



Homer City Hall
491 E. Pioneer Avenue
Homer, Alaska 99603
www.cityofhomer-ak.gov

City of Homer Agenda

City Council Regular Meeting

Monday, April 27, 2020 at 6:00 PM

City Hall Cowles Council Chambers via Zoom Webinar

Webinar ID: 205 093 973 Password: 610853

Dial 1-669-900- 6833 or 1-253-215 8782; (Toll Free) 888-788-0099 or 877- 853-5247

CALL TO ORDER, PLEDGE OF ALLEGIANCE

AGENDA APPROVAL (Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 2.08.040.)

MAYORAL PROCLAMATIONS AND RECOGNITIONS

PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA

RECONSIDERATION

CONSENT AGENDA (Items listed below will be enacted by one motion. If a separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- a. Homer City Council Unapproved Meeting Minutes of April 13, 2020. City Clerk. Recommend approval.
- b. Memorandum 20-050 from City Clerk Re: Vacation of a 33' Section Line Easement located within Lot 6a-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). KPB File 2020-021V2. Recommend approval.
- c. Resolution 20-040, A Resolution of the City Council of Homer, Alaska Extending the Moratorium on Cutting, Clearing or Removal of Trees and Vegetation Located within Public Rights-of-Way (ROW) from May 1, 2020 to June 1, 2020. City Manager. Recommend adoption.

Memorandum 20-051 from Public Works Director as backup

VISITORS

ANNOUNCEMENTS / PRESENTATIONS / REPORTS (5 Minute limit per report)

- a. Committee of the Whole Report

- b. Worksession Report
- c. Special Meeting Report
- d. Mayor's Report
- e. Borough Report
- f. Library Advisory Board

[i.](#) Library Advisory Board Written Report

PUBLIC HEARING(S)

- [a.](#) Ordinance 20-19, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 19 to add Chapter 19.01 Closures of Use Areas to Reflect the City Manager's Authority to Close City Parks, Campgrounds, and Public Places in an Emergency or other Exigent Circumstances. City Manager. Introduction April 13, 2020, Public Hearing and Second Reading April 27, 2020.

Memorandum 20-053 from City Clerk as backup

Memorandum 20-046 from Public Works Director as backup

- [b.](#) Ordinance 20-20, An Ordinance of the City Council of Homer, Alaska Repealing Homer City Code 11.36 Vegetation in Rights-of-Way. Evensen/Mayor. Introduction April 13, 2020, Public Hearing and Second Reading April 27, 2020.

ORDINANCE(S)

CITY MANAGER'S REPORT

- [a.](#) City Manager's Report

PENDING BUSINESS

- [a.](#) Resolution 20-008(S), A Resolution of the Homer City Council Designating Homer Spit Amended Lot 31, Known as Seafarer's Memorial, as Green Space and Adopting a Land Management Policy that Preserves Lot 31 for Wildlife and as a Natural Agent for Erosion Mitigation. Evensen.

Memorandum 20-052 from Deputy City Planner as backup

- [b.](#) Resolution 20-038, A Resolution of the City Council of Homer, Alaska Restating the City's Right of Way Policy to be Consistent with Climate Action and Citizen's Needs. Evensen/Mayor.

- [c.](#) Resolution 20-039, A Resolution of the City Council of Homer, Alaska Establishing a Policy Regarding the Clearing of Vegetation within Street Right-of-Way by the Public Works Department. Lord.

Memorandum 20-047 from Councilmember Lord as backup
Memorandum 20-048 from City Engineer as backup

NEW BUSINESS

- a. Memorandum 20-054 from Human Resources Re: City Manager Job Posting Update and Process Recommendation.

RESOLUTIONS

- a. Resolution 20-041, A Resolution of the City Council of Homer, Alaska Affirming Measures to Provide Increased Time for Lease Payments to Reduce Financial Hardships During the COVID-19 Emergency. Lord/Smith/Aderhold.

Memorandum 20-055 from City Manager as backup

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY ATTORNEY

COMMENTS OF THE CITY CLERK

COMMENTS OF THE CITY MANAGER

COMMENTS OF THE MAYOR

COMMENTS OF THE CITY COUNCIL

ADJOURNMENT

Next Regular Meeting is Monday, May 11, 2020 at 6:00 p.m., Committee of the Whole at 5:00 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.

Session 20-13 a Regular Meeting of the Homer City Council was called to order on April 13, 2020 by Mayor Ken Castner at 6:00 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, via Zoom Webinar and opened with the Pledge of Allegiance.

PRESENT: COUNCILMEMBERS: ADERHOLD, EVENSEN, HANSEN-CAVASOS, LORD, SMITH, VENUTI

STAFF: CITY MANAGER YODER
CITY CLERK JACOBSEN

AGENDA APPROVAL (Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 2.08.040.)

LORD/ADERHOLD MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

MAYORAL PROCLAMATIONS AND RECOGNITIONS

PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA

Penelope Haas, non-resident, commented in support of Memorandum 20-045, Alaska Climate Change Cohort, Resolution 20-043, membership with ICLEI and Resolution 20-035 supporting the Kenai Peninsula Borough Resiliency and Security Commission.

Bjorn Olson, city resident, commented in support of Memorandum 20-045, Alaska Climate Change Cohort, Resolution 20-043, membership with ICLEI and Resolution 20-035 supporting the Kenai Peninsula Borough Resiliency and Security Commission.

RECONSIDERATION

CONSENT AGENDA (Items listed below will be enacted by one motion. If a separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- a. City Council unapproved Regular Meeting Minutes of March 23, 2020. City Clerk. Recommend adoption.

Moved to New Business item a. Evensen.

- b. Memorandum 20-045 from Councilmember Aderhold Re: Alaska Climate Change Planning Cohort Support. Recommend approval.
- c. Ordinance 20-19, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 19 to add Chapter 19.01 Closures of Use Areas to Reflect the City Manager's Authority to Close City Parks, Campgrounds, and Public Places in an Emergency or other Exigent

Circumstances. City Manager. Recommended dates Introduction April 13, 2020, Public Hearing and Second Reading April 27, 2020.

Memorandum 20-046 from Public Works Director as backup

- d. Resolution 20-032, A Resolution of the City Council of Homer, Alaska Ratifying and Confirming the Appointment of Marvin Yoder as Interim City Manager, and Providing for Related Matters. Mayor. Recommend adoption.
- e. Resolution 20-033, A Resolution of the City Council of Homer, Alaska Designating Signatories of City Accounts and Superseding any Previous Resolutions so Designating. City Manager. Recommend approval.
- f. Resolution 20-034, A Resolution of the City Council of Homer, Alaska Approving the City to Apply for Membership to ICLEI USA-Local Governments for Sustainability. Aderhold. Recommend approval.
- g. Resolution 20-035, A Resolution of the City Council of Homer, Alaska Supporting the Establishment of a Kenai Peninsula Borough Resilience and Security Commission. Aderhold. Recommend adoption.
- h. Resolution 20-036, A Resolution of the City Council of Homer, Alaska Approving a Five Year Lease with Sea Tow South Central Alaska for the City Property Located at 4667 Homer Spit Road and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Recommend adoption.

Memorandum 20-049 from Port Director/Harbormaster as backup

- i. Resolution 20-037, A Resolution of the City Council of Homer, Alaska Affirming Measures to Provide Increased Time for Certain Payments to Reduce Financial Hardship during the COVID-19 Emergency. Lord/Smith/Aderhold. Recommend adoption.

Item a. moved to New Business item a. Evensen.

LORD/VENUTI MOVED TO ADOPT THE CONSENT AGENDA AS READ.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

VISITORS

- a. Legislative Update - Senator Gary Stevens (10 Minutes)

Senator Stevens provided a brief legislative update and responded to questions.

- a. Unified Command Update Re: COVID-19 (10 minutes)

Fire Chief Mark Kirko provided an update of Emergency Operation efforts by the City and their work with other agencies to date. Public Health Nurse Lorne Carroll, South Peninsula Hospital PIO Derotha Ferraro, and City of Homer PIO Jenny Carroll reported on statewide and local COVID-19 cases and shared information on resources available locally.

- b. Kenai Peninsula Economic Development District Update - Tim Dillon, Executive Director (10 minutes)

KPEDD Executive Director Tim Dillon provided an overview of the COVID-19 impacts to local businesses throughout the Kenai Peninsula Borough and strongly encouraged participation in the 2020 Census.

- c. Homer Foundation Grant Update - Mike Miller, Executive Director (10 minutes)

Homer Foundation Executive Director Mike Miller reported on the Homer Foundation grants awarded through the City of Homer Grant Program.

ANNOUNCEMENTS / PRESENTATIONS / REPORTS (5 Minute limit per report)

- a. Committee of the Whole Report

Councilmember Lord reported the Council discussed the right-of-way legislation on the regular agenda, and also the timeline for City Manager hiring.

- a. Mayor's Report

Mayor Castner reported on work with the ACOM about what the new normal will look like people start getting back to work. They're working on a proposal to the Governor on a business COVID compliant business plan in an effort to get people back to work and follow mandates. He noted the significant damage on the spit with recent winds and high tides and administrative effort that will be needed with other agencies to continue to address this. He also received a request for a letter of support for electric vehicle charging station national grant and is inclined to write the letter unless there's objection, the deadline is April 20, 2020. He reiterated participation in the 2020 Census. Lastly he reported he's hearing a lot from people that we need to get back to work, and he's doing what he can to get there in a smart way. What we're doing now with the masking, staying home, washing hands is working well and we need to continue that until a responsible plan is in place for people to go back to work.

- c. Borough Report
- d. Library Advisory Board
 - i. Library Advisory Board Report

Mayor Castner called for a recess at 7:30 p.m. and reconvened the meeting at 7:35 p.m.

PUBLIC HEARING(S)

- a. Ordinance 20-14, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Chapter 5.42 Single-Use Plastic Carryout Bags Section 5.42.040 Exceptions to Change the

Deadline for Providing Single-Use Plastic Carryout Bags from February 14, 2020 to September 15, 2020. Smith. Introduction March 23, 2020, Public Hearing and Second Reading April 13, 2020.

Mayor Castner opened the public hearing.

Kate Finn, city resident, commented in opposition of Ordinance 20-14 explaining since the movement away from plastic bags and some spit businesses have already moved away from single use plastic bags, and this was hardly unexpected. She suggested the City could buy the supply of bags and bury them as a single bulk in the land fill, or work to leverage access to the federal and state dollars that are available to seasonal or small businesses.

Catrin Lovett, city resident, commented in support of Ordinance 20-14 said she supported the plastic bag ordinance but it didn't take into account seasonal businesses and allowing them a window of time to use their existing stock of bags. This doesn't change the intent of the ordinance, it only allows the seasonal businesses an opportunity to use the bags they have in stock.

There were no further comments and the hearing was closed.

LORD/SMITH MOVED TO ADOPT ORDINANCE 20-14 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

Councilmember Venuti shared this goes against the science regarding plastic bags and our environment. There are some businesses on the spit that have gone to other sources of bags, and the City Manager's department webpage has information available for reference on appropriate bags. She thinks this has been anticipated and she'd hate to go backwards on it.

Councilmember Evensen believes they need to uphold the will of the voters and feels this represents private interest. This is a policy for everyone approved by the voters. More than 70% of the voters supported and it's risky to go against that. The science around plastics in our environment is overwhelming and this is harmful for our area.

Councilmember Smith doesn't agree that they are bending the rules for certain people. This about giving the seasonal businesses the same chance others were given to use their bags. Homer had a very aggressive implementation schedule and excluded the summer months to allow people to get rid of their bags. These are bags they purchased before the beginning of the year and given the number of businesses, the impact will likely be low. He thinks this is fair to the seasonal businesses that were closed during the implementation period. He added that the original ordinance that went to the voters didn't include the February deadline. That date came after the proposition was passed, as well as the definition of bags. This has been a moving target for people, and this is an effort to address it for everyone involved.

Councilmember Lord shared her support for the bag ban and appreciates the efforts that have gone into this. She appreciates Ms. Finn's suggestion about the buyback but right now we don't have the resources to implement that. She supports the extension of the implementation date given the circumstances we're in right now.

Councilmember Aderhold appreciates the comments tonight. She fully supports the bag ban, plastics in our environment are a major problem. She also has to weigh how it feels to be a seasonal business

in Homer right now and the turmoil we're all feeling. She agrees a buyback isn't workable right now and she is supportive of the extension.

There was brief discussion regarding Emergency Ordinance 20-18 approved at the last meeting that provides an allowance for using plastic bags during the COVID-19 emergency.

VOTE: YES: SMITH, ADERHOLD, LORD, HANSEN-CAVASOS
NO: VENUTI, EVENSEN

Motion carried.

ORDINANCE(S)

- a. Ordinance 20-20, An Ordinance of the City Council of Homer, Alaska Repealing Homer City Code 11.36 Vegetation in Rights-of-Way. Evensen/Mayor.

LORD/VENUTI MOVED TO INTRODUCE ORDINANCE 20-20 BY READING OF TITLE ONLY.

Councilmember Evensen shared that he has been working as part of the right-of-way working group and doesn't believe the process has worked very well. There have been events where further cutting has taken place during the moratorium and an issue of trust has been breached. He shared his thought that Ordinance 16-51 was written with a handful of statements like "without limitations" with reference to clearing and the policy hasn't been followed. He believes with the end of the moratorium coming up, this code language should be removed and more appropriate language be prepared.

Councilmember Smith commented he's comfortable introducing this tonight and with the discussion at Committee of the Whole regarding extending the moratorium at their next meeting.

Councilmember Lord said she's also comfortable introducing this tonight and looks forward to some legal review. It raises question in her mind what the City's road powers are as the original code was enacted in 2016, but the City was incorporated and maintained right of way vegetation far prior to that. She looks forward to legal review and input on that from the City Attorney. She also noted earlier discussion on extending the moratorium and being supportive as that will allow the Public Works Director to work on what a workable solution looks like.

Councilmember Aderhold expressed she's more in favor of postponing this and working toward revising code rather than removing it. She'd like to hear from the Public Works Director what a way forward might be.

ADERHOLD/LORD MOVED TO POSTPONE THIS TO THEIR NEXT MEETING.

There was discussion in opposition to postponing, it was addressed that this is the introduction and the ordinance can be postponed at the next meeting if needed, and if the moratorium is extended at the next meeting it will provide more time to address new language and a policy.

In response to comments by Councilmember Evensen of tree cutting during the moratorium, Councilmember Aderhold noted they gave the City Manager permission to take care of some trees that were causing imminent safety issues and would like to hear back from staff regarding this.

There was discussion in favor of postponing to allow more time to consider the City's responsibility regarding clearing and to draft appropriate language rather than removing it completely.

VOTE (postponement): YES: LORD, ADERHOLD
NO: EVENSEN, HANSEN-CAVASOS, SMITH, VENUTI

Motion failed.

There was no further discussion on the main motion.

VOTE: YES: HANSEN-CAVASOS, LORD, VENUTI, SMITH, EVENSEN
NO: ADERHOLD

Motion carried.

CITY MANAGER'S REPORT

- a. City Manager's Report
 - COVID-19 Economic Impact Report
 - New Police Status Update
 - April Employee Anniversaries

City Manager Yoder noted upcoming challenges with the summer season and businesses in Homer. We're trying to follow the State mandates and the intrastate travel will be revisited April 21st, and that will have a lot do with how we move forward. It's going to impact businesses and also sales tax to the City. It will be difficult to keep up with what this looks like and may likely prompt future discussion on city services. He addressed stimulus funding that may be coming for smaller cities that the League of Cities is looking at. In light of the recent bankruptcy declaration by Ravn Air, the Attorney brought in a specialist on bankruptcy whose view is it will be some time before we have any answers on what's going to happen regarding their reorganization. Administration will continue to learn and stay up to date on the CARES Act. There is progress in the remote sales tax effort with the Borough which will be very helpful for the City. He explained he's talked with Harbormaster Hawkins about the damage on the spit, they'll get out there to take a look and talk to the agencies involved on what can be done.

PENDING BUSINESS

NEW BUSINESS

- a. City Council unapproved Regular Meeting Minutes of March 23, 2020. City Clerk.

LORD/ADERHOLD MOVED TO APPROVE THE MEETING MINUTES OF MARCH 23RD.

There was discussion about adding specific verbiage under new business item a related to revisiting City Manager Candidates. No changes were made.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

RESOLUTIONS

- a. Resolution 20-038, A Resolution of the City Council of Homer, Alaska Restating the City's Right of Way Policy to be Consistent with Climate Action and Citizen's Needs. Evensen/Mayor. (Follows Ordinance 20-20)

LORD/VENUTI MOVED TO POSTPONE RESOLUTION 20-038 TO THE APRIL 27TH MEETING TO FOLLOW ORDINANCE 20-20.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

- b. Resolution 20-039, A Resolution of the City Council of Homer, Alaska Establishing Policy Regarding the Clearing of Vegetation within Street Right-of-Way by the Public Works Department. Lord.

Memorandum 20-047 from Councilmember Lord as backup
Memorandum 20-048 from City Engineer as backup

LORD/MOVE TO POSTPONE RESOLUTION 20-039 TO APRIL 27TH.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY ATTORNEY

COMMENTS OF THE CITY CLERK

COMMENTS OF THE CITY MANAGER

COMMENTS OF THE MAYOR

City Clerk Jacobsen thanked everyone for their patience in their first Zoom meeting. She share that there is information on the city website called Stay in Touch with Council where people can submit written comments or request to participate telephonically. She noted the need to submit comments in time for Council to read them before the meeting, and to register for telephonic participation before the meetings begin.

COMMENTS OF THE CITY MANAGER

City Manager Yoder said it's good to be here and working with everyone.

COMMENTS OF THE MAYOR

Mayor Castner noted City Manager Yoder will be sworn in by the City Clerk outside of the meeting. He thanked Council for working through the meeting and encouraged everyone to stay safe to help the town get through this.

COMMENTS OF THE CITY COUNCIL

Councilmember Venuti thanked staff for the work to get the Zoom meeting together. Earth Day is April 22nd and she encouraged when people are out walking that they pick up trash along the way. She welcomed Mr. Yoder and looks forward to working with him. She shared about a family friend who recently took their own life and encouraged people who are struggling during this COVID crisis, or any time, to please reach out for help to get through a dark time.

Councilmember Aderhold agreed this is a difficult time, sending hugs out to everyone dealing with this. She acknowledge city staff and community members who have stepped up to help out in the current situation, and business are figuring out ways to support health care staff and community members. She gave a shout out to Joni Wise and the Homer Bear Hunt, people are excited about it and how the kids love to find the bears, she even enjoys finding them. She reiterated the importance of filing out the census at 2020census.gov., and welcomed Mr. Yoder.

Councilmember Hansen-Cavasos shared her pride in South Peninsula Hospital, her employer, for their work with the community. She's blessed to be able to work from home and stay safe. She shared about the challenges of home-schooling now that her kids are home, and if it weren't for all the hard work by the teachers, she isn't sure it would be going very well. She appreciates all the efforts by the school district.

Councilmember Smith shared he has a greater appreciation for home-schooling, it's challenging and he appreciate peoples patience with it. He agrees the Census is important to ensure were property represented to receive federal dollars. He thinks were doing great in the community efforts regarding COVID, and we need to keep it up. He heard from someone who received some confirmation on their stimulus check deposit, that's good news.

Councilmember Lord echoed comments on a successful Zoom meeting. She thanked the Emergency Operations Team and partner agencies for their work; and also shared about home-schooling challenges and appreciation of teacher's efforts for this. She commented about the CCC gym, a place where she's been with her kids for years, being set up as an alternate care facility and her appreciation for the efforts being made during this crisis. She shared sadness for the loss of John Prine and reflected about seeing him perform in Homer. The Alaska Food Hub will go online May 1st and encouraged people to check it out, alaskafoodhub.org. Lastly she noted the street sweepers are out now that is warming up and she appreciates it.

Councilmember Evensen thanked everyone for their thoughtful remarks, and thanked Councilmember Aderhold for the Climate Change Cohort information tonight. He thanked all the people who work at Safeway and Save U More for being out on the front lines every day. He understand there have been negative interactions from patrons who are stressed and encouraged that we all be patient and kind, we'd be lost without our grocery store workers.

ADJOURN

There being no further business to come before the Council Mayor Castner adjourned the meeting at 9:03 p.m. The next Regular Meeting is Monday, April 27, 2020 at 6:00 p.m., Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

Melissa Jacobsen, MMC, City Clerk

Approved:_____



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

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Memorandum 20-050

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: APRIL 21, 2020

SUBJECT: VACATION OF A 33' SECTION LINE EASEMENT LOCATED WITH LOT 6A-1 VIRGINIA LYNN 2006 REPLAT (PLAT HM 2006-20) AND AS DEDICATED ON 6A-1 VIRGINIA LYNN 2006 REPLAT (PLAT HM 2006-20).

At their April 13, 2020 meeting, the Kenai Peninsula Borough Planning Commission approved the vacation of a 33' Section Line Easement located within Lot 6a-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The right-of-way being vacated contains a driveway for the residence constructed on Lot 6A-1 and located within the SW ½ of Section 16 Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-021V2, Petitioner Virginia Tornes of Homer, Alaska.

Per AS 29.40.140, no vacation of a City right-of-way and/or easement may be made without the consent of the City Council.

The City Council has thirty days from April 13, 2020 in which to veto the decision of the Kenai Peninsula Borough Planning Commission.

The Homer Planning Commission forwarded a recommendation for approval regarding this vacation as reflected in the December 18, 2019 Notice of Action and minutes from the December 4, 2019 regular meeting.

RECOMMENDATION:

Voice non objection and consent to the vacation of a 33' Section Line Easement located within Lot 6a-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The right-of-way being vacated contains a driveway for the residence constructed on Lot 6A-1 and located within the SW ½ of Section 16 Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-021V2.



Planning Department

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

Charlie Pierce
Borough Mayor

April 16, 2020

Homer City Council
491 East Pioneer Avenue
Homer, AK 99603-7645

RE: This plat vacates a 33' Section Line Easement located within Lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The right-of-way being vacated contains a driveway for the residence constructed on Lot 6A-1 and located within the SW1/4 of Section 16, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-021V2 Petitioner: Virginia F Tornes of Homer, Alaska.

Dear Homer City Council Members:

In accordance with AS 29.40.140, no vacation of a city right-of-way and/or easement may be made without the consent of the city council. The KPB Planning Commission approved the referenced section line easement vacation during their regularly scheduled meeting of April 13, 2020. This petition is being sent to you for your consideration and action.

The City Council has 30 days from April 13, 2020 in which to veto the decision of the Planning Commission. If no veto is received from the Council within the 30-day period, the decision of the Planning Commission will stand.

Attached are draft, unapproved minutes of the pertinent portion of the meeting and other related material.

Sincerely,

Max J. Best
Planning Director

MJB:jah

Attachments

F. PUBLIC HEARINGS

- 2. Section line easement vacation
KPB File 2020-021V2
Petitioners: Virginia F Tornes of
Homer, AK**

AGENDA ITEM F. PUBLIC HEARINGS

2. This plat vacates a 33' Section Line Easement located within Lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The right-of-way being vacated contains a driveway for the residence constructed on Lot 6A-1 and located within the SW1/4 of Section 16, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-021V2

STAFF REPORT

PC Meeting: 4/13/2020

Purpose as stated in petition: The area of requested Section Line Easement Vacation is on lot 6A-1, Virginia Lynn 2006 Replat (Plat HM 2006-20). The Section Line Easement has been vacated from adjacent lots and a portion of the subject lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) by previous Section Line Easement Vacation Plat No.'s HM 2008-9 and HM 85-109. We are requesting to vacate the entire remaining Section Line Easement within Lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The subject Section Line Easement is not used for any access nor has it been used as an access. The house encroaches 14.3' and the deck encroaches 12.9' into the Section Line Easement, which will be vacated and finalized by Section Line Easement Vacation Plat associated with Virginia Lynn 2006 Replat, KPB 2020-021V2. .

Petitioners: Virginia F. Tornes of Homer, AK

Notification: Public notice appeared in the March 12 issue of the Homer News as a separate ad. The public hearing notice was published in the March 19 issue of the Homer News as part of the Commission's tentative agenda.

21 certified mailings were sent to owners of property within 300 feet of the proposed vacation. 16 receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to 42 owners within 600 feet of the proposed vacation.

19 public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to 6 KPB staff/Departments via a shared database.

Notices were mailed to the Homer Post Office and Homer Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ENSTAR: No comment, recommendations or objections.

KPB Addressing: Any address changes will be updated by the City of Homer.

KPB Planning: No material site or local option zone issues. A review is not required for property inside city limits.

KPB River Center: Within City of Homer.

KPB Roads Department: Out of jurisdiction, no comments.

Homer Advisory Planning Commission: Recommend to adopt the Homer City staff report and recommend approval of the preliminary plat to vacate the section line easement across Lot 6A-1 Virginia Lynn 2006 Replat.

State Parks: No comments.

Staff Discussion:

The petition submitted is requesting to vacate a remaining portion of 33 foot wide section line easement lying wholly within Lot 6A-1, Virginia Lynn 2006 Replat 2006-20 HRD. Lot 6A-1 fronts on City maintained and dedicated Mattox Road. The portion of section line easement to be vacated is no longer than 64 feet in length. The entire section line easement to the west has been vacated per plat 85-109 HRD and 2008-9 HRD, but a small portion remained.

Staff is not sure why this small section of section line easement was not vacated previously, but maybe the owner of Lot 6A-1 did not participate at the time the other section line easement was petitioned for vacation.

This portion of section line easement does not provide an access to public lands, is not part of a continuous access, and is not used by the public for access.

If approved, a section line easement vacation (SLEV) plat associated with Lot 6A-1 Virginia Lynn 2006 Replat will finalize the proposed right of way vacations. The SLEV Plat has not been submitted at the time the staff report was prepared.

KPB 20.70 – Vacation Requirements.

Platting staff comments: *Staff reviewed the vacation and all the items required by 20.70 were met, unless otherwise noted below:*

D. If the proposed vacation lies within the boundaries of an incorporated city, comments from the city advisory planning commission must be submitted with the petition.

Platting Staff Comments: The proposed vacation was reviewed and approved by the Homer Advisory Planning Commission at the meeting of December 4, 2019.

20.70.130. Vacation plat—Preparation, approval and recording. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent in KPB 20.70.110.

Platting Staff Comments: A Section Line Easement Vacation plat has not been submitted at this time.

Staff recommendation: *Submit a Section Line Easement Vacation Plat for KPB review as well as submittal to AK DNR survey section.*

20.70.160. Partial vacation allowed. Where the planning commission finds that a right-of-way must be preserved, but determines there is excessive width for all intended uses within the right-of-way, the commission may approve a partial vacation of a right-of-way such that the width is reduced to the maximum necessary for the intended use. Such vacation shall conform to this title for the class of right-of-way involved except where the right-of-way is not intended to be used for vehicular purposes.

Platting Staff Comments: The proposed vacation will complete the vacation of the entire section line easement between Mattox Road and Pennock Street.

20.70.170. Vehicular Access. The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. Where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.

Platting Staff Comments: The public is not using this portion of SLE for vehicular access as it does not provide access to public lands or a continuing right of way.

20.70.180. Other access. Other lawful uses that exist or are feasible for the right-of-way shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available. The planning commission shall consider whether alternate uses present public safety issues which support approval of the vacation.

Platting Staff Comments: Mattox Road is a 60 foot wide dedicated right of way, which has been improved, and is currently maintained by the City of Homer. Mattox Road provided public access to this parcel and neighboring parcels.

20.70.190. Utility provisions. All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public utility shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a public utility easement be granted in place of the right-of-way.

Platting Staff Comments: Utilities are currently in place. A 20 foot utility easement adjoining Mattox Road provides access for utility providers.

20.30.220. Section line easement vacations. Section line easement vacation petitions must comply with the requirements of KPB 20.70.040, 20.70.050 and 20.70.060. A fee is required in compliance with KPB 20.70.060. Public hearing and notice must comply with the requirements of KPB 20.70.070, 20.70.080, 20.70.100, 20.70.110 and 20.70.120. The mail notice required in KPB 20.70.090 may be by regular mail. Publication on the planning commission agenda, advertised once in local papers, posted in public areas and on the borough website prior to the meeting will satisfy the publishing requirements. The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources (DNR) in compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

Platting Staff Comments: A SLEV plat has not been submitted to KPB Planning Department.

Staff recommendation: *Submittal of a SLEV plat to the KPB Planning Department and the State of AK DNR – Survey Section.*

STAFF RECOMMENDATION: Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff comments, staff recommends approval of the vacations as petitioned, subject to:

1. Consent by Homer City Council / KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the Homer City Council and utility providers.
4. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB 20.70.110:

A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council.

The Homer City Council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly.

The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the borough shall be considered to have given consent to the vacation.

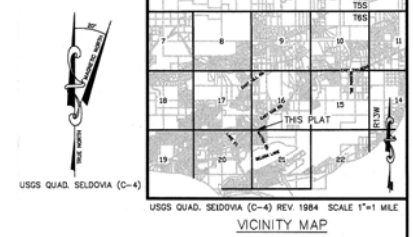
KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

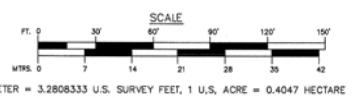
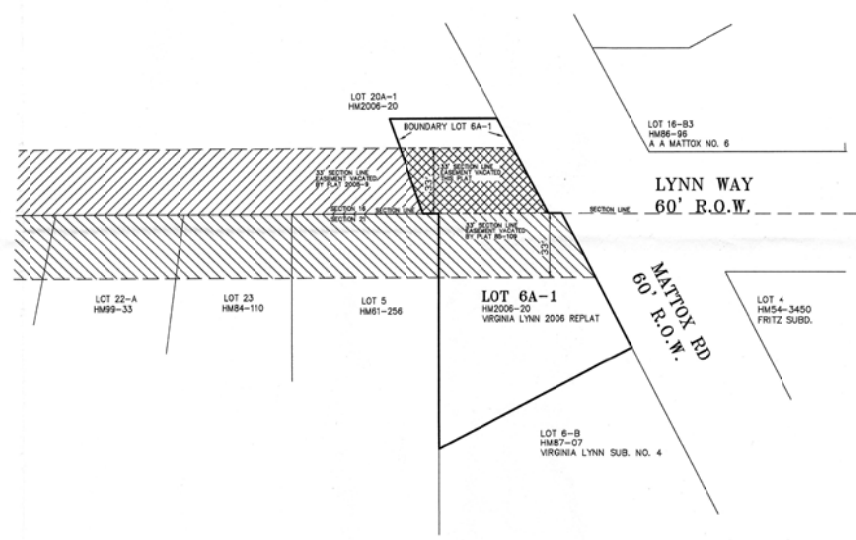
END OF STAFF REPORT



CERTIFICATE OF OWNERSHIP:
 I, THE UNDERSIGNED, CERTIFY THAT I AM
 THE OWNER OF THE DESCRIBED PROPERTY,
 AS SHOWN ON THIS PLAT. I APPROVE THIS SECTION-LINE
 EASEMENT VACATION PLAT.

DATE: _____ VIRGINIA F. TORNES
 PH. BOX 2487
 HOMER, AK 99603

NOTARY'S ACKNOWLEDGMENT
 For VIRGINIA F. TORNES
 Acknowledged before me this _____ day of _____, 2020.
 Notary public for Alaska _____ My Commission Expires _____

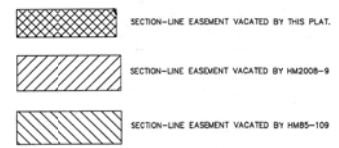


SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL
 RECOMMENDATION
 STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
 THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE
 REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL
 BY THE COMMISSIONER.
 RECOMMENDED BY: _____ DATE: _____
 TITLE: REGIONAL CHIEF RIGHTS-OF-WAY AGENT (SOUTHCENTRAL OFFICE)

STATE OF ALASKA DIVISION OF MINING, LAND & WATER
 THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE
 DIVISION OF MINING, LAND & WATER AND IS HEREBY RECOMMENDED FOR APPROVAL
 BY THE COMMISSIONER.
 RECOMMENDED BY: _____ DATE: _____
 TITLE: DIRECTOR, DIVISION OF MINING, LAND & WATER

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF
 THE DEPARTMENT OF NATURAL RESOURCES AND THE COMMISSIONER OF THE
 DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DOES HEREBY
 STATE AND DECLARE THAT THE STATE OF ALASKA VACATES AND RELEASES
 ALL RIGHTS AND TITLE TO ANY AND ALL PORTIONS OF SECTION-LINE
 EASEMENTS FOR PUBLIC HIGHWAYS RESERVED TO IT UNDER A.S. 18.13.010
 (SPECIFIC AREA DELINEATED BY DIAGONAL HATCHING ON THIS PLAT)
 DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF TRANSPORTATION AND
 PUBLIC FACILITIES
 DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF NATURAL RESOURCES

- NOTES
- CHECKERD HATCHED AREA INDICATES PORTIONS OF THE SECTION-LINE EASEMENTS BEING VACATED WITHIN LOT 6A-1, VIRGINIA LYNN 2006 REPLAT (HM2006-20), SECTION 16 T.6S. R13W, S.M. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
 - NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION-LINE EASEMENT VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM PLATS OF RECORD AS LISTED.
 - THIS VACATION IS IN COMPLIANCE WITH STATE PLATING RESOLUTION NO. _____ APPROVED _____, EV-3-303 AND AS 29.40.120 -140. (w)
 - THIS SECTION-LINE EASEMENT VACATION IS IN COMPLIANCE WITH THE FINAL FINDING AND DECISION APPROVED _____.



SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND
 LICENSED TO PRACTICE LAND SURVEYING IN THE STATE
 OF ALASKA AND THAT THIS PLAT WAS DRAFTED UNDER
 MY DIRECT SUPERVISION, AND THAT ALL DATA SHOWN
 HEREON IS TRUE AND CORRECT AS COMPILED FROM
 EXISTING RECORD INFORMATION.
 DATE: _____ REGISTERED LAND SURVEYOR: _____ REGISTRATION NO. 7810-8

DATE OF SURVEY Beginning NO FIELD SURVEY Ending _____	NAME OF SURVEYOR GARY NELSON 152 DEHEL AVE. HOMER, ALASKA 99603
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND & WATER ANCHORAGE, ALASKA	
SECTION-LINE EASEMENT VACATION PLAT Associated with VIRGINIA LYNN 2006 REPLAT Located within Surveyed Section 16, T6S, R13W, S.M., AK HOMER RECORDING DISTRICT	
DRAWN BY: G.N.	APPROVAL RECOMMENDED
DATE: 02/03/2020	STATEWIDE PLATING SUPERVISOR _____ DATE _____
SCALE: 1" = 30'	CHECKED: DNR FILE NO. _____
SHEET 1 OF 1	G. N. EV-3-303

AS-BUILT SURVEY

NOTES

LINE	BEARING	DISTANCE
L1	S89°56'30"E	7.84'
L2	S89°56'30"W	6.88'

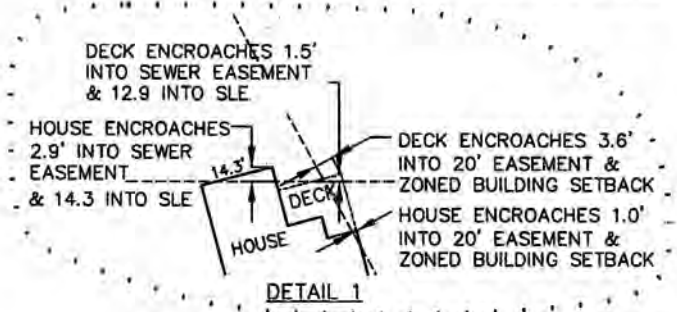
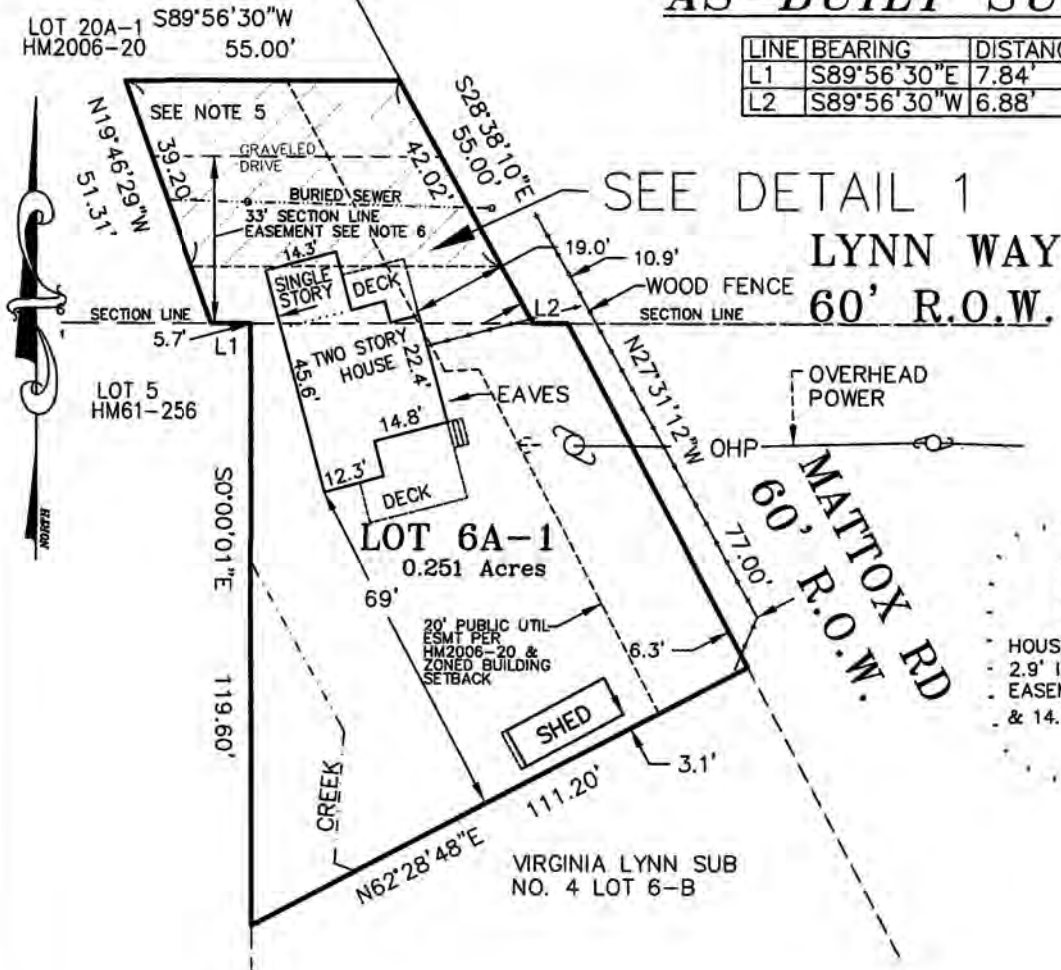
1. THIS PLAT SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN FINANCING REQUIREMENTS.
2. DIMENSIONS TO PROPERTY LINES ARE FROM THE EXTERIOR FACE OF BUILDING WALL UNLESS OTHERWISE SHOWN. ROOF EAVES EXTEND 1.5'.

3. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, COVENANTS OR RESTRICTIONS THAT DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT. HM2006-20 CITES RESTRICTIVE COVENANTS RECORDED SERIAL NUMBERS 2005-000128 & 2005-000136 IN HOMER RECORDING DISTRICT.

4. I HAVE SURVEYED THE FOLLOWING DESCRIBED PROPERTY: LOT 6A-1 VIRGINIA LYNN 2006 REPLAT, FILED AS PLAT NUMBER 2006-20 IN THE HOMER RECORDING DISTRICT. THE IMPROVEMENTS SITUATED THEREON ARE LOCATED AS SHOWN ON THIS PLAT AND THERE ARE NO OTHER VISIBLE ABOVE GROUND IMPROVEMENTS OR ENCROACHMENTS ON SAID PROPERTY EXCEPT AS INDICATED HEREON.

5. DIAGONAL HATCH PATTERN DEPICTS A UTILITY EASEMENT TO SERVICE EXISTING SEWER LINE PER HM2006-20.

6. A 33 FEET WIDE SECTION LINE EASEMENT (SLE) EXISTS ACROSS LOT 6A-1 ADJACENT TO THE SECTION LINE SHOWN,

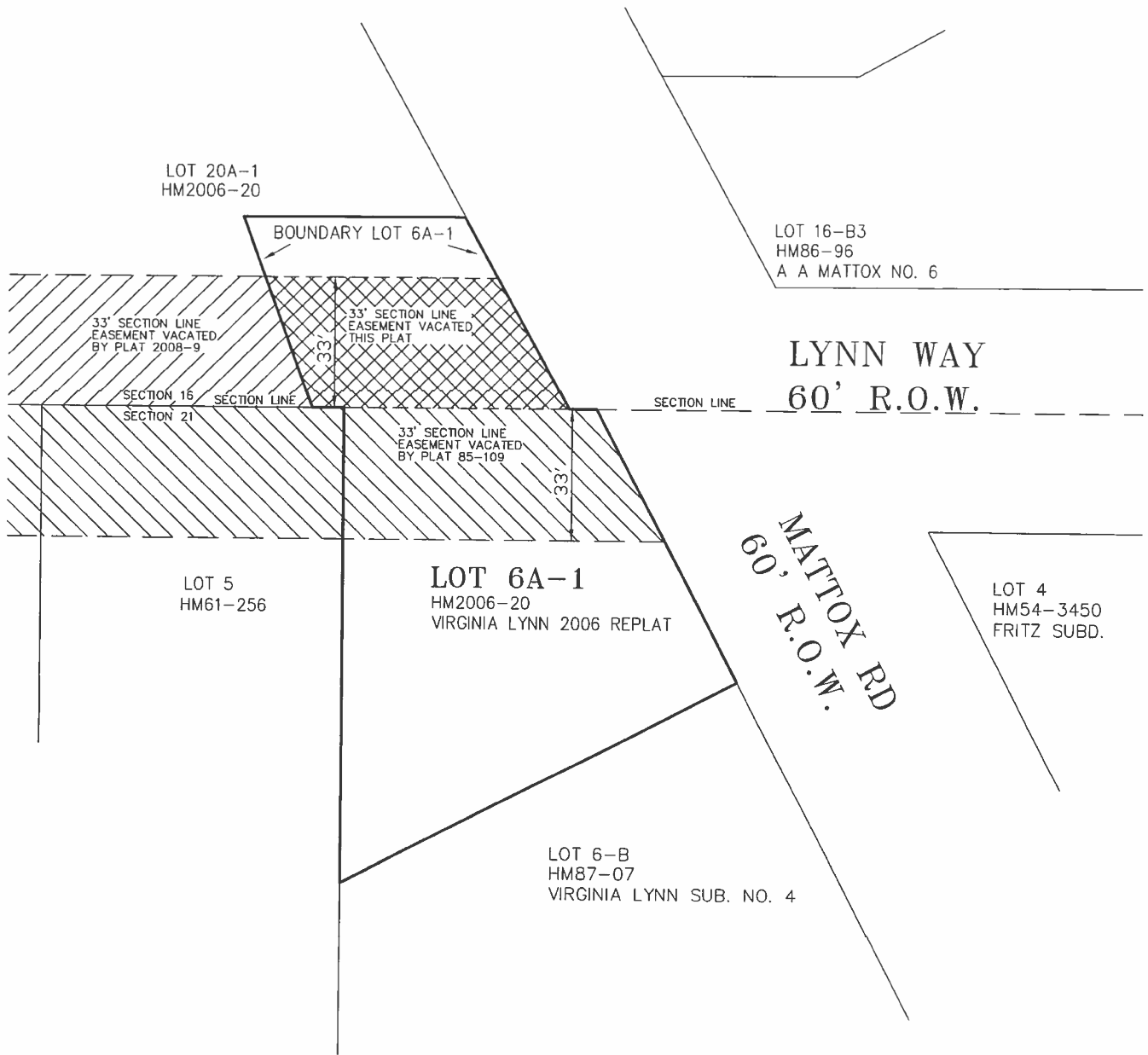


KPB 2020-021V2

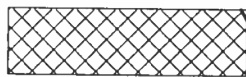
DATE	1/15/2020
JOB No.	5060
DWG	510JASBLT.DWG
SCALE	1" = 30'
TAX PARCEL	17906106
PLAT No.	HM 2006-20
SECTION	21
TOWNSHIP	T6S
RANGE	R13W (SM)

LOT 6A-1
VIRGINIA LYNN 2006 REPLAT
 LOCATED IN THE NW 1/4 OF SEC. 21, T6S, R13W, S.M.
 WITHIN THE CITY OF HOMER
 HOMER RECORDING DISTRICT

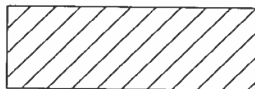
ABILITY SURVEYS
 REGISTERED LAND SURVEYORS
 (907) 235-8440
 152 DEHEL AVE., HOMER, ALASKA 99603



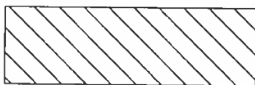
LEGEND:



SECTION-LINE EASEMENT VACATED BY THIS PLAT.



