



## Agenda

### Planning Commission Regular Meeting

Wednesday, September 06, 2023 at 6:30 PM

Cowles Council Chambers In-Person & Via Zoom Webinar

---

#### Homer City Hall

491 E. Pioneer Avenue  
Homer, Alaska 99603  
[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

#### Zoom Webinar ID: 205 093 973 Password: 610853

<https://cityofhomer.zoom.us>  
Dial: 346-248-7799 or 669-900-6833;  
(Toll Free) 888-788-0099 or 877-853-5247

---

#### CALL TO ORDER, 6:30 P.M.

#### AGENDA APPROVAL

**PUBLIC COMMENTS ON MATTERS ALREADY ON THE AGENDA** The public may speak to the Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

#### RECONSIDERATION

**CONSENT AGENDA** All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner in which case the item will be moved to the regular agenda. No motion is required.

A. Unapproved Meeting Minutes for August 16, 2023

#### PRESENTATIONS / VISITORS

#### REPORTS

A. City Planner's Report PC 23-052

#### PUBLIC HEARINGS

#### PLAT CONSIDERATION(S)

#### PENDING BUSINESS

A. Ordinance 23-21(S)(A), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Section 22.10.050 to Specify that Preliminary Plats Approved by the City Shall Include All Development Commitments Made to the City. Davis/Erickson. Introduced and Referred to Planning Commission April 10, 2023 Public Hearing August 28, 2023 Remanded Back to Planning Commission for Continued Review Postponed Public Hearing and Second Reading September 25, 2023.

1. Memorandum PC 23-053 from City Planner as backup.
  - i. Agenda Item Report CC-23-092 Ordinance 23-21 dated April 10, 2023
  - ii. Memorandum from Public Works Director dated August 7, 2023 as backup
  - iii. Memorandum dated August 9, 2023 from Public Works Director as backup  
(provided as laydown at the August 16, 2023 Regular Meeting)
  - iv. City of Homer Subdivision Development Process

## **NEW BUSINESS**

## **INFORMATIONAL MATERIALS**

- A. Planning Commission Annual Calendar 2023
- B. City Manager's Report for City Council August 28, 2023
- C. Karen Hornaday Park & Bayview Park Public Forums Flyer
- D. City of Homer Draft Transportation Plan Open House Flyer
- E. Kenai Peninsula Borough Platting Committee Notice of Decision
  1. Notice of Decision KPB 2022-160R1
  2. Notice of Decision KPB 2023-087

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

## **COMMENTS OF THE STAFF**

## **COMMENTS OF THE MAYOR/COUNCIL MEMBER** (If Present)

## **COMMENTS OF THE COMMISSION**

## **ADJOURNMENT**

Next Regular Meeting is **Wednesday, October 4, 2023 at 6:30 p.m.** A worksession is scheduled prior to the regular meeting at 5:30 p.m. All meetings are scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska and via Zoom Webinar. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission

## 1. CALL TO ORDER

Session 23-14, a Regular Meeting of the Planning Commission was called to order by Vice Chair Charles Barnwell at 6:32 p.m. on August 16, 2023 at the Cowles Council Chambers in City Hall, located at 491 E. Pioneer Avenue, Homer, Alaska, and via Zoom Webinar. A worksession was held at 5:30 p.m. On the agenda was the Annual Commission Training conducted by City Clerk Jacobsen.

**PRESENT:** COMMISSIONERS HIGHLAND, BARNWELL, SMITH, STARK, AND VENUTI

**ABSENT:** COMMISSIONER SMITH, SCHNEIDER<sup>1</sup> (EXCUSED)

**STAFF:** CITY PLANNER FOSTER, DEPUTY CITY CLERK KRAUSE

## 2. AGENDA APPROVAL

VENUTI/CONLEY MOVED TO APPROVE THE AGENDA AS PRESENTED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**3. PUBLIC COMMENTS ON ITEMS ALREADY ON THE AGENDA** The public may speak to the Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

Scott Adams, City Resident, expressed his views on the Decisions and Findings for Conditional Use Permit 23-07. Mr. Adams noted that he was a previous property owner with property that was located adjacent to the one being addressed by the CUP. He stated his reasons for selling then continued to provide details on the drainage during the time he owned that property. Mr. Adams expressed his views about the process and stated that the Commission approved the CUP even though there were plenty of comments from the neighbors expressing concerns against it.

Jan Keiser, city resident, commented on the Decision and Findings for CUP 23-07 as an adjacent property owner, stating her concerns regarding the drainage, horses and muddy conditions for the water coming from that property, noting the two existing drainages and that one is seasonal and one contains water year round. She further noted that the remedial measures the property owners are being asked to make will help correct some of issues but questioned if it is a problem what can be done to stop it if the city doesn't have a code compliance officer or court compliance except on a complaint basis and questioned what the city could do for further mitigation measures or tell the owners to take their horses somewhere else.

Vice Chair Barnwell offered City Planner Foster the opportunity to address the concerns expressed by the public.

---

<sup>1</sup> Commissioner Schneider attended the worksession but was excused for the regular meeting due to prior commitment.

City Planner Foster provided response to the concerns explaining the enforcement if the requirements of the Conditional Use Permit are not followed. These actions will be conducted by the Planning Department.

Commissioner Highland questioned if they should suspend the rules to address this issue, since if they pull this item from the Consent Agenda, it will be addressed quite late in the meeting as they have quite a bit on the agenda.

City Planner Foster responded that the Decisions and Findings for CUP 23-07 was not before the Commission for approval or amendment, but as an opportunity for the Commission to review the document to make sure that the decisions of the Commission made at the previous meeting are reflected correctly and to correct any grammatical errors, if any.

Further comments and discussion was entertained by staff on the following points regarding the decisions and findings for CUP 23-07:

- Reconsideration of the Decision has lapsed
- Lack of Staffing in the Planning Department to enforce requirements
- What assurances are there regarding compliance by the property owner/applicant
- Adding an enforcement tool to Conditional Use Permits such as Performance Bonds or something similar
- Ability to Appeal the Action once distributed by persons with standing in accordance with city code
- Issuance of the Zoning Permit is contingent on completion of the requirements outlined in CUP 23-07

#### **4. RECONSIDERATION**

**5. CONSENT AGENDA** All items on the consent agenda are considered routine and non- controversial by the Planning Commission and are approved in one motion. If a separate discussion is desired on an item, a Commissioner may request that item be removed from the Consent Agenda and placed on the Regular Agenda under New Business. No Motion is necessary

- A. Unapproved Regular Meeting Minutes of August 2, 2023
- B. Decisions and Findings Variance 23-01 at 1125 Shelley Avenue
- C. Decisions and Findings Conditional Use Permit 23-07 at 795 W Fairview Avenue

HIGHLAND/CONLEY MOVED TO ADOPT THE CONSENT AGENDA AS PRESENTED.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

#### **6. PRESENTATIONS / VISITORS**

#### **7. REPORTS**

- A. Staff Report 23-047, City Planner's Report

City Planner Foster reported that Ms. Dodge the Associate Planner has submitted her resignation and that the position is currently being advertised. He has amended his schedule to be in office four days per week and is working with other city staff to provide office assistance/coverage for providing service to those members of the public that come to City Hall in person. Ms. Engebretsen will provide assistance with plats and notifications. He is expecting a resubmission for Thomas Court Preliminary Plat for the next meeting.

