Peninsula Borough).



Planning Department

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Charlie Pierce
Borough Mayor

March 31, 2021

NOTICE OF DECISION TIME EXTENSION REQUEST

Re: DeGarmo Subdivision Three Preliminary Design
KPB File Number: 2017-005

In accordance with KPB 20.25.110, the Planning Director or designee, may approve time extension requests. The time extension request for DeGarmo Subdivision Three Preliminary Design has been approved. Preliminary plat approval is now valid through February 13, 2023.

Please note that this time extension is the last of two extensions allowed, per KPB 20.25.110(A). If the preliminary plat is not finalized by February 13, 2023 a new submission of, and action on, a new preliminary plat will required to proceed.

For additional information please contact the Planning Department, 907-714-2200 (1-800-478-4441 toll free within the Kenai Peninsula Borough).



Planning Department

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Charlie Pierce
Borough Mayor

March 31, 2021

NOTICE OF DECISION TIME EXTENSION REQUEST

Re: Right of Way Acquisition Sterling Highway Reconstruction Anchor Point to Baycrest Hill Preliminary Design
KPB File Number: 2019-032

In accordance with KPB 20.10.070, the Planning Director or designee, may approve time extension requests for specified time periods upon finding that it is in the public interest to do so. The time extension request for Right of Way Acquisition Sterling Highway Reconstruction Anchor Point to Baycrest Hill Preliminary Design has been approved. Preliminary plat approval is now valid through April 22, 2023.

For additional information please contact the Planning Department, 907-714-2200 (1-800-478-4441 toll free within the Kenai Peninsula Borough).



Planning Department

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Charlie Pierce
Borough Mayor

March 31, 2021

NOTICE OF DECISION TIME EXTENSION REQUEST

Re: Oscar Munson No. 25 Preliminary Design
KPB File Number: 2019-025

In accordance with KPB 20.25.110, the Planning Director or designee, may approve time extension requests. The time extension request for Oscar Munson No. 25 Preliminary Design has been approved. Preliminary plat approval is now valid through April 8, 2023.

Please note that this time extension granted is the first of two extensions allowed, per KPB 20.25.110(A).

For additional information please contact the Planning Department, 907-714-2200 (1-800-478-4441 toll free within the Kenai Peninsula Borough).



City of Homer

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Planning

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Memorandum

Agenda Changes/Supplemental Packet

TO: PLANNING COMMISSION
FROM: TRAVIS BROWN, PLANNING TECHNICIAN
DATE: APRIL 21, 2021
SUBJECT: SUPPLEMENTAL PACKET

PUBLIC HEARINGS

Staff Report 21-24, Conditional Use Permit (CUP) 21-03 to allow a light manufacturing brewery at 870 Smoky Bay Way

- Comment from Michael McKinney dated 4/21/21

PRELIMINARY PLATS

Staff Report 21-25, Fowler's Bench Preliminary Plat

- Comment from John Fowler dated 4/20/21
- Comment from John Fowler Re: Trail Easement dated 4/21/21

Travis Brown

From: mckinney michael <hoosieralaskan@yahoo.com>
Sent: Wednesday, April 21, 2021 10:45 AM
To: Department Planning
Subject: CUP 21-03 brewery at Smoky Bay Way

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

My Name is Michael McKinney. My wife and I live at 972 Lakeside Drive, Homer. We received a letter informing us of a plan to build a Brewery in our neighborhood at 870 Smokey Bay Lane. Our home is within 300 feet of the proposed Tavern. I am sending this email to outline my strong objections to this plan. The applicant states that the "lot is surrounded by 3 small residential houses, 1 large office building, and a large self storage facility." This is true, but if you look at the 300 foot radius of the map we were given in the letter, there are @ 15 residential homes, the Rec Room (a Youth Resource and Enrichment Co-op) a children's play park (Jeffrey Park) and the Center (Homer mental health facility). Going beyond the 300 foot mark the residential homes increase exponentially. My point is this: the City may have zoned this area Residential/Commercial, but reality has zoned it Residential. This is a neighborhood where families take their children for walks, bike rides, walk their dogs, go to the park. This brewery will increase vehicular traffic. The businesses that are here are businesses that don't cause much extra traffic. They are mostly businesses that are by appointment, one car comes in, stays briefly, then leaves. I am also concerned about the amount of beer each customer can be served.. According to State law the brewery can serve each customer 32 ounces of beer per day. According to National Highway Transportation Safety Administration statistics, a 200 pound man can drink 3 twelve ounce beers in one hour and still be legally able to drive. That is 36 ounces. That man might still be too impaired to drive safely.. The applicant states that there will be a camera in place to observe the tasting room. Is that enough to guarantee that no customer is over served?

I realize that the applicant has spent a great deal of time and money to move and expand his business. I understand that it is probably too late to stop this CUP from being granted. I think that if the residents of the neighborhood had been given more time to react to this proposal, more people would have protested. I do not believe that having this business in our neighborhood will increase our property values.

Again, I understand that this is a mixed Residential/Commercial zoned area, but I cannot emphasize enough that reality has zoned it residential and putting a business here that puts the neighbors in danger is not fair.

Thank you for your time.

Travis Brown

From: Julie Engebretsen
Sent: Tuesday, April 20, 2021 10:02 AM
To: Travis Brown
Subject: FW: Fowler's Bench prelim plat

From: john fowler <johnfowlerski@gmail.com>
Sent: Tuesday, April 20, 2021 9:46 AM
To: Julie Engebretsen <JEngebretsen@ci.homer.ak.us>
Cc: Kenton Bloom <seabrightz@yahoo.com>
Subject: Re: Fowler's Bench prelim plat

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

City of Homer Planning department,

Thank You for your staff time in reviewing our preliminary plat. We, (Seabrite Surveying, Kenton Bloom and I), have no issues or problems with any of the 6 staff recommendations provided in the staff review of our preliminary report. We agree to provide all of these recommendations including the north south pedestrian connection easement in our final plat. I will be attending the meeting via zoom and am happy to address any questions at that meeting, or feel free to call or send an email if there are any other items you folks need from me previous to the meeting.

Thanks again for your time and attention to this matter,

John Fowler
907 529-8090

Travis Brown

From: Julie Engebretsen
Sent: Wednesday, April 21, 2021 11:45 AM
To: Rick Abboud; Travis Brown
Subject: FW:

From: john fowler <johnfowlerski@gmail.com>
Sent: Wednesday, April 21, 2021 11:37 AM
To: Julie Engebretsen <JEngebretsen@ci.homer.ak.us>; Kenton Bloom <seabrightz@yahoo.com>
Subject:

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

Homer planning department staff,

In regards to the pedestrian trail easement. The new pedestrian easement will go generally along the new property line between the two parcels, Tract A and B, Connecting to the section line easement on the east end of the future tract A. This makes a spectacular trail with tremendous views out over the bay. It is our intention and commitment to create a practicable trail easement connecting the trail easements already given to the city as a part of the canyon trails subdivision on to the north east corner of Tract A of this proposed plat.

Thanks for your time and consideration in this matter,

John Fowler