SECTION-LINE EASEMENT VACATED BY HM2008-9



SECTION-LINE EASEMENT VACATED BY HM85-109

..... 1

NOTES

1. BASIS OF BEARING IS $S 28^{\circ}30'10" E$ BETWEEN THE NE AND SE CORNERS OF LOT 20-MATTOX SUBD. BIRCH TERRACE REPLAT PLAT #2005-55, H.R.D.
2. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. THERE IS A 20 FOOT PUBLIC UTILITY EASEMENT ALONG MATTOX ROAD RIGHT-OF-WAY.
4. THERE ARE RESTRICTIVE COVENANTS THAT MAY AFFECT THIS PLAT, SERIAL NUMBERS: 2005-000128 & 2005-000136 RECORDED IN THE HOMER RECORDING DISTRICT, STATE OF ALASKA.
5. THIS LOT WILL BE SERVED BY CITY WATER AND SEWER.
6. WETLANDS ENCOMPASS ALL AREAS IN SUBDIVISION EXCEPT SOUTH OF WETLAND LINE SHOWN ON LOT 20-2-1.
7. THERE IS AN UTILITY EASEMENT AFFECTING LOT 6A-1 TO SERVICE THE EXISTING SEWERLINE. SEE DETAIL FOR DIMENSIONS.

WASTEWATER DISPOSAL

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

LEGEND

- ① END 2 1/2" AL 7908-S, 2005
- ② END 2 1/2" AL 7908-S, 2006
- ③ SET 2 1/2" AL 7908-S, 2006
- ④ RECOVERED OLD MONUMENT 1918.
- ⑤ END RT-BAR
- UTILITY EASEMENT AROUND EXISTING SEWER SYSTEM
- (C) 04 CULVERT
- (R) RECORD, PLAT #87-7 H.R.D.

CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT I HEREBY ACCEPT THIS PLAT OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

Virginia F. Tornes
 VIRGINIA F. TORNES
 P.O. BOX 2497
 HOMER, ALASKA 99603



NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 18 DAY OF April, 2006.
 FOR: VIRGINIA F. TORNES
Margie Row
 NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES 7-30-06



CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT I HEREBY ACCEPT THIS PLAT OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

Steven L. Rouse
 STEVEN L. ROUSE, EXECUTIVE DIRECTOR
 KENAI PENINSULA HOUSING INITIATIVES, INC.
 332 PIONEER AVE #2
 HOMER, ALASKA 99603

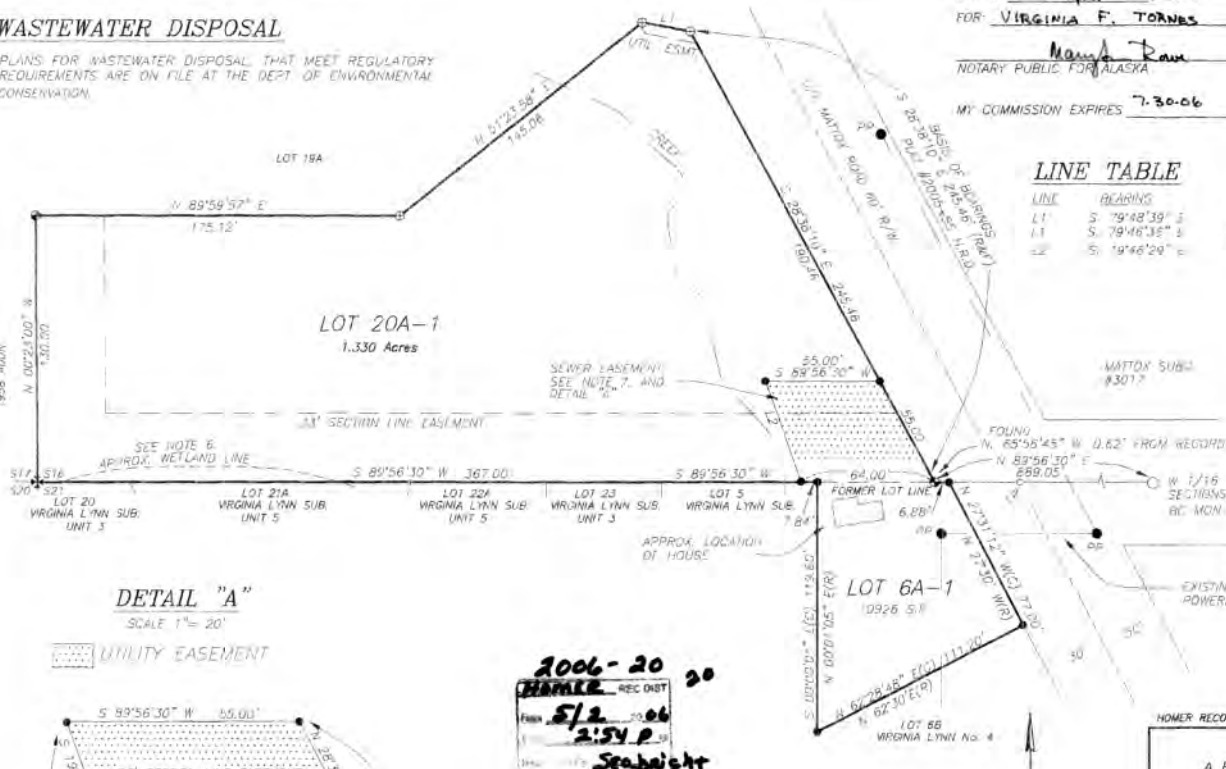
NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF April, 2006.
 FOR: Steven L. Rouse
Virginia D. Hise
 NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES June 1, 2008



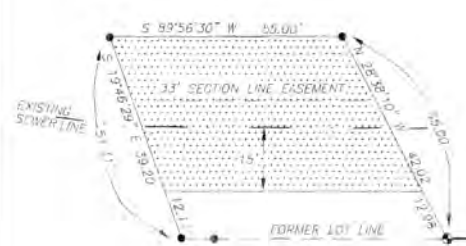
LINE TABLE

LINE	BEARING	DIST
L1	S 79°48'39" E	20.16(PT)
L1	S 79°48'36" E	24.68(PT)
L2	S 19°48'29" E	5.13(C)



DETAIL "A"
 SCALE 1" = 20'

UTILITY EASEMENT



2006-20
 HOMER REC DIST
 FILED 5/2 2006
 2:54 P
 Seabright

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF 2/13/2006

KENAI PENINSULA BOROUGH

BY: *Marc Best*
 AUTHORIZED OFFICIAL

SCALE 1" = 40'

HOMER RECORDING DISTRICT KPB FILE No. 2006-025

VIRGINIA LYNN 2006 REPLAT
 A REPLAT OF LOT 5A, VIRGINIA LYNN No. 4 (PLAT #87-7 H.R.D.)
 SEC. 21, T. 6 S., R. 13 W., S.M.
 AND LOT 20A, MATTOX SUBD. BIRCH TERRACE REPLAT (PLAT #2005-55 H.R.D.)
 SEC. 16, T. 6 S., R. 13 W., S.M.
 WITHIN THE CITY OF HOMER, STATE OF ALASKA
 CONTAINING 1.581 ACRES

SEABRIGHT SURVEYING
 1044 EAST END ROAD, SUITE A
 HOMER, ALASKA 99603
 (907) 235-4247 PHONE & FAX
 seabright@alaska.net

DRAWN BY: R.B.	DATE: 4/12/06	SCALE: 1" = 40'
CHECK BY: R.B.	JOB #05-7A	SHEET 1 OF 1

SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL RECOMMENDATION

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE CENTRAL REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: Mike Hattman DATE: 1/16/08

TITLE: REGIONAL CHIEF RIGHTS-OF-WAY AGENT

STATE OF ALASKA DIVISION OF MINING, LAND & WATER

THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE DIVISION OF MINING, LAND & WATER AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: Paul J. Myles DATE: Jan 11, 2008

TITLE: DIRECTOR, DIVISION OF MINING, LAND & WATER

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES AND THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DOES HEREBY STATE AND DECLARE THAT THE STATE OF ALASKA VACATES AND RELEASES ALL RIGHTS AND TITLE TO ANY AND ALL PORTIONS OF SECTION-LINE EASEMENTS FOR PUBLIC HIGHWAYS RESERVED TO IT UNDER A.S. 19.10.010 (SPECIFIC AREA DELINEATED BY DIAGONAL HATCHING ON THIS PLAT)

DATE: 1/16/08 APPROVED: Thomas R. Brown
COMMISSIONER
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

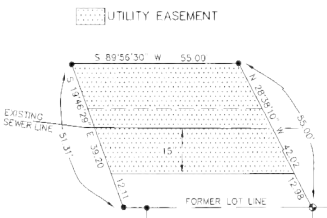
DATE: Jan 11, 2008 APPROVED: Paul J. Myles
COMMISSIONER
DEPARTMENT OF NATURAL RESOURCES

ACCEPTANCE OF DEDICATION

THE DIRECTOR OF THE DIVISION OF MINING, LAND, AND WATER, ON BEHALF OF THE STATE OF ALASKA, HEREBY ACCEPTS FOR PUBLIC USES AND FOR PUBLIC PURPOSES THE REAL PROPERTY DEDICATED TO THE PUBLIC BY THIS PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND ROADWAYS SHOWN ON THIS PLAT. THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSES DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.

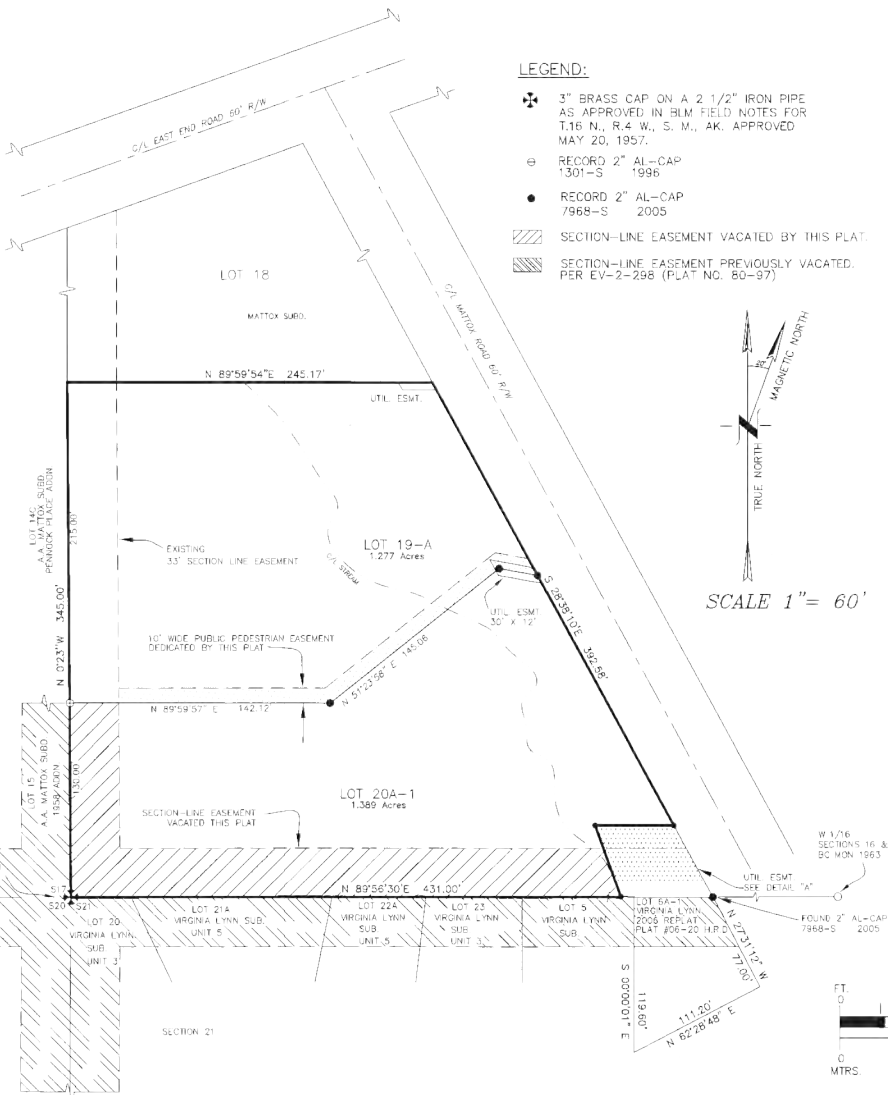
to: Paul J. Myles Jan 10, 2008
DIRECTOR, DIVISION OF MINING, LAND AND WATER

DETAIL "A"
SCALE 1" = 30'



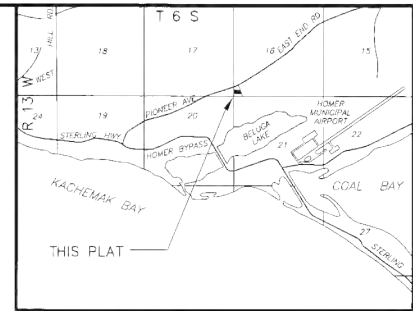
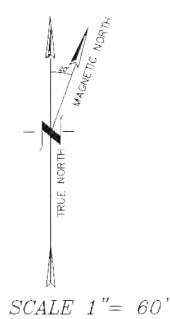
NOTES

- DIAGONALLY HATCHED AREA INDICATES PORTIONS OF THE SECTION-LINE EASEMENTS BEING VACATED WITHIN SECTION 16, T. 06 N., R. 13 W., S. M. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
- NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION-LINE EASEMENT VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM THE PLAT OF MATTOX SUBDIVISION BIRCH TERRACE REPLAT ON FILE AT THE HOMER RECORDING DISTRICT AS PLAT NO. 2005-55 H.R.D. AND VIRGINIA LYNN REPLAT (2006-20).
- THIS SECTION-LINE EASEMENT VACATION IS IN COMPLIANCE WITH THE FINAL FINDING AND DECISION APPROVED JULY 14, 2006.
- PURSUANT TO AS 19.30.410 THE ALTERNATE ACCESS REPLACING THE SECTION-LINE EASEMENTS BEING VACATED BY THIS PLAT IS THE EAST END ROAD AND MATTOX ROAD RIGHTS-OF-WAY AND THE EXISTING 33-FOOT WIDE SECTION-LINE EASEMENT EXTENDING NORTH THROUGH LOTS 19-A AND 18 TO ITS INTERSECTION WITH EAST END ROAD.
- THIS PLAT IS SUBJECT TO THE NOTES SHOWN ON THE PLAT OF MATTOX SUBD. BIRCH TERRACE REPLAT, PLAT NO. 2005-55 H.R.D. AND VIRGINIA LYNN REPLAT (2006-20).



LEGEND:

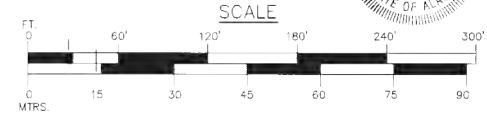
- 3" BRASS CAP ON A 2 1/2" IRON PIPE AS APPROVED IN BLM FIELD NOTES FOR T.16 N., R.4 W., S. M., AK. APPROVED MAY 20, 1957.
- RECORD 2" AL-CAP 1301-S 1996
- RECORD 2" AL-CAP 7968-S 2005
- SECTION-LINE EASEMENT VACATED BY THIS PLAT.
- SECTION-LINE EASEMENT PREVIOUSLY VACATED. PER EV-2-298 (PLAT NO. 80-97)



USGS QUAD. SEIDOVA (C-5) REV. 1952 SCALE 1"=1 MILE

CERTIFICATE OF OWNERSHIP AND DEDICATION:
I, THE UNDERSIGNED, CERTIFY THAT I AM THE OWNER OF LOTS 19-A MATTOX SUBD. BIRCH TERRACE REPLAT AND 20A-1 VIRGINIA LYNN 2006 REPLAT, AS SHOWN ON THIS PLAT. I APPROVE THIS SECTION-LINE EASEMENT VACATION PLAT AND DEDICATE OR RESERVE FOR PUBLIC OR PRIVATE USE, AS NOTED, ALL EASEMENTS, PUBLIC UTILITY AREAS, AND RIGHTS-OF-WAY AS SHOWN ON THIS PLAT.
Dec. 7, 2007 Steve L. Rouse
DATE: _____
STEVE L. ROUSE, EXECUTIVE DIRECTOR
KENAI PENINSULA HOUSING INITIATIVES, INC.
232 E. PIONEER AVENUE, STE B
HOMER, ALASKA 99603

NOTARY'S ACKNOWLEDGEMENT
SUBSCRIBED AND SWORN TO BEFORE ME THIS 7 DAY OF Dec, 2007
BY: Steve L. Rouse
Steve L. Rouse
NOTARY FOR THE STATE OF ALASKA
MY COMMISSION EXPIRES 8/10/2010



PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF MARCH 13, 2006 & Feb 24, 2007
Max J. Best KPB File 07-38 Feb. 14, 2008
AUTHORIZED OFFICIAL, KENAI PENINSULA BOROUGH DATE

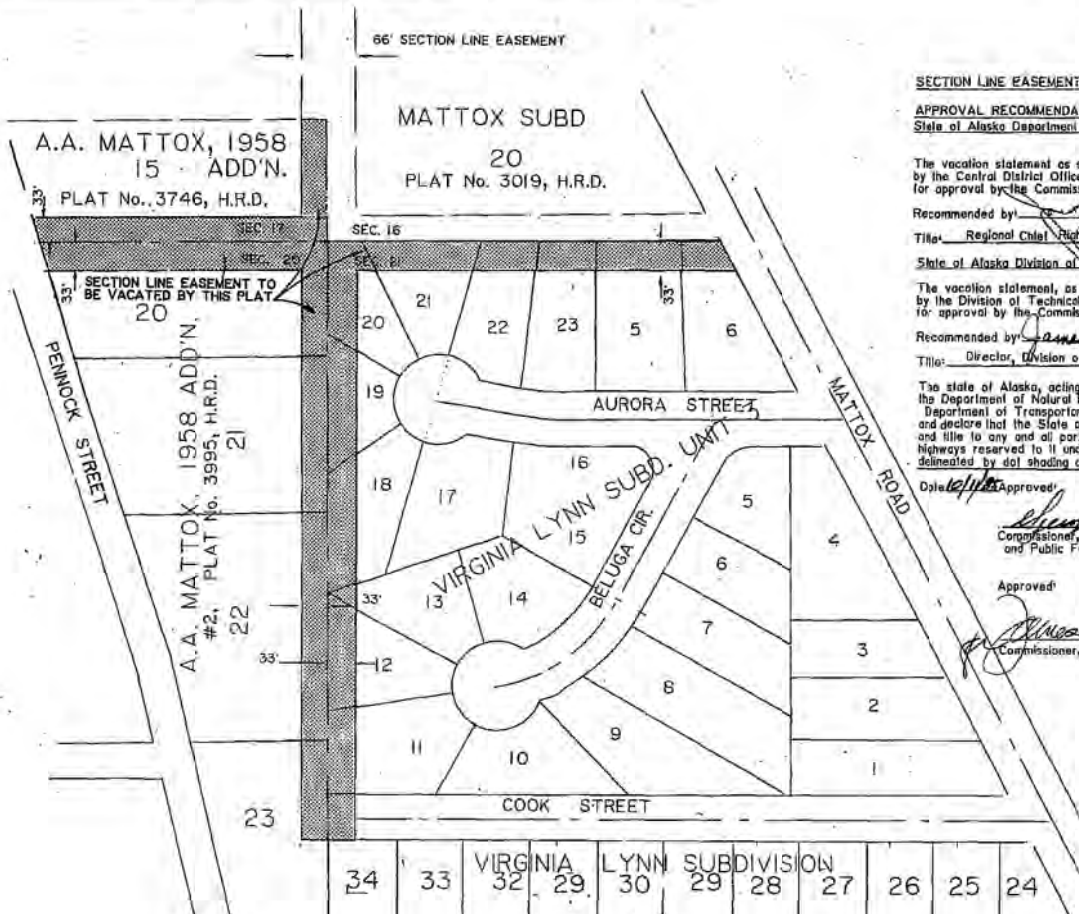
SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT WAS DRAFTED UNDER MY DIRECT SUPERVISION, AND THAT ALL DATA SHOWN HEREON IS TRUE AND CORRECT AS COMPILED FROM EXISTING RECORD INFORMATION.
12/10/07 Centurion T. Brown LS-7968
DATE REGISTERED LAND SURVEYOR REGISTRATION NO.

2008-9
Shoreline REC DGT
Date: 2/25 2008
Name: 3108 P.M.
BY: Brown



DATE OF SURVEY Beginning <u>NO FIELD SURVEY</u> Ending _____	SEABRIGHT SURVEYING 1044 EAST END ROAD, STE A HOMER, ALASKA 99603
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND & WATER ANCHORAGE, ALASKA	
SECTION-LINE EASEMENT VACATION PLAT Associated with LOT 20A-1 VIRGINIA LYNN 2006 REPLAT (PLAT NO. 2006-20) AND PEDESTRIAN EASEMENT DEDICATION WITHIN LOT 19-A MATTOX SUBD. BIRCH TERRACE REPLAT (PLAT NO. 2005-55)	
Located within Surveyed Sec. 16, T.6 S., R.13 W., S. M., STATE OF ALASKA, HOMER RECORDING DISTRICT	
DRAWN BY: <u>JS</u>	APPROVAL RECOMMENDED
DATE: <u>08/03/06</u>	STATEWIDE PLATTING SUPERVISOR DATE
SCALE: <u>1" = 60'</u>	CHECKED: <u>DNR FILE NO. EV-3-018</u> K.B.



66' SECTION LINE EASEMENT
 MATTOX SUBD
 20
 PLAT No. 3019, H.R.D.

A.A. MATTOX, 1958
 15 - ADD'N.
 PLAT No. 3746, H.R.D.

SECTION LINE EASEMENT TO
 BE VACATED BY THIS PLAT
 20

A.A. MATTOX, 1958 ADD'N.
 #2, PLAT No. 3995, H.R.D.

SECTION LINE EASEMENT VACATION CERTIFICATE

APPROVAL RECOMMENDATION
 State of Alaska Department of Transportation and
 Public Facilities

The vacation statement as shown hereon has been reviewed
 by the Central District Office and is hereby recommended
 for approval by the Commissioner.

Recommended by: *[Signature]* Date 10-9-85
 Title: Regional Chief, Right-of-Way Agent

State of Alaska Division of Technical Services

The vacation statement, as shown hereon, has been reviewed
 by the Division of Technical Services and is hereby recommended
 for approval by the Commissioner.

Recommended by: *[Signature]* Date 10/8/85
 Title: Director, Division of Technical Services

The state of Alaska, acting by and through the Commissioner of
 the Department of Natural Resources and the Commissioner of the
 Department of Transportation Public Facilities, does hereby state
 and declare that the State of Alaska vacates and releases all rights
 and title to any and all portions of section line easements for public
 highways reserved to it under AS 19.10.010, (specific area
 delineated by dot shading on this plat).

Date 10/11/85 Approved: *[Signature]*
 Commissioner, Department of Transportation
 and Public Facilities

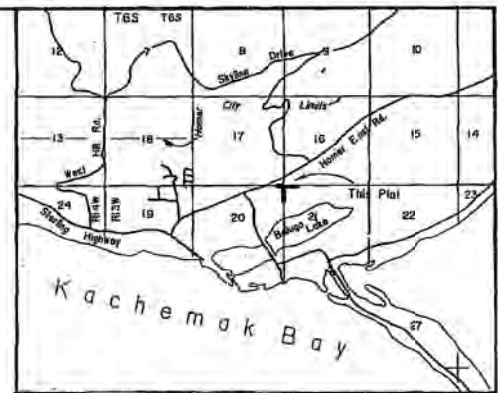
Approved: *[Signature]* Date 10-16-85
 Commissioner, Department of Natural Resources



- NOTES:**
1. DOT SHADED AREA INDICATES THE SECTION LINE EASEMENT BEING VACATED BY THIS PLAT.
 2. NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION LINE VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM THE PLATS OF VIRGINIA LYNN SUBD., A.A. MATTOX SUBD., AND A.A. MATTOX SUBD., 1958 ADD'N.
 3. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.

OWNERSHIP TABLE

GARY & JANET HALL - LOT 20, A.A. MATTOX 1958 ADD'N.
JOHN COOPER - LOT 21, A.A. MATTOX 1958 ADD'N.
ELDEEN MERIDETH - LOT 22, A.A. MATTOX 1958 ADD'N.
ELDEEN JACKSON - LOT 23, A.A. MATTOX 1958 ADD'N.
HUGH GELLERT, dba BEAR FRITZ LAND CO. - LOTS 12, 13, 18, 19, 20, 21, & 22, VIRGINIA LYNN UNIT 3
MANUEL J. SOARES - LOT 5, VIRGINIA LYNN SUBDIVISION
VIRGINIA TORRES - LOT 6, VIRGINIA LYNN SUBDIVISION
SCOTT ADAMS - LOT 15, A.A. MATTOX SUBDIVISION, 1958 ADD'N.
ANDREW MCCLAIN LOT 11, VIRGINIA LYNN UNIT 3
JOHN F. & ROBIN L. ADAMS, LOT 23 VIRGINIA LYNN UNIT 3
DANIEL B. & CINDY S. WEATHERLY, ALSO LOT 23 VIRGINIA LYNN UNIT 3



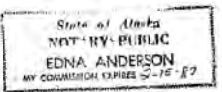
USGS QUAD. SELDOVIA C-4, 1976
 USGS QUAD. SELDOVIA C-5, 1967
 SCALE: 1"=1 MILE

CERTIFICATE OF OWNERSHIP
 We hereby certify that we are the owners of the property shown and described hereon and that we hereby approve of the vacation of the section line easements as shown hereon.

JERRY ANDERSON, BOX 378 HOMER, ALASKA 99603
 ATTORNEY IN FACT FOR: GARY & JANET HALL
 AS RECORDED ON: JOHN COOPER
 10-1-1985 IN THE ELDEEN MERIDETH
 HOMER RECORDING DIST. ELDEEN JACKSON
 BK. 0182 Pg. 008-016. HUGH GELLERT, dba BEAR FRITZ LAND COMPANY
 SCOTT ADAMS
 VIRGINIA TORRES
 Andrew McClain
 John F. & Robin L. Adams
 Daniel B. & Cindy S. Weatherly

NOTARY'S ACKNOWLEDGMENT: Subscribed and sworn to before me this 16th day of Oct, 1985.

EDNA ANDERSON
 NOTARY PUBLIC FOR ALASKA
 2-15-87
 My Commission Expires

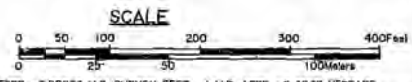


SURVEYOR'S CERTIFICATE
 I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, and that this plat was drafted under my direct supervision, and that all data shown hereon is true and correct as compiled from existing record information.

Date 9-30-85 JERRY ANDERSON RLS #3686-S

PLAT APPROVAL
 This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of SEPT. 9, 1985
 KENAI PENINSULA BOROUGH

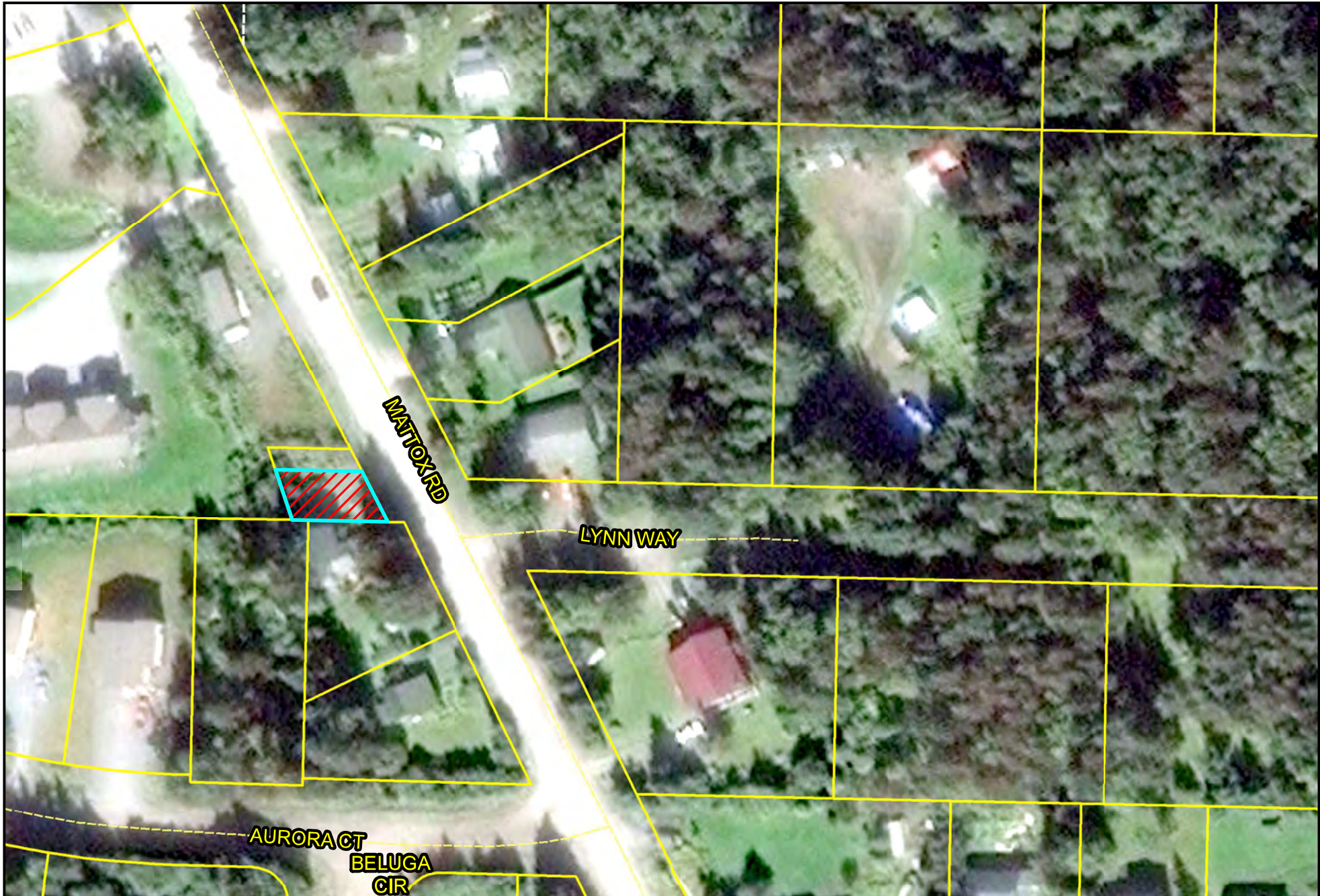
By: *[Signature]*
 Authorized Official



85-109
 RECORDED - FILED
 HOMER REC. DIST.
 DATE 10-14-85
 TIME 10:36 AM
 BY Ability Survey
 ADDRESS Homer

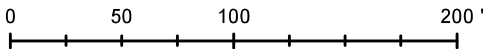
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
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF TECHNICAL SERVICES ANCHORAGE, ALASKA	
SECTION LINE EASEMENT VACATION PLAT ASSOCIATED WITH VIRGINIA LYNN SUBDIVISION, UNIT 3, A.A. MATTOX, 1958 ADD'N., & A.A. MATTOX SUBDIVISION, SITUATED WITHIN SECTIONS 17, 20 & 21 T6S, R33W, S4M, ALASKA AND WITHIN THE CITY OF HOMER.	
DATE OF SURVEY Beginning: 100 FIELD SURVEY Ending:	NAME OF SURVEYOR Ability Surveys Box 378 Homer, Alaska 99603
DRAWN BY: S. SCHOLLENBERG DATE: 7-23-85	
APPROVAL RECOMMENDED: <i>[Signature]</i> 10/8/85 CMM Central Surveyor Date	
SCALE: 1" = 100'	CHECKED: J.A.H. FILE NO.: EV-2-298



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

Aerial View



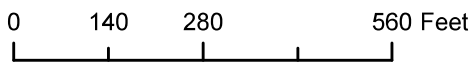
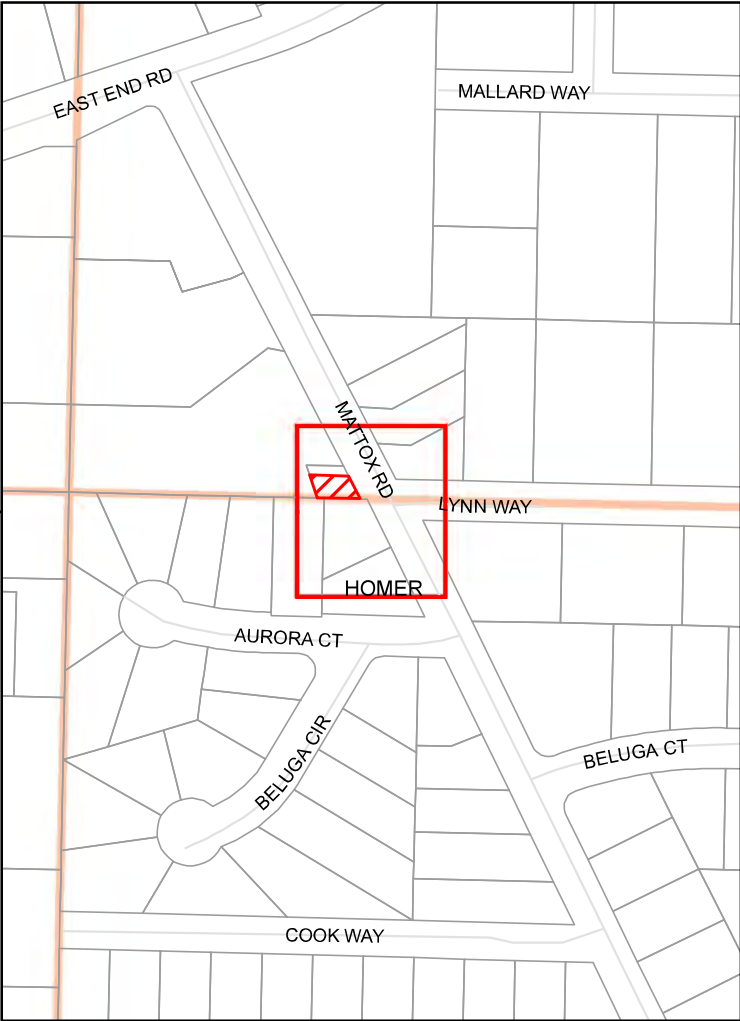
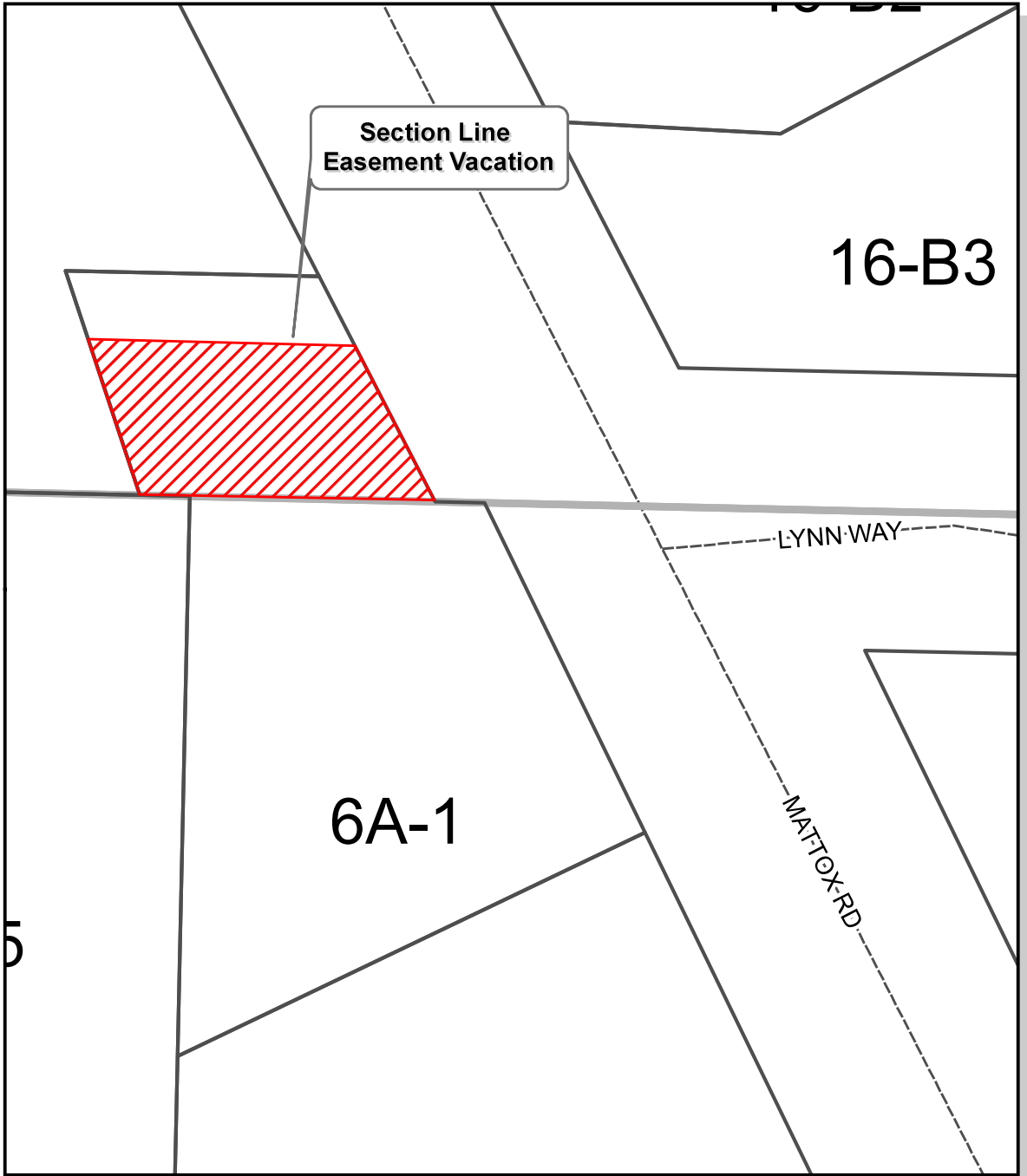
 33' Section L  sement Vacation

PClements, KPB
 Date: 2/19/2020
 Imagery: 2016 Homer



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

SECTION LINE EASEMENTS (SLE)



KPB 2020-021V2
T06S R13W S21
HOMER

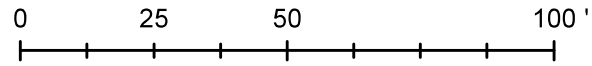


28

PClements, KPB
 Date: 2/19/2020



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.





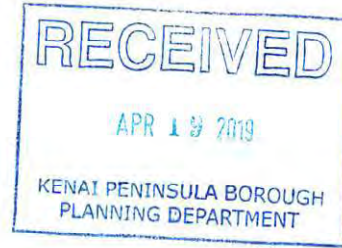
THE STATE
of **ALASKA**

GOVERNOR MICHAEL J. DUNLEAVY

Department of Natural Resources

DIVISION OF MINING, LAND & WATER
Survey Section

550 West 7th Avenue, Suite 650
Anchorage, Alaska 99501-3576
Main: 907.269.8523
TDD: 907.269.8411
Fax: 907.269.8916



April 16, 2019

KPB
Scott Huff
144 N. Binkley Street
Soldotna, AK 99669

Dear Mr. Huff:

Subject: EV-3-303 Preliminary Decision and Public Notice

The proposed action consists of vacating the 33-foot wide section-line easement (SLE) lying within Lot 6A-1, Virginia Lynn 2006 Replat (Plat 2006-20, Homer Recording District). This action lies in Section 16, T6S, R13W, SM.

Also enclosed is a copy of the *Public Notice of Preliminary Decision* which will be published on the State of Alaska Online Public Notices website, <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx>.

Any comments concerning the proposed action must be submitted in writing to DNR -- DMLW by **5 PM on May 17, 2019**. Contact DNR with questions at 907-375-7733 or joseph.poydack@alaska.gov or Stan Brown 269-8521 or stanley.brown@alaska.gov by May 17th.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Poydack".

Joe Poydack
DNR Adjudicator

Enc: Copy PD & Public Notice

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER



Preliminary Decision

Petitioners: Virginia Tornes

Section Line Easement Vacation

EV-3-303

Petitioned Action:

The proposed action consists of vacating the 33-foot wide section-line easement (SLE) lying within Lot 6A-1, Virginia Lynn 2006 Replat (Plat 2006-20, Homer Recording District). This action lies in Section 16, T6S, R13W, SM, as depicted in Attachment A.

The reasons cited by the applicant:

- Bring home into compliance with local zoning code, part of the home is located within the easement.

Legal Authority:

AS 19.10.010, AS 19.30.410, AS 38.05.035, AS 38.05.945, 11 AAC 51.025, 11 AAC 51.065 and 11 AAC 51.100

The Alaska Department of Transportation and Public Facilities (DOT/PF) and the Department of Natural Resources (DNR) have concurrent authority for approving the vacation of SLEs.

Administrative Record:

The DNR Survey Case File EV-3-303 constitutes the administrative record used for the basis of this decision.

Borough:

The proposed action is located within the Kenai Peninsula Borough (KPB).

State Easement Interest:

33-foot wide section-line easement exists within the subject property pursuant to Chapter 19, SLA 1923. (See Discussion 1).

Underlying Interest:

The petitioner owns the estate underlying the SLE proposed for vacation.

Alternate Route:

The proposed alternate access is via the constructed Mattox Road right-of-way. Access to adjacent parcels is via the existing dedicated rights-of-way. Public access to the adjoining and adjacent parcels is not negatively affected by this action.

Land Management Policies:

1) Pursuant to AS 19.30.410 the Department of Natural Resources, the Department of Transportation and Public Facilities, or another agency of the state may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932 unless:

- a reasonably comparable, established alternate right-of-way or means of access exists that is sufficient to satisfy all present and reasonably foreseeable uses.

2) Pursuant to 11 AAC 51.065, before any vacation, modification, or relocation of a public easement, the petitioner must demonstrate to the satisfaction of the department that equal or better access is available. Equal or better access must be access that is:

- protected by an easement of record that is adequately wide for the purpose; if the easement of record is new, the petitioner must arrange for a note in the vacation document to be recorded that identifies the new easement as a replacement for the vacated easement; and,
- at least equally usable, considering length, type of terrain, and level of improvement, as the easement to be vacated; if development or improvement is needed to make the replacement easement at least equally usable, the petitioner must arrange for the development or improvement to be completed before the vacation takes effect.
- the department will determine if the vacation is in the State's best interest

Public Use Patterns:

The subject SLE is unconstructed. A field inspection was not conducted; however, the petitioner states "there is no current or historical use of anyone other than me". The petitioners home encroaches 15' more or less into the SLE.

Practicality of Use:

The 33' SLE proposed to be vacated is an isolated 55' +/- long portion of SLE lying between the Mattox Road ROW and SLEs that were previously vacated in 1985 by EV-2-298 and in 2008 by EV-3-018. The subject SLE only provides access to three parcels; one of which has only 7.84' of SLE access; and all of which are currently accessing their parcels via the Mattox Road or Aurora Street rights-of-way. Sufficient dedicated public access exists that provides access to all adjacent parcels.

Agency Review:

Initial Agency review of the proposed action began on January 29, 2019 and concluded February 28, 2019. Agencies notified included Department of Transportation/Public Facilities (DOT/PF) Central Region, Alaska Department of Fish and Game (ADFG), DNR Division of Mining, Land and Water – South Central Regional Office (SCRO), Alaska Mental Health Trust Land Office (MHTLO) and DNR Division of Parks and Outdoor Recreation (DPOR).