City Planner Foster responded to questions on the following:

- Building a Hotel and Conference Center at the Base of the Spit
  - o He reminded the Commission about the Traffic Impact Analysis being conducted as required, no additional information is known at this time. If the property owner decides to proceed a Conditional Use Permit may come before this Commission any other requirements as far as the airport and air traffic does not fall under the purview of the commission responsibilities.

## **8. PUBLIC HEARINGS**

### **A. Staff Report 23-048, Ordinance 23-40, Conditional Use Zoning Text Amendments**

Vice Chair Barnwell introduced the item by reading of the title and deferred to the City Planner.

City Planner Foster reviewed Staff Report 23-048, providing a brief synopsis of discussion held during a Joint Worksession conducted on July 19<sup>th</sup> with the Economic Development Advisory Commission, the Planning Commission worksession on August 2<sup>nd</sup> prior to their regular meeting and then reviewed the recommended amendments for each affected Zoning District.

Vice Chair Barnwell opened the public hearing, seeing and hearing that there were no members of the public present wishing to provide testimony he closed the public hearing and requested a motion and second.

HIGHLAND/CONLEY MOVED TO ADOPT STAFF REPORT 23-048 AND RECOMMEND CITY COUNCIL ADOPT ORDINANCE 23-40 AMENDING TITLE 21 REGARDING CONDITIONAL USES IN EACH DISTRICT.

Commissioner Highland requested clarification that the amendments will require a conditional use permit in each district for the construction of any additional structures.

City Planner Foster responded that in effect that is what the amendments are doing but without reviewing in detail each section in city code, he could not definitively state whether there were other sections that may allow additional structures without review of Title 21. City Planner Foster indicated the recommendations were in support of the proposed zoning text amendment, removing a “by right” of up to four buildings or dwellings, depending on the Zoning District, and making it a requirement for a conditional use permit for additional structures in those districts.

Commissioner Highland requested a few minutes to be allowed to read the ordinance in full.

Vice Chair Barnwell granted the brief time with no objections expressed by the remaining Commissioners.

Commissioner Highland expressed her appreciation for the allowance and stated she felt comfortable in voting in favor of the proposed amendments.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

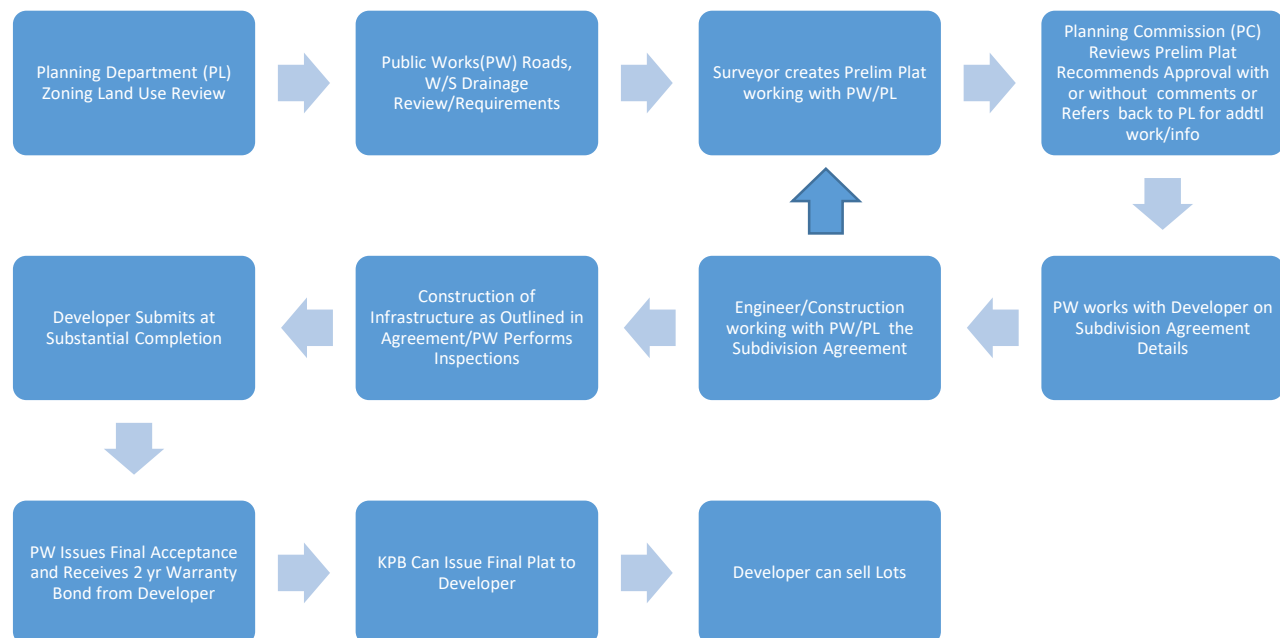
Motion carried.

B. Staff Report 23-049, Ordinance 23-21(S), Title 22 Subdivision Text Amendment

Vice Chair Barnwell introduced the item and deferred to City Planner Foster.

City Planner Foster reviewed Staff Report 23-49. He provided a brief historical background on the timing of Ordinance 23-21(S) and the actions requested of the Commission. City Planner Foster reported that he conferred with Public Works Director Keiser since most of the work relevant to Title 22 is outside of the Planning Department and this Commission's responsibilities. He stated that the processes and conditions were noted on preliminary plats that come before the Commission, however the enforcement and expertise lays with the city engineer and public works department. City Planner Foster stated that he requested Ms. Keiser to review Ordinance 23-21(S) and provide a memorandum which was included in the packet and she also has a presentation for the Commission on the overall process.

Public Works Director Keiser using the whiteboard, framed the preliminary plat/subdivision application process and how Title 22, and other parts of city code influence the process, creating a flow chart for those in attendance at the meeting. She then reviewed her memorandum, provided as a laydown, of the legislative history regarding subdivision development in Homer.



A brief recess was noted at 7:25 p.m. due to the Clerk requesting the City Planner to email the laydown materials to Commissioners Highland and Venuti. Vice Chair Barnwell continued the meeting at 7:28 p.m.

Public Works Director Keiser continued her review of the process speaking on the following topics:

- Belief that a developer could not sell lots within the subdivision until final plat
- Kenai Peninsula Borough in accordance with State laws can release a preliminary plat if an agreement is made between the Developer and the City and recorded even when no improvements have been constructed and the Developer can then sell the lots – this hasn't been done but currently City Code as written allows it.
- The Borough will not issue a final plat for recording until receipt of acceptance by the City of Homer stating everything has been completed as required by the subdivision agreement.
  - o Public Works strongly recommends not deviating from this current process
- City Council recently adopted an ordinance requiring a performance guarantee of 150% of the estimated costs of improvements outlined in the Subdivision Agreement.
  - o Effects on the process with this requirement
- The use of Construction Agreements in the past 10 years over Subdivision Agreements
  - o Language in the Subdivision Agreement is more defined
  - o included performance guarantee requirements and provided options for the Developer to choose from to provide that requirement
  - o Included specific remedies if the Developer defaulted
- Council is requiring commitments that are not codified or captured in the Subdivision Agreement
  - o It is believed that the City does not have the legal ability to hold developers to requirements that are not in city code or the signed agreement
- Preliminary, Construction and Asbuilts Drawings
  - o In the beginning there are Construction Drawings developed by the Engineer, included in the Subdivision Agreement, Inspections are done pursuant to those drawings, Substantial Completion is based on completion of the work contained in those drawings.
  - o Final Acceptance and the Warranty Bond is based on the work of the drawings
  - o Final Acceptance is getting the Asbuilts
  - o Asbuilts depict all the work that was done, Construction Drawings show what is planned to be built. There are always deviations of some kind. Waiting until the project is done until recording a plat is contrary to State and City Code.

City Planner Foster and Public Works Director Keiser facilitated responses and information on the following:

- Why Ordinance 23-21(S) was written the way it was, with the title requiring an asbuilt, which is opposite what Public Works Director Keiser just informed the Commission.
  - o In the Agenda Item Report CC 23-092 item (b) in the second paragraph listed the requirement (refer to page 39 in the packet) this was originally introduced at the April 10<sup>th</sup> City Council Meeting
  - o Intent of the ordinance outlined in that AIR CC 23-092, expressed concern that there was something being missed in the process and it is believed that this was the driver for the changes.
  - o It may have been perceived that requiring an asbuilt would provide the assurance that was needed.
  - o Previous experience with Quiet Creek Subdivision Phase II final inspections was shared by the Public Works Director and ensuing complaints from the community of not receiving what was promised.
  - o Forest Trails Subdivision Preliminary Plat

- Subdivision Agreements are not submitted to the Kenai Borough for review or approval
  - o The Borough is supportive of the City of Homer requirements of adding the comments related to requiring a subdivision agreement, drainage, improvements, etc., on the preliminary plat.
    - This presents a good relationship in as much as the Borough will tell the applicant that they will not issue a final plat until the City notifies them that all the requirements have been met.
- Preliminary Plats now have a time limit of two years to be finalized. The Borough does allow two extensions allowing up to an additional four years.
  - o If not completed the entire process must begin again.
- City Attorney has reviewed the Public Works Director's analysis of the process and concurred
- Work does need to be done on City Code
  - o Subdivision platting/planning takes place in Title 22, Construction of Subdivisions takes place in Title 11
    - Clean up work and reconciliation of language in city code is required but this ordinance is not tool to do that work.
- Clarification that there is a Construction Agreement for Quiet Creek which does not contain the performance requirements that a Subdivision Agreement requires or a lot of the language that is contained within the Subdivision Agreement document. Public Works does have asbuilts for the roads and utilities within Quiet Creek.
- Confirmed that asbuilts have nothing to do with the plat and provided an example of how asbuilts and construction drawings are used.
- This ordinance was referred to the Planning Commission by Council for the Commission to review and comment
  - o The Council has not seen Public Works Director Keiser's analysis
  - o The City Planner will put everything together in a package and submit back to City Council
- Forest Trails is still being negotiated on the Subdivision Agreement and they need to come up with the required 150% bond or performance guarantee.
  - o Public Works Director Keiser was unaware of anything dealing with the property being for sale.
- Expectation of the Commission for approval of Preliminary Plats expressed by the Mayor and Public.
- Working to find better ways to communicating items and actions from the Planning Commission to Public Works.
  - o Closer collaboration between Planning Department and Public Works in the future.

Vice Chair Barnwell requested and motion and second.

Commissioner Highland requested clarification from the Clerk on process regarding Public Hearing for this item.

Deputy City Clerk Krause confirmed that this was scheduled for Public Hearing so a Public Hearing must be conducted.

Vice Chair Barnwell recognized Commissioner Conley allowing him to speak.

Commissioner Conley requested clarification before they continue with the Public Hearing on reconciling this with City Council, what direction is needed from the Commission.



Public Works Director responded, noting that the Clerk may be able to relate the specific request, but her understanding is the City Council presented this idea and it was referred to the Planning Commission for advice and comment.

Commissioner Conley questioned if this was something that the Commission could revisit at a later meeting.

City Planner Foster responded that he provided some options in his staff report on page 38 of the packet.

Deputy Clerk Krause, calling for a Point of Order, outlined the process that is supposed to be followed by the Commission on Items presented for Public Hearing, noting that the Staff is to provide their report then the Chair is to open the Public Hearing allowing members of the Public present the opportunity to provide testimony, then the Commission is allowed to ask questions from Staff stressing the need to do a Public Hearing at this point.

Vice Chair Barnwell opened the Public Hearing.

Scott Adams, city resident, expressed his appreciation for the flow chart presented by Ms. Keiser and using the subdivision agreement versus a construction agreement. He commented on the basis behind the proposed changes, reported being told by planning department that developers would refuse to develop if they were required to put in sidewalks, how the City is encouraging families to move to Homer yet there are no safe routes for the children to walk to school. This was one of the main concerns of Council and residents are expressing concern on how Homer is being developed. Mr. Adams provided comment about where will Homer be in the next 50 years since there are not many subdivisions left to be built.

Vice Chair Barnwell closed the Public Hearing seeing no further members of the public coming forward to speak. He then requested further comments from the Commission on Staff Report 23-049.

Vice Chair Barnwell requested a motion and second.

HIGHLAND/VENUTI MOVED TO AMEND ORDINANCE 23-21(S) TITLE TO STRIKE THE VERBIAGE AFTER 22.10.050 AND REPLACE WITH "IMPROVEMENT REQUIREMENTS – GENERAL" REGARDING PRELIMINARY PLAT APPROVAL AND RELEASE OF FINAL PLATS.

Discussion on the proposed ordinance being remanded back to City Council with Ms. Keiser's analysis and information, including the Commission's comments that City Code should be addressed as a whole, and as written does not make much sense, it should be reconciled for clarity so developers know what will be expected of them, they do not want to expose the City to legal liability.

City Planner Foster stated that he would like to take information presented tonight and provide it to the Commission in a report for the next meeting.

Commissioner Venuti requested this information at a worksession for discussion.

Discussion continued on the best process to deal with this ordinance by compiling all the information presented tonight to the Commission first, then submittal to City Council. Commissioners expressed

preference to have staff compile the memorandum to Council and remand the ordinance back to them with their reasons supporting that action.

Deputy City Clerk Krause called for a point of order noting that there was the motion on the table and the Commission should address that motion first before continuing with any additional recommendations.

Commissioner Highland expressed her reluctance to vote on the motion making the amendment as she was unsure what exactly the amendment to the title was resolving, noting that this was very complicated and in her book it should just go back to City Council since they created it. She believed that they should postpone it but was not sure who to ask for clarification and expressed her frustration over the situation.

Deputy City Clerk Krause provided further clarification on the motion to amend shown on their working agenda was because the amendments provided in Ordinance 23-21(S) in their packet were relevant to Ms. Keiser's memorandum but the title to ordinance was not amended and still referred to requiring the asbuilts. She further noted that the change in the language or verbiage reflected the language amended further in the ordinance.<sup>2</sup>

In response to Commissioners Highland and Venuti, Deputy City Clerk Krause explained that the Commission could vote this motion down as the simplest course of action or not vote on the motion to amend and postpone to the next meeting, this will leave it on the table to address or they can vote it down and make a separate motion to postpone to the next meeting. She further confirmed that any comments would be reflected in the minutes if the Commission voted the motion down.

Commissioner Highland commented that she believed it would best to vote this motion down and send it back to City Council recommending that they reconcile with city code and discussion with Public Works.

Vice Chair Barnwell questioned Commissioner Highland if she would like to restate that in a formal motion?

Deputy City Clerk Krause noted that they have a motion on the table now to address first.