Agency Comments:

1. All agencies submitted comments of non-objection.
2. No other comments or objections on the proposed action were received.

Discussion:

1. **Determination of the existence of the Section-Line Easements:**

- a. The Rectangular Survey Plat for Township 6 South, Range 13 West, Seward Meridian, Alaska was approved on June 28, 1918 and accepted by the General Land Office on July 15, 1918.
- b. The lands underlying the SLE proposed to be vacated were conveyed into private ownership by Patent No. 1112758. The date of entry (application filed) according to the case file abstract for BLM case file AKA 8354 was February 25, 1935.
- c. BLM Historical Index:
 - i. Research verified that the subject lands were included in lands withdrawn for the Chugach National Forest by Proclamation No. 852 dated February 23, 1909. This National Forest withdrawal remained in effect until Proclamation No. 1519 dated April 16, 1919 eliminated certain lands from Chugach National Forest and restored said lands – including the subject lands – to entry. The subject lands were seemingly restored to homestead entry under applicable federal laws 84 days after the date Proclamation 1519 was signed (April 16 + 84 days = July 9, 1919); however,
 - ii. Research also verified that the subject lands were included in lands purportedly "reserved from sale or settlement for the support of common schools" by the Act of March 4, 1915 [i.e. Sections 16 & 36] - subject to being "surveyed under the direction of the Government of the United States". The survey of the subject land was approved and accepted by the GLO in 1918 (refer to above item "a"). *However, this ACT contains language stating in part "...or where the same may have been sold or otherwise appropriated by or under the authority of any Act of Congress [i.e. the Chugach National Forest reservation], or are wanting or fractional in quantity, other lands may be designated and reserved on lieu thereof in the manner provided by the Act of Congress dated February twenty-eight, eighteen hundred and ninety-one..."* With that said, The Act of February 28, 1891 states in part "*Where any State is entitled to said sections sixteen and thirty-six, or where said sections are embraced within a military, Indian, or other reservation [i.e. the Chugach National Forest reservation], the selection of such lands in lieu thereof by said State or Territory shall be a waiver of its right to said sections. And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory to compensate deficiencies for school purposes...*" Since the subject lands were already withdrawn as part of the Chugach National Forest prior to said Act of March 4, 1915 (refer to above item "i"), the Territory would be allowed to select from other designated lands. Therefore; on July 9, 1919 (refer to above item "c(i)") said lands became open to entry.
- d. **For surveyed land owned by the Territory of Alaska at any time on or after April 6, 1923 through January 17, 1949, or for surveyed federal land that was**

unappropriated and unreserved at any time during that period, the width identified in Ch. 19, SLA 1923 for any section-line easement is 33 feet (11 AAC 51.025, editor's note #2).

2. The proposed alternate access is reasonably comparable and meets the requirements for vacation of the subject section-line easement pursuant to AS 19.30.410 and 11 AAC 51.065. The proposed alternate route is adequately wide to satisfy all present and reasonable foreseeable uses. Continued access to adjacent lands is ensured by the dedicated and constructed ROWs and the remaining unconstructed SLEs in the vicinity.
3. Pursuant to 11 AAC 51.065(e)(1), the department will give consideration to the recommendations of the KPB Platting Board regarding this action when a copy of the Approved Minutes are received at DNR.

Approval of the proposed action is contingent upon the following conditions:

1. Pursuant to AS 38.05.945, a Public Notice must be completed. The Department of Natural Resources may modify the decision after analyzing public comments. The advertising cost for Public Notice is at the expense of the applicant.
2. Comply with KPB's conditions of approval unless waived by the Director, DMLW.
3. A final plat (owner signed / surveyor sealed Mylar) must be submitted to DNR within two years from the date of approval of the Final Decision unless extended by DMLW, Survey Section.
4. Submittal of a Certificate to Plat, current within 90-days, with the final plat.

Recommendation:

Based on our findings, the applicant meets DNR's requirements to vacate the subject section-line easement. The proposed vacation may be in the state's best interest. Therefore, the Division of Mining, Land and Water, Survey Section recommends approval of this action and may proceed with adjudication and public notice in accordance with AS 38.05.945.


Prepared by:



Joseph L. Poydack, RWA
Adjudicator

4/16/2019
Date

Approved by:



Gwen M. Gervelis, PLS
Chief, Survey Section

4/16/2019
Date

PUBLIC NOTICE:

**Notice of Preliminary Decision
Section Line Easement Vacation
EV-3-303**

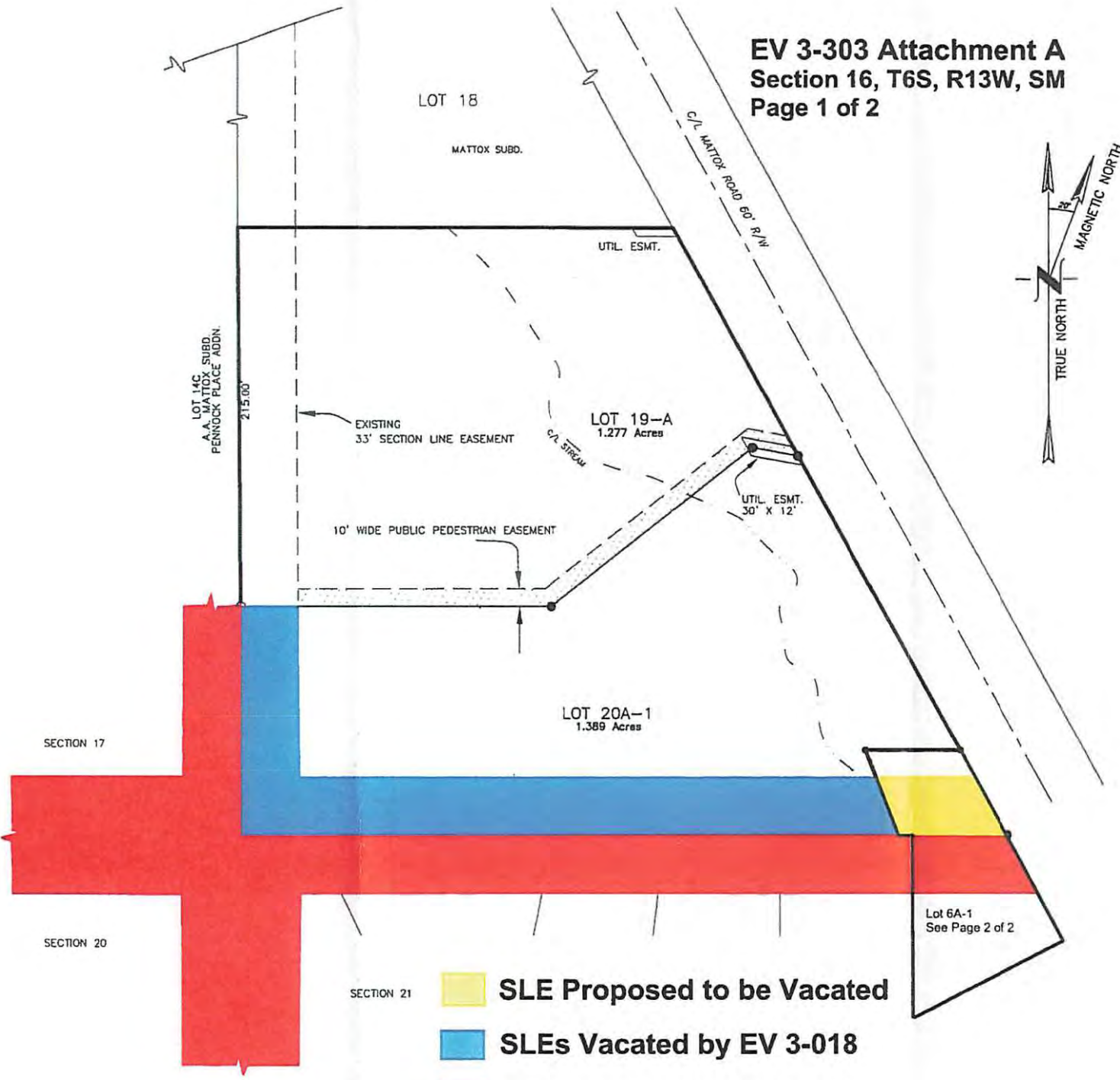
Per AS 19.30.410 & 11 AAC 51.065, the Department of Natural Resources, Division of Mining, Land and Water has made a Preliminary Decision (PD) giving contingent approval to a petition vacating the 33-foot wide section-line easement (SLE) lying within Lot 6A-1, Virginia Lynn 2006 Replat (Plat 2006-20, Homer Recording District). This action lies in Section 16, T6S, R13W, SM.

The public is invited to comment on the PD. Copies are available from DMLW, 550 W. 7th Avenue, Suite 650, Anchorage, AK 99501-3576 or <https://aws.state.ak.us/OnlinePublicNotices/Login.aspx>. All comments must be received in writing at DMLW by 5:00 p.m. on May 17, 2019. **To be eligible to appeal, one must respond in writing during the comment period.** If public comment analysis indicates the need for significant changes to the PD, additional public notice will be given. If no significant change is required, the PD, including any minor changes, will be issued as a Final Decision (FD). To obtain PD/FD copy, reference case number EV-3-303; include date, your email and mailing address and telephone number. If you have any questions, contact DNR, Joseph L. Poydack, 375-7733 or joseph.poydack@alaska.gov.

DMLW reserves the right to waive technical defects in this publication.

Those with audio impairments may call Anchorage DNR Public Information Center, 10-5, M-F, TDD#269-8411.

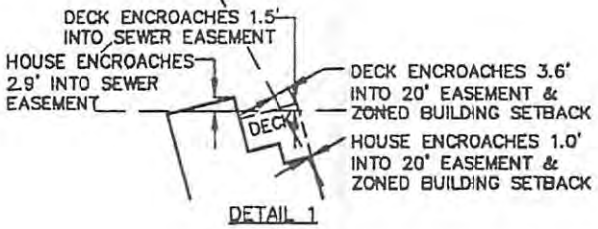
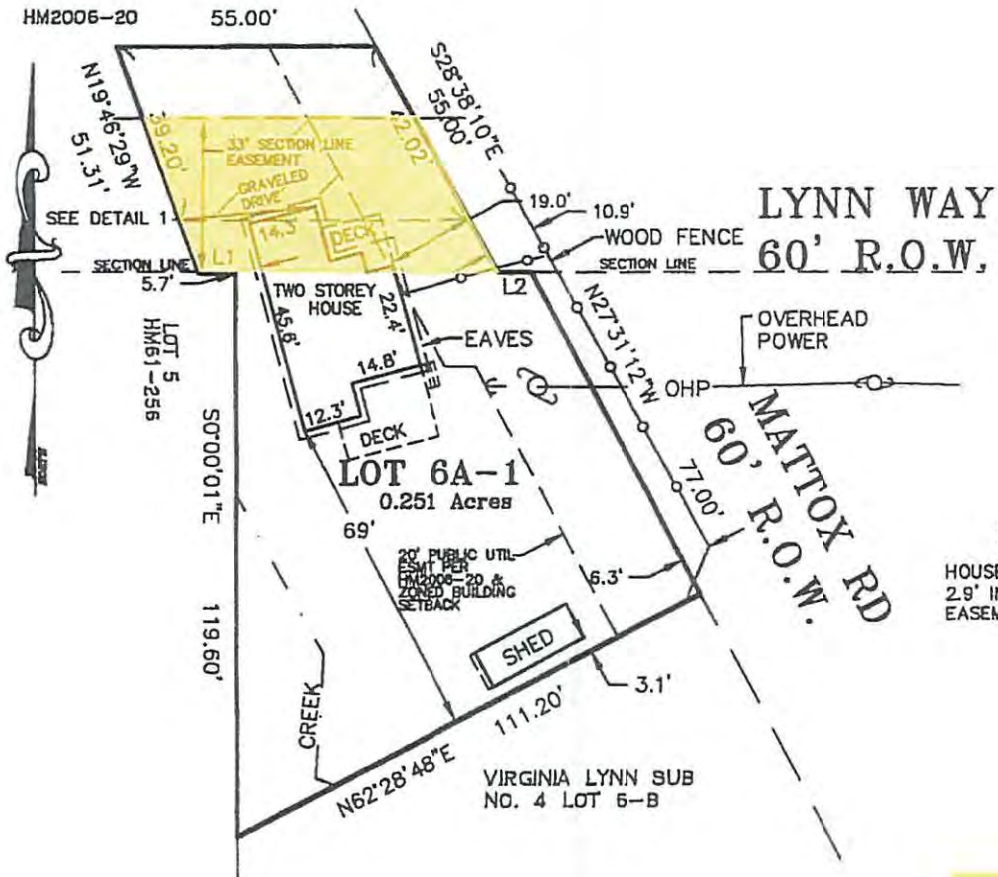
EV 3-303 Attachment A
Section 16, T6S, R13W, SM
Page 1 of 2



SECTION 21

- SLE Proposed to be Vacated
- SLEs Vacated by EV 3-018
- SLEs Vacated by EV 2-298

EV 3-303 Attachment A
 Section 16, T6S, R13W, SM
 Page 2 of 2



- SLE Proposed to be Vacated
- Sewer Easement, Managed by City of Homer



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

December 18, 2019

Homer Advisory Planning Commission

Notice of Action

Request: Approval of Virginia Lynn Section Line Easement Vacation Plat Preliminary Plat

Applicants:

Virginia Tornes
4097 Mattox Rd.
Homer, AK 99603

Gary Nelson RLS
Ability Surveys
152 Dehel Ave.
Homer, AK 99603

At the regular meeting of December 4, 2019 the Homer Advisory Planning Commission forwarded a **recommendation for approval** of the preliminary plat with staff recommendations and the attached minutes to the Kenai Peninsula Borough Planning Commission.

Should you have any questions, please contact the planning office at 235-3106.

Chair Venuti opened the Public Comment period. Seeing no one come forward to comment he closed the comment period and opened the floor to questions from the Commission.

Commissioner Smith inquired if this property would be considered within the area under a moratorium.

City Planner Abboud responded that it is considered within that area designated but the moratorium does not apply to this action.

Chair Venuti requested a motion hearing no further comments or questions from the commission.


BENTZ/RUBALCAVA MOVE TO ADOPT STAFF REPORT 19-97 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT WITH COMMENTS 1 AND 2:

1. DEPICT A FIFTEEN FOOT UTILITY EASEMENT ALONG ALL ADJACENT RIGHTS-OF-WAY.
2. REMOVE PLAT NOTE STATING, "THERE ARE NO WET AREAS ON THE PROPERTY."

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- 
- B. Staff Report 19-101, Section-line Easement Vacation Plat Preliminary Plat associated with Virginia Lynn 2006 Replat**

Chair Venuti introduced the item by reading of the title.

City Planner Abboud reviewed Staff Report 19-101 noting that the Kenai Peninsula Borough informed the Planning Staff that a Preliminary Plat review is required.

Gary Nelson, surveyor for the applicant provided some clarification on the action requested to vacate the section line noting that it was a small holdover section.

Chair Venuti opened the Public Comment period. Seeing no one come forward to comment he closed the comment period and opened the floor to questions from the Commission.

Commissioner Davis requested some clarification on the process of vacating the section line easement and then doing a preliminary plat after the fact.

City Planner Abboud tried to provide some clarification of the process and stated that if this action was done in error it can be corrected after the fact. He reiterated that the Planning staff received the direction from the Borough.

Mr. Nelson provided information that the Department of Natural Resources requires the action by plat.

Chair Venuti requested a motion hearing no further questions or comments from the Commission.

BENTZ/SMITH MOVED TO ADOPT STAFF REPORT 19-101 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT TO VACATE THE SECTION LINE EASEMENT ACROSS LOT 6A-1 VIRGINIA LYNN 2006 REPLAT.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

C. Staff Report 19-100, Nomar 2019 Replat Preliminary Plat

Chair Venuti introduced the item by reading of the title.

City Planner Abboud reviewed Staff Report 19-100 from the Commission noting the review of the nonconforming status.

There was no applicant present.

Chair Venuti opened the Public Comment period. Seeing no one come forward to comment he closed the comment period and open the floor for questions from the Commission.

There was no questions from the Commission.

Chair Venuti requested a motion.

RUABLCAVA/DAVIS MOVED TO ADOPT STAFF REPORT 19-100 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT TO REMOVE A COMMON LOT LINE WITH THE FOLLOWING COMMENT:

1. DEDICATE A 15 FOOT UTILITY EASEMENT ALONG RIGHTS-OF-WAY WHERE BUILDINGS DO NOT ENCROACH

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS



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 19-101

TO: Homer Advisory Planning Commission **19-101**
FROM: Julie Engebretsen, Deputy City Planner
THROUGH: Rick Abboud, City Planner
DATE: December 4, 2019
SUBJECT: Virginia Lynn Section Line Easement Vacation Plat

Requested Action: Approval of a preliminary plat to vacate the section line easement. The easement vacation is considered under a separate action.

General Information:

Applicants:	Virginia Tornes 4097 Mattox Rd Homer AK 99603	Gary Nelson RLS 152 Dehel Ave Homer AK 99603
Location:	West side of Mattox Rd, across from Lynn Way, north of Aurora Court	
Parcel ID:	17906106	
Size of Existing Lot(s):	0.25 acres	
Size of Proposed Lots(s):	Same. No lot line changes are proposed.	
Zoning Designation:	Urban Residential District	
Existing Land Use:	Residential	
Surrounding Land Use:	North: Multifamily residential South: Residential East: Residential West: Vacant/Residential	
Comprehensive Plan:	Chapter 4 goal 1-C-1 Promote infill development in all housing districts.	
Wetland Status:	Wetlands and a creek may be present on the lot. See staff comments below on the purpose of this plat.	
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 15 property owners of 17 parcels as shown on the KPB tax assessor rolls.
----------------	---

Analysis: This subdivision is within the Urban Residential District. This plat depicts the section line easement vacation. Staff notes it is rare for Homer to have a vacation that does not involve a lot line change. Usually when the Homer Planning Commission reviews a plat, it also includes granting of utility easements or lot line changes. The plat under consideration here is regulated by state DNR requirements for section line easement vacations. This plat is not where one would see any other information about the land. Staff conferred with the Kenai Peninsula Borough that yes, a preliminary plat review is required. The question of whether to vacate the section line easement was addressed in a prior plat during a public hearing. This staff report only addresses the paper plat that depicts the vacation action.

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. Easement information is not applicable.

- 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 meets these requirements.

- 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. Not applicable to this vacation.

- 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.

- 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: Plat note 5 states that the single family home encroaches by 16 feet into the easement. Vacation of the easement will resolve this encroachment.

- 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.

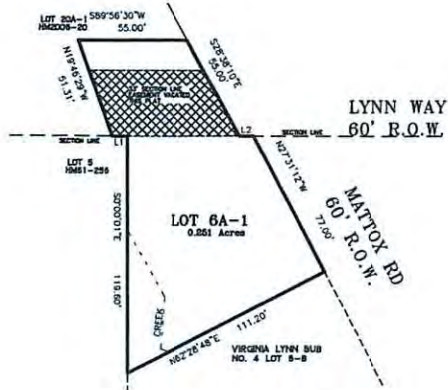
Staff Recommendation:

Planning Commission recommend approval of the preliminary plat prepared for the purpose of vacating the section line easement vacation.

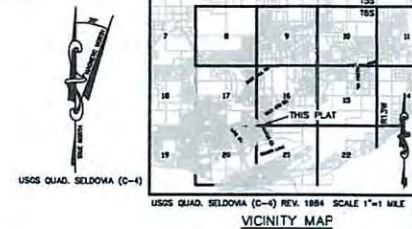
Attachments:

1. Preliminary Plat
2. Surveyor's Letter
3. Public Notice
4. Aerial Map

LEGEND:
 SECTION-LINE EASEMENT VACATED BY THIS PLAT.



LINE BEARING	DISTANCE
L1	S89°56'30"W 55.00'
L2	S89°50'30"W 116.88'



CERTIFICATE OF OWNERSHIP:
 I THE UNDERSIGNED CERTIFY THAT I AM THE OWNER OF THE DESCRIBED PROPERTY, AS SHOWN ON THIS PLAT. I APPROVE THIS SECTION-LINE EASEMENT VACATION PLAT.

DATE _____ VIRGINIA F TORNES
 PO BOX 2497
 HOMER, AK 99603

NOTARY'S ACKNOWLEDGMENT
 For VIRGINIA F TORNES
 Acknowledged before me this ____ day of _____ 2019.
 Notary Public for Alaska _____ My Commission Expires _____

RECEIVED
 OCT 21 2019
 CITY OF HOMER
 PLANNING/ZONING

SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL RECOMMENDATION

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: _____ DATE _____
 TITLE: REGIONAL CHIEF RIGHTS-OF-WAY AGENT (SOUTHCENTRAL OFFICE)

STATE OF ALASKA DIVISION OF MINING, LAND & WATER

THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE DIVISION OF MINING, LAND & WATER AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: _____ DATE _____
 TITLE: DIRECTOR, DIVISION OF MINING, LAND & WATER

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES AND THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DOES HEREBY STATE AND DECLARE THAT THE STATE OF ALASKA VACATES AND RELEASES ALL RIGHTS AND TITLE TO ANY AND ALL PORTIONS OF SECTION-LINE EASEMENTS FOR PUBLIC HIGHWAYS RESERVED TO IT UNDER A.S. 18.10.010 (SPECIFIC AREA DELINEATED BY DIAGONAL HATCHING ON THIS PLAT)

DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF NATURAL RESOURCES

NOTES

- DIAGONALLY HATCHED AREA INDICATES PORTIONS OF THE SECTION-LINE EASEMENTS BEING VACATED WITHIN SECTION 16 T6 R13W S.M. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
- NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION-LINE EASEMENT VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM PLATS OF RECORD AS USED.
- THIS VACATION IS IN COMPLIANCE WITH STATE PLATTING RESOLUTION NO. _____ APPROVED _____, EV-2-_____ AND AS 28.40.120 -140. (or)
- THIS SECTION-LINE EASEMENT VACATION IS IN COMPLIANCE WITH THE FINAL FINDING AND DECISION APPROVED _____.
- BUILDINGS ARE DRAWN FROM AN AS-BUILT SURVEY BY GARY D. NELSON (LS#7810), DATED 8/15/2018. HOUSE ROOF EAVE OVERHANGS 18 FEET INTO SECTION LINE EASEMENT.

PLAT APPROVAL

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

AUTHORIZED BOROUGH OFFICIAL _____



99



SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT WAS DRAFTED UNDER MY DIRECT SUPERVISION AND THAT ALL DATA SHOWN HEREON IS TRUE AND CORRECT AS COMPILED FROM EXISTING RECORD INFORMATION.

DATE _____ REGISTERED LAND SURVEYOR "REGISTRATION NO." 7810-5

DATE OF SURVEY Beginning <u>NO FIELD SURVEY</u> Ending _____		NAME OF SURVEYOR GARY NELSON 152 DEHEL AVE. HOMER, ALASKA 99603	
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND & WATER ANCHORAGE, ALASKA			
SECTION-LINE EASEMENT VACATION PLAT Associated with VIRGINIA LYNN 2006 REPLAT			
Located within Surveyed Section 16, T6S, R13W, S.M., AK HOMER RECORDING DISTRICT			
DRAWN BY: G.N.		APPROVAL RECOMMENDED	
DATE: 01/10/2019		STATEWIDE PLATTING SUPERVISOR _____ DATE _____	
SCALE: 1" = 30'		CHECKED: DNR FILE NO. _____	
SHEET 1 OF 1		G. N. EV-	

ABILITY SURVEYS

MEASURING MAPPING & REPORTING ON ALASKA'S INFRASTRUCTURE SINCE 1976

152 DEHEL AVE., HOMER, AK 99603 PH. 907-235-8440

email; gary@abilitysurveys.com

October 18, 2019

Homer Planning Dept.
491 E. Pioneer Ave.
Homer, AK 99603


Re: Submittal of Section Line Easement Vacation and Utility Easement Vacation applications for Virginia Tornes.

Enclosed herewith please find the SLE Vacation and the Utility Easement Vacation applications. Julie requested two checks in the amount of \$300, one being for a "plat". I question this fee because the City and Borough will only be processing the Easement Vacations. The plat is required by and will only be processed by Alaska DNR. The SLEV plat is only a DNR function and is not processed by KPB or Homer as such. The borough as platting authority will not be processing the SLEV plat. I have included check for both of her requests but believe one may not be necessary.

Please ask any questions or deliver any comments via my cell phone (907-299-1184) because I will be out of state until Nov. 2, 2019.

I hope you find the applications adequate. Thank You for your assistance.

Sincerely,



Gary Nelson, PLS

RECEIVED

OCT 21 2019

CITY OF HOMER
PLANNING/ZONING

**PUBLIC HEARING NOTICE
&
NOTICE OF SUBDIVISION**

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, December 04, 2019 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska, on the following matter:

A REQUEST TO VACATE A 33 FOOT WIDE SECTION LINE EASEMENT ACROSS LOT 6A-1 VIRGINIA LYNN 2006 REPLAT, NW ¼, SEC. 21, T. 6 S., R. 13. W, S.M. HM 2006020, KNOWN AS 4097 MATTOX ROAD.

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.

The proposed subdivision under consideration is described as follows:

Section-line Easement Vacation Plat associated with Virginia Lynn 2006 Replat Preliminary Plat

A public meeting will be held by the Homer Advisory Planning Commission on Wednesday, December 04, 2019 at 6:30 p.m. at Homer City Hall, Cowles Council Chambers, 491 East Pioneer Avenue, Homer, Alaska.

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

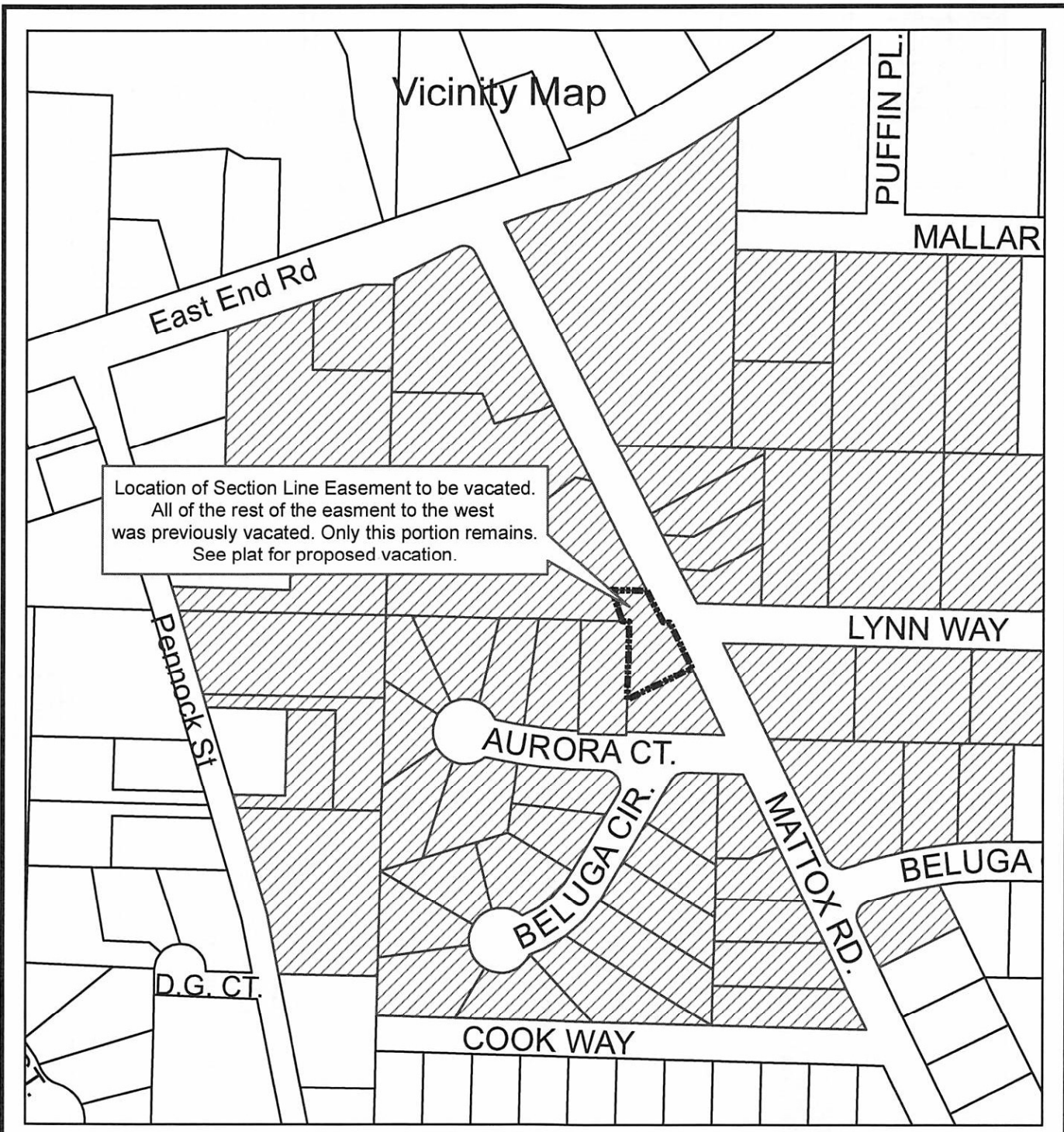
The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Rick Abboud at the Planning and Zoning Office, 235-3106.

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


.....

VICINITY MAP ON REVERSE





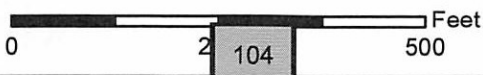
Location of Section Line Easement to be vacated.
 All of the rest of the easment to the west
 was previously vacated. Only this portion remains.
 See plat for proposed vacation.



City of Homer
 Planning and Zoning Department
 11/15/2019

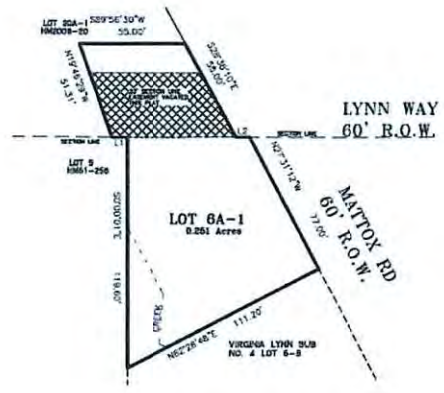
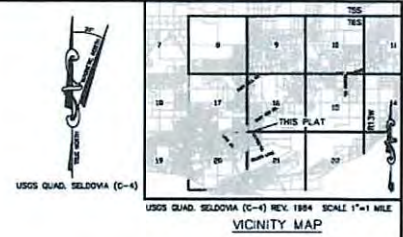
**Request for a
 Section Line Easement Vacation**

Marked lots are within 500 feet
 and property owners notified



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

LEGEND:
 [Hatched Box] SECTION-LINE EASEMENT VACATED BY THIS PLAT.



DATE/FABRIKOR	DISTANCE
L1 1559-56.10 E 17.25'	
L2 1559-56.10 W 116.69'	

CERTIFICATE OF OWNERSHIP:
 I, THE UNDERSIGNED, CERTIFY THAT I AM THE OWNER OF THE DESCRIBED PROPERTY, AS SHOWN ON THIS PLAT. I APPROVE THIS SECTION-LINE EASEMENT VACATION PLAT.

DATE _____ VIRGINIA F TORRES
 PO BOX 2457
 HOMER, AK 99603

NOTARY'S ACKNOWLEDGMENT
 For VIRGINIA F TORRES
 Acknowledged before me this _____ day of _____ 2019.
 My COMMISSION EXPIRES _____

RECEIVED
 OCT 21 2019
 CITY OF HOMER
 PLANNING/ZONING

SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL RECOMMENDATION

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: _____ DATE _____
 TITLE: REGIONAL CHIEF RIGHTS-OF-WAY AGENT (SOUTH-CENTRAL OFFICE)

STATE OF ALASKA DIVISION OF MINING, LAND & WATER THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE DIVISION OF MINING, LAND & WATER AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: _____ DATE _____
 TITLE: DIRECTOR, DIVISION OF MINING, LAND & WATER

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES AND THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DOES HEREBY STATE AND DECLARE THAT THE STATE OF ALASKA VACATES AND RELEASES ALL RIGHTS AND TITLE TO ANY AND ALL PORTIONS OF SECTION-LINE EASEMENTS FOR PUBLIC HIGHWAYS RESERVED TO IT UNDER A.S. 18.10.010 (SPECIFIC AREA Delineated BY DIAGONAL HATCHING ON THIS PLAT)

DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF NATURAL RESOURCES

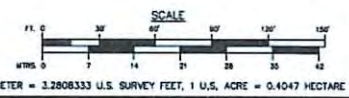
NOTES

- DIAGONALLY HATCHED AREA INDICATES PORTIONS OF THE SECTION-LINE EASEMENTS BEING VACATED WITHIN SECTION 16 T6S, R13N, S3M. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
- NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION-LINE EASEMENT VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM PLATS OF RECORD AS LISTED.
- THIS VACATION IS IN COMPLIANCE WITH STATE PLATING RESOLUTION NO. _____ APPROVED _____, EV-2-_____ AND AS 28.40.100 -140 (SP)
- THIS SECTION-LINE EASEMENT VACATION IS IN COMPLIANCE WITH THE FINAL FINDING AND DECISION APPROVED _____.
- BUILDINGS ARE DRAWN FROM AN AS-BUILT SURVEY BY GARY S. NELSON (LS87910), DATED 8/15/2018. HOUSE ROOF EAVE INCREASES 16 FEET INTO SECTION LINE EASEMENT.

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



SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT WAS DRAFTED UNDER MY DIRECT SUPERVISION, AND THAT ALL DATA SHOWN HEREON IS TRUE AND CORRECT AS COMPILED FROM EXISTING RECORD INFORMATION.
 7610-S
 DATE: _____ REGISTERED LAND SURVEYOR REGISTRATION NO.



DATE OF SURVEY Beginning <u>NO FIELD SURVEY</u> Ending _____	NAME OF SURVEYOR GARY NELSON 152 DEHEL AVE. HOMER, ALASKA 99603
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND & WATER ANCHORAGE, ALASKA	
SECTION-LINE EASEMENT VACATION PLAT Associated with VIRGINIA LYNN 2006 REPLAT Located within Surveyed Section 16, T6S, R13N, S3M., AK HOMER RECORDING DISTRICT	
DRAWN BY: <u>G.N.</u>	APPROVAL RECOMMENDED
DATE: <u>01/10/2019</u>	STATEWIDE PLATING SUPERVISOR _____ DATE _____
SCALE: <u>1" = 30'</u>	CHECKED: _____ DNR FILE NO. _____
SHEET 1 OF 1	G. N. EV-

**SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL
RECOMMENDATION**

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE
CENTRAL REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL
BY THE COMMISSIONER.

RECOMMENDED BY: Mike Hatcher DATE: 1/16/08
TITLE: REGIONAL CHIEF RIGHTS-OF-WAY AGENT

STATE OF ALASKA
THE VACATION
DIVISION OF
BY THE COM
RECOMMEND
TITLE: DIRECTOR

THE STATE
THE DEPART
DEPARTMENT
STATE AND
ALL RIGHTS
EASEMENTS
(SPECIFIC A
DATE: 1/16

DATE: Jan 10, 2009
APPROVED BY: [Signature]
COMMISSIONER
DEPARTMENT OF NATURAL RESOURCES

Note:

This document is a
previously recorded
plat that has been
modified by City of
Homer Planning Staff
for public notice
purposes

Nov. 20, 2019

REVIEWED BY THE
AMENDED FOR APPROVAL

DATE: Jan 11, 2009

COMMISSIONER OF
MISSIONER OF THE
DOES HEREBY
S AND RELEASES
SECTION-LINE
A.S. 19.10.010
(S PLAT)

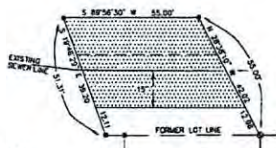
DATE: Jan 11, 2009
BY: [Signature]
COMMISSIONER
AND

ACCEPTANCE OF DEDICATION

THE DIRECTOR OF THE DIVISION OF MINING, LAND, AND WATER, ON BEHALF
OF THE STATE OF ALASKA, HEREBY ACCEPTS FOR PUBLIC USES AND FOR
PUBLIC PURPOSES THE REAL PROPERTY DEDICATED TO THE PUBLIC BY THIS
PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND ROADWAYS
SHOWN ON THIS PLAT. THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR
FOR PUBLIC PURPOSES DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING
BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.

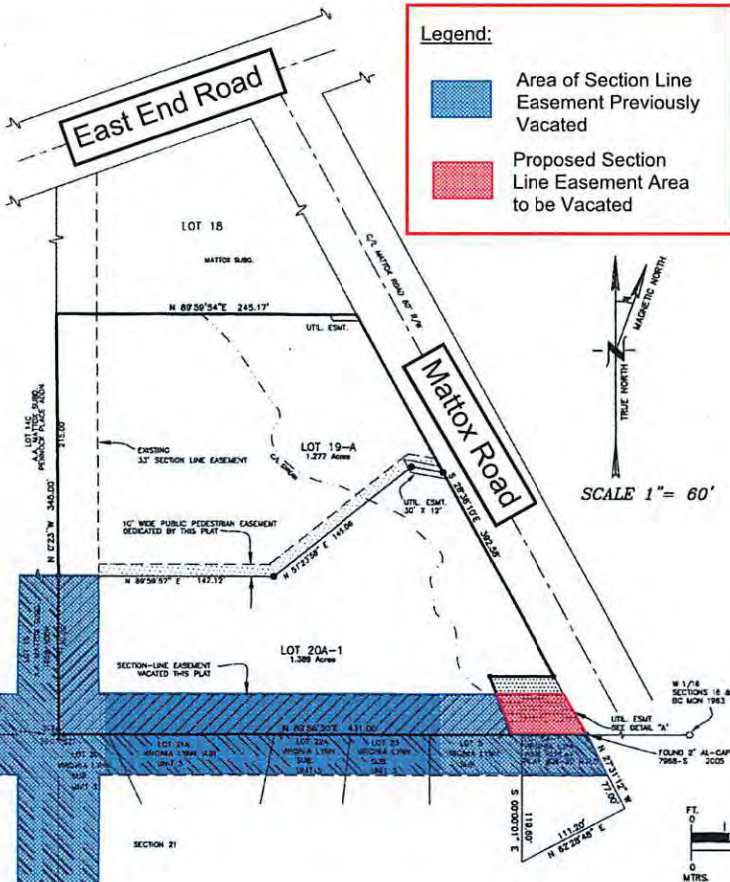
DATE: Jan 10, 2008
BY: [Signature]
DIRECTOR, DIVISION OF MINING, LAND AND WATER

DETAIL "A"
SCALE 1" = 30'
UTILITY EASEMENT



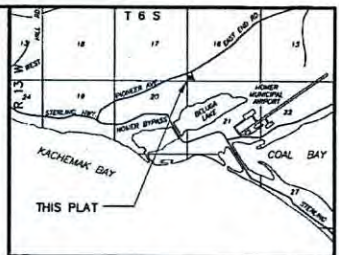
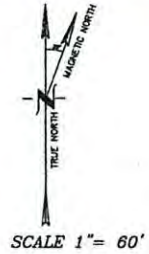
NOTES

- DIAGONALLY HATCHED AREA INDICATES PORTIONS OF THE SECTION-LINE EASEMENTS BEING VACATED WITHIN SECTION 16, T. 08 N., R. 13 W., S. 3 M. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
- NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION-LINE EASEMENT VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM THE PLAT OF MATTOX SUBDIVISION BIRCH TERRACE REPLAT ON FILE AT THE HOMER RECORDING DISTRICT AS PLAT NO. 2005-59 H.R.D. AND VIRGINIA LYNN REPLAT (2005-20).
- THIS SECTION-LINE EASEMENT VACATION IS IN COMPLIANCE WITH THE FINAL FINDING AND DECISION APPROVED JULY 14, 2006.
- PURSUANT TO AS 19.30.410 THE ALTERNATE ACCESS REPLACING THE SECTION-LINE EASEMENTS BEING VACATED BY THIS PLAT IS THE EAST END ROAD AND MATTOX ROAD RIGHTS-OF-WAY AND THE EXISTING 33-FOOT WIDE SECTION-LINE EASEMENT EXTENDING NORTH THROUGH LOTS 19-A AND 18 TO ITS INTERSECTION WITH EAST END ROAD.
- THIS PLAT IS SUBJECT TO THE NOTES SHOWN ON THE PLAT OF MATTOX SUBD. BIRCH TERRACE REPLAT, PLAT NO. 2005-59 H.R.D. AND VIRGINIA LYNN REPLAT (2005-20).



Legend:

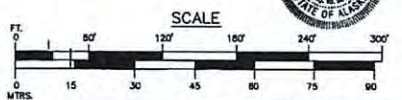
- Area of Section Line Easement Previously Vacated
- Proposed Section Line Easement Area to be Vacated



USGS QUAD. SELDOWNA (C-5) REV. 1902 SCALE 1"=1 MILE
VICINITY MAP

CERTIFICATE OF OWNERSHIP AND DEDICATION:
I THE UNDERSIGNED, CERTIFY THAT I AM THE OWNER OF LOTS 19-A MATTOX SUBD. BIRCH TERRACE REPLAT AND 20A-1 VIRGINIA LYNN 2006 REPLAT, AS SHOWN ON THIS PLAT. I APPROVE THIS SECTION-LINE EASEMENT VACATION PLAT AND DEDICATE OR RESERVE FOR PUBLIC OR PRIVATE USE, AS NOTED, ALL EASEMENTS, PUBLIC UTILITY AREAS, AND RIGHTS-OF-WAY AS SHOWN ON THIS PLAT.
DATE: Dec. 7, 2007
[Signature]
STEVE L. ROUSE, EXECUTIVE DIRECTOR
KENAI PENINSULA HOUSING INITIATIVES, INC.
333 E. PIONEER AVENUE, STE. B
HOMER, ALASKA 99603

NOTARY'S ACKNOWLEDGEMENT
SUBSCRIBED AND SWORN TO BEFORE ME THIS 7 DAY OF DEC, 2007
BY: [Signature]
NOTARY FOR THE STATE OF ALASKA
MY COMMISSION EXPIRES 7/18/2010



PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF MARCH 13, 2006 & Feb 24, 2007
DATE: Feb 11, 2008
BY: [Signature]
AUTHORIZED OFFICIAL, KENAI PENINSULA BOROUGH

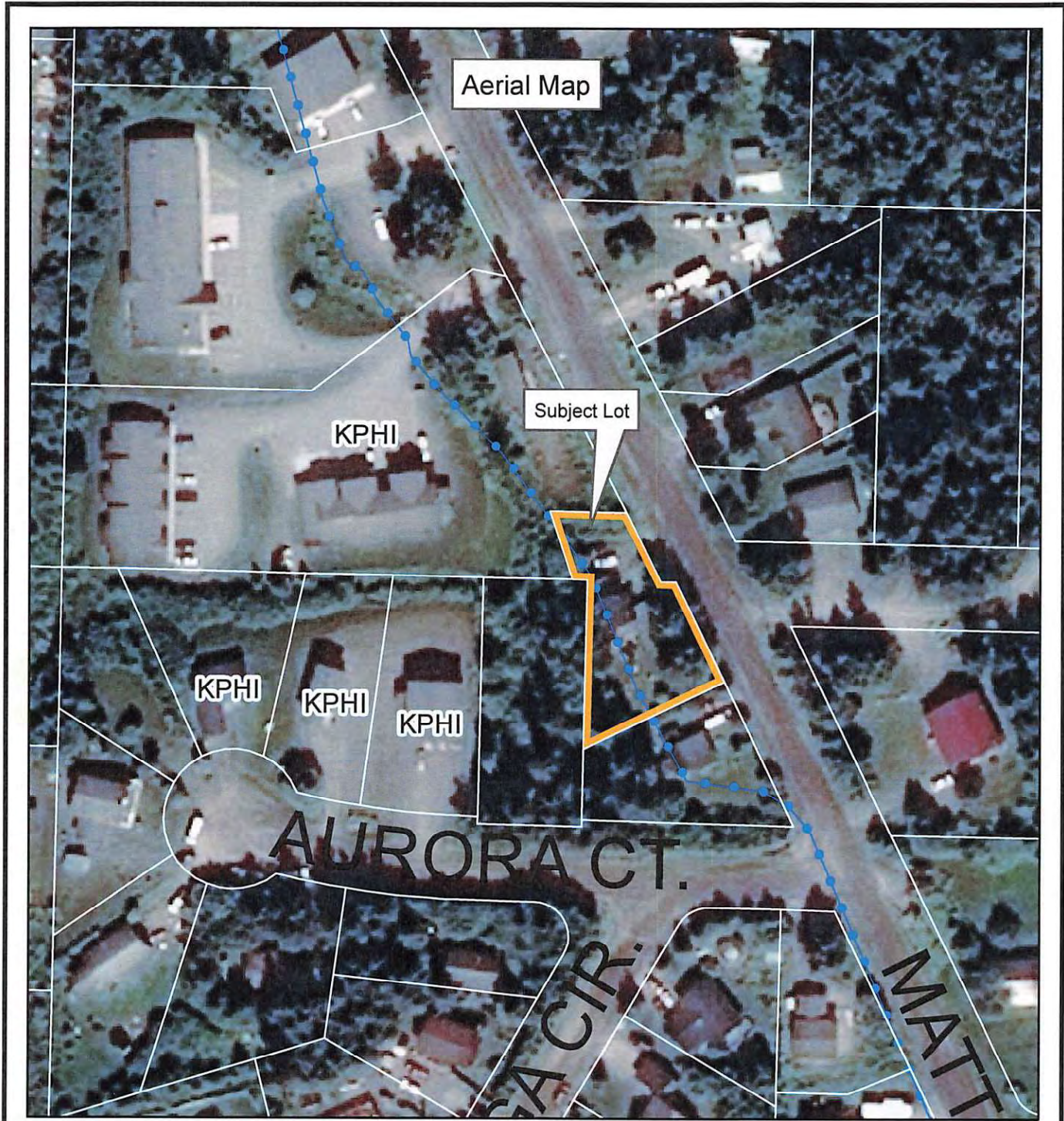
SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT WAS DRAFTED UNDER MY DIRECT SUPERVISION, AND THAT ALL DATA SHOWN HEREON IS TRUE AND CORRECT AS COMPRIED FROM EXISTING RECORD INFORMATION.
DATE: 12/10/07
BY: [Signature]
REGISTERED LAND SURVEYOR
REGISTRATION NO. LS-7968

2008-9
RECD 01/27/08
DATE: 2/29/2008
TIME: 3:08 P.M.
BY: [Signature]



DATE OF SURVEY Beginning <u>NO FIELD SURVEY</u> Ending	SEABRIGHT SURVEYING 1044 EAST END ROAD, STE A HOMER, ALASKA 99603
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND & WATER ANCHORAGE, ALASKA	
SECTION-LINE EASEMENT VACATION PLAT Associated with LOT 20A-1 VIRGINIA LYNN 2006 REPLAT (PLAT NO. 2006-20) AND PEDESTRIAN EASEMENT DEDICATION WITHIN LOT 19-A MATTOX SUBD. BIRCH TERRACE REPLAT (PLAT NO. 2005-55)	
Located within Surveyed Sec. 16, T.8 S., R.13 W., S. 3 M., STATE OF ALASKA. HOMER RECORDING DISTRICT	
DRAWN BY: <u>JS</u>	APPROVAL RECOMMENDED
DATE: <u>08/03/08</u>	STATEMENT PLATING SUPERVISOR DATE
SCALE: 1" = 60'	CHECKED: <u>[Signature]</u> DNR FILE NO. <u>EV-3-018</u>



Aerial Map

Subject Lot

KPHI

KPHI

KPHI

KPHI

AURORA CT.