City Planner Foster stated that this ordinance amends title 22 and was remanded to this Commission for review and comment which he believed to be highly valued and is a purview of this Commission. Council approves amendments to city code but he could not recommended telling Council to try again, noting it is not the direction to take. He suggested again to allow staff to review the comments from tonight and the information provided by Ms. Keiser and present it to the Commission at the next meeting in a memorandum. He agreed with voting the current motion down and postponing until the next meeting. They can schedule a worksession on the ordinance for the next meeting.

Commissioner Venuti called for the question.

There was a brief discussion on what exactly the Commission was doing at this time, voting the motion on the floor to amend the title down and then make a motion to postpone to the next meeting.

Vice Chair Barnwell called for a roll call vote.

---

<sup>2</sup> It was later revealed after the meeting that the Ordinance 23-21(S) presented in the packet was not the correctly amended ordinance.

VOTE. NO. VENUTI, HIGHLAND, BARNWELL, CONLEY, STARK.

Motion failed.

Commissioner Stark noted that the Commission is voting this down due to the ordinance and code being disparate and it requires reconciling to be in conformance.

HIGHLAND/VENUTI MOVED TO POSTPONE STAFF REPORT 23-48 AND ORDINANCE 23-21(S) TO THE NEXT MEETING FOR DISCUSSION.

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Vice Chair Barnwell called for a five minute recess at 7:25 p.m. The meeting was called back to order at 7:32 p.m.

## **9. PLAT CONSIDERATION**

A. Staff Report 23-050, Glacier View Subdivision, Vacate an Existing Lot Line to Create a Larger Lot

Vice Chair Barnwell introduced the item by reading of the title and deferred to City Planner Foster.

City Planner Foster reviewed Staff Report 23-050 for the Commission. He noted that the Plat did not meet the following requirements:

- 15 foot utility easement, if the applicant cannot meet that requirement to request an exception.
- If additional information was going to be added to the subdivision title since it appears incomplete; and
- The plat does not indicate the city water and sewer mains which is required.

City Planner Foster read the recommendation of approval with the comments into the record.

There was no applicant present.

Vice Chair Barnwell opened the Public Comment period.

Scott Adams, city resident, questioned why the presented easements of 10 feet on one side for sewer and 10 feet for utilities was not adequate since some places it has to be 15 feet in one straight area or one side of the lot.

City Planner Foster provided rebuttal noting that page 52 of the packet depicted the 10 foot sewer easement and they can see the 20 foot future building limit line and that is along Klondike Avenue and at the rear of the lot is the 10 foot utility easement but city code requires a 15 foot utility easement and the surveyor did not

demonstrate on the plat why they cannot do that or request an exception. It is not that the exception is not allowed but they did not demonstrate why it would be needed or even request one.

He then responded to questions regarding the following:

- Which side ends up containing the 15 foot easement and who makes that decision; there may be a particular reason why the easement is only 10 feet there but the surveyor has not provided an explanation. It could very well be historical in nature but it still must be shown on the plat.
- The applicant is the owner of both plats and the structure is a garage so the applicant is vacating a lot line but structures are not typically shown on plats. Encroachment is not at issue with this action.
- Since the lots are owned by one owner and we do not know what the future plans are for the lot after the vacation, but they may have plans for future development. But instead of a vacant lot and single residence we now have a single residence on a single lot with the potential for infill.

Vice Chair Barnwell requested a motion and second.

HIGHLAND/VENUTI MOVED TO ADOPT STAFF REPORT 23-050 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT TO VACATE A LOT LINE TO CREATE ONE LARGER LOT FROM TWO SMALLER LOTS WITH COMMENTS ONE THROUGH THREE THAT HAS ALREADY BEEN READ INTO THE RECORD.

1. RECOMMEND NOTING A 15-FOOT-WIDE UTILITY EASEMENT ON THE PLAT OR PROVIDE AN EXPLANATION ON HOW THIS REQUIREMENT CANNOT BE MET AND REQUEST AN EXCEPTION.
2. DOES THE SURVEYOR INTEND ON ADDING A NUMBER TO THE SUBDIVISION TITLE?
3. RECOMMEND THE SURVEYOR PROVIDE 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 TO THE PRELIMINARY PLAT.

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Staff Report 23-051, Bidarki Creek No. 5, Subdivide Two Existing Lots in Four Lots

Vice Chair Barnwell introduced the item by reading of the title and deferred to City Planner Foster.

City Planner Foster provided a summary of Staff Report 23-051 noting that this was an amended application from the one presented to the Commission several months ago. He reported that the applicant has decided to divide two existing lots into four lots.

Tom Latimer, Surveyor/Applicant and McKennen and Rachel Lamb spoke to the application noting that it was pretty straight forward, they worked very closely with Public Works Director Keiser and addressing the neighboring property owners concerns. Mr. Latimer apologized for the oversight of the water and sewer utilities and has submitted a corrected plat to the Kenai Peninsula Borough.

Vice Chair Barnwell opened the Public Comment period.

Public Works Director Keiser commented that in review of page 60 in the packet there was a reference to Construction Agreement under Public Works Department Comments and recommendations number two which should be corrected to read Subdivision Agreement. She then applauded the applicants for stepping back from their original plan which was quite ambitious and worked to find a more agreeable project on all sides.

Laura Karstens, city resident, commented that she appreciated the much smaller subdivision of lots and believed it to be inclined to the closer neighborhood look and feel than the prior version. She said her major concern was the covenants, which was not a concern of everyone at this time but she did notice a while back that the names and addresses did not always line up. She expressed her appreciation for Ms. Keiser correcting the mistake on the agreement and noted she will be speaking later again to them tonight.

Vice Chair Barnwell closed the public comment period and opened to the floor to questions or comments from the Commission.

Mr. Latimer clarified that on page 61 he added the eight foot offset so the Commission and everyone could see the existing separation between the two houses is angled and sneaks its way between the two. He then noted that he was not aware that the City Planner was going to put this on this meeting's agenda as he thought he missed the deadline. He wrote those two paragraphs not knowing how this was going to turn out. He was unsure whether this action would require another public comment period or would be presented as a revised plat. Mr. Latimer stated that the revision was the plat submitted to the borough had the water and sewer depicted.

City Planner Foster did not have any additional comments other than already provided.

Vice Chair Barnwell requested a motion and second.

HIGHLAND/VENUTI MOVED TO ADOPT STAFF REPORT 23-051 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT TO DIVIDE TWO LOTS INTO FOUR LOTS WITH COMMENTS ONE THROUGH THREE AS READ PREVIOUSLY INTO THE RECORD WITH CORRECTION ON COMMENT NUMBER TWO AMENDING CONSTRUCTION AGREEMENT TO SUBDIVISION AGREEMENT.

1. RECOMMEND THE SURVEYOR PROVIDE 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 TO THE PRELIMINARY PLAT.
2. THE DEVELOPER WILL NEED TO ENTER INTO A ~~CONSTRUCTION~~ **SUBDIVISION** AGREEMENT WITH THE CITY. A SHORT WATER AND SEWER MAINLINE EXTENSION WILL BE REQUIRED TO PROVIDE SERVICE TO LOT 1, AND A WATER AND SEWER SERVICE WILL NEED TO BE PROVIDED TO LOT 3. LOTS 2 AND 4 HAVE EXISTING SERVICES.
3. THE DEVELOPER WILL WORK WITH PUBLIC WORKS ON DESIGN, ENGINEERING AND APPLICABLE AGREEMENTS FOR THE SUBDIVISION.