CASCIR

MATT



City of Homer
 Planning and Zoning Department
 11/15/2019

**Request for a
 Section Line Easement Vacation**

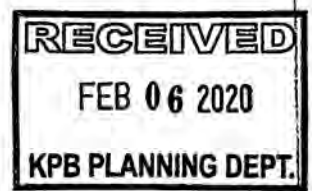
2017 Photo. Parcel lines not exact; use with care.



*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.*

2020-02W2

Kenai Peninsula Borough Planning Department
144 North Binkley Street
Soldotna, Alaska 99669-7520
Toll free within the Borough 1-800-478-4441, extension 2200 (907) 714-2200



Petition to Vacate Section Line Easement
Public Hearing Required

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

The Kenai Peninsula Borough is advisory to the State of Alaska Department of Natural Resources regarding Section Line Easement Vacations. The State of Alaska has the final authority regarding vacation of Section Line Easements.

Initially, a sketch may be included with the vacation petition for review by the Planning Commission. After the Planning Commission takes action on the vacation, a Section Line Easement Vacation Plat must be prepared by a licensed land surveyor. The plat will be processed in accordance with KPB 20.10.080. Platting authority is vested in the Planning Director.

ROW Vacation Plat

- \$500 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to the vacation fees.
- City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- Are there associated utility easements to be vacated? Yes No Somewhat
- Are easements in use by any utility company? If so, which company Homer Public Works, Separate Esmt.
- Width of easement proposed to be vacated must be shown on the sketch.
- Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. Proposed alternative dedication is to be shown and labeled on the sketch.
- Has the section line easement been fully or partially constructed? Yes No
- Is the section line easement used by vehicles / pedestrians / other? Yes No
- Is alternative right-of-way being provided? Yes No See Below

The petitioner must provide reasonable justification for the vacation. Reason for vacating:
Quasi right of way is provided on adjacent lot ZDA-1 (adjacent West and North) via paved access to apartments that are public assistance housing operated by Kenai Peninsula Housing Initiatives, also Public Road Network.

The petition must be signed (written signature) by owners of a majority of the land affected by the section line easement proposed to be vacated. Each petitioner must include address and legal description of his/her property.

Submitted By: Signature Gary Nelson As: No Yes
Name Gary Nelson Petitioner Representative
Address 152 Dehel Ave
Homer, AK 99603
Phone _____

Petitioners:

Signature Virginia F. Tornes Signature _____
Name VIRGINIA F. TORNES Name _____
Address PO Box 2497 Address _____
HOMER, AK
99603

Owner of LOT 6A-1 Owner of _____

Signature _____ Signature _____
Name _____ Name _____
Address _____ Address _____

Owner of _____ Owner of _____

AGENDA ITEM E. PUBLIC HEARINGS

2. This plat vacates a 33' Section Line Easement located within Lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The right-of-way being vacated contains a driveway for the residence constructed on Lot 6A-1 and located within the SW1/4 of Section 16, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-021V2

Staff Report given by Scott Huff

PC Meeting: April 13, 2020

Purpose as stated in petition: The area of requested Section Line Easement Vacation is on lot 6A-1, Virginia Lynn 2006 Replat (Plat HM 2006-20). The Section Line Easement has been vacated from adjacent lots and a portion of the subject lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) by previous Section Line Easement Vacation Plat No.'s HM 2008-9 and HM 85-109. We are requesting to vacate the entire remaining Section Line Easement within Lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The subject Section Line Easement is not used for any access nor has it been used as an access. The house encroaches 14.3' and the deck encroaches 12.9' into the Section Line Easement, which will be vacated and finalized by Section Line Easement Vacation Plat associated with Virginia Lynn 2006 Replat, KPB 2020-021V2. .

Petitioners: Virginia F. Tornes of Homer, AK

Notification: Public notice appeared in the March 12 issue of the Homer News as a separate ad. The public hearing notice was published in the March 19 issue of the Homer News as part of the Commission's tentative agenda.

21 certified mailings were sent to owners of property within 300 feet of the proposed vacation. 16 receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to 42 owners within 600 feet of the proposed vacation.

19 public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to 6 KPB staff/Departments via a shared database.

Notices were mailed to the Homer Post Office and Homer Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ENSTAR: No comment, recommendations or objections.

KPB Addressing: Any address changes will be updated by the City of Homer.

KPB Planning: No material site or local option zone issues. A review is not required for property inside city limits.

KPB River Center: Within City of Homer.

KPB Roads Department: Out of jurisdiction, no comments.

Homer Advisory Planning Commission: Recommend to adopt the Homer City staff report and recommend approval of the preliminary plat to vacate the section line easement across Lot 6A-1 Virginia Lynn 2006 Replat.

State Parks: No comments.

Staff Discussion:

The petition submitted is requesting to vacate a remaining portion of 33 foot wide section line easement lying wholly within Lot 6A-1, Virginia Lynn 2006 Replat 2006-20 HRD. Lot 6A-1 fronts on City maintained and dedicated Mattox Road. The portion of section line easement to be vacated is no longer than 64 feet in length. The entire section line easement to the west has been vacated per plat 85-109 HRD and 2008-9 HRD, but a small portion remained.

Staff is not sure why this small section of section line easement was not vacated previously, but maybe the owner of Lot 6A-1 did not participate at the time the other section line easement was petitioned for vacation.

This portion of section line easement does not provide an access to public lands, is not part of a continuous access, and is not used by the public for access.

If approved, a section line easement vacation (SLEV) plat associated with Lot 6A-1 Virginia Lynn 2006 Replat will finalize the proposed right of way vacations. The SLEV Plat has not been submitted at the time the staff report was prepared.

KPB 20.70 – Vacation Requirements.

Platting staff comments: Staff reviewed the vacation and all the items required by 20.70 were met, unless otherwise noted below:

- D. If the proposed vacation lies within the boundaries of an incorporated city, comments from the city advisory planning commission must be submitted with the petition.

Platting Staff Comments: The proposed vacation was reviewed and approved by the Homer Advisory Planning Commission at the meeting of December 4, 2019.

20.70.130. Vacation plat—Preparation, approval and recording. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent in KPB 20.70.110.

Platting Staff Comments: A Section Line Easement Vacation plat has not been submitted at this time.

Staff recommendation: Submit a Section Line Easement Vacation Plat for KPB review as well as submittal to AK DNR survey section.

20.70.160. Partial vacation allowed. Where the planning commission finds that a right-of-way must be preserved, but determines there is excessive width for all intended uses within the right-of-way, the commission may approve a partial vacation of a right-of-way such that the width is reduced to the maximum necessary for the intended use. Such vacation shall conform to this title for the class of right-of-way involved except where the right-of-way is not intended to be used for vehicular purposes.

Platting Staff Comments: The proposed vacation will complete the vacation of the entire section line easement between Mattox Road and Pennock Street.

20.70.170. Vehicular Access. The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. Where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.

Platting Staff Comments: The public is not using this portion of SLE for vehicular access as it does not provide access to public lands or a continuing right of way.

20.70.180. Other access. Other lawful uses that exist or are feasible for the right-of-way shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available. The planning commission shall consider whether alternate uses present public safety issues which support approval of the vacation.

Platting Staff Comments: Mattox Road is a 60 foot wide dedicated right of way, which has been improved, and is currently maintained by the City of Homer. Mattox Road provided public access to this parcel and neighboring parcels.

20.70.190. Utility provisions. All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public utility shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a public utility easement be granted in place of the right-of-way.

Platting Staff Comments: Utilities are currently in place. A 20 foot utility easement adjoining Mattox Road provides access for utility providers.

20.30.220. Section line easement vacations. Section line easement vacation petitions must comply with the requirements of KPB 20.70.040, 20.70.050 and 20.70.060. A fee is required in compliance with KPB 20.70.060. Public hearing and notice must comply with the requirements of KPB 20.70.070, 20.70.080, 20.70.100, 20.70.110 and 20.70.120. The mail notice required in KPB 20.70.090 may be by regular mail. Publication on the planning commission agenda, advertised once in local papers, posted in public areas and on the borough website prior to the meeting will satisfy the publishing requirements. The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources (DNR) in compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

Platting Staff Comments: A SLEV plat has not been submitted to KPB Planning Department.

Staff recommendation: *Submittal of a SLEV plat to the KPB Planning Department and the State of AK DNR – Survey Section.*

STAFF RECOMMENDATION: Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff comments, staff recommends approval of the vacations as petitioned, subject to:

5. Consent by Homer City Council / KPB Assembly.
6. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
7. Grant utility easements requested by the Homer City Council and utility providers.
8. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB 20.70.110:

A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council.

The Homer City Council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly.

The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.
- B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

1. Gary Nelson, 152 Dehel Avenue, Homer, AK
Mr. Nelson is the surveyor on the project and was available for questions.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Venuti moved, seconded by Commissioner Morgan, to approve the vacations as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Commissioner Ecklund noted that there was a house built in the section line easement. She wanted to know if someone could legally build on a section line easement without asking for a vacation. Mr. Huff responded that staff always hopes that a house will not be built in a section line easement but it does happen. People many times do not realize there is a section line easement if it is not being used. They find out that there is a section line easement when the as-built is done.

MOTION PASSED BY UNANIMOUS VOTE: 10 Yes, 0 No, 2 Absent

Yes: Bentz, Carluccio, Ecklund, Ernst, Fikes, Martin, Morgan, Ruffner, Venuti, Whitney

No: --

Absent: Brantley, Foster

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 City Manager

4 **RESOLUTION 20-040**

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
7 EXTENDING THE MORATORIUM ON CUTTING, CLEARING OR
8 REMOVAL OF TREES AND VEGETATION LOCATED WITHIN PUBLIC
9 RIGHTS OF WAY (ROW) FROM MAY 1, 2020 TO JUNE 1, 2020
10

11 WHEREAS, Resolution 19-073(S) established a moratorium on cutting, clearing and
12 removal of trees and vegetation located in City Rights of Way (ROW) until May 1, 2020 and
13 established a ROW Policy Evaluation Team; and
14

15 WHEREAS, Due to transitions in staffing in the City Manager's office and the Public
16 Works Department efforts are still being directed toward a final working plan; and
17

18 WHEREAS, An extension of the moratorium will allow for adequate review and revision
19 of policy and code to ensure compatibility.
20

21 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska extends the
22 expiration of the moratorium on cutting, clearing, or removal of vegetation located within
23 public ROW from May 1, 2020 to June 1, 2020.
24

25
26 PASSED AND ADOPTED by the City Council of Homer, Alaska, this 27th day of April, 2020.
27

28 CITY OF HOMER

29
30
31 _____
32 KEN CASTNER, MAYOR
33

34 ATTEST:

35
36 _____
37 MELISSA JACOBSEN, MMC, CITY CLERK
38

39 Fiscal Note: N/A



City of Homer

www.cityofhomer-ak.gov

Public Works

3575 Heath Street
Homer, AK 99603

publicworks@cityofhomer-ak.gov

(p) 907-235-3170

(f) 907-235-3145

Memorandum 20-051

TO: City Council

THROUGH: Marvin Yoder, City Manager

FROM: Jan Keiser, Director of Public Works

DATE: April 22, 2020

SUBJECT: Resolution 20-040 extending Resolution 19-073(S), which created a moratorium on vegetation clearing

Issue: Resolution 19-073(S) imposing a moratorium on clearing in City rights-of-way expires May 1, 2020. We request an extension of this moratorium to June 1, 2020.

Background: Ordinance 16-51 effective October 25, 2016, issued specific authority to the City to remove vegetation from City rights of way. Ordinance 19-27(S), effective June 25, 2019, expanded upon that authority by granting the public works director with the “*sole discretion and authority to remove...*” any vegetation deemed to be “*more likely than not*” to generally interfere with safety, effective maintenance and the City’s road standards.

Resolution 19-073(S) effective October 14, 2019, imposed a moratorium on “*cutting, clearing and removal of trees and vegetation located in City Rights of Way (ROW) until May 1, 2020 and established a ROW Policy Evaluation Team*”. Since the passage of Resolution 19-073(s), the City hired me as the new Director of Public Works, declared a state of emergency due to the Covid-19 pandemic, and changed its City Manager. The combined effect of these events have delayed the work of the ROW Policy Evaluation Team. An extension of the moratorium will give me time to research this important issue, confer with the ROW Policy Evaluation Team and propose new language. The new language will address concerns about the Public Works’ Director’s use of his/her “*sole discretion and authority*” regarding the removal of vegetation in the City’s rights of way.

In particular, I am researching best practices utilized by the Federal Highway Administration, the Kenai Borough and other public agencies, engaged in maintaining gravel/paved roads. I have two immediate goals. Goal #1 is to identify more specific criteria, based on best practices, which will govern instances where removal of vegetation is required. Goal #2 is to identify a process where such instances are documented so timely notice can be given to city officials and affected property owners.

The Public Works Department will not engage in any tree removal or vegetation clearing until the moratorium is lifted, except where injury or property damage may result.

Action Recommended: That the City Council extend the moratorium to give this important work time to be completed in a thoughtful manner.

CITY OF HOMER
HOMER, ALASKA

City Manager

ORDINANCE 16-51

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
ENACTING HCC CHAPTER 11.36, VEGETATION IN RIGHTS-OF-
WAY, PROVIDING FOR THE REMOVAL OF VEGETATION THAT
INTERFERES WITH THE REASONABLE PUBLIC USE OF A RIGHT-
OF-WAY.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 11.36, Vegetation in Rights-of-Way, is enacted to
read as follows:

Chapter 11.36
VEGETATION IN RIGHTS-OF-WAY

Sections:

11.36.010 Vegetation in rights-of-way.

11.36.020 Removal of vegetation in rights-of-way.

11.36.010 Vegetation in rights-of-way.

All or any part of a tree, shrub or other vegetation that is located in, over or under a public right-of-way in the city is subject to removal by the city as necessary for the reasonable public use of the right-of-way, including without limitation removal as authorized in HCC 11.36.020, regardless of whether:

a. The vegetation existed in, over or under the right-of-way before the granting, dedication or improvement of the right-of-way;

b. The vegetation was planted in the right-of-way by another person, including without limitation an owner of property adjacent to the right-of-way; or

c. The vegetation originated on property adjacent to the right-of-way, to the extent that limbs, branches or roots of the vegetation extend into, over or under the right-of-way.

11.36.020 Removal of vegetation in rights-of-way.

The city manager may cause the removal of all or any part of a tree, shrub of other vegetation that is located on, over or under a public right-of-way if the city manager finds that the vegetation:

a. Obstructs or interferes with the use of the right-of-way by vehicular or pedestrian traffic;

b. Obscures visibility to or from the right-of-way or otherwise constitutes a safety hazard;

c. Interferes with the maintenance of the right-of-way, including without limitation paving, grading, cleaning and snow removal;

45 d. Has the potential if not removed to damage pavement or other improvements in
46 the right-of-way;

47 e. Has the potential if not removed to damage or interfere with the operation of
48 overhead or underground public utility facilities in the right-of-way.

49
50 Section 2. This ordinance is of a permanent and general character and shall be
51 included in the City code.

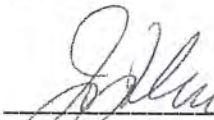
52
53 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 24th day of October, 2016.
54



CITY OF HOMER


BRYAN ZAK, MAYOR

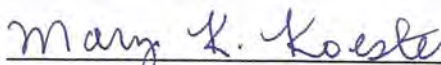
55
56
57
58
59
60 ATTEST:


61 
62 _____
63
64 JO JOHNSON, MMC, CITY CLERK
65

66
67
68 AYES: 6
69 NOES: 0
70 ABSTAIN: 0
71 ABSENT: 0
72

73
74 First Reading: 10/10/16
75 Public Reading: 10/24/16
76 Second Reading: 10/24/16
77 Effective Date: 10/25/16
78

79 Reviewed and approved as to form:

80
81 
82 _____
83 Mary K. Koester, City Manager
84



Holly C. Wells, City Attorney

85 Date: 10.26.16 _____

Date: 11.7.16 _____

1 CITY OF HOMER
2 HOMER, ALASKA

Stroozas/Lord

3
4 ORDINANCE 19-27(S)
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE CHAPTER 11.36, "VEGETATION IN
8 RIGHTS-OF-WAY" TO AMEND HOMER CITY CODE 11.36.020 AND
9 ADD HOMER CITY CODE 11.36.030 "REMOVAL FOR COMPLIANCE-
10 PUBLIC WORKS DIRECTOR DISCRETION," TO PERMIT PUBLIC
11 WORKS DIRECTOR TO AUTHORIZE REMOVAL OF VEGETATION TO
12 BRING ROADS CONSTRUCTED PRIOR TO CITY REGULATION INTO
13 COMPLIANCE WITH CITY LAWS AND CONSTRUCTION
14 PROCEDURES.
15

16 WHEREAS, In October 2016, the Homer City Council adopted Ordinance 16-51 clarifying
17 the City of Homer's right and obligation to maintain public rights-of-way; and
18

19 WHEREAS, There are a number of roads, especially in the annexed portion of the City,
20 that were not built to City standards and as such have offset center lines and narrow rights-of-
21 way, making maintenance difficult (especially snow removal/storage) and particularly
22 noticeable to adjoining property owners.
23

24 NOW THEREFORE, The City of Homer Ordains:
25

26 Section 1. Homer City Code Chapter 11.36, "Vegetation in Rights-of-Way, is amended
27 as follows:
28

29 Chapter 11.36
30

31 VEGETATION IN RIGHTS-OF-WAY
32

33 Sections:

34 11.36.010 Vegetation in rights-of-way.

35 11.36.020 Removal of vegetation in rights-of-way **and rights-of-way maintenance.**

36 **11.36.030 Removal for compliance - public works director discretion.**
37

38 11.36.010 Vegetation in rights-of-way.
39

40 All or any part of a tree, shrub, **ground material** or other vegetation that is located in,
41 over or under a public right-of-way in the city is subject to removal by the city as necessary for
42 the reasonable public use of the right-of-way, including without limitation removal as

43 authorized in HCC 11.36.020, regardless of whether:

44

45 a. The vegetation existed in, over or under the right-of-way before the granting,
46 dedication or improvement of the right-of-way;

47 b. The vegetation was planted in the right-of-way by another person, including without
48 limitation an owner of property adjacent to the right-of-way; or

49 c. The vegetation originated on property adjacent to the right-of-way, to the extent that
50 limbs, branches or roots of the vegetation extend into, over or under the right-of-way.

51

52 **11.36.020 Removal of vegetation in rights-of-way and rights-of-way maintenance.**

53

54 **Except as otherwise provided in this chapter,** ~~the~~ city manager may cause the
55 removal of all or any part of a tree, shrub, **ground material or** other vegetation that is located
56 on, over or under a public right-of-way if the city manager finds that the vegetation:

57

58 a. Obstructs or interferes with the use of the right-of-way by vehicular or pedestrian
59 traffic;

60 b. Obscures visibility to or from the right-of-way or otherwise constitutes a safety
61 hazard;

62 c. Interferes with the maintenance of the right-of-way, including without limitation
63 paving, grading, cleaning, **drainage,** and snow removal;

64 d. Has the potential if not removed to damage pavement or other improvements in the
65 right-of-way;

66 e. Has the potential if not removed to damage or interfere with the operation of
67 overhead or underground public utility facilities in the right-of-way.

68

69 **11.36.030 Removal for compliance - public works director discretion**

70

71 **a. The public works director retains the sole discretion and authority to remove or**
72 **retain any part of a tree, shrub, ground material, or other vegetation located from the**
73 **outer edge to three feet inside of a City-owned right-of-way abutting a road acquired by**
74 **the City after the road was constructed.**

75


76 **b. Notwithstanding subsection (a), the public works director shall only exercise his**
77 **or her authority under this section when he or she determines it is more likely than not**
78 **that the removal of all or part of a tree, shrub, ground material, or other vegetation**
79 **within the three feet area will improve safety, allow for effective maintenance activities,**
80 **or otherwise make the road more compliant with City laws and procedures.**

81

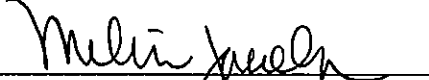
82 Section 2. This ordinance shall take effect upon its adoption by the Homer City
83 Council.

84 Section 3. This ordinance is of a permanent and general character and shall be
85 included in Homer City Code.

86
87 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 24th day of June, 2019.
88

89 CITY OF HOMER
90 
91
92 KEN CASTNER, MAYOR

93
94 ATTEST:

95 
96
97 MELISSA JACOBSEN, MMC, CITY CLERK
98



99
100 YES: 6
101 NO: 0
102 ABSTAIN: 0
103 ABSENT: 0
104

105 Introduction: 6-10-19
106 Public Hearing: 6-24-19
107 Second Reading: 6-24-19
108 Effective Date: 6-25-19
109

110 Reviewed and approved as to form:

111 6-27-19 
112
113 Katie Koester, City Manager



Holly Wells, City Attorney

114 Date: 6-27-19
115

Date: 7-2-19

**CITY OF HOMER
HOMER, ALASKA**

Lord/Aderhold

RESOLUTION 19-073 (S)

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
ESTABLISHING A MORATORIUM ON CUTTING, CLEARING OR
REMOVAL OF TREES AND VEGETATION LOCATED WITHIN PUBLIC
RIGHTS OF WAY (ROW) BETWEEN OCTOBER 15, 2019 AND MAY 1,
2020 AND ESTABLISHING A ROW POLICY EVALUATION TEAM

WHEREAS, For many years Public Works did not regularly maintain City Rights of Way (ROW), leading to overgrowth and recent increased vegetation clearing activities; and

WHEREAS, The City adopted Ordinances 16-51 and 19-27(S) establishing Homer City Code 11.36 and outlining laws regarding the City of Homer's actions for public use of City ROW; and

WHEREAS, This law does not address potential concerns in areas of steep slopes, landmark trees, traffic volume, zoning classification, or property covenants but is a "one size fits all" approach; and

WHEREAS, The City has received complaints over the years about vegetation removal activities, including debris, noise, and scope of clearing in the rights of way; and

WHEREAS, the Public Works Department has expressed concerns regarding the cost and time required to effectively maintain ROW across the City; and

WHEREAS, The Homer City Council should examine opportunities to create a ROW maintenance policy that maintains city infrastructure, promotes visibility and safety, is cost effective, and appreciates adjacent landowner concerns; and

WHEREAS, Such policy may require legal guidance in regards to both City and landowner rights and responsibilities under state and local laws, including private covenants.

NOW, THEREFORE, BE IT RESOLVED that the City of Homer establishes a moratorium on cutting, clearing, or removal of vegetation located within public ROW between October 15, 2019 and May 1, 2020; and

BE IT FURTHER RESOLVED that during the aforementioned period, the City Council of Homer Alaska will evaluate the City's ROW maintenance policy by appointing two Council members to work with the City Manager and appropriate staff, as determined by the City

43 Manager, to propose alternative ROW maintenance policies to City Council no later than the
44 last Council meeting in March, 2020; and


45
46 BE IT FURTHER RESOLVED that the evaluation team shall discuss and evaluate policy to
47 include the following issues of concern:

- 48
- 49 1. Drainage, snow storage and plowing, sight distances, utility operations and
 - 50 maintenance, and equipment and emergency vehicle response
 - 51 2. Steep slopes, traffic volumes, zoning districts, and property covenants
 - 52 3. Debris cleanup and aesthetics, including landmark trees
 - 53 4. Adjacent landowner concerns including timing and noise
 - 54 5. Landowner maintenance options and opportunities
 - 55 6. Legal rights and responsibilities of City and landowners, including enforcement
 - 56 7. Cost of implementation
- 57

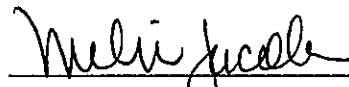
58 BE IT FURTHER RESOLVED that in order to address these issues, the evaluation team may
59 seek legal counsel from the City Attorney.

60
61 PASSED AND ADOPTED by the City Council of Homer, Alaska, this 14 day of October,
62 2019.

63
64 CITY OF HOMER

65 
66
67
68 KEN CASTNER, MAYOR

69
70 ATTEST:

71 
72
73 MELISSA JACOBSEN, MMC, CITY CLERK



Fiscal Note: N/A

**LIBRARY ADVISORY BOARD
REPORT TO HOMER CITY COUNCIL**

April 21, 2020

Library Programming Continues Online and On Air! The library staff continues to innovate and provide multiple opportunities for learning and meaningful leisure. Program information, online resources and more are available from the library website, including:

- Writing Through the Pandemic: A Virtual Writing Group, which started April 20, via Google Classroom.
- Kids' Chess Online, a continuation of the regular weekly chess club, that gives kids the opportunity to play against each other or against the computer every Tuesday.
- Storytime on the Radio on KBBJ AM890 every Thursday at 10 am.

We're so proud of and thankful for the expertise and creativity of our library staff in service to our community!

Respectfully submitted,

Marcia Kuszmaul, Chair
Library Advisory Board

**CITY OF HOMER
PUBLIC HEARING NOTICE
CITY COUNCIL MEETING**

Ordinances 20-19 and 20-20

A **public hearing** is scheduled for **Monday, April 27, 2020** during the Regular City Council Meeting. The meeting begins at 6:00 p.m. via a virtual meeting webinar.

Ordinance 20-19, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 19 to add Chapter 19.01 Closures of Use Areas to Reflect the City Manager's Authority to Close City Parks, Campgrounds, and Public Places in an Emergency or other Exigent Circumstances. City Manager.

Ordinance 20-20, An Ordinance of the City Council of Homer, Alaska Repealing Homer City Code 11.36 Vegetation in Rights-of-Way. Evensen/Mayor.

**Request forms to submit public comment telephonically are available on the City Clerk's webpage. This is a new process being incorporated with respect to Governor Dunleavy's Health Mandate 011-Social Distancing.

**Copies of proposed Ordinances in entirety, are available for review online at <https://www.cityofhomer-ak.gov/ordinances>, and will be provided by request at the Homer City Clerk's Office while City Offices are closed to the public during this COVID-19 pandemic. Contact the Clerk's Office at City Hall if you have any questions. 235-3130, Email: clerk@ci.homer.ak.us

Melissa Jacobsen, MMC, City Clerk

CLERK'S AFFIDAVIT OF POSTING

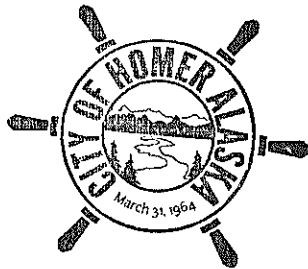
I, Renee Krause, Deputy City Clerk for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for the following:

Ordinance 20-19, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 19 to add Chapter 19.01 Closures of Use Areas to Reflect the City Manager's Authority to Close City Parks, Campgrounds, and Public Places in an Emergency or other Exigent Circumstances. City Manager.

Ordinance 20-20, An Ordinance of the City Council of Homer, Alaska Repealing Homer City Code 11.36 Vegetation in Rights-of-Way. Evensen/Mayor.

There were posted on the exterior downstairs Lobby Doors adjacent to the City Clerk's Office and on Tuesday, April 21st, 2020 and posted the same on City of Homer Website on Friday, April 17, 2020.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 21st day of April, 2020.



Renee Krause
Renee Krause, MMC, Deputy City Clerk

ORDINANCE REFERENCE SHEET
2020 ORDINANCE
ORDINANCE 20-19

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 19 to add Chapter 19.01 Closures of Use Areas to Reflect the City Manager’s Authority to Close City Parks, Campgrounds, and Public Places in an Emergency or other Exigent Circumstances.

Sponsor: City Manager

1. City Council Regular Meeting April 13, 2020, Introduction
 - a. Memorandum 20-046 from Public Works Director as backup
2. City Council Regular Meeting April 27, 2020, Public Hearing and Second Reading
 - b. Memorandum 20-053 from City Clerk as backup

1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager

4 ORDINANCE 20-19

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
7 AMENDING HOMER CITY CODE TITLE 19 TO ADD CHAPTER 19.01
8 CLOSURES OF USE AREAS TO REFLECT THE CITY MANAGER'S
9 AUTHORITY TO CLOSE CITY PARKS, CAMPGROUNDS, AND PUBLIC
10 PLACES IN AN EMERGENCY OR OTHER EXIGENT CIRCUMSTANCES.

11
12 WHEREAS, The City Manager's authority to close public use areas to protect the public
13 during emergencies and other exigent circumstances is not reflected in Homer City Code.

14
15 NOW THEREFORE, THE CITY OF HOMER ORDAINS:

16
17 Section 1. Homer City Code Chapter 19 is amended to add 19.01 Closure of use areas as
18 follows:

19
20 **19.01 Closure of use areas.**

21
22 **The City Manager may close any public use area to the public upon a written**
23 **finding that it is in the public interest to do so.**

24
25 Section 2. This ordinance is of a permanent nature and general character and shall be
26 included in Homer City Code.

27
28 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____, 2020.

29
30 CITY OF HOMER

31
32 _____
33 KEN CASTNER, MAYOR

34 ATTEST:

35
36 _____
37 MELISSA JACOBSEN, MMC, CITY CLERK

38
39 YES:

40 NO:

41 ABSTAIN:

42 ABSENT:

43

44 First Reading:

45 Public Hearing:

46 Second Reading:

47 Effective Date:

48

49

50 Reviewed and approved as to form.

51

52

53 _____
Marvin Yoder, Interim City Manager

54

55 Date: _____

Michael Gatti, City Attorney

Date: _____



City of Homer

www.cityofhomer-ak.gov

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 20-053

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, MMC, CITY CLERK
DATE: APRIL 22, 2020
SUBJECT: Ordinance 20-19 Amendment

Ordinance 20-19 was introduced on April 13, 2020. It would be appropriate to amend the title to better reflect the language being proposed in City Code.

Recommendation: Make a motion to amend lines 9 and 10 to read "Authority to close public use areas when it's in the public's interest to do so."



City of Homer

www.cityofhomer-ak.gov

Public Works

3575 Heath Street
Homer, AK 99603

publicworks@cityofhomer-ak.gov

(p) 907- 235-3170

(f) 907-235-3145

Memorandum 20-046

TO: City Council
THROUGH: Marvin Yoder, City Manager
FROM: Jan Keiser, Director of Public Works
DATE: April 6, 2020
SUBJECT: Proposed amendment to Parks, Campgrounds, and Public Spaces Ordinance

Issue: The current ordinance regarding parks, campgrounds and public spaces, Homer City Code Title 19, does not provide the City Manager with the authority to close City public spaces. It is possible the City may want to take this action in the interests of public health during the pandemic or other emergency situations.

Background: In the interests of public health, safety and security, the City may decide to close some or all City campgrounds and parks. Other exigent circumstances might arise in the future where similar needs exist, such as in the cases of earthquakes, floods, etc. It is in the best interests of the City to specifically empower the City Manager with the authority to take this action.

Proposed Solution: Amend the existing ordinance, HCC 19, Parks, Campgrounds and Public Spaces to add a section that identifies the City Manager's authority to close the public spaces during an emergency or other exigent circumstances.

Action Recommended: That the City Council pass the proposed amendment to the City's ordinance, HCC 19.

ORDINANCE REFERENCE SHEET
2020 ORDINANCE
ORDINANCE 20-20

An Ordinance of the City Council of Homer, Alaska Repealing Homer City Code 11.36 Vegetation in Rights-of-Way. Evensen/Mayor.

Sponsor: Evensen/Mayor

1. City Council Regular April 13, 2020 Introduction
2. City Council Regular Meeting April 27, 2020, Public Hearing and Second Reading

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 Evensen/Mayor

4 **ORDINANCE 20-20**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 REPEALING HCC 11.36 VEGETATION IN RIGHTS-OF-WAY.
8

9 WHEREAS, In 2016 the City adopted Ordinance 16-51 and updated City Code 11.36,
10 which established that trees and vegetation could be cut, cleared, or mowed throughout
11 street side right-of-way (ROW) “without limitation”; and
12

13 WHEREAS, While policy suggested that removal of vegetation would only occur
14 following a finding of necessity issued by the City Manager, the practice has been interpreted
15 to require complete and total clear-cutting of ROW areas as determined by the Public Works
16 Department; and
17

18 WHEREAS, Absent administrative review, oversight, permit or work-order procedures,
19 clearing has been inconsistently applied; clearing for harvest has occurred within ROW areas
20 by third party; and trees and vegetation that apparently posed no threat (as defined by
21 purpose for removal) have been removed; and
22

23 WHEREAS, Removal has included vertical cutting of trees and vegetation outside of
24 the ROW but overhanging the ROW to heights exceeding 16 feet; and
25

26 WHEREAS, Ordinance 16-51 included annexed portions of the City, including ROW of
27 outlying streets of twenty foot widths; and
28

29 WHEREAS, Borough practices for ROW areas just outside city limits are comparatively
30 narrower and less invasive; pre-2016 ROW-related practices inside city limits were also
31 narrower and less invasive; and
32

33 WHEREAS, A new ordinance should be prepared that provides for unique cutting to
34 allow for visibility, utility installation and maintenance, roadway maintenance, and roadway
35 drainage under the written direction and authority of an administrative officer.
36

37 NOW THEREFORE, THE CITY OF HOMER ORDAINS:
38

39 Section 1. Homer City Code section 11.36 is repealed in its entirety.
40

41 Chapter 11.36
42 VEGETATION IN RIGHTS-OF-WAY
43 Sections:

- 44 ~~11.36.010—Vegetation in rights of way.~~
- 45 ~~11.36.020—Removal of vegetation in rights of way and rights of way maintenance.~~
- 46 ~~11.36.030—Removal for compliance—Public Works Director discretion.~~
- 47 ~~11.36.010—Vegetation in rights of way.~~

48
49 All or any part of a tree, shrub, ground material or other vegetation that is located in,
50 over or under a public right of way in the City is subject to removal by the City as
51 necessary for the reasonable public use of the right of way, including without
52 limitation removal as authorized in HCC 11.36.020, regardless of whether:

53
54 a. The vegetation existed in, over or under the right of way before the granting,
55 dedication or improvement of the right of way;

56
57 b. The vegetation was planted in the right of way by another person, including
58 without limitation an owner of property adjacent to the right of way; or

59
60 c. The vegetation originated on property adjacent to the right of way, to the extent
61 that limbs, branches or roots of the vegetation extend into, over or under the right of
62 way. [Ord. 19-27(S) § 1, 2019; Ord. 16-51 § 1, 2016].

63
64 ~~11.36.020—Removal of vegetation in rights of way and rights of way maintenance.~~
65 Except as otherwise provided in this chapter, the City Manager may cause the removal
66 of all or any part of a tree, shrub, ground material or other vegetation that is located
67 on, over or under a public right of way if the City Manager finds that the vegetation:

68
69 a. Obstructs or interferes with the use of the right of way by vehicular or pedestrian
70 traffic;

71
72 b. Obscures visibility to or from the right of way or otherwise constitutes a safety
73 hazard;

74
75 c. Interferes with the maintenance of the right of way, including without limitation
76 paving, grading, cleaning, drainage and snow removal;

77
78 d. Has the potential if not removed to damage pavement or other improvements in
79 the right of way;

80 e. Has the potential if not removed to damage or interfere with the operation of
81 overhead or underground public utility facilities in the right of way. [Ord. 19-27(S) § 1,
82 2019; Ord. 16-51 § 1, 2016].

83
84 ~~11.36.030—Removal for compliance—Public Works Director discretion.~~

85

86 ~~a. The Public Works Director retains sole discretion and authority to remove or retain~~
87 ~~any part of a tree, shrub, ground material, or other vegetation located from the outer~~
88 ~~edge to three feet inside of a City-owned right-of-way abutting a road acquired by the~~
89 ~~City after the road was constructed.~~

90
91 ~~b. Notwithstanding subsection (a) of this section, the Public Works Director shall only~~
92 ~~exercise their authority under this section when they determine it is more likely than~~
93 ~~not that the removal of all or part of a tree, shrub, ground material, or other~~
94 ~~vegetation within the three-foot area will improve safety, allow for effective~~
95 ~~maintenance activities, or otherwise make the road more compliant with City laws~~
96 ~~and procedures. [Ord. 19-27(S) § 1, 2019].~~

97
98 Section 2. This ordinance is of a permanent nature and general character and
99 shall be included in Homer City Code.

100
101 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____, 2020.

102
103 CITY OF HOMER
104
105 _____
106 KEN CASTNER, MAYOR

107 ATTEST:
108
109 _____
110 MELISSA JACOBSEN, MMC, CITY CLERK

111
112 YES:
113 NO:
114 ABSTAIN:
115 ABSENT:
116
117 First Reading:
118 Public Hearing:
119 Second Reading:
120 Effective Date:

121
122 Reviewed and approved as to form.

123
124 _____
125 Marvin Yoder, Interim City Manager

126 _____
127 Michael Gatti, City Attorney

128 Date: _____

129 Date: _____

45 d. Has the potential if not removed to damage pavement or other improvements in
46 the right-of-way;

47 e. Has the potential if not removed to damage or interfere with the operation of
48 overhead or underground public utility facilities in the right-of-way.
49

50 Section 2. This ordinance is of a permanent and general character and shall be
51 included in the City code.
52

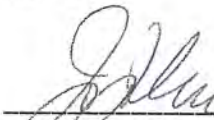
53 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 24th day of October, 2016.
54



CITY OF HOMER


BRYAN ZAK, MAYOR

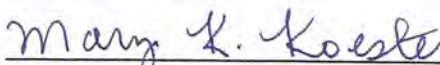
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60 ATTEST:

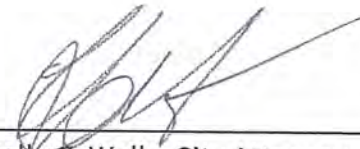

JO JOHNSON, MMC, CITY CLERK

61
62
63
64
65
66
67
68 AYES: 6
69 NOES: 0
70 ABSTAIN: 0
71 ABSENT: 0
72

73
74 First Reading: 10/10/16
75 Public Reading: 10/24/16
76 Second Reading: 10/24/16
77 Effective Date: 10/25/16
78

79 Reviewed and approved as to form:

80
81
82 
83 Mary K. Koester, City Manager
84


Holly C. Wells, City Attorney

85 Date: 10.24.16

Date: 11.7.16



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum

TO: Mayor Castner and Homer City Council
FROM: Marvin Yoder, Interim City Manager
DATE: April 22, 2020
SUBJECT: City Manager's Report for April 27th City Council Meeting

COVID-19 Educational Efforts, Forecasting Financial Impacts on City of Homer

Let me briefly share the city response to the COVID-19 pandemic. Public Information Officer Carroll and her PIO team have been reaching out to individual Councilmembers and the Mayor in helping to craft educational recordings for broadcast on KBBI and Peninsula radio group stations. Both city staff and Councilmembers have expressed concern for long term impacts to City operations and revenue.

Executive Director Andreassen of Alaska Municipal League shared their organization has been using the following basic assumptions on decreased types of revenues, and projecting a variety of percentages that might apply:

Tourism, down 50%

Local retail, down 30%

Harbor or utility fees, down 10%

I will work with Finance Director Walton and other department heads to monitor all variances from our budget projections as well as comparables to last year. I have met with the Leadership Team to identify ways individual departments can start to reduce their operating and capital budgets now through means like financing capital asset purchases across multiple fiscal years, reallocating staff, and delaying projects that are not time sensitive.

The City has the 2015/2016 "Closing the Gap" survey results detailing how the community voted to define essential City services. The survey results can be found here: <https://www.cityofhomer-ak.gov/citymanager/closing-gap-town-hall-meeting-and-online-survey-results>. This will be useful information to consider as staff and Council work together to address any budgetary shortfalls Homer may experience as a result of COVID-19.

Follow-Up on Emergency Ord. 20-16 Budgetary Authority concerning COVID-19 Expenditures

Through Emergency Ordinance 20-16, Council authorized the appropriation of \$50,000 for the purpose of COVID-19 preparation and response. The ordinance states "many of the expenditures will be related to securing internet capability and physical devices for City employees to be able to telework." By creating a COVID-19 account to apply material or service costs against, the City can then submit these expenses to FEMA in an efficient manner. Personnel costs such as overtime and emergency hires as permitted by Council under the updated City of Homer Personnel Regulations are not being considered a part of the \$50,000

appropriation but these costs are being tracked. The total known material and service costs applied to the COVID-19 account so far total \$19,203. HCC 1.08.040 (c.) regarding emergency ordinances state they are effective for 60 days. I will clarify with Attorney Gatti if that time limit applies to ordinances that grant spending authority; if it does, Administration may bring forward an ordinance to authorize spending the remaining funds or additional funds if needed by mid-May.

HPD's Response to AA Meeting

On March 31st, HPD received a call that a meeting exceeding ten people was taking place and an officer was dispatched with a copy of the mandates in hand. He saw over ten people in a relatively small area and told an attendee that the meeting was out of compliance with the State mandates and should discontinue. The officer gave the person a copy of the mandates, told them to call either Chief Robl or Lt. Browning with questions, and left. The officer said the meeting was still going on when he left and he did not stick around to make sure they were closing down. He estimates the contact at less than a minute. Lt. Browning had a conversation with the group the following morning and explained how they could still meet together while complying with the mandates. HPD focuses on education, not enforcement, and wants to help the community have as normal of a day as possible in light of COVID-19. To quote Lt. Browning from HPD's Facebook, "Our goal is to work with you, our community. Together, we can find solutions as we navigate these crazy times. We're all in this together."

Incoming Visitors In Light of Governor Dunleavy's Mandates

Additional information was requested at the last Council meeting on how the City was handling incoming visitors. The City is focused on education, not enforcement. While the current State mandate prohibits most travel between communities, there are exceptions and the general tone is that the State is looking to ease restrictions in a safe and measured manner to allow industry to get back to work. The City's approach is to work with the community to promote local preventative practices in line with the State mandates, and provide messaging for seasonal homeowners, seasonal workers and visitors that strongly supports the 14-day quarantine requirement and informs people about local services that helps them quarantine safely, such as area delivery and take out services. The City has also developed messages for Alaskan travelers participating in personal and sport fishing and other subsistence activities, consistent with State mandates and recommendations put out by Alaska Department of Fish and Game. Please see the attached enclosure on this topic.

Erosion on the Homer Spit

During the last storm and high tide event, the Ocean Shores boardwalk took a beating. Harbormaster Hawkins authorized the use of the rest of the available dredged materials so they could replace the material that was washed away. Many area businesses pulled together to help save this business after the storm event.

Additional information was requested at the last Council meeting regarding erosion on the Homer Spit and how the City is working with other agencies. At the start of this year, we did a joint stakeholder effort with the Corps and the State to secure funding for a General Investigation Study related to the Homer Spit Erosion Mitigation and to create a Spit Erosion Maintenance and Management Plan. The City met with our state legislators along with DOT&PF Commissioner MacKinnon and Governor Dunleavy's Chief of Staff; consequently Commissioner MacKinnon submitted a letter of support to the Corps on the City's behalf. Harbormaster Hawkins recently has been in touch with the Corps regarding the City's request for supplemental funds left over from 2018 and the City is waiting to see if that funding source is still available to us. In the meantime, the City will submit an updated letter of intent requesting funding support from the Corps regular FY22 budget and workplan in case the 2018 supplemental funding does not come through. These letters of intent are due to the Corps every 5 months and Port and Harbor will continue to submit

letters to keep this topic at the forefront. I have attached the previous letter and will submit the updated one by the due date, which is the end of this month.

Rescheduling the Seawall Worksession

On Monday the 20th, I met with Councilmember Aderhold to continue discussion on the Seawall given our March worksession was cancelled. I am hoping this worksession can be rescheduled for the month of May, most likely May 18th as that is between City Council meetings, and have asked City Attorney Gatti to provide a response to the request for a legal opinion before then to help guide the discussion. Staff will contact you to confirm your availability, and we will then notify homeowners of the new date.

Positive Momentum behind New Large Vessel Moorage Facility Project

The City has multiple paths in place to keep up the positive momentum behind the Port Expansion Project. Below provides a summary of the exciting support we are receiving on behalf of the Borough in addition to the two other methods the City had already put in place to move the project forward.

-US Army Corps of Engineers: On January 21, 2020, the City submitted a formal request to the Corps to resume work on the General Investigation Study (previously known as Navigational Improvement Feasibility Study) to dredge and build a new large vessel moorage facility at Homer's Port and Harbor. This request would be cost shared for the \$3,000,000 study (50 percent Federal and 50 percent local funds). The City has requested the State, as a benefitting partner, contribute a 25% match to meet the 50% local funds requirement. The Corps reported they have not received word of funding to complete the federal match but they will still pursue this project via all avenues for funding, which includes a request in their FY22 Budget and Workplan. As a result the City will need to submit an updated letter of intent by June. I have included the former version and will re-sign the updated letter by that due date. As an aside, in 2019 the City of Homer and the Corps completed a Planning Assistance for States (PAS) study that took a high level look at the costs and benefits of expanding the City's port facility to include a large vessel port providing safe moorage for vessels up to 250'. The next step after the PAS is the General Investigation Study.

-Kenai Peninsula Borough: On April 21, 2020, Mayor Pierce and Assembly member Cooper introduced a resolution in support of the Homer Port and Harbor being considered for one of the EDA's Economic Adjustment grants. Through the CARES Act, the Economic Development Administration is overseeing \$1.5 billion in grants for economic adjustment assistance for development of public facilities, public services, business development (including funding for revolving loan funds to provide supplemental business lending), planning, technical assistance, training and any other assistance to alleviate long-term economic deterioration and sudden and severe economic dislocation. Under current law, the agency may waive or reduce local cost share requirements for distressed areas and those suffering from severe economic dislocation. The Borough's resolution supports the General Investigation Study for the expansion project in order to provide overall support to the emerging regional and national economic opportunities on the Kenai Peninsula. Their resolution encourages the EDA to fully fund the study (\$3,000,000) in partnership with the US Army Corps of Engineers, the State of Alaska and local Municipalities.

-Denali Commission: On February 19, 2020 at the encouragement and support of Tim Dillon at the Kenai Peninsula Economic Development District, the City submitted a Funding Assistance Request to Denali Commission for \$750,000 (the City's contribution) in funding to complete the General Investigation Feasibility study for the new large vessel harbor. At that time, the Denali Commission was seeking direct input from partners regarding potential rural development projects in Alaska and Tim Dillon recommended our the new large vessel harbor project. We have not yet gotten feedback on our request.

Update Concerning Auction Block Property

My office received notice from Alaska Growth Capital that they have entered into a purchase/sales agreement with Popsie Fish Company for the sale of the improvements on the Auction Block property. According to their website, "The Popsie Fish Company is a three-generation family run business who has caught wild Alaskan salmon in the Egegik district of Bristol Bay Alaska since 1988. According to AGC, "The terms of the sale are such that there is an extended due diligence period (120 days...ending in August 2020 roughly) due to the unique nature of the property. Popsie Fish is aware that there is a ground lease from the City of Homer and that they will need to apply to the City for transfer of the lease concurrent with consummation of the sale." The City is working with AGC to secure a new tenant with a business that fits the permitted zoning uses of the property and the basic terms of the lease. We have yet to receive a lease application from Popsie Fish Company however we are excited that AGC feels as though they have a viable candidate to transfer the lease to and will keep Council informed as this moves forward.

Homer Airport Funding, RAVN Operations

On April 14th, the FAA released the Coronavirus Aid, Relief, and Economic Security (CARES) Act grant award amounts for airports, of which the Homer Airport received \$1,192,837. I have included the FAA's webpage as an enclosure for additional information. Since the State of Alaska was identified by FEMA as the sponsor to receive the funds, Administration submitted an information request to DOT&PF asking how they are allocating the \$1.2M to see if it would be possible to apply some of the funding to the City-owned terminal building. The City also requested the State's FY 20 and FY21 budget sheets for the Homer Airport, including any capital improvement projects. Please see the attached email enclosure for the State's response.

I have been in touch with City Attorney Gatti on how to approach RAVN's Chapter 11 protection, which allows them to obtain Debtor in Possession funding. In filing for bankruptcy, the company is hoping to go through a restructuring, otherwise there is a clause in the filing to proceed with liquidation of the business. According to an update posted April 5th on RAVN's website, "Ravn's lenders have agreed to provide financing during the pendency of the Chapter 11" however it appears the City will not be receiving lease payments at this time. For FY20, the revenue generated by RAVN's lease at the Terminal was listed at \$81,672. City Attorney Gatti has recommended the City wait until bankruptcy court proceedings shake out to determine how to handle RAVN's bankruptcy. As an aside, City Attorney Gatti is also representing the City of Palmer, which also has a lease arrangement with RAVN, which I see no conflict of interest in him doing.

Approved: Homer's RCA Application for New or Amended Certificate of Public Convenience and Necessity

On April 14th, 2020, the Regulatory Commission of Alaska approved the City's request to amend its current Certificate of Public Convenience and Necessity to include a low-income housing development on one lot adjacent to preexisting service the City provides. The proposed development will include 24 three bedroom rental units for an estimated maximum occupancy of 144 persons at two persons per bedroom. East End Partners, LLC had contacted City Engineer Meyer to follow up on the City's next steps to connect to the water service. Staff will confirm the water extension agreement between East End Partners and the City has been signed, which required East End Partners to remit a \$100,000 water connection fee credited to the HAWSP fund. East End Partners have already executed an installation agreement with Public



Works and have provided a performance guarantee associated with getting water connection to the front lot line. The connection will be inspected by Public Works under a normal permit procedure.

Healthcare Renewal

The City's healthcare renewal is looking good so far. Last year a 10% rate cap was negotiated for this upcoming year but of course we are shooting for much better than that. So far the City's claims have been low for the year, and since there was a temporary cease on elective procedures, that has kept things in check.

Council Packet Process

The City Clerk has provided information regarding the packet process as a reminder that often there are several steps from the beginning of an ordinance or resolution to the final packet draft. It's important to ensure packet materials have the proper review and are submitted timely to be included in the Council packet.

Fire Hall Emergency Back-Up Generator

The City was awarded a \$105,500 grant in FY 19 to purchase a backup generator for the Fire Hall. The required size of the backup generator needed at the Fire Hall is larger (and more expensive) than what was envisioned when the City applied for the State Homeland Security grant. The City's previous two generator projects funded by DHS&EM (Library and Harbormaster's Office) needed 20-25 KV generators and the budget for this project was based on that expectation. The electrical engineer the City has hired to design the generator's installation has however recommended a 50 KV generator, which comes at an additional expense. City Engineer Meyer has requested DHS&EM increase the original grant amount awarded in order to cover the additional expense (\$22,000), which he believes has a high probability of occurring. Below is the response received from the Grant Administrator regarding this request:

"As I mentioned on the phone we don't currently have the funds in the 19 SHSP grant, but if you can include a timeline of when you expect to have the project complete and funds expended I may be able to fund this out of another years SHSP grant. Thanks for checking back in on this and staying on top of things. Let me know if you have any questions."

The timing for the Fire Hall generator and new Police Station is critical as the two projects are interrelated; emergency backup power to the Fire Hall is a precursor to relocating the existing larger on-site generator to the new police station. If this does not happen, the new police station cannot be operational (construction on track to be ready to relocate dispatch operations in June). In case DHS&EM cannot cover the additional expense, staff propose using the Police Station contingency funds to cover the \$22,000 cost. This will ensure the Police Station project stays on track. As of March 2020, the City contingency fund balance for the Police Station totals \$57,183. The Project Manager is not aware of any other major expenses that would exceed the remaining contingency.

Marathon not a Race

I wanted to take some time to thank Council for continuing to be proactive and passionate about the safety and health of our community. The message we are getting from across the state and nation for addressing COVID-19 is "this is a marathon, not a race." We are in it for the long haul. Chief Kirko as Incident Commander has does an excellent job coordinating with City staff, all the other Incident Commanders, and the other EOCs formed as a result of the pandemic. I am proud of how the City has set the example, and also want to thank the Leadership Team for keeping the lines of communication open within their departments. Department heads are keeping their teams safe by practicing social distancing, implementing telework when possible, staggered shifts, and encouraging proper PPE. They are contacting staff to ask how they are doing and are focusing on employees as people, not just as contributors to the organization, which improves overall morale and efficiency despite the challenges COVID-19 has created. We are going to start seeing the State relax on mandates in order for our businesses and critical workforce areas like fisheries to open up and this is a result of the good work we have been doing to flatten the curve. Homer is already seeing an increase in boating, pedestrian and vehicular traffic on the Spit, and the City is able to provide basic services that allow folks to

enjoy Homer's beauty outside while mitigating risk. Restaurants are asking Public Works to turn on their water and are getting ready to open for take-out/delivery service. People are coming back and getting ready for business and I am working with the EOC and PIO team to get messaging out into the community that Homer is a safe community because we are following preventative measures and educating residents and visitors alike. This past week I received an email from the State containing a COVID-19 Revised Mitigation Plan Submittal one of our local businesses turned in to address State Health Mandates 10 and 12. It is reassuring to see our local businesses following State mandates and taking extra precautions for their employees. I have begun to have discussions with Library Director Berry and Incident Commander Kirko on opening the Library for curbside pickup of materials for patrons. We are also looking at what other areas in the City could be opened up while ensuring public safety and welfare (such as the Ice Plant or setting out fish cleaning tables given fishing season) and I will keep Council up to date as we work through restoring some City services while taking into account the Governor's mandates.

Enclosures:

1. Informational Flyer concerning COVID-19
2. City of Homer Sport Fishing COVID-19 Informational Sheet
3. City Letter to Corps concerning Homer Spit Erosion, Commissioner MacKinnion Letter of Support
4. City Letter to Corps concerning New Large Vessel Moorage Facility, Letter to Brett Huber
5. KPB Resolution Supporting EDA Grant Funding to Design and Build the Port Expansion in Homer, KPB memo, COH CIP pages
6. 2020 CARES Act Grants –FAA webpage
7. DOT&PF Response to City's Information Request concerning CARES Act funds
8. RCA Approval of City's request to Amend Certificate of Public Convenience and Necessity Final Order and Appendix A
9. Memo from City Clerk Jacobsen concerning Council Packet Process
10. Letter from Attorney Hass regarding City Response to Baycrest

So... You're in Quarantine

You may have just returned from out of state and are in a 14-day quarantine, or are feeling sick, or you are part of a high-risk group that needs to stay home.



As Homer takes steps to slow the spread of COVID-19, people are facing new challenges about how to meet basic household needs.



This pamphlet provides information on how to get your essential errands done in a safe manner.



Need to Prepare?

Go to www.cdc.gov for a wide range of guidelines, including:

- How to create a household plan
- How to protect yourself & others when self-isolating/quaranting in a shared household or have pets
- Cleaning & disinfecting your home
- What to do if you're sick

Questions?



**COVID-19
Homer Call Line
907-435-3197**

Staffed Monday - Friday 8am-5pm
to answer questions & connect you to
local assistance you may need



**Alaska 2-1-1
or 1-800-478-2221**

For general questions about COVID-19 &
info on a variety of State-wide services



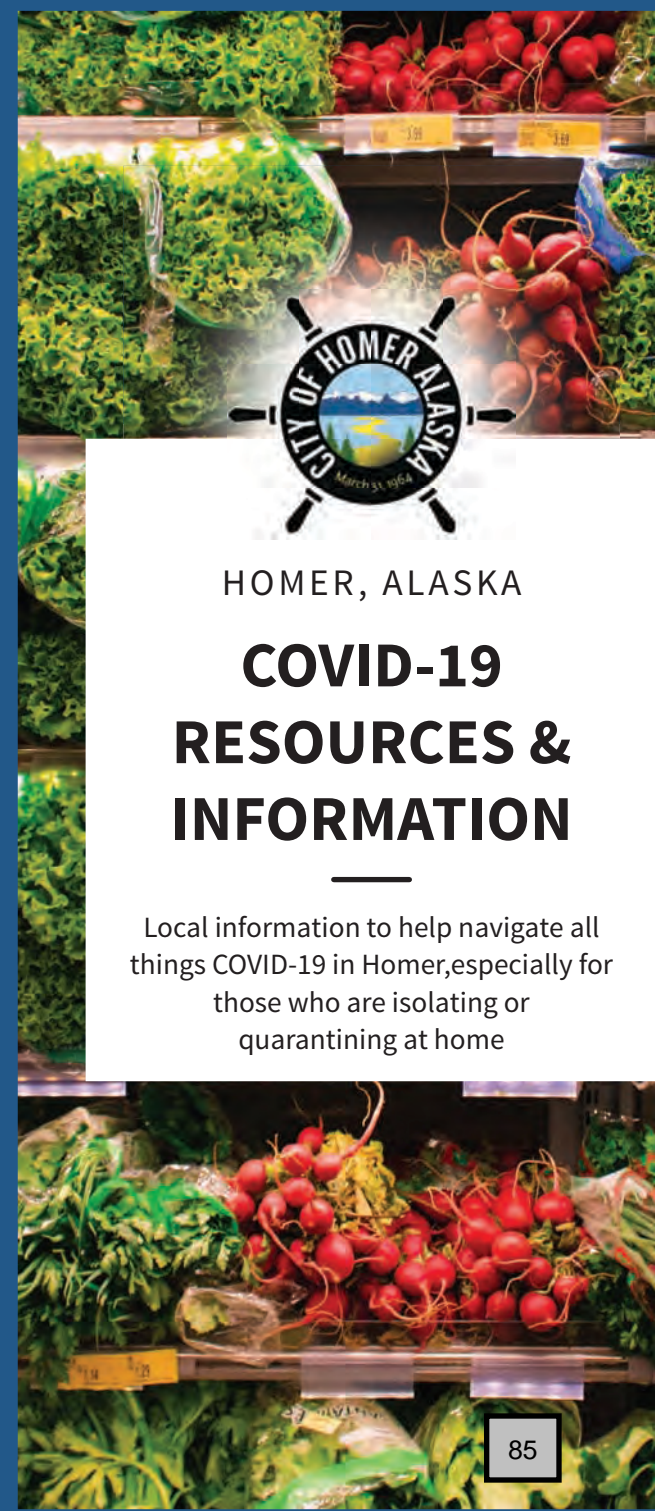
**City Website
cityofhomer-ak.gov/covid19**

Complete local COVID-19 information &
links to State/Federal info & resources



**State of Alaska
COVID-19 Website
covid19.alaska.gov**

Resources from State departments
including Health Mandates, current case
counts, & economic/business info



HOMER, ALASKA

COVID-19 RESOURCES & INFORMATION

Local information to help navigate all
things COVID-19 in Homer, especially for
those who are isolating or
quarantining at home

Groceries & Delivery



Save-U-More

- Call 235-8661 if you have questions.
- Email grocery list to sumhomer@yahoo.com with the subject "Bush Order".
- Request delivery: Save-U-More has a delivery person and is working with volunteers.
- Order and/or delivery fees may apply.
- Orders are fulfilled in the order they are received, Monday thru Friday 8:00-4:00 pm.



Safeway

- Call 226-7000, option 8 if you have questions.
- Email grocery list to s1832c90@safeway.com.
- Request delivery: Safeway is working with volunteers and cab companies to deliver.
- Order and/or delivery fees may apply.
- Please limit orders to 30 items or less.



Homer Community Food Pantry

- Food service is drive-thru only every Monday from 11:30 am to 3:00 pm.
- Delivery options available! Call or text 235-1968 to set up a delivery.
- www.homerfoodpantry.org for more info.



Salvation Army

- Salvation Army's Drive-thru Food Pantry is open every Monday from 2:00-4:00 pm.
- Call 310-990-3455 between 11:00 am-1:00 pm to schedule a delivery.
- Providing free delivery service for grocery orders placed directly with Save-U-More or Safeway. When you make your order, request Salvation Army for delivery, they will text/call you when the order is on its way.

Feeling Sick?



Stay home, take care of yourself, stay in touch with your healthcare provider, and monitor your symptoms



Separate yourself from other people and pets in your home; avoid sharing household items



Clean your hands and all "high-touch" surfaces everyday



If you must be around other people or pets, wear a cloth face mask



Monitor your symptoms and ALWAYS call your provider first before going in

Monitor Your Symptoms

Contact your provider or the hospital triage nurse at 235-0235 for a COVID-19 test screening if you experience:

ANY ONE of these symptoms

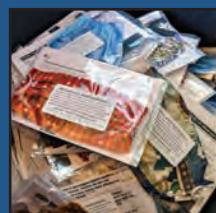
- Cough
- Shortness of Breath
- Difficulty Breathing

OR

TWO OR MORE of these symptoms

- Chills
- Fever
- Rigors
- Headache
- Fatigue
- Nausea
- Runny nose
- Lack of taste/smell
- Sore throat
- Muscle/joint ache
- Diarrhea
- Sputum (phlegm)

Sewn Cloth Face Masks



Available at:
Cycle Logical 399-3410
Homer Saw & Cycle 235-8406
Have someone pick one up for you or contact store for assistance

Need Help With Errands?

Call 310-803-0588

Homer volunteers are stepping up to help run errands for those that need to remain at home. Coordination and volunteer vetting is being done by Salvation Army.

Don't Forget To Ask Your Store Or Pharmacy About Delivery Options

Many local businesses in Homer are offering home delivery, either with their own services or through volunteer efforts!

Talk To Your Insurance Provider About Telemedicine & Prescription-By-Mail

Many insurance providers offer ways to sign up for telemedicine and getting your prescriptions by mail. Contact your insurance and see if it's an option for you.

Other Resources

Visit the City of Homer's COVID-19 page for a list of other resources including financial relief info, family support, and COVID-19 legal advice. cityofhomer-ak.gov/covid19 or 907-435-3197

Support Local Restaurants

Many restaurants in Homer are still open and providing to-go orders in Homer.

To learn more, contact them directly or visit homer.alaska.org/homer-to-go.

Can't pick up the food? Cab companies will pick up and deliver for you!

City of Homer Sport/Personal Use Fishing Informational Sheet

To help prevent COVID-19 from spreading, the State has prohibited most travel between communities except for certain exceptions. Personal and sport fishing are exceptions and remain open.

While we understand and support that personal and sport fishing is important to Alaskans for putting fish in the freezer, our first priority is to keeping our residents and communities healthy and safe. To that end, we ask you to stay as close to home as possible to fish and don't travel unless it is critical and necessary.

Homer follows State mandates concerning COVID-19 prevention. If you do find it necessary to travel away from your home to Homer, the load and launch ramp is open. But please be COVID smart and do your part to protect our community by following the guidelines set out by the Alaska Department of Fish and Game:

- 1) Totally provision your trip from your community of origin so you will not need to get food, drinks, or even fuel if possible, after you begin your trip and until you return home.
- 2) Avoid interaction with residents of communities through which you travel; if you do need to interact, wear face coverings and have wipes available to disinfect surfaces you may need to touch, such as gas pumps.
- 3) During your travel, follow State mandates that require social distancing with anyone not consisting of your immediate household, and gatherings of 10 people or less.

If you are coming to Homer from out of state to participate in commercial fisheries, please be aware that the State of Alaska issued a COVID-19 prevention health mandate that **REQUIRES** you to quarantine for 14 days upon arrival prior to entering any public spaces or businesses. There are resources available in Homer, including delivery services, to ensure you have access to groceries during your quarantine period. Go to <https://www.cityofhomer.ak.gov/covid19/local-resources-help-needed> or call 907-435-3197 to learn about how Homer can support your quarantine period.

During COVID-19 every Alaskan is asked to make sacrifices. We're in this together, Alaska. Let's look out for each other and prevent the spread of COVID-19.



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road
Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

February 11th, 2020

Alaska District, U.S. Army Corps of Engineers
ATTN: CEPOA-PM-C
P.O. Box 6898
Joint Base Elmendorf-Richardson, AK 99506-0898

To Whom It May Concern:

Pursuant to an Emergency Supplemental funding notice for 2018 funds, the City of Homer, Alaska requests that the Army Corps of Engineers Alaska District pursue funding necessary to complete a General Investigation related to Homer Spit Erosion Mitigation and create a Spit Erosion Maintenance and Management Plan. Further, we ask that this General Investigation be fully funded at the federal level. Protecting the Homer Spit as a regional commerce center and transportation hub is in the nation's best interest with federal assets and multi-million dollar investments at risk without this work being completed.

The City of Homer's interest in a long term erosion management plan for the Homer Spit is also a State and Federal interest. Protecting the Spit means protecting Homer's role in marine commerce and transportation while supporting the vessels and businesses that provide both. By identifying the erosion prone areas of the Spit and incorporating this information into hazard mitigation planning, we can learn how to work with the forces of nature to ensure longevity of critical infrastructure and maintain Homer's role as a regional commerce center and transportation hub.

The City understands that if a project were to be recommended that the non-Federal sponsor will likely need to provide a 35% cost share and necessary Real Estate. The State of Alaska owns much of the land necessary for the project and we are and will continue to build a co-sponsorship team as the study develops.

Please contact me at your earliest convenience to further discuss this request.

Best regards,

Bryan Hawkins
Homer Harbormaster/Port Director



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Transportation and Public Facilities

OFFICE OF THE COMMISSIONER
John MacKinnon, Commissioner

PO Box 112500
Juneau, Alaska 99811-2500
Main: 907.465.3900
dot.alaska.gov

February 24, 2020

Alaska District, U.S. Army Corps of Engineers
ATTN: CEPOA-PM-C
P.O. Box 6898
Joint Base Elmendorf-Richardson, AK 99506-0898

To Whom It May Concern:

The Alaska Department of Transportation and Public Facilities supports the City of Homer's request for approximately \$3 million dollars in supplemental federal funds from the US Army Corps of Engineers. The funding would allow for a General Investigation related to Homer Spit Erosion Mitigation and create a Spit Erosion Maintenance and Management Plan.

The Homer Spit includes critical infrastructure that supports the safety and livelihood of numerous communities, industries and maritime users throughout the Lower Cook Inlet, and beyond.

Public investments along the Spit include Coast Guard cutter mooring facilities, the Sterling Highway, (a major National Highway System freight route in Alaska which terminates at the Spit), industrial port, small boat harbor and an Alaska Marine Highway System ferry terminal.

Thank you for considering this request.

A handwritten signature in blue ink, appearing to read "John MacKinnon".

John MacKinnon
Commissioner

cc: Bryan Hawkins, Homer Harbormaster/Port Director



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

Resubmitted January 21, 2020

Originally submitted September 24th, 2018 & April 4th, 2019

Alaska District Corps of Engineers
ATTN: CEPOA-PM-C, Mr. Bruce Sexauer
2204 3rd Street (Bldg 2204)
JBER, AK 99506-1518

Re: Homer Port and Harbor: New Large Vessel Moorage Facility

Dear Mr. Sexauer,

Please accept this letter as a formal request from the City of Homer to resume work with the Corps of Engineers on a Navigational Improvement Feasibility Study to dredge and build a new large vessel moorage facility at Homer's Port & Harbor.

Homer's Port & Harbor is a regional port, serving the needs of commercial vessels operating across southcentral and western Alaska in the maritime industrial, marine transportation and commercial fishing industries. Over time, demand has outgrown Homer harbor's ability to safely and efficiently serve this fleet. Certain sizes of commercial vessels can't access the port and harbor due to depth limits and configuration of the harbor entrance. Those that can find harbor moorage at capacity. Even after rafting large vessels three to four deep on the moorage floats, Homer annually turns away 40-60 vessels requesting to home port.

The City has identified a new large vessel harbor as its highest priority capital project to (1) meet current need, (2) address overcrowding and associated navigational safety concerns and high maintenance costs, and (3) support emerging regional and national economic opportunities such as the opening of the Arctic for transportation and resource development.

High demand combined with favorable changes in cost drivers (new local sources of more competitively priced building materials and an in-water option for disposal of dredge material) prompted the City and Corps to continue the general investigation from 2009 utilizing a Section 22 Planning Assistance to States Program grant.

We understand that after a positive Section 905(b) Analysis and the development of a PMP, the City will be asked to enter into a Feasibility Cost Sharing Agreement (FCSA) with the Corps to share the costs of a feasibility-level study. The City is aware that the feasibility study is cost-shared (50 percent Federal and 50 percent local funds), and that all of the local share can be in-kind services. This letter is a statement of intent, not a binding contract.

We further understand that preconstruction, engineering design and construction of any recommended plan carries a potential 80/20 cost share based on water depth.

I look forward to working with the Corps of Engineers on this important project. Thank you for your consideration of this request.

Sincerely,

CITY OF HOMER

A handwritten signature in blue ink that reads "Katie Koester". The signature is written in a cursive, flowing style.

Katie Koester, City Manager



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov
(p) 907-235-8121 x2222
(f) 907-235-3148

November 8th, 2019

Mr. Brett Huber, Sr.
Senior Policy Analyst
Executive Office of Governor Dunleavy
550 W 7th Ave.
Anchorage, AK 99501
Submitted electronically: Brett.Huber@alaska.gov

Mr. Huber,

Honorable Governor Dunleavy recently visited Homer to attend the Alaska State Home Builders Association conference but he also was able to share some of his time with Homer Mayor Ken Castner, Port and Harbor Advisory Commission Chair Steve Zimmerman, and myself to discuss the City of Homer's Large Vessel Harbor Expansion Project. During our meeting, the Governor recommended we continue our conversation with you as our next point of contact.

Brief background information: the Large Vessel Harbor Expansion Project is a regional economic development initiative that will allow vessels up to 250 feet in length safe moorage in Alaskan waters. The outcome will be hundreds of thousands of dollars in savings for large vessel owners that currently have to moor their boats elsewhere while letting Alaska keep more dollars in-state. Industries that have so far expressed interest in having central gulf region operations include oil and gas, commercial fishing, commercial transportation, research, enforcement, and adventure cruise ships. Homer's large vessel harbor will also provide safe moorage for the US Coast Guard, and result in high paying jobs for Alaska marine tradesmen since vessels could now be worked on and in Alaska instead of Washington.


The State of Alaska has long been a partner with the City of Homer in the Large Vessel Harbor Expansion Project. In 2007, a General Investigation Study for the new harbor was initiated with funding shared 25% City, 25% State through the Alaska Department of Transportation (ADOT), and 50% Army Corps (see attached agreement). In 2009, this study was shelved due to project cost and demand however there is good news to share. The US Army Corps Planning Assistance to States (PAS) grant completed this year has determined variables like cost and demand have significantly improved, making this a feasible project. During their upcoming budget cycle, the Corps will be recommending funding to reinstate the General Investigation Study. The Study will be a three year commitment with a total cost of \$3 million dollars.

The City of Homer is asking for the State of Alaska to continue our longstanding partnership in this transportation project by contributing a 25% match over 3 years, totaling \$750,000. ADOT staff in the Central Region Planning office have recommended cruise ship passenger vessel tax dollars as the State's funding source for this match.

Given the positive momentum behind this project, I would appreciate any opportunity to further discuss the Large Vessel Harbor Expansion Project with you and the Governor as soon as possible. It would be a significant accomplishment to line out potential next steps to initiate the General Investigation Study with ADOT and reaffirm the City's important partnership with the State regarding this endeavor.

Thank you for your time and attention.

Best regards,



Katie Koester
Homer City Manager

Enc:

2007 MOA between ADOT and City of Homer for Payment of Matching Funds for Homer Harbor Feasibility Study

2020-2025 Capital Improvement Plan, New Large Vessel Moorage Facility

Memorandum of Agreement
 between the
 Alaska Department of Transportation and Public Facilities
 and the
 City Of Homer
 for
 Payment of Matching Funds
 For Homer Harbor Feasibility Study

This Memorandum of Agreement is by and between the Alaska Department of Transportation and Public Facilities, hereafter referred to as the Department, and the City of Homer, hereafter referred to as the City.

The City, as local sponsor, has requested State assistance in the funding of the feasibility study for a harbor expansion project in Homer.

The Alaska legislature in Chapter 82, SLA 2006, has appropriated funds that may be used as matching funds for the Army Corps of Engineers Harbor projects.

The Department has agreed to provide these funds in the amount of \$150,000 for the City's matching fund requirement.

The City requests the Department make payments directly to the Corps of Engineers.

Therefore, the Department agrees to issue payment directly to the Army Corps of Engineers, not to exceed \$150,000.

The City agrees that the Department has no obligation on the Homer Harbor Expansion Project beyond that specifically agreed to in this Memorandum of Agreement.

City Of Homer

Steve Dew, Acting City Manager

Date

11/28/07

Alaska Department of Transportation
& Public Facilities

Patricia M. Hetherington

Date

11.27.07

**State-Municipality Cooperation Agreement
Between the
State of Alaska Department of Transportation and Public Facilities
and**

The City of **Homer**

Project Name: **Homer** Navigation Improvements

Project No. #####

The Municipality and the State are entering a long term working relationship with the Corps of Engineers (hereinafter called the Corps) on the above reference project. The Municipality as project sponsor has requested State assistance.

This cooperation agreement is effective upon execution by the State of Alaska, Department of Transportation and Public Facilities, (hereinafter called the State) and City of **Homer**, Alaska (hereinafter called the Municipality). The State and Municipality are entering this Agreement pursuant to AS 35.15.080 et. seq. and any regulations promulgated thereunder.

The Municipality's coordinator for this Agreement is **Steve Dean, Harbormaster**. The State's coordinator for this Agreement is **Harvey Smith**, State Harbors Engineer. Each party agrees to notify the other party of any change in the coordinator.

1. This agreement defines and formalizes the State's role during the Corps' Feasibility Study process. It is our intent that the State's engineer will be a Technical Consultant to the Municipality and liaison between the State and the Corps. This function is reserved for a department representative on any project anticipating state funding for either design or construction, or for any project that may affect an existing state harbor facility.
2. The Municipality recognizes that:
 - a) It will be required to provide access, uplands, and tidelands sufficient to support construction, operation, and maintenance of the proposed facility and that the State will not participate in land acquisition and right of way purchases.
 - b) If not already in place, the Municipality shall adopt harbor ordinances that provide for the administration, management, operation, and maintenance of the completed facility for public purposes as a condition of receiving State construction funds for the proposed project.
 - c) The Corps process seeks to satisfy National Economic Development (NED) criteria to determine the national interest, which may not include local or state interest.
 - d) The State has unique professional coastal and harbor engineering expertise and considerable experience as sponsor that can provide substantial technical and administrative strength to the project.
3. The Municipality and the State agree to appoint members as appropriate to the project study team and one member each to the project executive committee.
4. The Municipality agrees to a joint review with the State of the draft Project Feasibility Cost Share Agreement (FCSA) before signature by the Municipality.

5. The Municipality agrees to a joint review of intermediate work products, study recommendations and final draft report.
6. The Municipality agrees to promote the project, support the team effort, and actively participate as a team member.
7. The State agrees to:
 - a) Provide review and consultation during FCSA development.
 - b) Act as technical advisor and consultant to the Municipality. This includes taking information presented by the study team and, working cooperatively with the Corps and Municipality, compile it into an optimum design representing the interests of the Municipality while conforming with State Policy and Corps' National Economic Development (NED) requirements.
 - c) Look at the whole harbor concept by integrating the necessary uplands, mooring basin, and protective structures into a fully functional harbor. This effort will strive to create harmony with the Corps' NED plan. The NED plan normally focuses on the General Navigation Features (GNF), consisting of only breakwaters and primary navigation channels. The harbor area recommended for upland development is approximately equal to that required for moorage and may have similar, or greater, potential for economic benefits.
 - d) Work in cooperation with state planning personnel providing technical guidelines for planning decisions. The planning objectives are to identify local and State benefits in addition to national benefits and to help the Municipality develop facilities that maximize the economic opportunities for the Municipality and the State.
 - e) Work with the study team to develop measurable criteria from which to evaluate harbor alternatives.
 - f) Work with environmental and other groups to resolve issues that may cause delay in the design development.
8. Subject to appropriation by the Legislature, the State will provide in-kind services. Financial obligations are understood to be obligations of the Municipality. Where State financial assistance is approved, payment (less in-kind services) will be made directly to the Corps of Engineers. Prepayment, when required by the federal program, will be made upon receipt of requests for payment accompanied by documentation submitted by the District Engineer, Alaska District Corps of Engineers, or his authorized representative. The required documents are the signed FCSA between the Corps of Engineers and the Municipality, and a letter from the District Engineer requesting payment.
9. In the event the final total amount of the local Municipality's financial obligation is less than the total amount estimated at the time of signing this agreement, then the State shall receive its proportionate share of any unused portion of the local Municipality funding returned by the Corps of Engineers at the completion of the project.

10. The State and Municipality will make no commitment for subsequent project development costs unless this agreement is amended in writing and signed by both parties.
11. If, due to changed circumstances, the State or the Municipality wishes to terminate this Agreement prior to its completion, the initiating party shall notify the other party in writing of its reasons for requesting the early termination. To terminate, both parties must agree in writing that it is in their mutual best interests to terminate. If the State and Municipality agree to terminate, the State assumes no further liability to the Municipality, the Corps of Engineers or any other party.
12. Before any party to this agreement may bring suit in any court concerning an issue relating to this agreement, such party must first seek in good faith to resolve the issue through negotiation or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.
13. Unless changed by prior written notice, any correspondence required by this Agreement must be sent to the following addresses:

STATE:

Office of the State Harbors Engineer
 Department of Transportation and Public Facilities
 3132 Channel Drive
 Juneau, AK 99801

MUNICIPALITY:

City of Homer
 491 East Pioneer Avenue
 Homer, Alaska 99827

APPROVALS:

Authorized Signature for Municipality, Title	Date
(Director of Design and Engineering Services	Date

APPENDIX A

Scope of Project:

1. Description of Project: The Municipality plans to enter into a project feasibility cost share agreement (PFCSA) with the Corps of Engineers, Alaska District to investigate and report on the proposed project feasibility.
2. The Municipality has requested State assistance by letter dated August 27, 1998

APPENDIX B

Payment Schedule:

For Corps of Engineers Matching Funds

There is no appropriation for the Homer Navigation Improvements project at this time, however, the State agrees to transfer funds, if appropriated by the Legislature and approved by the Commissioner, for the project to a special account in the State Treasury. The funds transferred to this special account for the Municipality shall not exceed a total of \$ ##### or the amount actually appropriated by the Legislature for this project, whichever is less. In no case shall the amount expended on this project be more than 50% of the total non-federal cost including in-kind services. State will charge directly to this account for in-kind services provided under this agreement and the PFCSA.

Payment, less State incurred in-kind costs, will be made directly to the Corps of Engineer at FINANCE AND ACCOUNTING OFFICE, ALASKA DISTRICT, US ARMY CORPS OF ENGINEERS, PO BOX 898, ANCHORAGE AK 99506-0898. The check will be pay to the order "FAO, USAED, ALASKA"; memo "Homer Navigation Improvements"; Or, in the case where the Municipality has advance funded the project, the State may make payment directly to the Municipality.

LAYDOWN

Introduced by:

Cooper, Mayor

Date:

Action:

Vote:

KENAI PENINSULA BOROUGH RESOLUTION 2020-031

A RESOLUTION URGING FULL FUNDING IN THE AMOUNT OF \$3,000,000 BY THE ECONOMIC DEVELOPMENT ADMINISTRATION GRANT PROGRAM FUNDED THROUGH THE CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY ACT IN ORDER TO FULLY FUND HOMER'S PORT EXPANSION GENERAL INVESTIGATION STUDY

WHEREAS, Homer's Port & Harbor is a regional port, serving the needs of commercial vessels operating across southcentral and, western Alaska, and the Arctic in the maritime industrial, marine transportation and commercial fishing industries and, overtime, the increased demand for services provided by the Homer Port & Harbor has outgrown Homer harbor's ability to safely and efficiently serve this fleet; and

WHEREAS, the City of Homer ("City") has identified a new large vessel port expansion among its highest ranked priority capital improvement projects since 2004 to (1) meet the growing needs of our commercial fleet, (2) address overcrowding and associated navigational safety concerns and high maintenance costs, and (3) support emerging regional and national economic opportunities and resource development; and

WHEREAS, in 2019 the City and the U.S. Army Corps of Engineers ("USACE") completed a Planning Assistance for States ("PAS") study that took a high level look at the costs and benefits of expanding the City's port facility to include a large vessel port providing safe moorage for vessels up to 250'; and

WHEREAS, the results from that PAS study showed a positive economic cost to benefit ratio and the USACE, anticipating a positive Section 905(b) analysis and the development of a Project Management Plan, placed the Homer Port Expansion General Investigation Study ("General Investigation Study") on their 2020 & 2021 regular work plan/budget to secure funds and resources for their share of that study; and

WHEREAS, the cost of the General Investigation Study for the Homer Port Expansion Project will be \$3,000,000, and will be completed by a shared partnership between the USACE, the State of Alaska, and the local municipalities; and

WHEREAS, the General Investigation Study will cover all planning aspects needed to build a large vessel port at the Homer Spit including, but not limited to: design and engineering, economic factors, environmental, geophysical, construction methods and costs; and

WHEREAS, the purpose of this resolution is to state the Kenai Peninsula Borough Assembly's support of the completion of a General Investigation Study for the Homer Port Expansion Project, and thereby take the next step in building a port expansion that will support emerging regional and national economic opportunities on the Kenai Peninsula.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough Assembly urges full funding in the amount of \$3,000,000 by the Economic Development Administration Grant Program funded through the CARES Act in order to fully fund Homer's Port Expansion General Investigation Study in partnership with the US Army Corps of Engineers, the State of Alaska and the local municipalities as the development of this public facility will help ensure enhanced safety and economic prosperity among Alaskan coastal communities

SECTION 2. That this resolution shall become effective immediately upon its enactment and be forwarded to our state and federal representatives and senators.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 21ST DAY OF APRIL, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Kelly Cooper, Assembly President (K.C.) for K.C.
Charlie Pierce, Mayor CP

DATE: April 21, 2020

RE: Resolution 2020-031, Urging Full Funding in the Amount of \$3,000,000 by the Economic Development Administration Grant Program in Order to Fully Fund Homer's Port Expansion General Investigation Study (Cooper, Mayor)

As the Kenai Peninsula Borough makes stimulating the economy a priority at the conclusion of the COVID19 Pandemic, the Homer Port Expansion Project is one that will meet the guidelines for funding through the CARES Act under the Economic Development Administration (EDA).

- 1) **\$1.5 billion in grants for economic adjustment assistance for development of public facilities**, public services, business development (including funding for revolving loan funds to provide supplemental business lending), **planning**, technical assistance, training and any other assistance to alleviate long-term economic deterioration and sudden and severe economic dislocation. *Under current law, the agency may waive or reduce local cost share requirements for distressed areas and those suffering from severe economic dislocation.*

I ask for your support of this resolution.



City of Homer

2020-2025 Capital Improvement Plan



Homer's Port & Harbor is a regional asset serving commercial fishing vessels from nearly every fishery in the State, the US Coast Guard and industrial support vessels whose delivery of supplies to industries and remote communities is foundational to Alaskan commerce at all levels.

Development of a haul out repair facility for large commercial vessels (pictured above) and a new large vessel moorage facility are top priorities in the City's CIP.



2. Homer Port & Harbor: New Large Vessel Moorage Facility

Project Description & Benefit: This project will construct a new large vessel moorage facility to the north of Homer's existing Port and Harbor. It will enhance port capabilities by:

- Accommodating large commercial vessels (fishing vessels, work boats, landing craft, tugs, etc.) outside the small boat harbor. Currently, large vessels are moored at System 4 and System 5 transient floats. Due to shortage of moorage space, large vessels are rafted two and three abreast constricting passage lanes, creating traffic congestion and overstressing the floats. The new facility will address overcrowding and associated navigational safety concerns and high maintenance costs in Homer's small boat harbor,
- Enabling Homer to moor an additional 40 to 60 large commercial vessels that potentially would use Homer Port & Harbor as a home port, but have been turned away due to their overall size, draft, or that the systems are working beyond capacity and we simply lack the space;
- Positioning Homer's Port and Harbor to meet the demands of emerging regional and national economic opportunities such as the Cook Inlet Oil & Gas industry, a possible LNG export plant in Nikiski, the opening of the Arctic for research, transportation and resource development and the US Coast Guard's long-term mooring needs. Currently, the USCGC *Hickory* moors at the Pioneer Dock which provides inadequate protection from northeasterly storm surges. The large vessel harbor will be built to provide protected and secure moorage suitable to accommodate USCG assets.

Centrally located in the Gulf of Alaska, Homer's Port & Harbor is the region's only ice-free gateway to Cook Inlet, the port of refuge for large vessels transiting the Gulf of Alaska, Cook Inlet, and Kennedy Entrance, and is the marine industrial and transportation system hub for central and Western Alaska. The new moorage facility will fill the unmet needs of large commercial vessels operating in the maritime industrial, marine transportation and commercial fishing industries.

Plans & Progress: The City, State of Alaska ADOT, and Army Corps of Engineers (ACOE) partnered on a port expansion feasibility study in 2004. At that time, preliminary results indicated the project's Benefit to Cost ratio would be non-competitive for Federal funding so the study was put on hold. High demand and favorable changes in cost drivers since then prompted the City and the ACOE to reexamine feasibility utilizing a Section 22 Planning Assistance to States Program Study grant in 2018. The study's positive results led to a recommendation by the ACOE to resume work on the Navigational Improvement Feasibility Study to dredge and build the new moorage facility. The City has formally expressed its intent to work with the ACOE on the Study and renew our partnership with the State of Alaska for technical expertise and funding, with costs sharing (50% Federal, 25% State, 25% City) over three years.