There was no further discussion.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **10. PENDING BUSINESS**

## **11. NEW BUSINESS**

## **12. INFORMATIONAL MATERIALS**

- A. 2023 Planning Commission Annual Calendar
- B. City Manager's Report for the Council Meeting on August 14, 2023
- C. City Newsletter for August 2023
- D. Enabling Better Places: A Handbook for Improved Neighborhoods

Commissioner Highland questioned who included the last item under informational materials, expressing that in her opinion it was not relevant to Homer and she would prefer to see information that was more relevant to the size of Homer. She noted it was good information.

City Planner Foster stated that he had no knowledge of who submitted this for the packet.

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

Laura Karstens, city resident, commented on the distance that the Borough sends out notices compared to the City's limit and expressed her concerns that she was not included in the notification from the City.

City Planner Foster provided rebuttal that City Code states 500 feet for notification of property owners for preliminary plats. The Borough has a separate policy for their notification process.

Scott Adams, city resident, expressed his appreciation for the Commission letting the Public know what page they are working off of when they go through the packet. It makes it easier dealing with a cell phone when we don't have a paper packet. He then expressed his views on the Commission visiting sites that pertain to applications for CUP's or subdivisions as he believed it was important to see the actual sites before making decisions; noting that there is no code addressing livestock in the city of Homer, everything he has found addresses dogs, so he believed that if they are going to allow CUPs to allow livestock in residential areas they should implement code, code is changed all the time by the city; His neighborhood was annexed into the city and they have 10 foot easements for utilities and he is going to stay with a 10 foot easement because that is what it was 45 years ago when he bought his property. He then commented that it was an interesting meeting with the things going back and forth, noting that every time the city amends code it affects people who have been living here, bought their property in areas because of the size of the lot for a reason so he expressed that he felt it uncalled for to change code because they wanted a change. Good luck with that.

#### **14. COMMENTS OF THE STAFF**

Deputy City Clerk Krause complimented the Commission on getting a heavy agenda accomplished in quick manner. She informed the Commissioners that she receives various newsletters and information from a variety of sources and she felt this topic was related to work that the Commission does and would provide some interesting information.

City Planner Foster had no additional comments.

Public Works Director Keiser stated that she will be taking resolutions to City Council to upgrade the Library Trail System in several areas, Fairview Avenue East and Fairview Avenue and Lee Avenue for the August 28<sup>th</sup> meeting.

#### **15. COMMENTS OF THE MAYOR/COUNCIL MEMBERS**

#### **16. COMMENTS OF THE COMMISSION**

Commissioner Highland commented that it was an interesting meeting.

Commissioner Conley complimented Vice Chair Barnwell on a great job and expressed his appreciation to the Clerk and thanked Ms. Keiser for the presentation tonight, the visual was really helpful and thanked the City Planner for being present as always.

Commissioner Venuti agreed that it was an interesting meeting, thanked everyone for serving and complimented Vice Chair Barnwell on doing a great job.

Commissioner Stark expressed his thanks to Ms. Keiser stating that it was great information and getting the approval for those contracts. He questioned if she has already received acceptable bids and is just looking for Council's approval to issue the contracts?

Ms. Keiser responded that was correct, adding that any contract over \$10,000 went before Council for approval.

Commissioner Stark continued expressing his thanks to the Clerk stating he appreciated the information she provided and opined that it was applicable to Homer and while it may not be directly related to Homer for its size, he hypothesized that any concept can be taken and based on best practices scaled to be useful to Homer. You just need to scale it so it is appropriate for Homer. That it would be in Homer's best interests, etc. All those things are beneficial to be aware of and they can always be scaled and modified. He then reiterated that he found the information interesting himself. Mr. Stark thanked the public for attending and participating on Zoom. In response to a couple of the comments, he knows that Commissioners, himself included, do visit sites for Conditional Use Permits and Preliminary Plats and oftentimes its incumbent upon the Commission to not deny an application unless there is a legal or codified reason to deny it. Unless there are non-conformities in code, our intentions are not to really deny people the use and enjoyment of their property. If someone bought their property forty years ago and the owner wants to do something different with the property as long as it complies with city ordinances and codes, any property owner should have that flexibility. He further commented that the Commission was in place to oversee and make sure things are done with the best interest of Homer being considered. No one wants to be controlled, that is why we issue public notices and have discussions in public. Mr. Stark believed that there needs to be review of the procedure as it appears that no

matter what application they have there always people who did not get adequate notice or all the people involved did not get notified. He noted that the City is complying with what is outlined in city code and as you know there are always people who wait till the last minute, but we have had our discussion, made suggestions on how the process could be improved. He expressed his appreciation for the work of the Commissioners and expressed his appreciation for all the work that the Clerk does for them recognizing it was a lot of work and he always appreciates the value of the results that are achieved.

Vice Chair Barnwell expressed his appreciation for the working agenda that is created and distributed by the Clerk, Ms. Keiser for the work flow chart on the Subdivision Agreement/Preliminary Plat process stating that it was the first time he fully understood the process, and he was surprised at the disconnect between Planning Commission and the City Council and this ordinance really points at that fact. He stated that all the work of the city staff was really appreciated. Mr. Barnwell thanked the audience for attending the meeting.

## **17. ADJOURNMENT**

There being no further business Vice Chair Barnwell adjourned the meeting at 9:27 p.m. The next Regular Meeting is on Wednesday, September 6, 2023 at 6:30 p.m. A Worksession will be conducted at 5:30 p.m. All meetings are scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska and via Zoom Webinar. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.

---

RENEE KRAUSE, MMC, DEPUTY CITY CLERK II

Approved:\_\_\_\_\_





# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

## Staff Report PI 23-052

TO: Homer Planning Commission  
FROM: Ryan Foster, AICP, City Planner  
DATE: September 6, 2023  
SUBJECT: City Planner's Report

---

### **Conditional Use Permit Enforcement Process**

At the last meeting, Commissioner's asked about the process for enforcement of conditional use permits. Chapter 21.90 Administration and Enforcement pertains to the administration and enforcement of Title 21, including conditional use permits. Here is a link to this section of Title 21:

<https://www.codepublishing.com/AK/Homer/#!/Homer21/Homer2190.html#21.90.020>

### **Commission Calendar Items**

The Draft Transportation Plan is available for public comment, the link for providing comments along with the draft plan and additional information can be found here:  
<https://www.cityofhomer-ak.gov/publicworks/inviting-public-comment-transportation-plan-draft>

Please send comments by Tuesday, October 10, 2023.

Stop by an Open House for a public presentation and discussion on Tuesday, September 26th, 2023. The event will be held from 6-8 pm at the college.

After the public review of the Draft Transportation Plan, the Planning Commission will have a work session to review and comment on the plan and then a public hearing to provide comments to the City Council, the approval authority for Comprehensive Plan documents.

### **Economic Development Commission**

The Commission appreciated the joint work session between the PC and EDC on Ordinance 23-40 (CUP's). At their August meeting, the EDC continued discussion and came to the following conclusions:

1. Don't treat all the zoning districts the same.
2. Homer needs broader community discussion on what is appropriate development in different parts of town.
3. The Commission had a lot of discussion but did not reach consensus on a recommendation on the ordinance.

### **Meeting Schedule**

The meeting scheduled for September 20, 2023 has been canceled. Ryan Foster, City Planner, will be at the APA/Western Planner Conference in Anchorage. The next regular meeting date is October 4, 2023.