Total Project Cost: \$124,233,000

Phase 2: General Investigation Study \$3,000,000

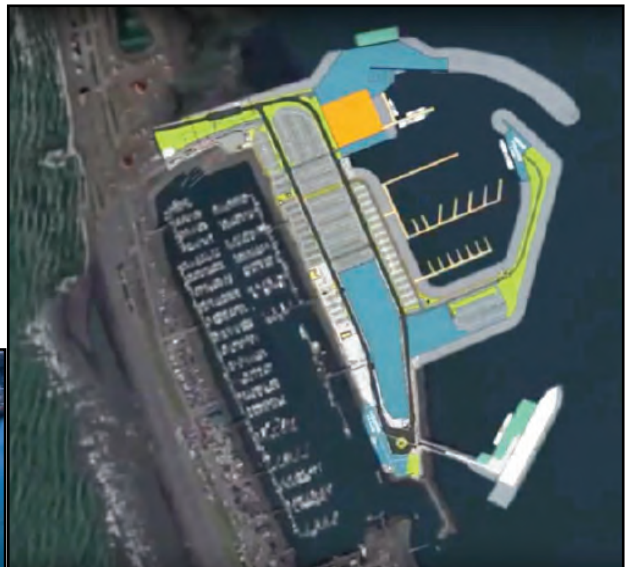
Federal \$1.5 M

State: \$750,000

Local: \$750,000

FY2021-FY2023 State of Alaska Request: \$250,000 (annually)

FY2021-FY2023 City of Homer Match: \$250,000 (annually)



The large vessel port expansion adds a new basin with its own entrance adjacent to the existing Small Boat Harbor. It will relieve large vessel congestion and navigational safety hazards in the small boat harbor while providing secure moorage compatible with the USCG's assets.



Capital Improvement Appendices

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**CITY OF HOMER
HOMER, ALASKA**

Mayor/City Council

RESOLUTION 19-061

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, ADOPTING THE 2020-2025 CAPITAL IMPROVEMENT PLAN AND ESTABLISHING CAPITAL PROJECT LEGISLATIVE PRIORITIES FOR FISCAL YEAR 2021.

WHEREAS, Duly published hearings were held on September 9 and September 23, 2019 to introduce the final draft of the 2020-2025 CIP and to obtain public comments on capital improvement projects and legislative priorities; and

WHEREAS, The Council received comments from all of the City of Homer Advisory Commissions and held a CIP worksession on August 26, 2019; and

WHEREAS, It is the intent of the City Council to provide the Governor, the State Legislature, State agencies, the Alaska Congressional Delegation, and other potential funding sources with adequate information regarding the City's capital project funding needs.

NOW, THEREFORE BE IT RESOLVED by the City Council of Homer, Alaska, that the "City of Homer Capital Improvement Plan 2020-2025" is hereby adopted as the official 6-year capital improvement plan for the City of Homer.

BE IT FURTHER RESOLVED that the following capital improvement projects are identified as priorities for the FY2021 State Legislative Request:

1. Homer Barge Mooring & Large Vessel Haul Out Repair Facility
2. Large Vessel Port Expansion
3. Storm Water Master Plan
4. Main Street Sidewalk North
5. Multi-Use Community Center, Phase 1

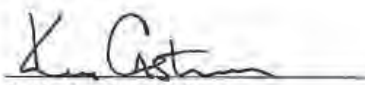
BE IT FURTHER RESOLVED that projects for the FY2021 Federal Legislative Request will be:

1. Homer Barge Mooring & Large Vessel Haul Out Repair Facility
2. Large Vessel Port Expansion

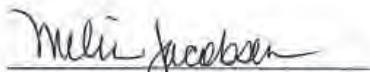
BE IT FURTHER RESOLVED that the City Manager is hereby instructed to advise appropriate State and Federal representatives and personnel of the City's FY 2021 capital project priorities and take appropriate steps to provide necessary background information.

PASSED AND ADOPTED by a duly constituted quorum of the City Council for the City of Homer on this 23rd day of September, 2019.

CITY OF HOMER


KEN CASTNER, MAYOR

ATTEST:


MELISSA JACOBSEN, CITY CLERK





2020 CARES Act Grants Airports

See [Information for Airports about COVID-19](#).

The [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act \(H.R. 748, Public Law 116-136\)](#) (PDF), signed into law by the President on March 27, 2020, includes \$10 billion in funds to be awarded as economic relief to eligible U.S. airports affected by the prevention of, preparation for, and response to the COVID-19 pandemic.

The CARES Act provides funds to increase the federal share to 100 percent for Airport Improvement Program (AIP) and supplemental discretionary grants already planned for fiscal year 2020. Under normal circumstances, AIP grant recipients contribute a matching percentage of the project costs. Providing this additional funding and eliminating the local share will allow critical safety and capacity projects to continue as planned regardless of airport sponsors' current financial circumstances.

Additionally, the CARES Act provides new funds distributed by various formulas for all airports that are part of the national airport system. This includes all commercial service airports, all reliever airports and some public-owned general aviation airports.

Under this new CARES Airport Program:

- Primary commercial service airports, with more than 10,000 annual passenger boardings, will receive additional funds based on the number of annual boardings, in a similar way to how they currently receive AIP entitlement funds.
- All commercial service airports will receive funds based on the number of passengers that board aircraft there, the amount of debt an airport has, and the amount of money the airport has in reserve.
- General aviation airports will receive funds based on their [airport categories](#), such as National, Regional, Local, Basic and Unclassified.

The FAA plans to make these funds available in April, and airport sponsors should work with their local Office of Airports field office. The FAA will provide additional guidance on the CARES Airport Program next week.

CARES Act Application

- SF 424, Application for Federal Assistance
 - SAMPLE SF 424 for CARES Act Funding (PDF) (April 20, 2020)
Sample applies to non-development grants only. For CARES Act Airport Grants for airport development, contact your ADO or Regional office.

CARES Act Resources

- CARES Act Grant Amounts to Airports: PDF, MS Excel (Excel version added April 15, 2020)
- Map of CARES Act Airport Grants (April 14, 2020)
- CARES Act Airport Grants Presentation (PDF) (April 14, 2020)
- CARES Act Airport Grants - Frequently Asked Questions (Updated) (PDF) (updated April 17, 2020)

Page last modified: April 20, 2020 7:53:01 AM EDT

This page was originally published at: https://www.faa.gov/airports/cares_act/

From: Reese, Jill (DOT)
Sent: Thursday, April 23, 2020 8:53 AM
To: 'Rachel Friedlander' <rfriedlander@ci.homer.ak.us>
Cc: McCarthy, Shannon K (DOT) <shannon.mccarthy@alaska.gov>; Dowd, Rox A (DOT) <roxann.dowd@alaska.gov>; Rosier-Polley, Caro J (DOT) <caro.rosier-polley@alaska.gov>; Lesmann, Mike (DOT) <mike.lesmann@alaska.gov>
Subject: Request for Homer Airport Budget Sheets, Info on CARES Act

Hello, Rachel:

Thanks for your patience while we pulled this together. As you know, it takes reaching out to many staff to collect what is needed.

The budget for all airports operated by DOT&PF statewide is not broken down between airports, so I don't have a projected budget going forward of funds dedicated to just the Homer Airport for FY2021. However, below is a list of expenses for the airport, maintenance and operations-wise, for the years FY2019 and FYTD 2020.

Location Code	AHOM	↕
FY20 Homer Airport ytd 4.21.20		
Sum of Budgetary Expenditures		
Obj Type Code	Total	
1000	316,393.40	
2000	1,488.80	
3000	64,057.98	
4000	131,972.77	
5000	-	
Grand Total	513,912.95	

Location Code	AHOM	↕			
Homer Airport FY17-19					
Sum of Budgetary Expenditures					
Obj Type Code	PL Budget FY				
	2017	2018	2019	Grand Total	
1000	489,031.62	459,021.72	498,933.70	1,446,987.04	
2000	1,418.81	3,109.47	3,740.43	8,268.71	
3000	96,237.87	63,049.61	88,575.04	247,862.52	
4000	262,291.83	190,729.53	45,538.46	498,559.82	
Grand Total	848,980.13	715,910.33	636,787.63	2,201,678.09	

1000 is Personal Services
 2000 is Travel
 3000 is Contractual
 4000 is Commodities/supplies
 5000 is Capital/assets

There are some preventative maintenance projects planned which include:

CFAPT00457 Homer Pavement Marking and Crack Seal – up to \$220K, to be complete in FFY 2020
CFAPT00461 Homer Pavement Marking – up to \$145K, projected to be completed in FFY 2021
CFAPT00670 Homer AFFF testing equipment – up to \$50K, projected to be purchased in FFY 2021

As far as capital improvement projects, we are planning to advertise for a contractor to build a new chemical storage building on the airport in May, with physical construction to begin March 2021. Cost estimate for the construction is between 4 and 6 million. (CFAPT00270 Homer Chemical Storage Building)

There are other projects in the works, as well. Here is a link to the department’s project search page. I searched for Homer Air, and came up with the following: <http://dot.alaska.gov/projects-status/> The individual project links will give you more information on what is included in each one.

As far as the second portion of your inquiry regarding the CARES funding:

While there was a specific eligibility amount calculated for each airport, these figures were used solely for determining the State of Alaska’s total grant eligibility amount. For example, the State of Alaska is eligible for \$1.2 million based on Homer Airport’s activity level, and this amount will be combined with other rural airport funding and collectively used to ensure the highest aviation priorities remain funded. DOT&PF is working with OMB and the legislature on how the funding may be utilized to maximize the benefit to the State’s aviation system during this fiscal challenge.

Of the \$124.17 million that came to the state, \$33 million of that is for the international airports (Anchorage and Fairbanks) and \$49 million is for state-owned rural airports, the remaining \$41.7 million is for non-state owned airports.

I hope this is helpful information. I will close your public records request, but do let us know if you have any questions.

Sincerely,
Jill Reese

Jill Reese
Public Information Officer/Special Projects

4111 Aviation Avenue
PO Box 196900
Anchorage, AK 99519-6900

Direct: 907.269.0772

Our mission is to “**Keep Alaska Moving** through service and infrastructure.”

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert M. Pickett, Chairman
Stephen McAlpine
Antony G. Scott
Daniel A. Sullivan
Janis W. Wilson

In the Matter of the Application Filed by the CITY)
OF HOMER to Amend Certificate of Public) U-19-092
Convenience and Necessity No. 140)
ORDER NO. 2

**ORDER APPROVING APPLICATION TO AMEND
SERVICE AREA, APPROVING SERVICE AREA MAP
AND DESCRIPTION, AND CLOSING DOCKET**

BY THE COMMISSION:

Summary

We approve the Application filed by the City of Homer (Homer) to amend Certificate of Public Convenience and Necessity (Certificate) No. 140. We approve the service area map and description. We close this docket.

Background

Homer filed an Application to amend its Certificate No. 140 by expanding its authorized water public utility service area to provide water to a single lot upon which a low income housing development will be built.¹ We issued public notice of the Application with comments due by November 15, 2019. We received no comments.

¹Application for New or Amended Certificate of Public Convenience and Necessity filed October 17, 2019 (Application).

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Discussion

Application

Homer regulates its public water and sewer utilities, including rates, deposits, and charges, by ordinance. Homer seeks to expand its water service area to service a low-income housing development on one lot adjacent to its preexisting service area. The proposed development will include 24 three bedroom rental units for an estimated maximum occupancy of 144 persons at two persons per bedroom. Homer asserts “the estimated use of the new development is 150 gallons of water per day per bedroom, for a total usage of 10,800 gallons per day. There is no existing water service to this lot, therefore connection to the City of Homer public water system is the only way to provide water to this property and the planned housing development.”² Homer already provides sewer service to this lot.³

Fit, Willing, and Able

A public utility’s certificate describes the nature and extent of the authority granted to the utility, including a description of the utility’s authorized service area.⁴ We review an application to amend a certificate to determine whether the utility is fit, willing, and able to provide the utility services applied for and that the services are required for the convenience and necessity of the public.⁵ When determining whether an entity is fit, willing, and able to provide utility services, we examine that entity’s managerial, technical, and financial fitness.

²Application, Supplemental Information at 1.

³*Id.* at 2.

⁴AS 42.05.221(a).

⁵AS 42.05.241.

1 Managerial Fitness

2 We consider the resumes, operational experience and technical
3 qualifications of key management personnel when assessing a utility's managerial fitness.
4 Homer included the resumes of Key Management Carey S. Meyer, Public Works
5 Director/City Engineer and Todd Cook, Water/Sewer Treatment Plant Superintendent
6 with its Application.

7 Carey S. Meyer has been the Public Works Director/City Engineer for
8 Homer since 1999. Meyer is primarily responsible for overall management of the water
9 treatment program and distribution system. Meyer manages 30 full-time employees and
10 seven seasonal employees. He has a Bachelor of Science in Civil Engineering, a
11 Master's degree in Public Administration, and is a registered professional engineer with
12 the State of Alaska.⁶

13 Todd Cook has served as the Water/Sewer Treatment Plant Superintendent
14 since 2009. Cook is responsible for overseeing and managing all operations of Homer's
15 water and sewer facilities and distribution and collection systems. He is also responsible
16 for the supervision and training of employees as well as coordinating with regulatory
17 agencies, design engineers, and contractors.⁷

18 Based on the experience of Homer's management team and its previous
19 history of providing public water utility service, we find that Homer is managerially fit to
20 extend its service area as requested.

21 Technical Fitness

22 In evaluating technical fitness, we consider technical documents including,
23 but not limited to, Engineer Plan Review, capacity reports, source water specifications,
24 system layout schematics, and applicable Alaska Department of Environmental
25

26 ⁶Application, Exhibit A at 1-5.

⁷Application, Exhibit A at 6-7.

1 Conservation (ADEC) approvals. In addition, we review the names and addresses of all
2 non-utility personnel or entities responsible for the design, installation, maintenance, and
3 repair of equipment for the addition to the system.

4 The existing water source for Homer is the Bridge Creek Reservoir
5 (Reservoir), located on top of the bluff above the City of Homer. Currently, Homer's water
6 treatment plant produces between 0.3 MGD (million gallons per day) in the winter and 1
7 MGD in the summer. The plant has the capacity to treat 2 MGD. The Reservoir has a
8 storage capacity of over 100 million gallons. The pumping capacity of the water treatment
9 plant and raw water pump station is rated at 2.0 MGD. The current average daily demand
10 for the water system is 0.5 MGD, and peak demand in summer is 1 MGD.⁸

11 The Reservoir has significantly more capacity than is required to provide
12 water to current customers. The water treatment plant and the raw water pump station
13 have emergency backup generators. Water is delivered via a gravity water distribution
14 system. The expected demand from the proposed service area will be approximately
15 10,800 gallons per day, which is easily met by the existing water source. The proposed
16 service area already has an active water main adjacent to the property. The adjacent
17 main is 12" in diameter and is capable of providing both domestic and fire service to the
18 property.⁹

19 Homer included a "Final Approval to Operate" letter from ADEC with its
20 Application.¹⁰

21 Based on our review of the Application and provided documentation, we
22 find that Homer is technically fit to extend its service area as requested.

23
24
25 ⁸Application, Supplemental Information at 3-4.

26 ⁹Application, Supplemental Information at 3-4.

¹⁰Application, Exhibit E.

1 Financial Fitness

2 We review the sources of financing for the proposed expansion of an
3 existing utility to determine financial fitness, often consisting of documentation showing
4 that the sources listed will provide the applicant with the required funds and conditions of
5 all loans and relevant equipment contracts. Homer is classified as a political subdivision
6 of the state and is exempt from economic regulation pursuant AS 42.05.711(b), which
7 includes its rates and charges, quality of service, management practices, and customer
8 complaints.¹¹

9 Homer has accepted a water connection fee of \$100,000 from East End
10 Partners, LLC and appropriated that sum to the Homer Accelerated Water and Sewer
11 Program for future water and sewer distribution improvements in accordance with a
12 budget amendment Homer City Ordinance 19-09(S). Homer states the new connections
13 will not significantly impact its operations and there will be no impact on existing rates.¹²

14 Based on the above, we that find Homer is financially fit to extend its service
15 area as requested.

16 Public Convenience and Necessity

17 The United States Congress has found that “safe drinking water is essential
18 to the protection of public health.”¹³ With federal adoption of the 1996 amendments to
19 the Safe Drinking Water Act, the United States Environmental Protection Agency was
20 given authority to adopt stricter quality standards for the water provided by community
21 water systems. States were given responsibility for developing strategies to assist
22

23 ¹¹Order U-71-037(1), *Order Granting Certificate*, dated October 11, 1971, at 2
24 (noting that Homer has not elected to be subject to economic regulation under AS 42.05).

25 ¹²Application, Supplemental Information at 4.

26 ¹³Safe Drinking Water Act Amendments of 1996 (1996 Amendments), Pub. L.
No. 104-182, 110 Stat. 1613, 1614, at Section 3(1).

1 community water systems in acquiring the technical, managerial, and financial capabilities
2 to meet these stricter standards.¹⁴ One strategy is to encourage expansion of existing
3 community water systems to spread the cost of compliance over a larger customer
4 base.¹⁵

5 Homer states that the expanded water service area will benefit the public
6 by providing water to a low income housing development and will provide needed
7 affordable housing to the area, an identified goal in the Homer Comprehensive Plan.¹⁶
8 We agree, and find that the proposed service area expansion is required for the public
9 convenience and necessity.

10 Approving Application

11 Based on the record, we find Homer is technically, managerially, and
12 financially fit, willing, and able, and to extend its service area. We find that the proposed
13 service area extension is required for the public convenience and necessity. Therefore,
14 we grant Homer's Application to extend its service area.

15 Service Area Maps and Description

16 Homer filed a proposed amended service area map and a written service
17 area description.¹⁷ The map provided by Homer meaningfully represents the requested
18 service area in a clear format. We have reviewed the service area map and the service
19 area description and determined that they are consistent. Therefore, we approve the
20 amended service area map and service area description filed by Homer. The service
21 area description is attached as an appendix to this order.

22 _____
23 ¹⁴§119 of the 1996 Amendments, 110 Stat. at 1647 (codified at 42 U.S.C. § 300g-
9 (2012)).

24 ¹⁵See Order U-03-077(1), *Order Requiring Filings*, dated November 4, 2003, at
2-3.

25 ¹⁶Application, Supplemental Information at 1.

26 ¹⁷Application, Exhibit D; as supplemented and corrected by filings on
November 25, 2019, and November 26, 2019.

1 Final Order

2 This order constitutes the final decision in this proceeding. This decision
3 may be appealed within thirty days of this order in accordance with AS 22.10.020(d) and
4 Alaska Rule of Appellate Procedure 602(a)(2). In addition to the appellate rights afforded
5 by AS 22.10.020(d), a party has the right to file a petition for reconsideration in
6 accordance with 3 AAC 48.105. If such a petition is filed, the time period for filing an
7 appeal is tolled and then recalculated in accordance with Alaska Rule of Appellate
8 Procedure 602(a)(2).

9 Closing Docket

10 No substantive or procedural matters remain in this proceeding.
11 Accordingly, we close this docket.

12 **ORDER**

13 THE COMMISSION FURTHER ORDERS:

- 14 1. The *Application for New or Amended Certificate of Public Convenience*
15 *and Necessity* filed October 17, 2019, by the City of Homer is approved.
- 16 2. The service area map filed October 17, 2019, by the City of Homer is
17 approved.
- 18 3. The service area description filed by the City of Homer on October 17,
19 2019, is approved and attached to this order as an appendix.
- 20 4. Docket U-19-092 is closed.

21 DATED AND EFFECTIVE at Anchorage, Alaska, this 14th day of April, 2020.

22 BY DIRECTION OF THE COMMISSION
23 (Commissioners Antony G. Scott and
24 Janis W. Wilson, not participating.)

25
26 (SEAL)

APPENDIX A

Certificate of Public Convenience
and Necessity No. 140 Granted to

CITY OF HOMER

DESCRIPTION OF SERVICE AREA:

Within the city limits of Homer, Alaska, as of July 1, 1970.

T6S	R13W	Sections:	Lots 1 through 6, Block 5, Lots 1 through 5 and 35 through 68, Block 6, and Lots 1 through 25, 29, 30, and 31 of Block 7, Bayview Gardens Subdivision Addition 1, located in the S1/2 of 8; Lot 18, Tract A, located within the SE1/4 of SE1/4 of 10; and Lot 10A, Scenic View Subdivision, located within the SE1/4 of 10; and Tract B, Nordby Subdivision No. 6, a subdivision of Lot 1-A, Block 5 of Nordby Subdivision No. 5 into Tracts A through D, located in SE1/4 of 10, 11 HM 0910010 PUFFIN ACRES SUB ADDN NO 1 LOT 2 B EXCLUDING DOT ROW in Kachemak City, also known as 60398 East End Road, Kenai Peninsula Parcel #17419220.
-----	------	-----------	---

(All the above with reference to the Seward Meridian)

OWNERSHIP:

The Utility is owned exclusively by the City of Homer and is classified as a political subdivision of the state.

CHRONOLOGY:

Description	Date	Order
Certificate Granted	10/11/1971	U-71-037(1)
Service Area Extension	09/19/1975	U-75-044(1)
Service Area Extension	09/21/1977	U-77-051(1)
Service Area Extension	12/21/1978	U-70-097(1)
Service Area Extension	12/22/1994	U-94-103(1)
Service Area Extension	04/14/2020	U-19-092(2)



City of Homer

www.cityofhomer-ak.gov

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

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

THROUGH: MARVIN YODER, INTERIM CITY MANAGER

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: APRIL 20, 2020

SUBJECT: CITY COUNCIL PACKET SCHEDULE

As we work through this time of transition it's a good opportunity to check in on tentative agenda and final agenda packet steps as outlined in the Council's operating manual.

The tentative agenda is a planning tool for anticipated actions by the Council. Tentative agenda items (the type of enactment and subject), need to be to the City Clerk by the end of Thursday of the week proceeding Council packet week. This allows the City Manager time to work with Councilmembers, the City Attorney, and Department Heads in developing and finalizing actionable items for the Council meeting packet. The tentative agenda is also posted on line so the Council and citizens have an idea of what to anticipate at the upcoming meeting.

For Councilmembers and staff it's important to plan adequate time for drafting legislation, particularly if it requires City Attorney review.

The final agenda closes at 11:00 a.m. the Wednesday before the Council meeting.

Final packet ready documents need to be to the City Clerk as soon as possible, prior to 11:00 a.m. on the Wednesday prior to the Council meeting for final packet review. Packet ready documents are those that have been reviewed by the City Manager and also by the City Attorney if required, as well as all sponsors and appropriate City staff.

Councilmembers providing late agenda items, not meeting the tentative agenda and/or meeting packet deadline shall be discussed with the Mayor. All other late items, unless of an immediate nature, shall be placed on the next tentative agenda.

Taking time to follow this process will result in timelier packet distribution, higher quality legislative documents, and fewer substituted documents at the meetings.

RECOMMENDATION: Informational only.

Haas & Spigelmyer Inc.

ATTORNEYS AT LAW
& MEDIATION SERVICES

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

April 6, 2020

Re: Glenda Denton and
Carolyn and Timothy Vanzant

Dear Mr. Gatti,

When we last talked about this case, I was about to start two trials in Kenai and told you that I would not file any legal action until May. I hoped that this would give you enough time to look over the case.

As you can imagine, the trials were postponed and I have ben left with sufficient time to prepare the cases. But given my promise, I wanted you to have until May to review matters.

During breakup the ground around the Vanzant's and Denton's homes is becoming even more unstable, promising a catastrophic collapse. I am enclosing a CD with recent pictures.

Ms. Denton has sought to mitigate damages by removing as much from the property as she safely can do. And following her duty to mitigate, she will continue to do so. She and the Vanzants are not living in the property. However, as a piece of advice, I would tell you that their neighbor Shirley Thompson (whom I do not represent) is still living in her home. I am sure that the city is on notice that these houses (along with dear old Shirley) are about to fall into the ocean. This can happen to Ms. Denton as she is removing her property. And it can easily happen to Ms. Thompson as she is living in her home.

We have been telling the City that for at least two years. I suggest that from a liability perspective you solve this problem before that occurs. The City needs to pay these citizens for the damage to their property and move them out of their homes before they die or are seriously injured. You are going to have a hard time explaining Shirley's death after we wrote to the City a year ago with scientific studies. And I would rather that not happen.

Sincerely,



Andrew Haas

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 Evensen / Hansen-Cavasos

4 **RESOLUTION 20-008**

5
6 A RESOLUTION OF THE HOMER CITY COUNCIL DESIGNATING
7 HOMER SPIT AMENDED LOT 31, KNOWN AS SEAFARER'S
8 MEMORIAL, AS GREEN SPACE AND ADOPTING A LAND
9 MANAGEMENT POLICY THAT PRESERVES LOT 31 FOR WILDLIFE
10 AND AS A NATURAL AGENT FOR EROSION MITIGATION
11

12 WHEREAS, Seafarer's Memorial is a 2.52 acre lot located off of the Sterling Highway near
13 the end of the Homer Spit with a legal description of Homer Spit Amended Lot 31; and
14

15 WHEREAS, Historical use of the lot has been a memorial gazebo honoring those who
16 were lost at sea, 45 parking places and open space; and
17

18 WHEREAS, Seafarer's Memorial is zoned Open Space - Recreation; and
19

20 WHEREAS, According to Homer City Code 21.32.010, the purposes of the Open Space -
21 Recreation District are primarily to promote public recreational opportunities while protecting
22 and preserving the natural and scenic resources of the area and public access to tidelands; and
23

24 WHEREAS, Scenic views from the Spit are unobstructed at Seafarers Memorial, where
25 beach grasses positioned in foreground offer uncommon and distinctive ocean views; and
26

27 WHEREAS, Loss of natural grasslands on the Homer Spit has increased historically to
28 present in spite of the importance of beach grasses for Kachemak Bay ecosystems, where they
29 provide habitat, food for wildlife, and erosion control; Islands and Oceans Visitors Center
30 designates beach grass seed as important food in the dead-of-winter for song sparrows and
31 gray-crowned rosy-finches; and
32

33 WHEREAS, Seafarer's Memorial contains some of the only undeveloped land left on the
34 Homer Spit and should be preserved as a habitat for beach grasses and other natural
35 vegetation, birds, and wildlife; and
36

37 WHEREAS, Supra-tidal beach berms at Seafarer's Memorial have been identified as
38 critical environment for migratory and resident shorebirds, and provides wildlife habitat (e.g.,
39 for marine mammals) near the geographical center of Kachemak Bay, which is unique
40 regionally; and
41

42 WHEREAS, Through data collection and ongoing bird counts, this region of the Spit has
43 been identified by Cornell University’s Ornithology Lab as an International Birding Hot Spot
44 location; and

45
46 WHEREAS, Wild bird migration, feeding, and nesting in and around Homer are
47 important economic bases for the City; their presence attracts visitors nationally and
48 internationally; their financial impact is broad and realized via nature or eco-tourism in general
49 as well as special events (such as the annual Shorebird Festival); and

50
51 WHEREAS, The Greater beach of Seafarer’s Memorial is a crucial foundation
52 geologically that provides *coastal sand supply*; its ample sand, pebble and gravel components
53 directly preserve the Homer Spit “system” as a whole and, through natural marine processes,
54 mitigate erosion along easternmost beaches of the Spit including the terminus.

55
56 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby designates
57 Homer Spit Amended Lot 31 as green space, but requires no specific signage.

58
59 BE IT FURTHER RESOLVED, that any part of the property that is not developed as of the
60 passage of this resolution shall be maintained in perpetuity as green space and open to the
61 public, free from buildings, parking, camping, hardscaping of any kind, earthmoving of any
62 kind beyond regular parking space maintenance strictly limited spatially to present 45 parking
63 spaces.

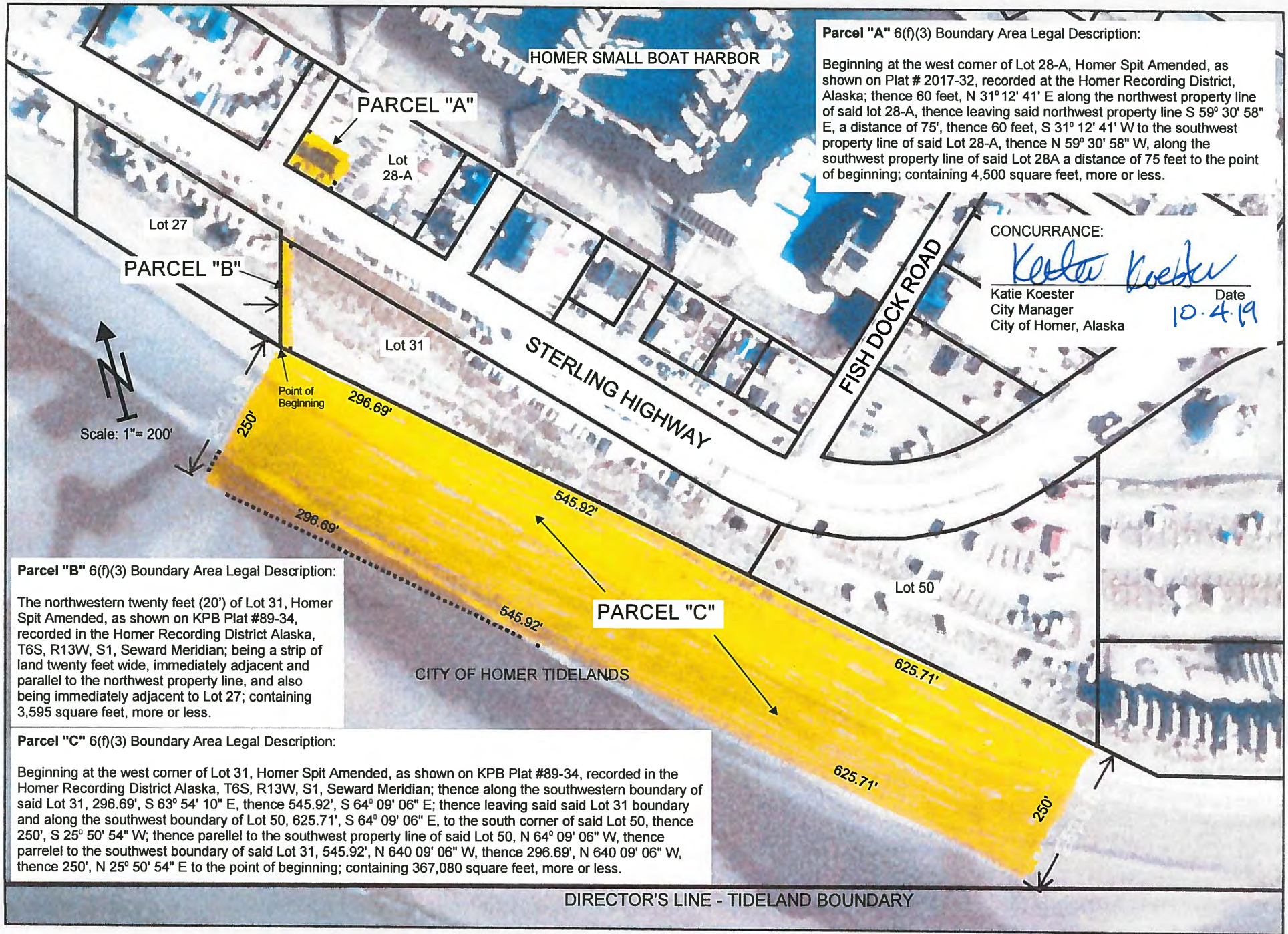
64
65 BE IT FURTHER RESOLVED that any new trail development is limited to the public beach
66 access dedicated in through the Land and Water Conservation Fund Grant # 02-00430 and
67 defined as the northwestern twenty feet of Lot 31, Homer Spit Amended; being a strip of land
68 twenty feet wide, immediately adjacent and parallel to the northwest property line, and also
69 being immediately adjacent to Lot 27; containing 3,595 square feet, more or less.

70
71 PASSED AND ADOPTED by the Homer City Council this 13th day of January, 2020.

72
73 CITY OF HOMER
74
75 _____
76 KEN CASTNER, MAYOR

77 ATTEST:
78
79 _____
80 MELISSA JACOBSEN, MMC, CITY CLERK

81
82
83 Fiscal information: N/A



Parcel "A" 6(f)(3) Boundary Area Legal Description:

Beginning at the west corner of Lot 28-A, Homer Spit Amended, as shown on Plat # 2017-32, recorded at the Homer Recording District, Alaska; thence 60 feet, N 31° 12' 41" E along the northwest property line of said lot 28-A, thence leaving said northwest property line S 59° 30' 58" E, a distance of 75', thence 60 feet, S 31° 12' 41" W to the southwest property line of said Lot 28-A, thence N 59° 30' 58" W, along the southwest property line of said Lot 28A a distance of 75 feet to the point of beginning; containing 4,500 square feet, more or less.

CONCURRENCE:

Katie Koester
 Katie Koester
 City Manager
 City of Homer, Alaska
 Date
 10-4-19

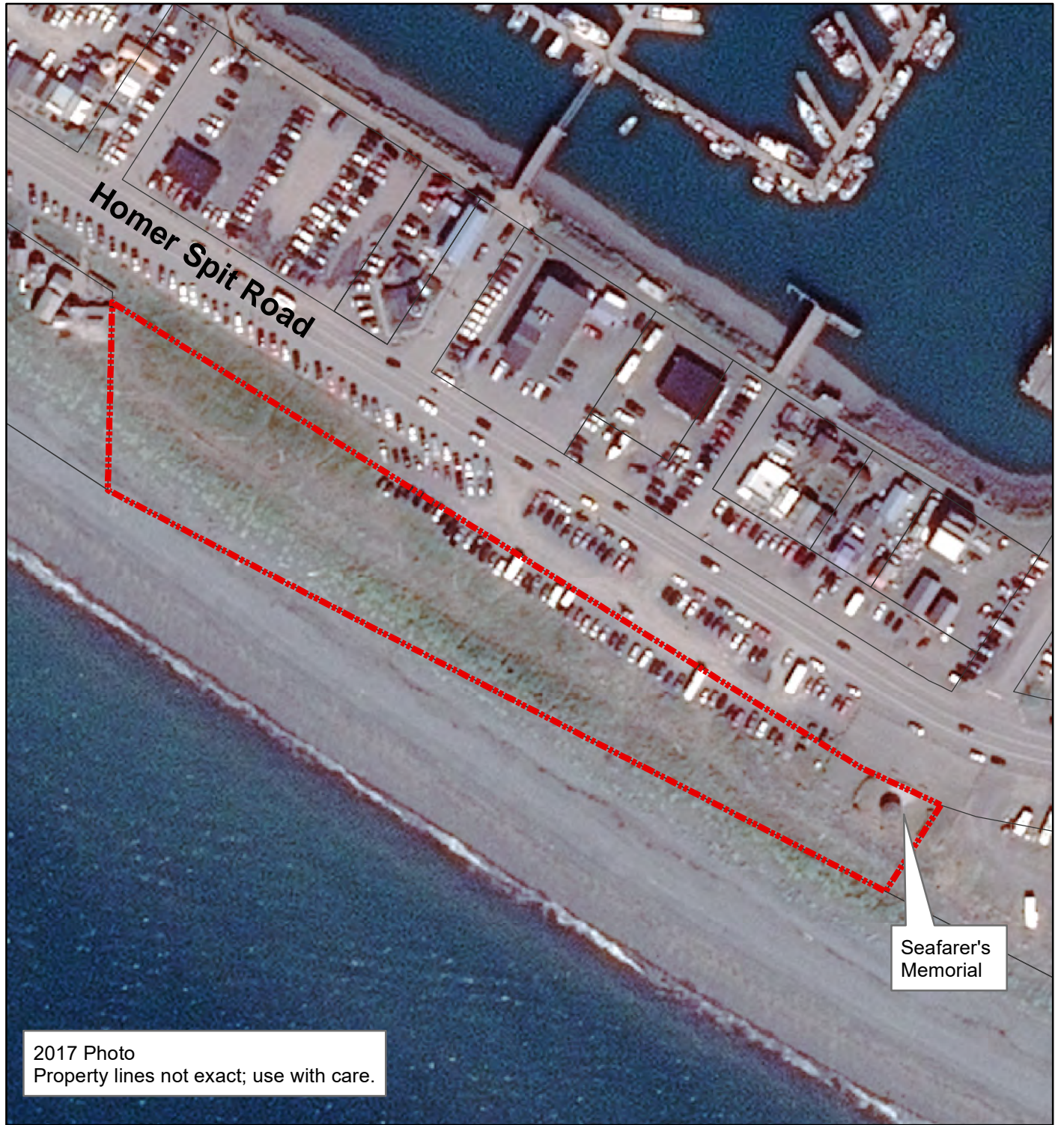
Parcel "B" 6(f)(3) Boundary Area Legal Description:

The northwestern twenty feet (20') of Lot 31, Homer Spit Amended, as shown on KPB Plat #89-34, recorded in the Homer Recording District Alaska, T6S, R13W, S1, Seward Meridian; being a strip of land twenty feet wide, immediately adjacent and parallel to the northwest property line, and also being immediately adjacent to Lot 27; containing 3,595 square feet, more or less.

Parcel "C" 6(f)(3) Boundary Area Legal Description:

Beginning at the west corner of Lot 31, Homer Spit Amended, as shown on KPB Plat #89-34, recorded in the Homer Recording District Alaska, T6S, R13W, S1, Seward Meridian; thence along the southwestern boundary of said Lot 31, 296.69', S 63° 54' 10" E, thence 545.92', S 64° 09' 06" E; thence leaving said Lot 31 boundary and along the southwest boundary of Lot 50, 625.71', S 64° 09' 06" E, to the south corner of said Lot 50, thence 250', S 25° 50' 54" W; thence parallel to the southwest property line of said Lot 50, N 64° 09' 06" W, thence parallel to the southwest boundary of said Lot 31, 545.92', N 64° 09' 06" W, thence 296.69', N 64° 09' 06" W, thence 250', N 25° 50' 54" E to the point of beginning; containing 367,080 square feet, more or less.

DIRECTOR'S LINE - TIDELAND BOUNDARY



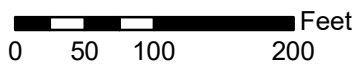
2017 Photo
 Property lines not exact; use with care.



City of Homer
 Planning and Zoning Department

1/3/2020

Lot 31
 Homer Spit Subdivision Amended



*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.*



City of Homer

www.cityofhomer-ak.gov

Planning
491 East Pioneer Avenue
Homer, Alaska 99603

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

Memorandum 20-052

TO: Mayor Castner and Homer City Council
THROUGH: Port and Harbor Advisory Commission and Homer Planning Commission
FROM: Julie Engebretsen, Deputy City Planner
DATE: April 21, 2020
SUBJECT: Resolution 20-007(S), Seafarer's Memorial

At the January 13, 2020 City Council Meeting, Council introduced Resolution 20-007(S) and referred it to the Port and Harbor Advisory and Homer Planning Commissions. Both Commission discussed the resolution at their subsequent meetings.

Planning Commission:

At the February 19, 2020 HPC meeting, their recommendations were as follows:

BENTZ/BOS MOVED TO RECOMMEND CITY COUNCIL FURTHER AMEND RESOLUTION 20-008(S) BY INSERTING THE FOLLOWING LANGUAGE:

ADDING AFTER LINE 61: WHEREAS, RESOLUTION 96-27 DESIGNATED A 100 FOOT BY 100 FOOT AREA AS THE SEAFARER'S MEMORIAL PARK; AND

ADDING AFTER LINE 76: BE IT FURTHER RESOLVED, THIS RESOLUTION EXCLUDES THE SEAFARER'S MEMORIAL PARK AS DESCRIBED IN RESOLUTION 96-27

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

- Recommended amending line 30-31 to delete the "s" from the word "Ocean" and insert "Alaska" before the word "Islands" this will correct the name of the facility
- Recommended amending Line 73 to delete the word "in"
- Recommended support of the intent of the resolution to protect the area

Port and Harbor Advisory Commission Comments (2/26/20 meeting):

ZIMMERMAN/ULMER MOVED TO RECOMMEND TO CITY COUNCIL THAT THE EXISTING PARKING AREA, DELINEATED BY PORT AND HARBOR STAFF MEASURING, BE LEFT AS PARKING AND CITY COUNCIL CAN DO WHAT THEY WANT WITH THE REST OF THE LOT.

VOTE: YES: ERICKSON, ULMER, DONICH, CARROLL, ZEISET, STOCKBURGER, ZIMMERMAN

Attachments

1. Staff Report 20-16, with attachments
2. 2/19/20 HPC minutes excerpt
3. 2/26/20 PHAC minutes excerpt
4. Map



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Staff Report PL 20-16

TO: Homer Planning Commission, Port and Harbor Advisory Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Deputy City Planner
DATE: February 19, 2020
SUBJECT: Resolution 20-008(S) Seafarers Memorial

Requested action: Provide comments to Council.

Introduction

At the meeting of January 13, 2020, the City Council considered Resolution 20-008(S), and referred it to the Planning and Port and Harbor Commissions. A copy of the resolution and Council minutes are attached. The resolution proposes to have a property management policy of no further development, with the exception of a future trail to the beach. This would mean no expansion of the existing parking lot.

Analysis

There has been a lot of discussion about this property in the past several months. Rather than rehash this recent conversation, please go around the table and give each commissioner the opportunity to provide one or two comments on the resolution. Minutes of your meeting will be forwarded to the City Council.

The Seafarers Memorial is located on this parcel and Resolution 96-27 dedicated a 100x100 foot area, or 10,000 square feet of this parcel to this use. The remainder of Lot 31 was not designated as a park, from what staff research shows. The resolution should be clear that this memorial area is excluded from this resolution.

Staff Recommendation

Staff recommends two amendments:

1. On line 63, insert: Whereas, Resolution 96-27 designated a 100' x 100' foot area as the Seafarer's Memorial Park.
2. On line 78, insert: BE IT FURTHER RESOLVED this resolution excludes the Seafarers Memorial as described in Resolution 96-27.

Attachments

Resolution 20-008(S)

1/13/2020 Council Minutes Excerpt

Map of Lot 31

Historical information on Seafarer's Memorial

44 WHEREAS, Supra-tidal beach berms at Seafarer’s Memorial have been identified as
45 critical environment for migratory and resident shorebirds, and provides wildlife habitat (e.g.,
46 for marine mammals) near the geographical center of Kachemak Bay, which is unique
47 regionally; and
48

49 WHEREAS, Through data collection and ongoing bird counts, this region of the Spit has
50 been identified by Cornell University’s Ornithology Lab as an International Birding Hot Spot
51 location; and
52

53 WHEREAS, Wild bird migration, feeding, and nesting in and around Homer are
54 important economic bases for the City; their presence attracts visitors nationally and
55 internationally; their financial impact is broad and realized via nature or eco-tourism in general
56 as well as special events (such as the annual Shorebird Festival); and
57

58 WHEREAS, The Greater beach of Seafarer’s Memorial is a crucial foundation
59 geologically that provides *coastal sand supply*; its ample sand, pebble and gravel components
60 directly preserve the Homer Spit “system” as a whole and, through natural marine processes,
61 mitigate erosion along easternmost beaches of the Spit including the terminus.
62

63 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby designates
64 Homer Spit Amended Lot 31 as green space, but requires no specific signage.
65

66 BE IT FURTHER RESOLVED, that any part of the property that is not developed as of the
67 passage of this resolution shall be maintained in perpetuity as green space and open to the
68 public, free from buildings, parking, camping, hardscaping of any kind, earthmoving of any
69 kind beyond regular parking space maintenance strictly limited spatially to present 45 parking
70 spaces.
71

72 BE IT FURTHER RESOLVED that any new trail development is limited to the public beach
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75 twenty feet wide, immediately adjacent and parallel to the northwest property line, and also
76 being immediately adjacent to Lot 27; containing 3,595 square feet, more or less.
77

78 PASSED AND ADOPTED by the Homer City Council this 13th day of January, 2020.
79

80 CITY OF HOMER

81
82 _____
83 KEN CASTNER, MAYOR

84 ATTEST:
85

86 _____
87 MELISSA JACOBSEN, MMC, CITY CLERK
88
89
90 Fiscal information: N/A

Councilmember Venuti shared her support for the substitute and appreciated the comments about speaking up for the animals in the bay, we need to consider the marine life.

Mayor Castner shared he received comments saying don't substitute your voice for my voice. He thinks the substitution of voice came from the top, there was one person who substituted their voice for everyone else in the State and that's what brought us to the table. However when you gather the voice of the City, you have to ensure that it's meaningful and appropriate. He doesn't know if anyone cares about the voice of the City is in this regard. He agrees that if this turns sideways that the City continue to have a seat at the table like they have through past processes for the park and critical habitat plan.

VOTE: YES: LORD, ADERHOLD, EVENSEN, VENUTI
NO: SMITH

Motion carried.

- b. Resolution 20-008, A Resolution of the Homer City Council Designating Homer Spit Amended Lot 31, Known as Seafarer's Memorial, as Green Space and Adopting a Land Management Policy that Preserves Lot 31 for Wildlife and as a Natural Agent for Erosion Mitigation. Evensen/Hansen-Cavasos.

Resolution 20-008(S), A Resolution of the Homer City Council Designating Homer Spit Amended Lot 31, Known as Seafarer's Memorial, as Green Space and Adopting a Land Management Policy that Preserves Lot 31 for Wildlife and as a Natural Agent for Erosion Mitigation. Evensen/Hansen-Cavasos.

EVENSEN/VENUTI MOVED TO ADOPT RESOLUTION 20-008 BY READING OF TITLE ONLY.

EVENSEN/VENUTI MOVED TO SUBSTITUTE RESOLUTION 20-008(S) FOR 20-008.

Councilmember Evensen noted the bold and underlined changes in the substitute resolution.

VOTE (substitution): NON OBJECTION: UNANIMOUS CONSENT

Councilmember Evensen said this came up from public feedback during the Planning Commissions review of a CUP for parking at the Seafarer's Memorial. Community members have pointed out there are few places on the spit that are open spaces and the importance of maintaining the habitat it offers. There's a healthy lobe of sand and not interfering with that portion will benefit the spit, particularly the eastern most beaches and the end of the spit, through natural processes.

Councilmember Aderhold shared her appreciation for this and acknowledged it's a big decision. She doesn't feel one meeting allows for adequate discussion and it overlaps with

responsibilities with Port and Harbor Commission and Planning Commission at a minimum. She'd like guidance from those Commissions and more opportunity for public input.

Councilmember Smith agreed and added they just funded a parking study for the spit. It will be important to know what those findings are before making any final decisions as there may be minimal ability to do some improvements in that area.

LORD/EVENSEN MOVED TO POSTPONE THIS RESOLUTION TO OUR SECOND MEETING IN APRIL AND REFER IT TO PLANNING AND PORT AND HARBOR COMMISSIONS FOR THEIR REVIEW PRIOR TO THAT.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- c. Resolution 20-009, A Resolution of the Homer City Council Approving an Automatic Aid Agreement and Operational Plan between Anchor Point Fire and Emergency Medical Service Area and the City of Homer Volunteer Fire Department for Fire Response Services and Authorizing the City Manager to Execute the Appropriate Documents. Smith.

VENUTI/EVENSEN MOVED TO ADOPT RESOLUTION 20-009 BY READING OF TITLE ONLY.

Councilmembers Smith and Lord summarized the discussion from their worksession this is in relation to improving the response time with our fire apparatus in helping surrounding areas, as well as Anchor Point assisting in response to City emergencies.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

- d. Resolution 20-004, A Resolution of the Homer City Council Approving an Economic Development and Tourism Marketing Agreement between the City of Homer and the Homer Chamber of Commerce. City Manager.

ADERHOLD/LORD MOVED TO ADOPT RESOLUTION 20-004 BY READING OF TITLE ONLY.

Councilmember Aderhold noted they discussed this resolution at Committee of the Whole and the request by the Chamber for additional funding relate to the shack on the spit. The Chamber would like to change it from the Derby Shack to more of a spit visitor center location. They didn't come to agreement on whether to increase the funds or how the fund might be used. City Manager Koester suggested if the intent is to discuss a budget amendment, and they are okay with the marketing agreement, they approve the resolution as is, and then direct her to

CITY OF HOMER
HOMER, ALASKA

RESOLUTION 96-27

A RESOLUTION OF THE HOMER CITY COUNCIL OFFICIALLY DESIGNATING THE SEAFARER'S MEMORIAL AS A "PARK" FOR THE PURPOSE OF IT BEING INCLUDED ON THE LIST OF CITY PARK LAND AND ELIGIBLE FOR CITY MAINTENANCE..

WHEREAS, there is approximately 95.51 combined acres now designated as City land now used for parks and recreation, (45.28 acres officially designated and 50.23 acres unofficially designated); and

WHEREAS, the Homer City Council approved the area for Seafarer's Memorial on 26 November 1990, by Memorandum 90-230, defined as 10,000 square feet (100' X 100') located within Lot 31, Homer Spit Amended Subdivision; and

WHEREAS, the memorial has been completed; and

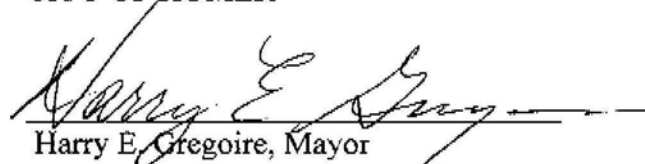
WHEREAS, the City of Homer has stated their intent that this land is for public purposes as well as requesting the Kenai Peninsula Borough to classify this 100' X 100' square feet area of land for public use as a park.

WHEREAS, an official park land is either dedicated as such on a plat or a deed of record.

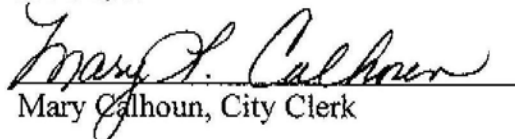
NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Homer designate the SEAFARER'S MEMORIAL PARK as an official City park.

DATED this 8th day of April 1996 at Homer, Alaska.

CITY OF HOMER


Harry E. Gregoire, Mayor

ATTEST:


Mary Calhoun, City Clerk

FISCAL NOTE: In attached Memorandum 96-107



CITY OF HOMER

CITY HALL

491 EAST PIONEER AVENUE

HOMER, AK 99603-7645

TELEPHONE (907) 235-8121

TELECOPIER (907) 235-3140

MEMORANDUM 96-107

TO: Homer City Council
FROM: Harry E. Gregoire, Mayor *H.E.G.*
DATE: April 1, 1996
SUBJ: SEAFARER'S MEMORIAL PARK

As noted on the attached resolution we have two options for designating this as an officially recognized park for the City of Homer as noted in the Comprehensive Plan. We need to decide the formality of the parks designation.

A replat will cost approximately \$1500. or a survey/Metes and Bounds Description would cost approximately \$500, but this last option will not show up on a plat.

Currently maintenance is done by volunteers and members of the North Pacific Fisheries Association Inc.. This is a precautionary measure to insure continued maintenance in the event that volunteers no longer care for it.

RECOMMENDATION:

It is recommended that we use the metes and bounds description method of formality for this purpose as it seems to be the most cost affective. We anticipate approximately \$500.

FISCAL NOTE:

1. Survey/Metes and Bounds Description approximately \$500.
2. The possible maintenance costs have not been identified at this time.

/th

Table 6-1

City Parkland

<u>Parks (1)</u>	<u>Acreage</u>
Karen Hornaday Park	40.00 acres
Bishop's Beach Park	2.10 acres
Jeffrey Park	.38 acres
Ben Walters Park	2.48 acres
Bayview Park	.06 acres
WKFL Park	<u>.26 acres</u>
Sub-total Park Acreage	45.28 acres

City Land unofficially designated for parks and recreation is as follows:

<u>Park/Recreation Area (2)</u>	<u>Acreage</u>
Harborside Park	1.50 (approximation)
Sterling Highway Park/RV Dump Station	1.73 acres
Kachemak Drive Sports Park (Proposed)	40.00 acres
Paul Banks Day Use Park (Proposed)	5.00 (approximation)
Mariner Park (Proposed)	<u>2.00 (approximation)</u>
Sub-total Park/Recreation Acreage	50.23 acres

TOTAL PARKS/RECREATION ACREAGE 95.51 ACRES

- (1) An official parkland is that which is either dedicated as such on a plat or a deed of record.
- (2) Park and Recreation areas do not include campgrounds or trails. These areas are used for recreational purpose, but have not yet been officially dedicated as such by plat or deed.

Source: 1989 City Planning Department Records and 1989 Kenai Peninsula Borough Tax Assessor Rolls

HOMER CITY COUNCIL
REGULAR MEETING MINUTES
NOVEMBER 26, 1990

policemen. She queried if an ordinance was required so that this type of mayhem could be adequately handled in the future.

City Manager Swackhammer advised that there is sufficient state laws which serve adequately this type of situation. He informed the Council that there had been arrests made that night.

Councilmember Ringer noting the hefty increase in building permits and suggested that this is another reason to eliminate sign permits particularly with the shortage of personnel in the Planning Department.

COMMITTEE REPORTS

COMMITTEE
REPORTS

PENDING BUSINESS

PENDING
BUSINESS

NEW BUSINESS

NEW BUSINESS

- A. Memorandum 90-230, from the City Planner to the City Manager,
Re: SEAFARERS MEMORIAL

MEMORIAL/
SEAFARER'S
MEMORIAL

HENRY/RINGER - MOVED FOR THE ADOPTION OF THE RECOMMENDATIONS OF MEMORANDUM 90-230. (Recommendation: Approve the North Pacific Fisheries Association, Inc. request for approximately 10,000 square feet, or a 100 X 100 foot area to be located within Lot 31, Homer Spit Amended Subdivision, to be used as a Seafarer's Memorial.)

Councilmember McHone expressed concern with the location, wanting to make certain that this would not be in the way of any dredging efforts or other required work.

Councilmember Ringer allayed his concerns, adding that this is a culmination of a long process and has been reviewed very carefully with numerous locations. This location has been selected for its visibility and accessibility and has met all qualifying criteria. Mr. Ringer advised that there is only one or one and a half years more of filing needed before moving to a new location.

VOTE: YES: HANOSKI, SWEIVEN, GODFREY, RINGER, HENRY, MCHONE.

Motion carried.

RESOLUTIONS

RESOLUTIONS

- A. RESOLUTION 90-85, OF THE HOMER CITY COUNCIL NAMING UNNAMED
RIGHT-OF-WAY WOODSIDE AVENUE.

ROADS/STREETS
WOODSIDE AVE.



CITY OF HOMER

CITY HALL

491 EAST PIONEER AVENUE

HOMER, AK 99603-7624

TELEPHONE (907) 255-8121
TELECOPIER (907) 255-8146

RECEIVED

NOV 19 1990

MEMORANDUM 90-230

TO: C. E. SWACKHAMMER, CITY MANAGER *CS*

FROM: EILEEN R. BECHTOL, CITY PLANNER *ERB*

DATE: NOVEMBER 20, 1990

SUBJECT: SEAFARER'S MEMORIAL

The North Pacific Fisheries Association, Inc. has requested that the City of Homer designate an approximate 10,000 square foot area on the Homer Spit for a Seafarer's Memorial. The property requested is contained within Lot 31, Homer Spit Amended Subdivision, located on the west side of the Spit across from Fish Dock Road. The proposed dedication would be an approximate 100 foot x 100 foot section of the lot, which is zoned Open Space Recreation.

The purpose of the proposed memorial is to honor and remember those lost at sea and to provide a place where families and friends can go pay their respects. The North Pacific Fisheries Association, Inc. is currently requesting design ideas from the community.

The Port and Harbor Commission reviewed the proposal at the September 19, 1990 meeting and approved the concept of a Seafarer's Memorial at the proposed location. The Lease Negotiating Committee reviewed the proposal and voice non-objection.

Recommendation

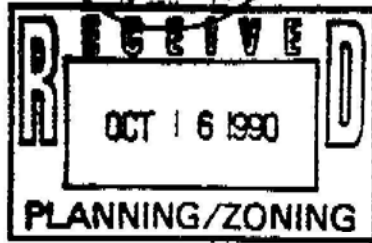
The Homer City Council approve the North Pacific Fisheries Association, Inc. request for approximately 10,000 square feet, or a 100 x 100 foot area to be located within Lot 31, Homer Spit Amended Subdivision, to be used as a Seafarer's Memorial.

Attachments

1. Letter from NPFA, received 10/16/90
2. Vicinity Map
3. Port and Harbor Commission meeting minutes, dated 9/19/90



North Pacific Fisheries Association, Inc.



HEADQUARTERS:

BOX 796 • HOMER ALASKA 99603

SEAFARER'S MEMORIAL

The purpose of the Seafarer's Memorial will be to honor and remember those lost at sea and to provide a place where families and friends can come to pay their respects. It will also serve as a tribute to all the community members who earn their living on the seas.

The Memorial will also be a place where groups may hold memorial services, blessings of the fleet and similar services.

The City of Homer has proposed a portion of the Homer Spit for the Seafarer's Memorial Park. The proposed site is an area 100' x 100' on the west side of the Spit across from Fish Dock Road.

The Seafarer's Memorial Park Committee is accepting ideas for the Seafarer's Memorial Park. The committee has tried to put as few guidelines on the idea stage of the Seafarer's Memorial Park as possible so as not to limit the imagination and/or creativity of any one person or group with an idea.

The guidelines are: (1) Positive, (2) Uplifting and (3) May depict, but not limited to the diverse uses and activities of the sea.

Submissions of ideas may be a total concept of the entire 100' x 100' proposed Seafarer's Memorial Park or any part of the proposed area.

Submissions must include: (1) Name (2) Address (3) Phone Number. Please send submissions to NPFA at the above address or leave with Homer Secretarial Services at 1213 Ocean Drive, Homer, before January 31st, 1991.

For further information contact any of the following:

Alan Parks
235-5680

Ken Hinkie
235-3429

Evan Cundiff
235-8831

Judy Winn
235-8712

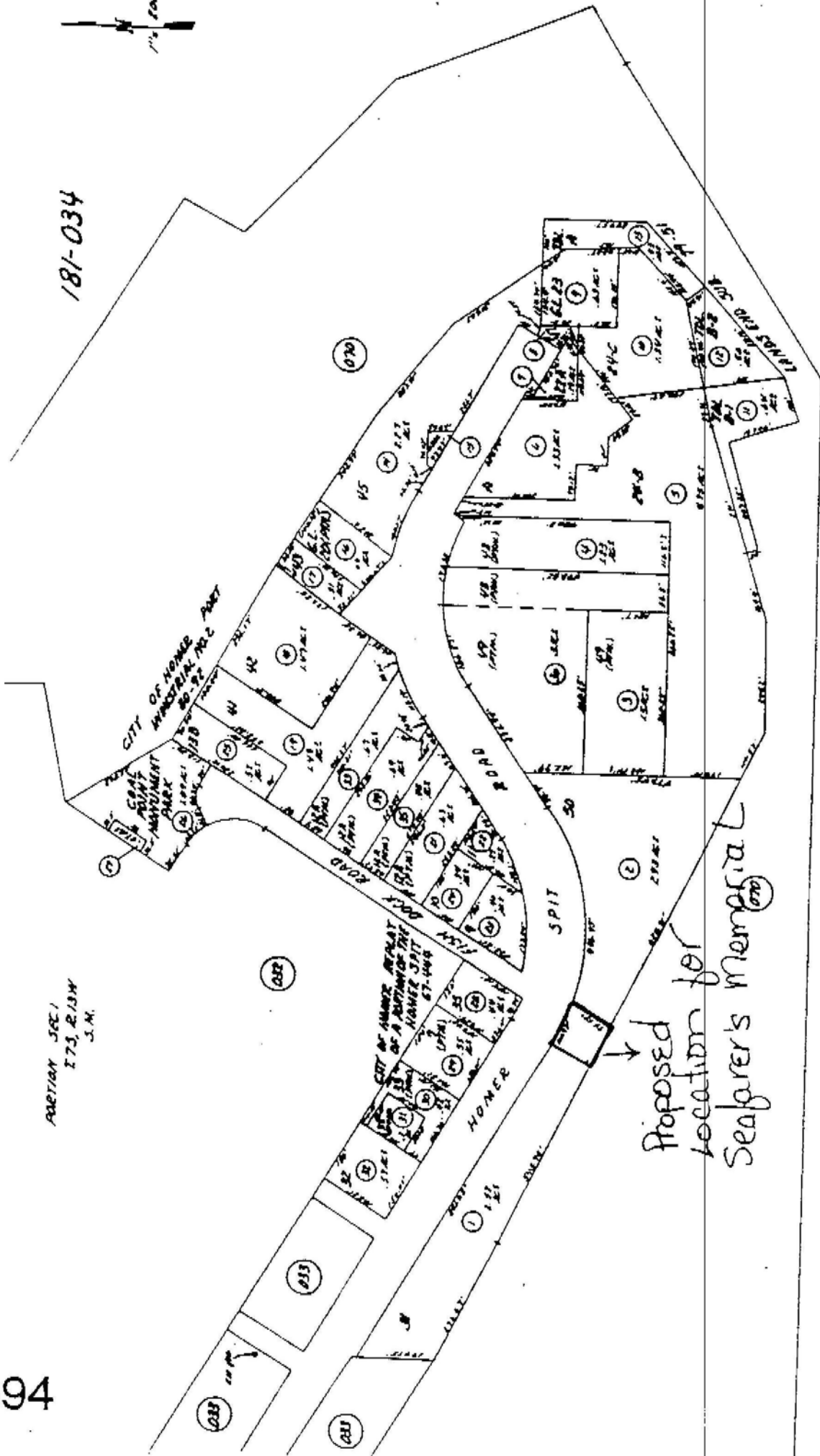
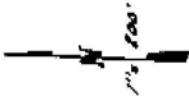
Doug Cougenhower
235-5643

Rick Wise
235-8195

Lou Lovelace
235-6134

SECTION SEC. 1
T. 73, R. 13, W.
S. 4.

181-034



HONER SPIT AMENDED
89-94

Assessor's Map
Kenai Peninsula Borough, Alaska

THIS MAP IS PREPARED FOR KENAI
PENINSULA BOROUGH ASSESSING
DEPARTMENT USE ONLY AND IS NOT
INTENDED FOR ANY OTHER USE OR
REPRESENTATION

NOTE -- Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

PORT/HARBOR ADVISORY COMMISSION
REGULAR MEETING MINUTES
SEPTEMBER 19, 1990

a thirty day/one year cancellation clause, it made it difficult to do any costly improvements and development. He said he was serious about continuing improvements and would like an additional 36,000 square feet to work with, basically one hundred feet on top of the current space on Lot 49. He understood that the City was trying to hold land for the "highest and best use." He felt with the new deep water dock and staging on the 30 Acres that the time might be right that camping is the highest and best use of the area by the old dock. He asked the Commission to support his request for additional space for further expansion of the campground to include water and sewer hookup.

Chairman Vanderbrink complimented Mr. Chapple on his campground operation. He stated he had no objection to Mr. Chapple's request for additional space but recommended the expansion be on the lower part of Lot 48 rather than Lot 49. He reminded the Commission that the State was negotiating with the City for staging ground in that area. Further, that under the current contract with Oceantrawl which gives them the right to sell their interest in the Deep Water Dock (basically making it a private dock), the City should maintain staging area near the City Dock.

Mr. Christopher asked Mr. Chapple that instead of adding the one hundred feet on top of their existing lot, would he consider continuing the lot line across Lot 48 behind the City impound yard, basically dividing that lot in two. Mr. Chapple was in agreement.

Chairman Vanderbrink recommended the City investigate purchasing the beachfront property currently owned by FDIC extending towards Lands End. This land is currently designated open space recreational.

The Commission took a break at 8:30 p.m. - the meeting resumed at 8:50 p.m.

HINKLE/KLINKER - MOTION TO THE CITY COUNCIL THAT THE PORT AND HARBOR COMMISSION RECOMMENDS THAT IF REQUESTED THE HOMER SPIT CAMPGROUND BE EXTENDED FROM ITS PRESENT LOCATION ON LOT 49 SOUTH TO LOT 48.

The motion passed unanimously.

B. Alan Parks - Seafarers' Memorial

Mr. Parks informed the Commission that he was there on behalf of the Seafarers' Memorial Committee of which Commissioner Hinkle was also a member. He related the general purpose was to honor

PORT/HARBOR ADVISORY COMMISSION
REGULAR MEETING MINUTES
SEPTEMBER 19, 1990

persons lost at sea and that the Committee's initial goal was to alert people of the concept. They were working on raising funds, choosing an appropriate site, developing guidelines for memorial monument, establishing a list of supporters and people willing to donate time or money, and much more. The Committee had tentatively picked two locations: at the end of Fish Dock Road looking west and on the overslope (harbor boardwalk), in particular near the Harbormaster's Office. He informed the Commission that the Seafarers' Memorial Committee would meet next Tuesday to chose the location.

Commissioner Hinkle asked what was required to get land dedicated for that use, basically asking for approximately one hundred feet of road frontage on the property where the dredge spills were deposited.

Mr. Christopher responded it would have to be surveyed and then go before the Kenai Peninsula Borough. He suggested they contact Planning and Zoning Department at City Hall.

Commissioner Hinkle responded that maybe "dedicated" was not the correct word as the Committee was only asking the City to allow the memorial to be constructed in the area without changing the lot line. Mr. Christopher said this was possible but it would always belong to the City. Both Commissioner Hinkle and Mr. Parks felt this would be agreeable to the Seafarers' Memorial Committee.

Planning and Zoning Commissioner Anderson responded that the lot line would not have to be changed but what would come before his commission was whether it would be consistent with the Homer Comprehensive Plan. If it was not, it would require a change at the Borough level. If anything else (structure) went on that site, it would require zoning changes as there can only be one principal use on a lot. It would require a variance for conditional use as that area is zoned as open space recreational.

Mr. Parks stated he would like to see the area be primarily a seafarers' memorial and not be surrounded by other uses such as camping. He personally felt the area across from Fish Dock Road was appropriate as it was very visible and boats coming and going from the harbor would be reminded of people lost at sea.

VANDERBRINK/HINKLE - MOTION TO THE CITY COUNCIL THAT THE PORT AND HARBOR COMMISSION WISHES TO AGAIN SUPPORT THE CONCEPT OF A SEAFARERS' MEMORIAL LOCATED ON THE WEST END OF FISH DOCK ROAD OR ELSEWHERE IN THE HARBOR AREA.

PORT/HARBOR ADVISORY COMMISSION
REGULAR MEETING MINUTES
SEPTEMBER 19, 1990

The motion passed unanimously.

Mr. Parks said he had learned from Eileen Bechtel that the memorial was listed as a Capital Improvement Project. The Committee felt the memorial fund should have at least \$90,000 before construction began and if they could get matching funds, the money could be easily raised.

VANDERBRINK/KRANICH - MOTION TO THE CITY COUNCIL THAT THE PORT AND HARBOR COMMISSION RECOMMENDS THAT THE SEAFARERS' MEMORIAL AS PART OF THE 1990 THROUGH 1995 CAPITAL IMPROVEMENT PROGRAM BE ON A ONE FOR FOUR DOLLAR BASIS NOT TO EXCEED \$25,000.

The motion passed unanimously.

INFORMATIONAL ITEMS

STAFF REPORT

COMMENTS OF THE AUDIENCE

COMMENTS OF THE COMMISSION

Commissioner Vanderbrink notified the Commission he would not be present at the next two meetings.

ADJOURNMENT

There being no further business to come before the Commission, the meeting was adjourned at 9:40 p.m. The next regular meeting is scheduled for October 17, 1990.

Ruth A. Hall, Secretary

Commissioner Zeiset inquired on removing HCC 21.46.060(a) Architectural Standards concerning limiting the building colors to earth or seascape tones, whether it should stay open or be limited to a certain color pattern.

There was discussion between the commission and staff on making changes to the verbiage, if a specific motion was required for each change, or if their suggestions can be forwarded to Planning Staff as part of their approval to forward their recommendations to City Council. The commission agreed to discuss their revision suggestions and have them forwarded to staff.

Discussion continued on whether to include code limitations on exterior building colors and what color pallets could be considered “earth” and “seascape” tones, and who in the City has the final authority to determine if a color is allowed.

ZEISET/CARROLL MOVED TO SUSPEND RULES TO ALLOW PUBLIC COMMENT FROM MS. MATTHEWS.

There was no discussion.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT

Motion carried.

Crisi Matthews, City resident, spoke from the audience regarding her business on the Spit, stating that they have color allowances/restrictions for the buildings on her boardwalk.

The commission continued discussion on the Planning/Zoning process, who has the final authority to approve a building color/design proposal, and the commissioners’ thoughts on color restrictions. The commission agreed to leave that section as-is.

Commissioner Stockburger brought up the previous discussion concerning a 99 year lease suggestion from the last meeting. Discussion ensued; the commission determined that the suggestion was included in the draft memo to Council and addressed the issue that these type of overslope leases require a large investment, which is why a longer lease was suggested. There was further discussion on future potential development and commissioner concerns with deterring business interest with unfavorable lease terms.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- A. Resolution 20-008(S) Seafarer’s Memorial Park Designation
 - i. Resolution 20-008(S) Seafarer’s Memorial Park
 - ii. City Council Minutes Excerpt January 13, 2020

- iii. Map of Lot 31
- iv. Historical information on Seafarer's Memorial

Chair Zimmerman introduced the agenda item by reading of the title and opened the floor for discussion on Resolution 20-008(S), designating Seafarer's Memorial Park as green space.

Commissioner Ulmer commented that, after going to many public meetings and hearing public testimony that the PHC should just let go the prospects of turning that area into additional parking. Ms. Ulmer emphasized her opinion that they need to focus on changing parking habits for the long term. She reiterated her suggestions of bussing people on and off the spit, and that private enterprise will need to step in with a proposal.

Commissioner Donich commented that we do not have much of a choice on whether it should be green space vs. parking since Mother Nature will wipe it out pretty soon. Discussion ensued on erosion control issues on the Spit and the frequency of storms that have damaged that area.

Commissioner Zeiset requested clarification; the resolution seeks to make the area a park but it looks like it does allow some parking. Chair Zimmerman explained that what is being proposed is establishing geographical delineations of the parking areas.

Mr. Zeiset commented that the resolution completely misrepresents what the commission and port and harbor was originally proposing. The PHC never said they were going to get rid of all the beach grass and green space. The original proposal was to recreate the parking areas, extend them into that additional space, and replant all the native vegetation. The public discourse that followed and this resolution made it out to be like their proposal was to pave it all over and that wasn't right.

Commissioner Donich posed the question on what the area will be in the future when the Army Corps of Engineers wants to install rip-rap all down that way to prevent erosion.

Chair Zimmerman agreed that delineating the existing geographical parking area is important. Discussion continued on what current parking area is being referenced in the resolution, where it is located, and how many parking spots that allows.

Commissioner Stockburger asked the commission if the resolution is proposing anything to improve the parkway, such as designated walkways.

Discussion ensued on how the areas are currently zoned (Open Space Recreation, not Conservation), what is being proposed, and the overall importance of maintaining parking in that busy business area on the Spit. A concerning aspect pointed out by the commission is that, based on aerial footage, there are over 100 vehicles parked in that existing area now and the resolution limits that to 45 spaces. Additional comments were made on how the PHC's proposal was going to improve that area and make it safer for pedestrians accessing the beach area and the memorial, and that there is a paved, non-parking area in front of the memorial that could potentially be made available.

ZIMMERMAN/ULMER MOVED TO RECOMMEND TO CITY COUNCIL THAT THE EXISTING PARKING AREA, DELINEATED BY PORT AND HARBOR STAFF MEASURING, BE LEFT AS PARKING AND CITY COUNCIL CAN DO WHAT THEY WANT WITH THE REST OF THE LOT.

There was discussion on the need for staff to delineate where the existing parking is to ensure they do not lose more parking. Commissioners provided justifications on that parking area's importance, noting events such as memorial services.

Commissioner Carroll commented that the current City Council are "greenies", that that the entire resolution is bonkers, the area should be parking, and the PHC doesn't necessarily have to agree with Council. There was deliberation on the size of the lot, if it was worth it.

Commissioner Ulmer commented that the lot is so tiny that we can't fit all the cars and trailers on it and it's not going to solve the parking problem. She reiterated her concerns that they are running out of room, the ongoing impact of tourism on Homer, and that long-term solutions are needed now.

Commissioner Erickson commented that he does not see how much more parking we can get from that area, but at this time the best bet we have is to work towards keeping the current parking that is there. Discussion ensued on the value of keeping it as green space as an amenity, but making sure that dedicated walking areas, such as boardwalks from the road to the beach, were created. Currently, pedestrians walk right through and impact the grass that is being fought to keep protected.

Commissioner Zeiset commented that there will eventually have to be long-term parking solutions, and that the Spit is commonly not the final destination but a space that people move from to other destinations, such as across the bay. There was additional consensus that eventually off-site parking would likely become a solution.

VOTE: YES: ERICKSON, ULMER, DONICH, CARROLL, ZEISET, STOCKBURGER, ZIMMERMAN

Motion carried.

There was brief questions directed towards Commissioner Erickson regarding his trolley/bus business; bussing people on and off the Spit was a possible future parking concept posed by Commissioner Ulmer.

B. Election of PHC Chair & Vice Chair

Chair Zimmerman introduced the agenda item by reading of the title and opened the floor for Chair and Vice Chair nominations.

ULMER MOVED TO NOMINATE MARK ZEISET AS CHAIR.

Motion failed due to a lack of second.

ZEISET/ERICKSON MOVED TO ELECT STEVE ZIMMERMAN AS CHAIR.

Deputy City Planner Engebretsen explained briefly that for tall/cell towers staff used the existing code outlined in Residential Office District in the proposed Medical District. The sign code is similar to Residential Office but allows more signage, currently in Residential Office six feet of signage is allowed, with some exceptions, and up to 50 feet of signage will be allowed in the proposed Medical District. She continued noting the difficulty in viewing signage at the existing size currently allowed in Residential Office.

City Planner Abboud provided some clarifications on the tower code for the Commission.

Commissioner Bos advocated for inserting a number of 60 feet for the building height.

Deputy City Planner confirmed that staff will conduct additional research on building height and roof pitches.

A brief discussion ensued on the standard floor height in building construction today; planning for growth before it happens; taking the time to discuss aspects such as landscaping being beneficial; reviewing the Community Design Manual to bring back recommendations for amending the ordinance at the next meeting as far as design.

Further discussion continued on the signage requirements of 36 square feet for free standing signage; wall signage in relation to setbacks and landscaping; consideration of the residential aspects of the area; allowing illumination of signage, internal and external.

NEW BUSINESS

A. Staff Report 20-16 Resolution 20-008(S) Seafarer's Memorial

City Planner Abboud provided a summary of Staff Report 20-16 noting that City Council is proposing to allow no further improvements around the Seafarer's Memorial other than a public walkway.

Discussion and comments were made on the following:

- Clarification on the actual Seafarer's Memorial Park was only 100 feet x 100 feet area and was incorrectly stated in the Resolution as a 2.52 acres
- Parking is around the area not dedicated to the memorial
- Premature action before they have big picture analytics since a parking study and traffic study is in motion and a preference to have that information before making a decision
- The intent of the resolution is to prevent or prohibit expansion of the parking lot and a result of the public comment and to protect the open space.
- Resolutions can be changed in the future
- Parking areas are allowed in Open Space Recreational by Conditional Use and is not considered a zoning or rezoning action.

- The action was already brought before the Commission and it was denied but that does not negate the fact that another application could come before this commission again in the future.
- Recommended improvements on the existing parking lot be a benefit but preserving the existing coastline as is
- Recommended amending Resolution 20-008(S), Line 12 to reflect, “Whereas Seafarer’s Memorial area is a 10,000 sf dedicated space on a 2.52 acre lot”
- Recommended Line 16 should be amended to reflect the spatial area used for parking by the square footage instead of the number of spaces since many comments were made on the increased efficiency needed for the existing parking.
- Recommended amending Line 69 in the same manner as line 16 to reflect square footage not the number of parking spaces to preserve the historical use

Vice Chair Smith called for a motion.

BENTZ/BOS MOVED TO RECOMMEND CITY COUNCIL FURTHER AMEND RESOLUTION 20-008(S) BY INSERTING THE FOLLOWING LANGUAGE:

ADDING AFTER LINE 61: WHEREAS, RESOLUTION 96-27 DESIGNATED A 100 FOOT BY 100 FOOT AREA AS THE SEAFARER’S MEMORIAL PARK; AND

ADDING AFTER LINE 76: BE IT FURTHER RESOLVED, THIS RESOLUTION EXCLUDES THE SEAFARER’S MEMORIAL PARK AS DESCRIBED IN RESOLUTION 96-27

There was a brief clarification on continuing individual recommendations from the Commission.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried

Recommendations from the Commission continued as follows:

- Recommended amending line 30-31 to delete the “s” from the word “Ocean” and insert “Alaska” before the word “Islands” this will correct the name of the facility
- Recommended amending Line 73 to delete the word “in”
- Recommended support of the intent of the resolution to protect the area

B. Staff Report 20-17, SAD Priorities for the HAWSP

Vice Chair Smith introduced the item by reading of the title into the record.

City Planner Abboud reviewed Staff Report 20-17 and pointed out the following:

- Funding for HAWSP is 3/4 of one percent original ballot language was provided and any projects related to water and sewer are eligible not just special assessment districts
- The manual listed 10 project criteria that apply to all HAWSP funded projects

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 Evensen/Mayor

4 **RESOLUTION 20-038**

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
7 RESTATING THE CITY'S RIGHT OF WAY MAINTENANCE POLICY TO
8 BE CONSISTENT WITH CLIMATE ACTION AND CITIZEN NEEDS
9

10 WHEREAS, City of Homer resources have been affected by the COVID-19 Pandemic;
11 emergency operations take priority and implementing new City Code is logistically less
12 preferable than resolving to do the same; and
13

14 WHEREAS, In 2016 the City adopted Ordinance 16-51 and updated City Code 11.36,
15 which established that trees and vegetation could be cut, cleared, or mowed throughout
16 street side right-of-way (ROW) "without limitation"; and
17

18 WHEREAS, While policy suggested that removal of vegetation would only occur
19 following a finding of necessity issued by the City Manager, the practice has been interpreted
20 to require complete and total clear-cutting of ROW areas as determined by the Public Works
21 Department; and
22

23 WHEREAS, Absent administrative review, oversight, permit or work-order procedures,
24 clearing has been inconsistently applied; clearing for harvest by third party has occurred
25 within ROW areas; and trees and vegetation that apparently posed no threat (as defined by
26 purpose for removal) have been removed; and
27

28 WHEREAS, Removal included vertical cutting of trees and vegetation outside of the
29 ROW but overhanging the ROW to heights exceeding 16 feet; and
30

31 WHEREAS, Neither the policy nor the practice has accounted for slow growth rates of
32 tall tree species in the Homer area; and
33

34 WHEREAS, Neither the policy nor the practice has accounted for benefits of
35 subterranean root systems of ROW trees for (A) stabilization of soils and underlying
36 substrates, particularly at or near sloped surfaces, and (B) as natural and historic agents
37 capable of sustainably mitigating erosion; and
38

39 WHEREAS, Neither the policy nor the practice has accounted for benefits of ROW trees
40 for climate change; and negative effects stemming from so-called "urban deforestation"
41 could operate contrary to the City of Homer's Climate Action Plan; and
42

43 WHEREAS, Ordinance 16-51 included annexed portions of the City, including ROW of
44 outlying streets of twenty foot widths; and

45
46 WHEREAS, Complaints by citizens and appearance of destabilization of soils led to a
47 moratorium on tree cutting and clearing (19-073S) plus establishment of a ROW policy
48 evaluation team; and

49
50 WHEREAS, Among the early findings of ROW policy evaluation team was (A)
51 established milestone that major clear-cutting for annexed streets is effectively complete,
52 and (B) legal opinion suggesting predominance of neighborhood covenants over roadway
53 operations in situations, for example, where covenants of subdivisions include trees/timber
54 or street/roadway claims; and

55
56 WHEREAS, Soils and geologic materials of the greater Homer bench are glacial and
57 river-related in nature, bearing mixed, unconsolidated, and loose properties; these materials
58 are highly prone to erosion, particularly near sloped surfaces; and

59
60 WHEREAS, Army corps of engineers previously found bluffward erosion rates vary
61 from 2.0 feet/year (average) to 19.7 feet/year (maximum) along the Homer Bluff; and, for
62 planning purposes zones of hazard overlay have been suggested throughout Homer; and

63
64 WHEREAS, Trees and vegetation within ROW positions benefit the City and property
65 owners by means of beautification, sight barriers, sound barriers, stabilization of soils,
66 erosion prevention, slope stability/reinforcement, and floodwater retention (e.g., during
67 heavy rainfall); and

68
69 WHEREAS, ROW Trees offer natural mitigation of climate change, creating for example
70 (1) near ground-level canopy that helps maintain moisture levels key to ecosystems, (2)
71 habitat for birds and other stressed/threatened species, and (3) shade-based cooling to offset
72 heat levels; and

73
74 WHEREAS, Borough practices for ROW maintenance involve small-width ditch
75 maintenance, minimal roadside clearing (horizontally and vertically), snow removal
76 operations consistent with narrow streets (and narrow ROW maintenance areas), and
77 avoidance of landmark trees; and

78
79 WHEREAS, ROW Maintenance policy that benefits all parties should be enacted to
80 allow efficient City operations, benefit community and citizens, and improve coordination
81 with the City's Climate Action Plan by generally mimicking operational practices of the
82 Borough.

83

84 NOW, THEREFORE, BE IT RESOLVED that a new section of the Homer City Code be
85 created that:

- 86 A) Recognizes the value of trees and vegetation in the rights-of-way; and
- 87 B) Provides for a documented system of site-specific permitting and work orders to
88 allow as-needed removal or trimming of all varieties of vegetation; and
- 89 C) Provides for a documented system that allows others to apply for permits to
90 harvest within the ROW where appropriate; and
- 91 D) Provides administrative process for Public Works Department that restricts ROW
92 and road maintenance activities in accord with certain covenants of subdivisions,
93 and provides documented process to seek pre-approval and agreement from
94 subdivision representatives before activities may commence; and
- 95 E) Allows prescriptive clearing and brushing up to four (4) feet of all established
96 roads, without regard to position of roadway centerline; which shall be the
97 "maintenance zone"; and
- 98 F) Allows preemptive, permanent protection of landmark trees as well as trees
99 occurring along or near sloped surfaces within maintenance zone; and
- 100 G) Limits vertical intrusions removal to a height of no more than ten (10) feet above
101 ground level; and
- 102 H) Officially guides and recommends utilities be installed, where possible, without
103 need for clear-cutting from edge of roadway; preferable installation may involve
104 boring or clearing only a strip along easement corridor or less, as needed.

105
106 PASSED AND ADOPTED by the City Council of Homer, Alaska, this ____ day of _____,
107 2020.

108
109 CITY OF HOMER

110
111
112 _____
113 KEN CASTNER, MAYOR

114
115 ATTEST:

116
117 _____
118 MELISSA JACOBSEN, MMC, CITY CLERK

119
120 Fiscal Note: N/A

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

City Manager

3
4 **ORDINANCE 16-51**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 ENACTING HCC CHAPTER 11.36, VEGETATION IN RIGHTS-OF-
8 WAY, PROVIDING FOR THE REMOVAL OF VEGETATION THAT
9 INTERFERES WITH THE REASONABLE PUBLIC USE OF A RIGHT-
10 OF-WAY.

11
12 THE CITY OF HOMER ORDAINS:

13
14 Section 1. Homer City Code Chapter 11.36, Vegetation in Rights-of-Way, is enacted to
15 read as follows:

16
17 Chapter 11.36
18 VEGETATION IN RIGHTS-OF-WAY

19 Sections:

20 11.36.010 Vegetation in rights-of-way.

21 11.36.020 Removal of vegetation in rights-of-way.

22
23 11.36.010 Vegetation in rights-of-way.

24 All or any part of a tree, shrub or other vegetation that is located in, over or under a
25 public right-of-way in the city is subject to removal by the city as necessary for the reasonable
26 public use of the right-of-way, including without limitation removal as authorized in HCC
27 11.36.020, regardless of whether:

28 a. The vegetation existed in, over or under the right-of-way before the granting,
29 dedication or improvement of the right-of-way;

30 b. The vegetation was planted in the right-of-way by another person, including
31 without limitation an owner of property adjacent to the right-of-way; or

32 c. The vegetation originated on property adjacent to the right-of-way, to the extent
33 that limbs, branches or roots of the vegetation extend into, over or under the right-of-way.

34
35 11.36.020 Removal of vegetation in rights-of-way.

36 The city manager may cause the removal of all or any part of a tree, shrub of other
37 vegetation that is located on, over or under a public right-of-way if the city manager finds that
38 the vegetation:

39 a. Obstructs or interferes with the use of the right-of-way by vehicular or pedestrian
40 traffic;

41 b. Obscures visibility to or from the right-of-way or otherwise constitutes a safety
42 hazard;

43 c. Interferes with the maintenance of the right-of-way, including without limitation
44 paving, grading, cleaning and snow removal;

45 d. Has the potential if not removed to damage pavement or other improvements in
46 the right-of-way;

47 e. Has the potential if not removed to damage or interfere with the operation of
48 overhead or underground public utility facilities in the right-of-way.

49
50 Section 2. This ordinance is of a permanent and general character and shall be
51 included in the City code.

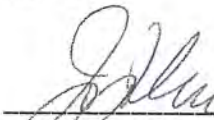
52
53 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 24th day of October, 2016.
54



CITY OF HOMER


BRYAN ZAK, MAYOR

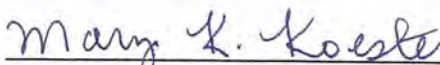
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60 ATTEST:

61 
62 _____
63
64 JO JOHNSON, MMC, CITY CLERK
65

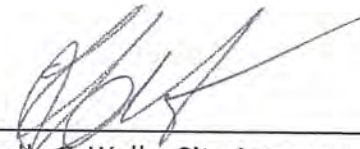
66
67
68 AYES: 6
69 NOES: 0
70 ABSTAIN: 0
71 ABSENT: 0
72

73
74 First Reading: 10/10/16
75 Public Reading: 10/24/16
76 Second Reading: 10/24/16
77 Effective Date: 10/25/16
78

79 Reviewed and approved as to form:

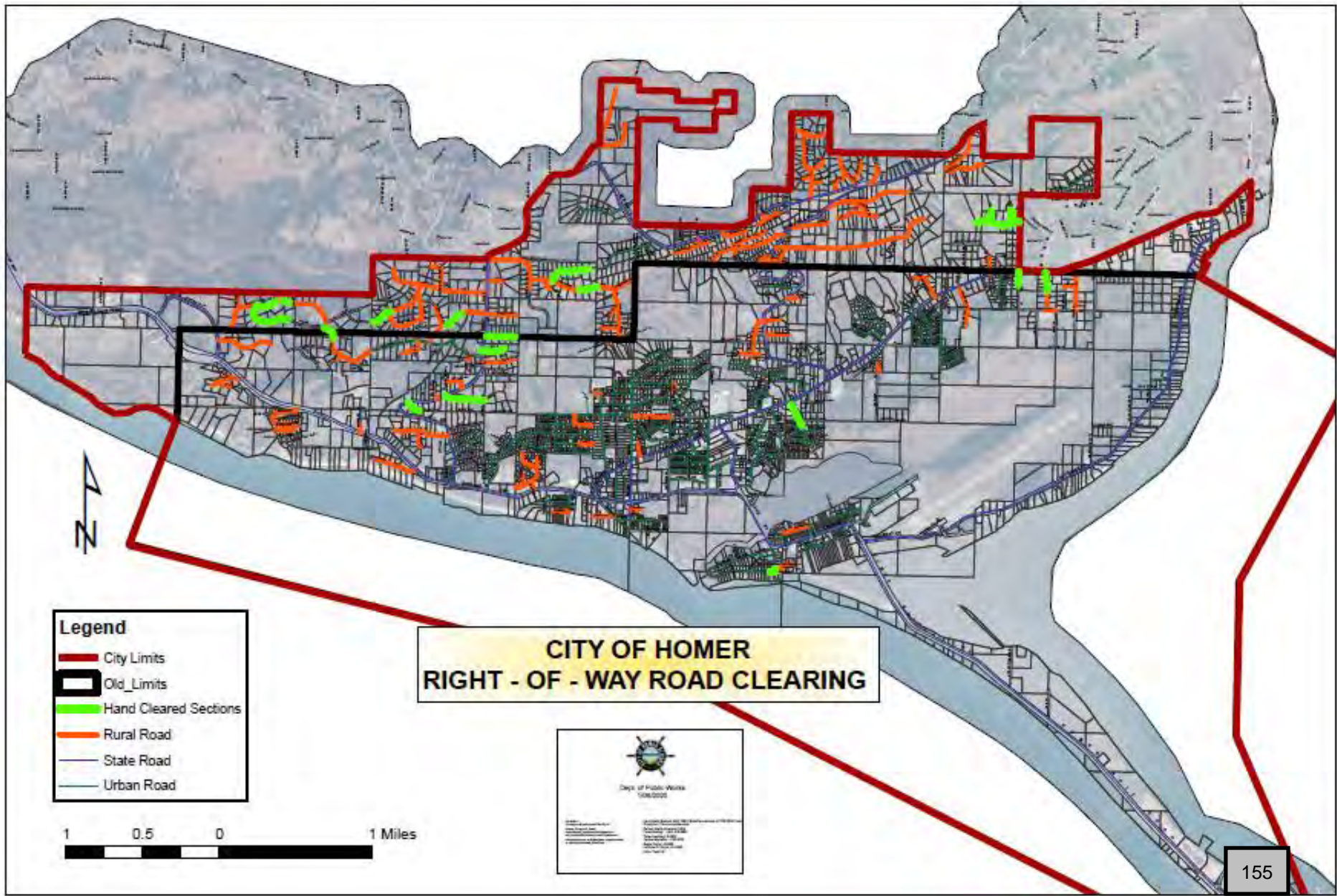
80
81 
82 _____
83 Mary K. Koester, City Manager
84

85 Date: 10.26.16 _____



Holly C. Wells, City Attorney

Date: 11.7.16 _____

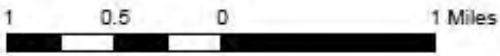


Legend

- City Limits
- Old Limits
- Hand Cleared Sections
- Rural Road
- State Road
- Urban Road

**CITY OF HOMER
RIGHT - OF - WAY ROAD CLEARING**


 Dept. of Public Works
 1998-2002



MEMORANDUM

TO: Katie Koester
FROM: Michael Gatti and Max D. Holmquist
DATE: February 27, 2020
RE: **Real Property Covenants 101**

INTRODUCTION

The City of Homer (the “City”) has requested a legal opinion containing general information about real property covenants. If the City desires a more specific analysis of the real property rights for an area in question we can do so but will require comprehensive data related to the specific property. We call this to your attention because the analysis of specific real property rights is a complex exercise based upon a detailed review of current and historical land records, plats, and other factual information about the property. Once all relevant information is acquired the legal rights of the parties may be examined. We also want to advise you that covenants are private agreements that are unenforceable by governmental authority.