### **Commissioner Report to Council**

9/11/23 \_\_\_\_\_



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

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

### Memorandum PL 23-053

TO: Homer Planning Commission  
FROM: Ryan Foster, AICP, City Planner  
DATE: August 30, 2023  
SUBJECT: Ordinance 23-21(S)(A) Title 22 Subdivision Text Amendment

---

### Introduction

An Ordinance 23-21(S)(A) was introduced at the June 26, 2023 regular meeting and is now before the Planning Commission for your comment and input. Since the text amendments in Ordinance 23-21(S)(A) is relevant to Public Works, I forwarded the Ordinance to Jan Keiser, City Engineer and Public Works Director, for review and comment. Attached are two memorandums with her comments on the draft ordinance for your consideration. At the August 16, 2023 regular meeting, Jan Keiser took the Planning Commission through the subdivision process and highlighted weaknesses and recent changes in code and in the current process and noted how they could be improved.

### Key Findings

- The intent of the ordinance is that there is a concern that there were improvements being missed in the subdivision process and the text change is intended to rectify it.
- A flow chart has been created to visually represent the entire subdivision process based on Jan Keiser' memos and explanation of the process in detail at the August 16, 2023 regular meeting.
- Public Works Director Keiser provided information on the following topics:
  - Was under the belief that a developer could not sell lots within the subdivision until construction of improvements, but can be done with a final plat and subdivision agreement.
  - Kenai Peninsula Borough in accordance with State laws can release a preliminary plat if an agreement is made between the Developer and the City and recorded even when no improvements have been constructed and the Developer can then sell the lots – this is uncommon, but currently City Code as written allows it.
  - The Borough will not issue a final plat for recording until receipt of acceptance by the City of Homer stating everything has been completed as required by the subdivision agreement.

- Public Works strongly recommends not deviating from this current process
- City Council recently adopted an ordinance requiring a performance guarantee of 150% of the estimated costs of improvements outlined in the Subdivision Agreement.
- The use of Construction Agreements in the past 10 years over Subdivision Agreements
  - Language in the Subdivision Agreement is more defined
  - Includes performance guarantee requirements and provided options for the developer to choose from to provide a requirement
  - Includes specific remedies if the developer defaults
- Council is requiring commitments that are not codified or captured in the Subdivision Agreement
  - It is believed that the City does not have the legal ability to hold developers to requirements that are not in city code or the signed agreement
- Preliminary, Construction and Asbuilts Drawings
  - In the beginning of the process construction drawings are developed by an Engineer, included in the Subdivision Agreement. Inspections are done pursuant to those drawings. Substantial Completion is based on completion of the work contained in those drawings.
  - Final Acceptance and the Warranty Bond is based on the completion of work in the drawings
  - Final Acceptance results in the delivery of the Asbuilts
  - Asbuilts depict all the work that was done, where construction drawings show what is planned to be built. There are always deviations of some kind in the construction process. Waiting until the project is done until recording a plat is contrary to State and City Code.
- Subdivision Agreements are not submitted to the Kenai Borough for review or approval
  - The Borough is supportive of the City of Homer requirements of adding the comments related to requiring a subdivision agreement, drainage, improvements, etc., on the preliminary plat.
    - This presents a good relationship in as much as the Borough will tell the applicant that they will not issue a final plat until the City notifies them that all the requirements have been met.
- Preliminary Plats now have a time limit of two years to be finalized.
  - The Borough does allow two extensions allowing up to an additional four years, for a total of six years to finalize a plat.
  - If not completed in that timeframe, the entire process must begin again.
- City Attorney has reviewed the Public Works Director's analysis of the process and concurred

## **Draft Comments**

- Recommend an effort to reconcile the Homer City Code for its development processes:
  - Subdivision platting/planning takes place in Title 22, Construction of Subdivisions takes place in Title 11
  - Clean up work and reconciliation of language in city code
- Utilize the following agreements for their intended purpose:
  - Subdivision Agreement: Requirements for subdivision improvements
  - Construction Agreement: Constructing infrastructure such as roads and utilities
  - Installation Agreement: Connecting to City sewer and water
- Ensure preliminary plats provide comments when subdivision, construction, or installation agreements are required
- Provide information/training on the overall development process to City Council and Commissions

## **Requested Action:**

**Option #1:** Provide comments and recommendations on Ordinance 23-21(S)(A) for the September 25, 2023 City Council regular meeting.

## **Attachments:**

Agenda Item Report CC-23-092 from April 10, 2023

Ordinance 23-21(S)(A): Amending Title 22

Memorandum dated August 7, 2023 from Jan Keiser, City Engineer and Public Works Director

Memorandum dated August 9, 2023 from Jan Keiser, City Engineer and Public Works Director

City of Homer Subdivision Development Process Flow Chart

CITY OF HOMER  
HOMER, ALASKA

Davis/Erickson

ORDINANCE 23-21(S)(A)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
AMENDING HOMER CITY CODE SECTION 22.10.050 TO SPECIFY  
THAT PRELIMINARY PLATS APPROVED BY THE CITY SHALL  
INCLUDE ALL DEVELOPMENT COMMITMENTS MADE TO THE CITY;  
~~AND THAT A FINAL PLAT FOR THE CITY OF HOMER SHALL BE AN~~  
~~AS-BUILT SURVEY.~~

WHEREAS, The City of Homer has a responsibility to its residents to ensure that new subdivisions are designed and built with necessary infrastructure for the health and safety of its citizens and the protection of the environment; and

WHEREAS, Developers of new subdivisions often make development commitments to the City related to sidewalks, trails, sewer connections, drainage, storm water controls, grading, slope, setbacks, protection of wetlands, preservation of existing watercourses and/or mitigation of potential downstream impact of watercourse alteration, and other subdivision improvements that may be required by code, or which may not be required by code but may arise in consultations with city staff or in response to public testimony related to the development; and

WHEREAS, The public hearing that is included in the preliminary plat approval process is the primary opportunity for public engagement in the process of developing new subdivisions, and this public engagement sometimes results in additional development commitments being made to the city; and

WHEREAS, In the past there have been instances where development commitments that were made to the City were not implemented as promised; and

WHEREAS, Current city code envisions a final plat to be issued by the Borough on the basis of an agreement to carry out certain commitments, rather than on the basis of those commitments actually having been carried out, **or agreed to contractually**; and

WHEREAS, A policy requiring all development commitments to be **captured in the form of a contractual subdivision agreement that would be signed prior to issuance of** ~~included on the preliminary plat, and requiring the final plat to be an as-built survey showing completion of all the elements included on the preliminary plat~~ would appear to be an effective means of ensuring all commitments undertaken by a subdivider have been implemented.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 22.10.050 entitled "Improvement requirements - General" is hereby amended as follows:

22.10.050 Improvement requirements – General

a. ~~The final plat for a subdivision in the City shall be an as-built survey showing completion of all elements of the previously approved preliminary plat.~~ The Kenai Peninsula Borough shall not release any final plat for a subdivision in the City for filing at the State Recorder's office until the subdivider or developer of the subdivision ~~either enters a subdivision agreement for, or~~ **either enters into a subdivision agreement and** constructs and **or** obtains written City approval of, ~~the following~~ **all agreed to** improvements **therein, including those made** according to the standards and procedures required under HCC Title **11**:

1. Streets in all rights-of-way dedicated by the plat;
2. All other utilities and public improvements to be constructed in the rights-of-way and easements dedicated by the plat, including water, sewer, electric, communications, and gas lines, and applicable means for non-motorized transportation; and
3. Abandonment or relocation of existing water or sewer service lines required due to conflict with new or relocated property lines, as required by the Public Works Department.

b. The Commission may exempt a plat from the provisions of subsection (a) of this section as provided in HCC **22.10.040**.

c. The subdivider shall be required to dedicate street rights-of-way according to the standards and specifications of Chapter **11.04** HCC and the City of Homer Design Criteria Manual. The subdivider shall be required to dedicate ROW or easements required to support non-motorized transportation facilities required by HCC **11.04.120**. Beyond a minimum of 60 feet, the subdivider may agree to a note attached to said subdivision plat providing sufficient setback to allow future expansion of the right-of-way without removal of improvements. Horizontal alignments are subject to City review; the City may require realignment of streets on proposed plats if the alignments do not conform to Chapter **11.04** HCC and the Design Criteria Manual. Final plat approval shall thus be subject to the approval of horizontal alignments by the City Public Works Engineer.

d. All street, utility main improvements and means for non-motorized transportation to be constructed as part of a subdivision agreement shall be constructed according to the procedures of Chapter **11.20** HCC. The City shall accept no such improvements unless a subdivision agreement is executed prior to construction of such improvements.