COVENANTS GENERALLY

Covenants, along with easements and profits, are referred to in the law using the generic term “servitudes.”¹ A servitude is a legal device that “creates a right or an obligation that runs with land or an interest with land.”² Running with the land “means that the right or obligation passes automatically to successive owners or occupiers of the land.”³ A right that runs with the land is called a “benefit” and an obligation that runs with the land is called a “burden.”⁴

A covenant is “a solemn or formal obligation binding on the covenantor...[a] covenant becomes a servitude if either the benefit or the burden of the covenant runs with the land.”⁵ A covenant benefit or burden runs with the land if it is intended to do so, has been effectively created, is not invalid, and has not been terminated.⁶ In other words, if a covenant runs with the land, it

¹ Restatement (3d) of Property (Servitudes) § 1.1(2) (2000).

² *Id.* at § 1.1(1).

³ *Id.* at § 1.1(1)(a).

⁴ *Id.* at § 1.1(1)(b)-(c).

⁵ *Id.* at § 1.3, cmt. a.

⁶ *Id.*

binds all future owners of the property to either do something or refrain from doing something with the property.

The nature of the burden determines whether a covenant is affirmative or negative; an affirmative covenant requires the covenantor to do something while a “negative covenant” requires the covenantor to refrain from doing something.⁷ A “restrictive covenant” is a negative covenant that limits permissible uses of land.⁸

Covenants, along with other servitudes, are used for a variety of purposes. “Frequent applications are to provide rights of way for roads, utilities and pipelines. Servitudes are also widely used in land development to restrict land use and provide the means to finance and manage common areas and facilities. Less frequently, they are used by individual landowners to vary the rights and obligations that would otherwise flow from ownership or possession of their land and that of their neighbors, by sellers to protect themselves from competition from business carried on in their former location, or to secure supplies of water, gas, or utility services. Servitudes may also be used to create options and rights of first refusal, and to implement other arrangements where running benefits or burdens are desired, so long as the arrangement is not illegal or against public policy.”⁹

Covenants are interpreted by reviewing the language that created them. The Alaska Supreme Court has held that covenants “are to be construed to effectuate the parties’ intent. Clear and unambiguous language should be accorded its plain meaning...doubts should be resolved in favor of the free use of land.”¹⁰ Where the language of the document creating a covenant is ambiguous, courts will interpret the covenant with the goal of effectuating the intentions of the parties who created it.¹¹

Under certain circumstances, an existing covenant can be waived if it is not actively enforced. In Alaska, covenants will be deemed waived “if the evidence reveals substantial and general noncompliance.”¹² “Failure to enforce a covenant against a single party or property is not sufficient to establish abandonment, but more widespread lack of enforcement may be.”¹³ If abandonment occurs, the beneficiary of the covenant relinquishes the rights created by the covenant.¹⁴

⁷ *Id.* at § 1.3(2).

⁸ *Id.* at § 1.3(3).

⁹ *Id.* (introductory note).

¹⁰ *Lamoreaux v. Langlotz*, 757 P.2d 584, 587 (Alaska 1988).

¹¹ *Hurst v. Victoria Park Subdivision Addition No. 1 Homeowners’ Ass’n*, 59 P.3d 275, 278 (Alaska 2002).

¹² *Collins v. Hall*, 453 P.3d 178, 192 (Alaska 2019).

¹³ *Id.*

¹⁴ *Restatement* § 7.4.



U.S. Army Corps
of Engineers
Alaska District

ALASKA BASELINE EROSION ASSESSMENT

Erosion Information Paper - Homer, Alaska

Current as of August 24, 2007

Community Information

Homer, population 5,454, is located on the north shore of Kachemak Bay on the southwestern edge of the Kenai Peninsula in the Kenai Peninsula Borough. Homer is 227 road miles south of Anchorage at the southern-most point of the Sterling Highway. The OMB Community Erosion Survey was completed by Dotti Harness, planning technician for the City of Homer.

Description of Erosion Problem

The 4.5-mile-long Homer Spit formation is a narrow peninsula that is a terminal moraine formation deposited 14,000 to 15,000 years ago by a glacier that filled and ultimately carved the Kachemak Bay basin. Since its formation, the spit has evolved through geologic and oceanic processes into a narrow landmass having a maximum elevation above mean sea level of only 24 feet. This landform changes throughout the year as sediments are added to and removed from both its west and east sides by ocean currents, tides and storms. The *Homer Spit Storm Damage Reduction Draft Interim Feasibility Report* prepared by the Corps in September 1987, stated both accretion and erosion were occurring during seasonal storms along the Homer Spit. This report also stated that near-shore standing waves in front of the sheet-pile seawall and rubble revetments result from partial reflection of incident wave energy caused by shoreline structures. This condition aggravates the situation of wave overtopping, roadway flooding and local scouring of beach material during storm events. Erosion occurs annually during spring and fall high tides and can be more extreme depending on wind direction.

According to the Homer planner, all areas along the Homer coastal bluffs are subject to erosion. The Kachemak Bay Research Reserve (KBRR) prepared an estimate of coastal bluff erosion based on interpretation of a series of aerial maps (1951, 1961, 1968, 1975, 1996 and 2003). Their report states: *"In general, slightly higher erosion rates were observed west of the spit (~2.6 feet per year) than on the eastern side (~2 feet per year). The western portion of headlands had the highest observed erosion rates (~19.7 feet per year), but the high erosion rates are extremely episodic."* Also according to the KBRR, the portion of the bluff toe below West Hill Road, approximately 1 mile west of the spit, includes an old slump that has been more susceptible to erosion.

Potential Damages

Homer coastal bluff areas impacted by erosion are occupied primarily by residential structures, with a few commercial structures. Kachemak Drive lots platted at 200-300 feet in length currently have less than one-third of their original platted areas, according to the city planner. Residential owners begin protecting homes generally when the erosion is less than 100 feet away,

and many homes are less than 100 feet, according to the planner. Types of erosion control structures used by residential property owners include: rip rap, gabions, sandbags, articulated concrete mat, driven metal pile, scrap metal and scrap concrete. These structures are constructed at an estimated \$20,000 to \$70,000 per lot; however no long-term city records are available on individual project construction or repair costs. The city estimated \$20,000-\$30,000 for repair per incident, some owners providing maintenance every 3 to 4 years.

The city planner also stated that all structural erosion control measures installed have had failures. Failures have resulted from: (a) overtopping - projects are generally built to elevation 24 feet, however water to elevation 27 feet, plus waves occur; (b) rock displacement - causing failures behind structures and at ends; (c) failure of scrap concrete rubble. The city planner also expressed concern for potential erosion damage to the Sterling Highway, particularly the base of the roadway along West Hill, and the bike path along the spit.

Severe storms accompanied by high water levels and wave action have overtopped and washed out stretches of the spit road, causing the road to be closed for major repairs on several occasions. Structures on the spit that could be threatened include food storage and retail structures, the single 2-lane State highway and bike path, boat storage and repair, elevated boardwalks, hotel/restaurant, condominiums and the boat harbor. All shoreline structures have suffered damage of various degrees, according to the Corps. In the unlikely event the heavily rip rap armored spit road were to fail and the spit became separated from the mainland, this could result in economic loss, water shortages and contamination, communication disruptions, and threats to public health and safety. To protect the state-maintained highway, during the past 20 years the State has spent more than \$6 million on repair and protection measures.

Photos and Diagrams

Photos of erosion provided by community are attached. Also attached are diagrams depicting linear extent of erosion in the community.

References

- Kachemak Bay Research Reserve. 2004.** *Homer Coastal Change Analysis, Kachemak Bay Research Reserve.* <http://planning.ci.homer.ak.us/PLANNINGWEBPAGES/DefaultLinks/Erosion/WebVersion.doc>
- USACE. 1996.** *Homer Spit Repair & Extension Design Memo.* Alaska District, U.S. Army Corps of Engineers.
- USACE. 1987.** *Beach Erosion Control Study Homer Spit, Alaska.* Alaska District, U.S. Army Corps of Engineers.
- USACE. 1987.** *Homer Spit Storm Damage Reduction Draft Interim Feasibility Report Volume II.* Alaska District, U.S. Army Corps of Engineers.
- USACE. 2007.** *Alaska Community Erosion Survey, OMB approved number 07100001, expires September 30, 2009 administered to Dotti Harness, Homer city planner, on July 27, 2007.*

Additional Information

This information paper, as well as those for other communities, can be accessed on the internet at www.alaskacerosion.com. For more information please contact the Corps of Engineers, project manager at (907) 753-5694 or email Alaska.Erosion.POA@usace.army.mil



Photo 1: Homer Bluff Kachemak Drive home site May 2006



Photo 2: Homer Bluff erosion December 2006



Photo 3: Kachemak Drive December 2006



Photo 4: Homer bluff private property riprap project April 2007

Seasonal Accretion & Erosion

Rip Rap Armored

Date of Aerial Photo: 10 Aug 03

NOTE: The extent of erosion shown on this figure is based on interviews with the community. This data has not been field verified. This figure is only intended to show areas of erosion, not rates or severity of erosion



Alaska District
Corps of Engineers
Civil Works Branch

Linear Extent of Erosion

Part 1



0 750 1,500 3,000 Feet
1 inch equals 1500 feet



Alaska Baseline Erosion

Homer, Alaska



Date of Aerial Photo: 10 Aug 03

NOTE: The extent of erosion shown on this figure is based on interviews with the community. This data has not been field verified. This figure is only intended to show areas of erosion, not rates or severity of erosion



Alaska District
Corps of Engineers
Civil Works Branch

----- Linear Extent of Erosion
Part 2



Alaska Baseline Erosion
Homer, Alaska

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

Lord

3
4 **RESOLUTION 20-039**

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
7 ESTABLISHING POLICY REGARDING THE CLEARING OF
8 VEGETATION WITHIN STREET RIGHT-OF-WAY BY THE PUBLIC
9 WORKS DEPARTMENT

10
11 WHEREAS, The City has received complaints over the years about vegetation removal
12 activities, including debris, noise, and scope of clearing in the rights of way; and

13
14 WHEREAS, The City Council approved Resolution 19-073(S) establishing an evaluation
15 team (consisting of two City Council members, the City Manager and appropriate staff) to
16 discuss and evaluate alternative right-of-way maintenance policy and address the following
17 issues of concern:

- 18
19 1. Drainage, snow storage and plowing, sight distances, utility operations and
20 maintenance, and equipment and emergency vehicle response
21 2. Steep slopes, traffic volumes, zoning districts, and property covenants
22 3. Debris cleanup and aesthetics, including landmark trees
23 4. Adjacent landowner concerns including timing and noise
24 5. Landowner maintenance options and opportunities
25 6. Legal rights and responsibilities of City and landowners, including enforcement
26 7. Cost of implementation: and

27
28 WHEREAS, Other issues to be evaluated by the team included, potential concerns in
29 areas of steep slopes, traffic volume, zoning classification, property covenants, cost, and what
30 is perceived as a current “one size fits all” approach; and

31
32 WHEREAS, The evaluation team examined opportunities to create a ROW maintenance
33 policy that maintains city infrastructure, promotes visibility and safety, is cost effective, and
34 appreciates adjacent landowner concerns (see Memorandum 20-048); and

35
36 WHEREAS, Retaining vegetation in the right-of-way that doesn’t interfere with
37 maintenance, visibility, and safety creates a more aesthetically pleasing community; and

38
39 WHEREAS, It is in the community’s best interest to have a policy for rights-of-way
40 clearing that is flexible and understandable; and

42 WHEREAS, On roads with subpar drainage and subsequent maintenance issues, HART
43 funds may be utilized by the neighborhood and the City for road improvements; and
44

45 WHEREAS, City residents should have the opportunity to maintain the rights-of-way in
46 front of their properties if that is of interest to them.
47

48 NOW, THEREFORE, BE IT RESOLVED that the City of Homer establishes the attached policy
49 titled "Policy-Vegetation Control in City Street Right-of-Way", for cutting, clearing, or removal
50 of vegetation located within public ROW by the Public Works Department.
51

52 PASSED AND ADOPTED by the City Council of Homer, Alaska, this ____day of _____, 2020.
53

54 CITY OF HOMER
55

56
57 _____
58 KEN CASTNER, MAYOR
59

60 ATTEST:
61

62 _____
63 MELISSA JACOBSEN, MMC, CITY CLERK
64

65 Fiscal Note: N/A

City of Homer
Public Works Department
Policy - Vegetation Control in City Street Right-of-Way

Introduction: The intent of this policy is to document procedures under which vegetation control measures will be implemented by the Public Works Department within street rights-of-way within the City limits of Homer. This policy and the procedures described herein are meant to inform adjacent property owners regarding the purpose of brush cutting and tree clearing within street right-of-way and minimize the potential for conflict and misunderstanding.

The purpose of street right-of-way is to provide a corridor for vehicle and pedestrian access and utility access (water, sewer, electric, telephone, natural gas, cable). Associated with these uses is the need for drainage improvements (sometimes pipes and other times roadside ditches), access for emergency response vehicles (ambulance and fire trucks), access for road maintenance equipment (road graders and snowplows), and snow storage. Vegetative growth can impair sight distance, hiding stop signs, make driveway approaches and street intersection unsafe.

In the higher density development portion of town (central business district, commercial and urban residential), vegetation in street rights-of-way is often minimal or non-existent and adjacent property owners may take it upon themselves to cut grass and control vegetative growth. Drainage improvements are well established.

In less densely developed area (rural residential in particular), vegetation in the right-of-way is more pervasive. The roads in these areas were originally constructed to a lower standard and drainage improvements are less developed. The roads are not consistently centered within the right-of-way. Since they are generally located at higher elevations, they need more area for snow storage than areas at lower elevations.

There are generally two types of vegetation control measures completed by Public Works:

Brush Cutting: This term is used to describe the more routine vegetation removal operation completed by Public Works on most roads, in most years. It generally consists of “mowing” with the brush cutter areas on each side of the road to trim back grass, pushki, and newly sprouting small trees. It can also include “raking” of mature trees to remove branches that are overhanging the road or roadside ditches. This effort increases visibility along the road, improves drainage, and keeps vegetative growth under control.

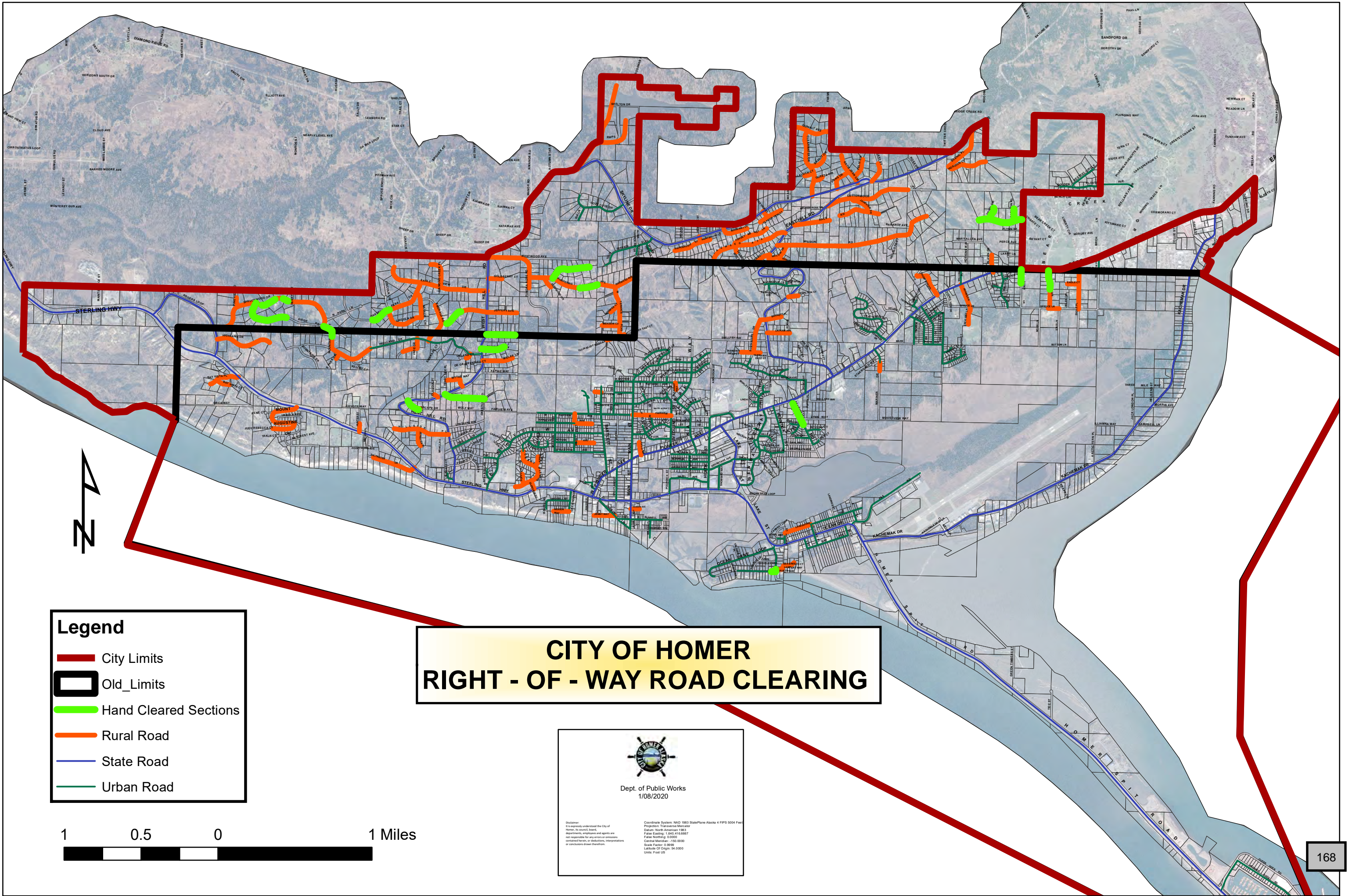
Right-of-Way Clearing: This term is used to describe a more robust operation. It results in the removal of mature trees and stumps. Right-of-way tree clearing is normally done by hand with a chain saw. This operation is usually the result of trees interfering with snow plowing equipment, access by emergency vehicles, or the creation of new drainage ditches/deepening (widening) of existing ditches. Rights of Way clearing will be restricted to what is necessary to ensure City road maintenance and public safety and must follow the procedures outlined below.

Procedures Prior To Initiating Brush Cutting: This operation is considered routine. Public Works will complete this work as time permits to maintain sight distances and positive drainage. When significant tree removal is involved, Public Works will comply with the procedures established for right-of-way clearing outlined below. Property owners may contact Public Works for criteria to maintain the vegetation in the right-of-way adjacent to their property. All brush clearing (including vertical) shall be restricted to what is necessary for road maintenance equipment, positive drainage, and safe sight distance.

Procedures Prior To Initiating Right-of-Way Clearing: Before implementing this type of vegetation control, the following procedures will be followed:

- 1) The Public Works Director shall approve in writing right-of-way maintenance work requiring tree removal.
- 2) The City will provide staking that clearly identify right-of-way limits.
- 3) The Public Works Roads Superintendent will contact adjacent property owners (door knocking, use of door hangers, phone calls) before initiating clearing operations.
- 4) Superintendent will meet with adjacent property owners on-site if possible and explain the need for the clearing. The property owners concerns will be taken into account. Operations will, to the extent reasonably possible, minimize negative impacts to the adjacent property owner(s).
- 5) Property owners will be given the opportunity to complete tree cutting or tree limbing, prior to Public Works completing the clearing/cutting.
- 6) Public Works will clear only those trees that interfere with approved maintenance work.
- 7) Firewood generated will be left for the adjacent property owner upon request.
- 8) 'Landmark trees' shall be saved whenever possible through practical modifications to the maintenance operation that limits increase costs to a reasonable level.

9) The Public Works Director will serve to arbitrate any disagreements.




CITY OF HOMER RIGHT - OF - WAY ROAD CLEARING

Legend

- City Limits
- Old_Limits
- Hand Cleared Sections
- Rural Road
- State Road
- Urban Road





Dept. of Public Works
1/08/2020

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

Coordinate System: NAD 1983 StatePlane Alaska 4 FIPS 5004 Feet
Projection: Transverse Mercator
Datum: North American 1983
False Easting: 1,640,416.6667
False Northing: 0.0000
Central Meridian: -150.0000
Scale Factor: 0.9999
Latitude Of Origin: 54.0000
Units: Foot US



City of Homer

www.cityofhomer-ak.gov

Homer City Council

491 East Pioneer Avenue
Homer, Alaska 99603

(p) 907-235-3130

(f) 907-235-3143

Memorandum 20-047

TO: Mayor Castner and Homer City Council
FROM: Councilmember Rachel Lord
DATE: April 7, 2020
SUBJECT: Right of Way Policy

On October 14, 2019, City Council passed Resolution 19-073(S) which established a moratorium on cutting, clearing or removal of trees and vegetation in public rights-of-way. The original resolution (19-073) identified a problem surrounding the City's policies for ROW clearing; the substitute maintained the moratorium and created a policy team to work on solutions for the identified problems. The moratorium is in effect until May.

While the advent of Covid-19 has turned everything upside-down, the policy team had already met several times over the winter and developed a draft policy for Council's consideration. This resolution presents that policy and, if adopted by Council, will shift the City's ROW maintenance and clearing work to be 'as-needed'. This has been identified as less cost and time-effective for the City, however the community's desire for more green space and less clearing is identified and appreciated as a higher priority. This policy empowers landowners to maintain the ROW adjacent to their property with guidance from PW if desired, establishes a protocol for ROW clearing, and emphasizes reduced clearing for increased green space as possible while maintaining the City's responsibility for road maintenance and public safety. Good communication between the City and Citizens is critical for success, and Public Works should expand public outreach surrounding ROW maintenance alongside changes to policy and procedure.



City of Homer

www.cityofhomer-ak.gov

Public Works

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Homer, AK 99603

publicworks@cityofhomer-ak.gov

(p) 907- 235-3170

(f) 907-235-3145

Memorandum 20-048

TO: Marvin Yoder, Interim City Manager
FROM: Right-of-Way Clearing Evaluation Committee
THROUGH: Carey S. Meyer, City Engineer
DATE: April 6, 2020
SUBJECT: Evaluation of Alternative Right-of-Way Maintenance Policies

Homer City Council passed Resolution 19-073(S) which established a moratorium on cutting, clearing or removal of trees and vegetation in public rights-of-way. This moratorium remains in effect until an evaluation of alternative right-of-way maintenance policies can be completed by a Committee made up of two City Council members with staff support. The Committee has met several times to evaluate the following issues (as required in the Resolution):

1. Drainage, snow storage and plowing, sight distances, utility operations and maintenance, and equipment and emergency vehicle response,
2. Steep slopes, traffic volumes, zoning districts, and property covenants,
3. Debris cleanup and aesthetics, including landmark trees,
4. Adjacent landowner concerns including timing and noise,
5. Landowner maintenance options and opportunities,
6. Legal rights and responsibilities of City and landowners, including enforcement,
7. Cost of implementation.

Before presenting specific Committee evaluations, some definitions are in order:

Brush Cutting: This term describes the more routine vegetation removal operation completed by Public Works on most roads, in most years. It generally consists of “mowing” with the brush cutter areas on each side of the road to trim back grass, pushki, and newly sprouting small trees. It can also include “raking” of mature trees to remove branches that are overhanging the road or roadside ditches. This effort increases visibility along the road, improves drainage, and keeps vegetative growth under control. Routine “brush cutting” makes “right-of-way tree clearing” far less necessary.

Right-of-Way Clearing: This term describes a more robust operation. It results in the removal of mature trees and stumps. Right-of-way tree clearing is normally done by hand with a chain saw. This operation is usually the result of trees interfering with snow plowing equipment, the creation of new drainage ditches, deepening (widening) of existing ditches, or when tree raking (brush cutting) is not solving the problem.

A summary of the evaluation by the Committee of each issue is presented below:

1. *Drainage, snow storage and plowing, sight distances, utility operations and maintenance, and equipment and emergency vehicle response.*

From the Public Works perspective - Street right-of way is intended to serve the public and provide for safe road access, positive drainage, and a corridor for aboveground and underground utilities. Trees in the right-of-way can and do block sight distances, interfere with snow plowing/snow storage. Uncontrolled, trees can impede emergency vehicle response. Trees can also interfere with the maintenance of water mains, fire hydrants, sewer mains, gas mains, telephone and power lines, and cable facilities. In more rural areas, trees do interfere (and increase the cost of) the creation, maintenance, and operation of drainage improvements (roadside ditches). Roads in rural areas fail to sport heavy vehicles during wet periods, and benefit greatly from ditch maintenance/creation of new ditches.

From the Property Owners perspective – Trees along the front of their property can provide a visual buffer between them and the road. Removal of trees from the right-of-way (especially where no trees exist on the property) exposes these properties visually to the road and eliminates the privacy that the trees have provided. Trees can reduce ground water (uptake) and provide for erosion protection in steep areas. After brush cutting/tree clearing, debris and broken branches are not aesthetically pleasing. Property owners are unhappy that Public Works does not follow up with removal of a debris.

2. *Steep slopes, traffic volumes, zoning districts, and property covenants.*

In areas of the City that are steep, trees and vegetation can provide stability to slopes and protect them from erosion. These areas generally have steeper driveways and street intersection approaches that benefit from maintaining effective sight distances. Roads with higher traffic volumes and traffic speeds benefit more from good sight distances than lower volume/speed roads.

The zoning of a neighborhood can affect the need for and a property owner's attitude toward right-of-way tree clearing. In the Central Business District and Commercial zoning, the neighborhood is mostly developed to a higher density, trees and vegetation do not exist in the same way they do in other areas. Businesses value visibility from the road, more than other property owners do.

In residential zoning, more so in rural than in urban (but in urban too), lower development densities result in more trees and vegetation in street rights-of-way. In low-density neighborhoods, visual buffering and privacy can be more valued than in higher density development areas.

Subdivision Covenants sometimes establish restrictions to tree cutting and timber harvesting. Property owners within some subdivision neighborhoods, with these types of covenants, feel that trees within the right-of-way should not be cut at all. In the opinion of the City Attorney, these covenant restrictions do not apply to street rights-of-way.

3. Debris cleanup and aesthetics, including landmark trees.

Public Works uses mechanical equipment to complete brush cutting. After brush cutting, there is generally limited effort to clean up debris. Debris from mechanical equipment is normally cut up into small pieces. Tree racking can produce splintered branches and larger pieces. Branches left on the trees can also be splintered and are sometimes considered an eye sore.

From Brush Cutting Operations: The results from brush cutting (as defined above) can be unsightly. Additional resources beyond current levels would be needed to rectify this situation. Picking up larger splintered branches produced from raking and trimming splintered branches on the trees would require additional personnel. See below for details of cost implementation.

From Right-of-Way Clearing Operations: Right-of-way clearing (because it involves the removal of trees), can result in the need for a higher cleanup level of effort. If a property owner is interested in the firewood, Public Works will leave it for them. If not, crews remove all large debris. Ground disturbed due to root removal is returned to original grades. Wood chips, small branches and sawdust are normally left to reduce costs and provide temporary erosion control.

Public Works makes every effort to contact property owners adjacent to the work before any significant vegetation removal is completed, to provide warning and explain the need for the work. In most cases, property owner understands why the work is being done, even if they are not thrilled with the change. Survey control staking is in place to assure the owner that no trees on their property will be disturbed.

4. Adjacent landowner concerns including timing and noise.

Most landowners appreciate, or at least understand why, vegetation is being cut back or removed within the street right-of-way. As discussed in 1) above, some property owners are concerned about clearing of vegetation within the right-of-way because the trees provide a visual buffer between the road and their house.

Other concerns expressed by property owners include:

- 1) Unsightliness of raked back trees (splintered branches remain on trees)
- 2) Wood chips and broken branches left on the ground

Very few if any landowners have expressed concern regarding the timing of brush cutting (completed during the normal operating hours in summer months) or tree clearing (completed during late fall, early winter months).

5. Landowner maintenance options and opportunities.

Property owners are encouraged to control vegetation growth in the right-of-way in front of their homes or businesses. This occurs quite frequently in the central business district, commercial and urban residential neighborhoods.

If property owners hand cut grass, brush and trees in street right-of-way adjacent to their lots, the mechanical equipment used by Public Works will not be necessary.

Property owners should protect trees on their property that provide visual buffering between their homes and the road. Planting additional trees on their property will reduce their dependence of vegetation in the public right-of-way.

6. *Legal rights and responsibilities of City and landowners, including enforcement.*

According to Homer City Code (see recent Ordinances 16-51 and 19-27(S)), it is the City's right and responsibility to maintain street right-of-way and control vegetation within the right-of-way. Currently, Homer City Code does not establish legal rights or responsibility for landowners to maintain the street right-of-way adjacent to their property. Any work by a landowner in the street right-of-way requiring excavation or installation of a temporary or permanent structure would require a permit from the City. No permit is required for a property owner to cut or remove vegetation from the right-of-way adjacent to their property if ground is not disturbed.

Many communities require property owners to maintain the street right-of-way adjacent to their properties (including grass cutting; vegetation control; and snow removal, sanding, and construction/repair of sidewalks, etc.), but this is not the case in Homer.

Landowners should be encouraged to plant visual buffering vegetation on their properties and not depend on vegetation in street right-of-way.

A recent Supreme Court decision involving the Municipality of Anchorage sheds some light on their right to remove trees from the ROW. See Superior Court Case # S16678 attached to this memo.

7. Cost of Implementation.

Like any activity the Public Works undertakes, cost is an important consideration. Public Works completes routine brush cutting during the summer months. Right-of-way tree clearing is done in the late fall/winter when existing staff time permits (after summer maintenance efforts, but before the snow plowing/sanding season begins). This accomplishes the mission without the need for additional staff. Tree clearing is generally completed in preparation for ditching, to remove trees that are conflicting with snow plowing operations, or improve site distances.

The other consideration regarding cost, as it relates to brush cutting or tree clearing, is that when mobilizing to a street or neighborhood to complete work, Public Works cuts or clears all vegetation in that street or neighborhood, rather than just that portion that is needed at that time. Overall costs are reduced when crews do not have to mobilize to an area several times (year after year) to control vegetation.

In the case of brush cutting and tree clearing:

- 1) Brush cutting by Public Works is completed using mechanical equipment. This normally means a brush cutting attachment on a track-mounted excavator). To complete this work using hand tools would significantly increase the cost. It would require additional staff.
- 2) Tree clearing is generally done with hand tools.

In response to concerns expressed by the public regarding tree clearing by Public Works in street right-of-way, the committee looked at several operational changes that could minimize complaints from the public (and the costs associated):

- a) When responding to a street or neighborhood, only clear sections of trees that need to be cleared. This will not increase direct costs, but makes crews less efficient over time. There should be fewer complaints, since specific reasons can be provided to adjacent property owners for the tree removal, rather than its policy that clearing the entire street or neighborhood is policy.
- b) Property owners sometimes complain that the results of tree clearing or brush cutting is unsightly. This could be mitigated in several ways:
 - 1) Hire additional staff to assist in cleanup. The use of full time staff to complete seasonal, low skilled cleanup is not cost effective. The use of part time employees would be more cost effective. The use of seasonal parks employees might be a solution. All existing employees are fully engaged in their normal duties. Cost to hire additional workers 2 workers @ \$20/hr x 25 days = \$1,000. Plus cost of supervision = 8 hours x \$40/hr = \$320. Total cost \$1,320.
 - 2) Hydro seeding disturbed areas would significantly improve aesthetics and minimize potential for erosion after clearing/ditching operations. Estimated cost = \$7,500.

Additional Topics evaluated by the Committee:

A) Policy Of Other Municipalities

- 1) **Municipality of Anchorage** - Response provided by Lead Right of Way Enforcement Officer:

Does Anchorage have any formal or informal policy on ROW clearing short of mowing down all vegetation in the applicable ROW? Yes, any "use" of the right of way requires a right of way use permit. The Municipality of Anchorage will permit the approved scope of work within a public place. Title 24 addresses this in code. I will paste a definition list and a couple applicable code sections.

Are property owners responsible for maintaining the ROW in front of their property? Yes and No. MOA requires some commercial and businesses in specific zoning areas to keep the sidewalk adjacent to their property clear. I will paste the code section below. MOA has the final say on trees and brush in a public place. This is necessary for both safety re

as well as protection of infrastructure. I already provided the code section in an earlier email.

Are there best practices in place for landowners that address issues such as slope stability and how to make sure privacy vegetation buffers are on the property and not in the ROW? *This is done through code, Municipality of Anchorage Specifications and design Criteria Manual, and not policy. A 2:1 slope is permissible and any retaining wall over 4' requires an engineered design and permit through building safety. That addresses the issues on property. As MOA has management authority and ownership of the row and public use easement and use must be reviewed and permitted through the ROW Section. Any non-permitted use is subject to enforcement action and removal.*

Does Anchorage do any community education/outreach on ROW maintenance regarding either how to maintain, own, or why ROW maintenance is needed? *MOA has a website. In addition, our enforcement officers continually work with the public to Educate, Inform and Enforce. In that order.*

How does Anchorage inform property owners of upcoming ROW maintenance (flyers, knocking on doors, letters to residence, none)? *There is no requirement for MOA to notify property owners of maintenance or construction projects within a public place. There are however some who do. Our Project Management and Engineering project teams send out mailers to notify the public of upcoming construction projects performed for MOA. Our Street Maintenance delivers fliers to properties on large maintenance projects. Not on small projects where they are in and out quickly. Some utility companies' mail fliers and others do not. Small contractors doing water and sewer services seldom notify adjacent properties.*

2) **City of Ketchikan** - Response provided by Public Works Administrative Assistant

Does Ketchikan have any formal or informal policy on ROW clearing short of mowing down all vegetation in the applicable ROW? *Yes, most of our ROW is forested. Homeowner must get City Council approval to remove trees in the ROW.*

Are property owners responsible for maintaining the ROW in front of their property? *We do not have a formal regulation, but with good cause we can remove trees/vegetation in the ROW.*

Are there best practices in place for landowners that address issues such as slope stability and how to make sure privacy vegetation buffers are on the property and not in the ROW? *We have wall and slope standards, but the City does not have privacy buffers in place.*

Does Ketchikan do any community education/outreach on ROW maintenance regarding either how to maintain, own, or why ROW maintenance is needed? *We do not.*

How does Ketchikan inform property owners of upcoming ROW maintenance (flyers, knocking on doors, letters to residence, none)? *Yes, we knock on doors and send letters if necessary.*

Concerns of City Council Committee Members/Heart of the Problem

Council Member Evensen wanted to make sure the City is still able to maintain ditches. However, he felt like Homer has been surviving all this time w/o pro-active clearing. Evensen asked what the condition of the ditches are. Public Works Director Meyer said in higher density development areas they are in reasonably good shape; in lower density developed areas (especially the annexed areas), they need attention or ditches are non-existent.

Council Member Lord would like to see direction from Council that is less prescriptive. Essentially, she would like Public Works to have the authority and support of council but not work under the assumption that 100% of the ROW will be cleared edge to edge. Can we clear as needed instead of proactively? She suggested a general shift in philosophy “if the trees are not a problem, then PW won’t take them”. Council Member Lord Rachel wants to see what other communities are doing, improve land owner outreach for what they can do on their private property, focus on community education on maintaining ROW and why, and define best practices for private landowners with slope stability and buffers (what grows well, etc.).

Public Works Director Meyer provided a map that showed areas of significant street right-of-way clearing completed in the last 10 years (to the best of his knowledge). This map is attached. He acknowledged that the brush cutting/right-of-way clearing activities of the Public Works Department has been perceived by the Council as too aggressive (based on complaints received).

Public Works has no interest or budget to proactively clear trees from all street right-of-way just for the sake of clearing trees. Public Works has proactively attempted to remove trees using City crews that interfere with road maintenance equipment or remove trees to allow City crews to create ditching that in our opinion would dramatically improve road conditions.

He also acknowledged that the community has established a HART fund that subsidizes road improvements to dramatically improve road conditions. Maybe Public Works should rely on HART assessments to solve road stability concerns, rather than using the City’s operating budget.

Mr. Meyer also talked about how expensive it is to mobilize equipment to an area. Public Works does complete some additional clearing in a neighborhood that may not be immediately necessary to efficiently use equipment and labor. Remobilizing next year to take care of what could be dealt with today may not be what the community and the Council want. This could be a part of any ROW clearing policy. He also stated that once you clear some trees, the ones around it are subject to failure from wind, etc. – and this too should be dealt with in any new policy.

Recommendation:

Attached is the draft policy developed by the Committee that would, if approved by the City Council, guide Public Works in its efforts to maintain rights-of-way within the City limits and document standard procedures for the public.



City of Homer

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Human Resources

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Memorandum 20-054

TO: City Council
THROUGH: Marvin Yoder
FROM: Andrea Browning, HR
DATE: April 21, 2020
SUBJECT: City Manager Job Posting Update and Process Recommendation

The City Manager job has been posted since March 29th, and so far we have 32 applicants.

The job posting closes on May 10th, and binders will be ready for Council pickup in the upstairs conference room at City Hall on May 15th.

During the last Council meeting there was some discussion on the topic of the City Manager Hiring Advisory Committee that was utilized during the last City Manager hiring process. I can appreciate comments and concerns that were raised on both sides of this topic. Ultimately, the City Manager Hiring Advisory Committee did exactly what they were charged with doing; they made a recommendation on the applicants, which they chose to do by ranking them in order of top-two.

Additionally, Department Heads and staff weighed in by providing written comment to the Council on the candidates. Both of these components were equally important and provided Council with feedback and hiring recommendations. However, all members of the City Manager Hiring Advisory Committee as well as staff who provided a recommendation understood it was just that- a recommendation. Ultimately the hiring of a City Manager is a Council decision.

Many members of the community and staff reached out to let me know how impressed they were with the thoroughness of the last City Manager hiring process. Although we did not end up signing a new City Manager to a contract, that does not undercut how methodical and rigorous the process was.

Recommendation:

Respectfully, I would recommend that the City Council adhere to the same process implementing both a City Manager Hiring Advisory Committee as well as allowing comments from staff to be submitted.

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

Lord/Smith/Aderhold

3
4 **RESOLUTION 20-041**

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
7 AFFIRMING MEASURES TO PROVIDE INCREASED TIME FOR LEASE
8 PAYMENTS TO REDUCE FINANCIAL HARDSHIPS DURING THE
9 COVID-19 EMERGENCY.

10
11 WHEREAS, The Mayor of the City of Homer declared a local emergency in response to
12 the Covid-19 pandemic on March 18, 2020; and

13
14 WHEREAS, The Homer City Council ratified the declaration of local emergency and
15 extended it for 90 days; and

16
17 WHEREAS, Many residents and business owners are being faced with job losses and
18 reduced or lost business because of the Covid-19 pandemic which has resulted in tremendous
19 economic strain and hardship on many individuals, families, and businesses in Homer; and

20
21 WHEREAS, The City of Homer is committed to assisting the community with response
22 and recovery; and

23
24 WHEREAS, Individuals and businesses should take advantage of federal and state
25 economic relief programs as they come available; and

26
27 WHEREAS, The City relies on revenues from leases to provide essential services to the
28 Homer Port and Harbor, Homer Airport Terminal, and Administration Department; and

29
30 WHEREAS, It is in the best interest of the City and its residents to ensure safety and long-
31 term sustainability through this crisis.

32
33 NOW, THEREFORE BE IT RESOLVED that individuals and business owners are
34 encouraged to pay rent in full as they are able, and the City Manager has the authority to work
35 with individuals and business owners on payment plans for their leases.

36
37 BE IT FURTHER RESOLVED that the City of Homer will provide for the following
38 measures for payments related to leases:

- 39 ○ Beginning May 1st until September 30th, 2020, tenants may request permission to
40 submit a partial lease payment each month (at minimum 50% of monthly lease
41 rate owed) for up to 5 months starting from when the request was approved by
42 the City.

- 43 ○ The Finance Department will work in conjunction with the Harbormaster and
44 City Manager regarding tenant payment plans following the deferral period for
45 the payment of all accrued deferred payments.
- 46 ○ On a case by case basis, the City Manager may work with individual tenants who,
47 still unable to remit full payment following the deferral period, bring forward a
48 payment plan to the City that demonstrates their ability to pay their outstanding
49 balance in full by May 1st, 2021. At minimum 50% of monthly lease rate is
50 required.
- 51 ○ All penalties and late-fees will be waived for requested deferrals during the
52 defined period.

53
54 PASSED AND ADOPTED BY THE CITY COUNCIL OF HOMER, ALASKA this _____ day of
55 _____, 2020.

56
57 CITY OF HOMER

58
59
60 _____
61 KEN CASTNER, MAYOR

62
63 ATTEST:

64
65
66 _____
67 MELISSA JACOBSEN, MMC, CITY CLERK

68
69 Fiscal note: N/A



City of Homer

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Memorandum 20-055

TO: Finance Director Walton and Harbormaster Hawkins
FROM: Marvin Yoder, Interim City Manager
DATE: April 22, 2020
SUBJECT: Back-up Memo Concerning the Resolution for Lease Payment Deferrals

Councilmembers Lord, Smith, and Aderhold have sponsored a resolution that would allow tenants leasing property or building space from the City to defer lease payments. Tenants can request a 5-month partial payment deferral anytime from May 1, 2020 to September 30, 2020, which would begin on the first day of the following month. During this period, tenants must submit at minimum 50% of their monthly lease payment. In order to be approved, the tenant must present a payment plan that demonstrates how the outstanding balance incurred will be paid off by May 1, 2021.

The Port and Harbor Department will be primarily responsible for working with tenants on the Spit and the Administration Department will be responsible for working with all other tenants including those at the Homer Airport Terminal. Finance will provide advisement and documentation support.