**e. Any development commitments made by a subdivider to the City shall be shown on the preliminary plat prior to its transmittal by the City to the Kenai Peninsula Borough. Any plat notes provided in lieu of drawings shall be specific and promissory. Such development commitments may be related to sidewalks, trails, sewer connections, drainage, storm water controls, grading, slope, setbacks, protection of wetlands, preservation of existing watercourses and/or mitigation of potential downstream impact of watercourse alteration, and any other subdivision improvements, whether required by code, or which may not be required by code but may arise in consultations with city staff or in response to public testimony related to the development.**

e **f.** All streets constructed as part of a subdivision improvement project shall be monumented according to the procedures of Chapter [11.20](#) HCC (HCC [11.20.090](#)(d)).

Section 2. This ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE HOMER CITY COUNCIL this \_\_\_\_ day of \_\_\_\_, 2023.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSENT:

ABSTAIN:

First Reading:

Public Hearing:

Second Reading:

Effective Date:





# AGENDA ITEM REPORT

---

**Ordinance 23-21, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Section 22.10.050 to Specify that Preliminary Plats Approved by the City Shall Include all Development Commitments made to the City, and that a Final Plat for the City of Homer Shall be an As-Built Survey. Davis/Erickson.**

**Item Type:** Ordinance  
**Prepared For:** Mayor Castner and Homer City Council  
**Meeting Date:** 10 April 2023  
**From:** Council Members Davis and Erickson

---

The intent of this ordinance is to address the phenomenon of new subdivisions coming into existence in Homer that do not include various development commitments (e.g. sidewalks, trails, easements, drainage routes & infrastructure) that were made to the City during the approvals process for the subdivision, but were never implemented.

The proposed solution is to a) require that all development commitments made to the City be included on the preliminary plat prior to its approval by the City and transmittal to the Kenai Peninsula Borough, and b) to require that the final plat issued by the Borough be an as-built survey showing completion of all the commitments included on the preliminary plat.

Our intent in introducing this ordinance now is not that it be passed immediately, but that it be referred to the Planning Commission for comment and input.

**Recommendation:**

Introduce Ordinance 23-21 and refer to the Planning Commission, schedule public hearing and second reading on May 22, 2023.

**Attachments:**

Ordinance 23-21

**CITY OF HOMER  
HOMER, ALASKA**

Davis/Erickson

**ORDINANCE 23-21**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
AMENDING HOMER CITY CODE SECTION 22.10.050 TO SPECIFY  
THAT PRELIMINARY PLATS APPROVED BY THE CITY SHALL  
INCLUDE ALL DEVELOPMENT COMMITMENTS MADE TO THE CITY,  
AND THAT A FINAL PLAT FOR THE CITY OF HOMER SHALL BE AN  
AS-BUILT SURVEY.

WHEREAS, The City of Homer has a responsibility to its residents to ensure that new subdivisions are designed and built with necessary infrastructure for the health and safety of its citizens and the protection of the environment; and

WHEREAS, Developers of new subdivisions often make development commitments to the City related to sidewalks, trails, sewer connections, drainage, storm water controls, grading, slope, setbacks, protection of wetlands, preservation of existing watercourses and/or mitigation of potential downstream impact of watercourse alteration, and other subdivision improvements that may be required by code, or which may not be required by code but may arise in consultations with city staff or in response to public testimony related to the development; and

WHEREAS, The public hearing that is included in the preliminary plat approval process is the primary opportunity for public engagement in the process of developing new subdivisions, and this public engagement sometimes results in additional development commitments being made to the city; and

WHEREAS, In the past there have been instances where development commitments that were made to the City were not implemented as promised; and

WHEREAS, Current city code envisions a final plat to be issued by the Borough on the basis of an agreement to carry out certain commitments, rather than on the basis of those commitments actually having been carried out; and

WHEREAS, A policy requiring all development commitments to be included on the preliminary plat, and requiring the final plat to be an as-built survey showing completion of all the elements included on the preliminary plat would appear to be an effective means of ensuring all commitments undertaken by a subdivider have been implemented.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 22.10.050 entitled "Improvement requirements - General" is hereby amended as follows:

22.10.050 Improvement requirements - General

a. **The final plat for a subdivision in the City shall be an as-built survey showing completion of all elements of the previously-approved preliminary plat.** The Kenai Peninsula Borough shall not release any final plat for a subdivision in the City for filing at the State Recorder's office until the subdivider or developer of the subdivision ~~either enters a subdivision agreement for, or constructs and obtains written City approval of,~~ the following improvements, according to the standards and procedures required under HCC Title [11](#):

1. Streets in all rights-of-way dedicated by the plat;
2. All other utilities and public improvements to be constructed in the rights-of-way and easements dedicated by the plat, including water, sewer, electric, communications, and gas lines, and applicable means for non-motorized transportation; and
3. Abandonment or relocation of existing water or sewer service lines required due to conflict with new or relocated property lines, as required by the Public Works Department.

b. The Commission may exempt a plat from the provisions of subsection (a) of this section as provided in HCC [22.10.040](#).

c. The subdivider shall be required to dedicate street rights-of-way according to the standards and specifications of Chapter [11.04](#) HCC and the City of Homer Design Criteria Manual. The subdivider shall be required to dedicate ROW or easements required to support non-motorized transportation facilities required by HCC [11.04.120](#). Beyond a minimum of 60 feet, the subdivider may agree to a note attached to said subdivision plat providing sufficient setback to allow future expansion of the right-of-way without removal of improvements. Horizontal alignments are subject to City review; the City may require realignment of streets on proposed plats if the alignments do not conform to Chapter [11.04](#) HCC and the Design Criteria Manual. Final plat approval shall thus be subject to the approval of horizontal alignments by the City Public Works Engineer.

d. All street, utility main improvements and means for non-motorized transportation to be constructed as part of a subdivision agreement shall be constructed according to the procedures of Chapter [11.20](#) HCC. The City shall accept no such improvements unless a subdivision agreement is executed prior to construction of such improvements.

**e. Any development commitments made by a subdivider to the City shall be shown on the preliminary plat prior to its transmittal by the City to the Kenai Peninsula Borough. Any plat notes provided in lieu of drawings shall be specific and promissory. Such development commitments may be related to sidewalks, trails, sewer connections,**

**drainage, storm water controls, grading, slope, setbacks, protection of wetlands, preservation of existing watercourses and/or mitigation of potential downstream impact of watercourse alteration, and any other subdivision improvements, whether required by code, or which may not be required by code but may arise in consultations with city staff or in response to public testimony related to the development.**

e **f.** All streets constructed as part of a subdivision improvement project shall be monumented according to the procedures of Chapter [11.20](#) HCC (HCC [11.20.090](#)(d)).

Section 2. This ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE HOMER CITY COUNCIL this \_\_\_\_ day of \_\_\_\_, 2023.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSENT:

ABSTAIN:

First Reading:

Public Hearing:

Second Reading:

Effective Date:



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Public Works

3575 Heath Street  
Homer, AK 99603

[publicworks@cityofhomer-ak.gov](mailto:publicworks@cityofhomer-ak.gov)

(p) 907- 235-3170

(f) 907-235-3145

DATE: August 7, 2023

TO: Ryan Foster, City Planner

FROM: Janette Keiser, PE, City Engineer and Public Works Director

RE: Proposed Ordinance 23-21(S) regarding preliminary plats

Here are my comments regarding the proposed ordinance:

1. **Reference:** WHEREAS #2 (Line 17) states that “[d]evelopers often make development commitments...which may not be required by code but may arise in consultation with city staff or in response to public testimony...”

**Comment:** Commitments, which arise “in consultation with city staff” are either grounded in City Code or the City’s technical specifications, and are memorialized in the City’s Standard Specifications, Design Criteria, and the Construction Drawings, which are prepared for the subdivision. Such commitments are then, identified with specificity in the Subdivision Development Agreement, the satisfaction of which is already a pre-requisite to the City’s approval of a Final Plat. Commitments made “in response to public testimony”, which have a basis in the HCC, are also made part of the Subdivision Development Agreement. We do not need a new tool for these kinds of commitments. We should not be requiring, or expecting, developers to make commitments that are not grounded in City Code or the City’s technical specifications.

2. **Reference:** WHEREAS #3 (Line 25) refers to “additional development commitments”.

**Comment:** These kinds of commitments, if grounded in City Code, should be captured in the Subdivision Development Agreement. There should not be any “additional development commitments” that are not either grounded in City Code or captured in the Subdivision Development Agreement.

3. **Reference:** WHEREAS #4 (Line 30) says “there have been instances where development commitments... were not implemented as promised...”

**Comment:** As mentioned above, any development commitments must be grounded in City Code and set forth in the Subdivision Development Agreement to be enforceable.

4. **Reference:** WHEREAS #5 (Line 33) says a final plat is issued by the Borough on the basis of a commitment, not the realization of those commitments.

**Comment:** This is not true. The Borough will not issue a Final Plat until the City signs off on the completion of the improvements set forth in the Subdivision Development Agreement.

5. **Reference:** WHEREAS #6 (Line 37) seems to desire that final plats be issued only when a subdivision agreement has been signed.

**Comment:** Current practice is that final plats are issued only when the City notifies the Borough that a Subdivision Development Agreement has been, not just signed, but completed. We do not recommend deviating from this practice.

6. **Reference:** Lines 49 – 64. This is current practice.

**Comment:** Now, the City has the requirement that a developer must post a bond worth 150% of the estimated cost of the improvements, at the time the Subdivision Development Agreement is executed.

7. **Reference:** Lines 91-93. This would require the developer to provide improvements that *“may not be required by code but may arise in consultations with city staff or in response to public testimony...”*

**Comment:** City staff should not be requiring improvements that are not grounded in City Code. Requiring the developer to provide improvements that are requested in public testimony, but which aren’t set forth in City Code, opens the door to arbitrary and capricious requests for playgrounds, dog parks, street art, sidewalks paved in gold and other spurious ideas. This exposes the City to risks from legal challenges. One of the few things the City, as a municipal body, cannot do is make arbitrary and capricious decisions.

8. **Reference:** Ordinance title states *“a final plat for the City...shall be an as-built survey.”*

**Comment:** The term *“as-built survey”* is a technical term of art, which refers to the actual configuration, dimensions, materials, elevations, and distances used in the construction of a particular utility or facility. We require the developer to provide as-built drawings as a condition precedent to receiving a Certificate of Final Completion, which is required before the City will notify the Borough that a final plat may be issued. The *“final plat”* is not the *“as-built”* and calling it such is not an appropriate application of this term. Requiring the *“final plat”* to contain the same level of detail as an *“as-built”* is contradictory to best engineering practice.





# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Public Works

3575 Heath Street  
Homer, AK 99603

[publicworks@cityofhomer-ak.gov](mailto:publicworks@cityofhomer-ak.gov)

(p) 907- 235-3170

(f) 907-235-3145

## Memorandum

**TO:** Ryan Foster, City Planner

**FROM:** Janette Keiser, PE, City Engineer and Public Works Director

**DATE:** August 9, 2023

**RE:** Legislative History of Regarding Subdivision Development in Homer

**Purpose:** I have reviewed the legislative history relating to connections between subdivision developments, performance guarantees and platting in Homer, with the goal of clarifying these connections. This memorandum summarizes my findings and conclusions.

**Executive Summary:** Current regulations allow developers to record a plat if (a) there is a subdivision agreement addressing the development of improvements in City rights-of-way or easements and (2) the developer provides a performance guaranty valued at 150% of the estimated cost of said improvements. The current language of our Subdivision Agreements, which memorializes development permits, supports the premise that developers providing the required performance bond, are able to finalize their Subdivision Agreements, record their plats and thus, sell lots.

### Excerpts and citations of applicable legislation supporting the premise:

1. State law clearly puts the City and the Borough, as “authorities having jurisdiction”, in the driver’s seat regarding when plats can be recorded and lots can be sold.  
*“Before the lots...of any subdivision...may be sold or offered for sale, the subdivision... shall be approved by the authority having jurisdiction...and shall be filed and recorded in the office of the recorder.” AS 40.15.010.*
2. Also:  
*“The owner of land located in a subdivision may not transfer, sell, or enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, filed and recorded...A person may not file or record a plat or other document depicting subdivided land in a public recorder’s office unless the plat... has been approved by the platting authority.” AS 29.40.180.*
3. The City’s original regulation, adopted in 1987, required that improvements be constructed before a plat would be released, unless there was an agreement stipulating the improvements would be constructed. The original code about subdivisions and platting said:  
*“No subdivision plat shall be released by the Kenai Peninsula Borough for filing...until the subdivider or developer...constructs streets...and all other utilities...to be constructed in said rights of way...”*

*"This provision [HCC 22.10.050(a)] may be waived if the developer signs an agreement with the City of Homer that no building permit may/or request for utility connection will be submitted...for any lot...until such time as the improvements are completed and accepted..." HCC 22.10.050(a)*

HCC 22.10.050(a) was adopted by Ord 87-8(s) and revised in 2011 by Ord 10-57.

4. The City's 2011 revisions replaced the 1987 language about the "agreement", with the following new language:

*"The Kenai Peninsula Borough shall not release any final plat for a subdivision in the City for filing at the State Recorder's office until the subdivider or developer...either enters into a subdivision agreement for, or constructs and obtains written City approval of, the following improvements..." HCC 22.10.050(a), adopted in 2011, by Ord 10-57.*

The current code contains this same language, which clearly allows a plat to be released upon execution of a subdivision agreement. For example, the Canyon Trails Phase II Subdivision Agreement, executed in 2012, states:

*"The intent of this Subdivision Agreement is to allow recording of the subdivision plat and marketing...before the punchlist items are completed..."*

Further, later Subdivision (or Construction Agreements) issued by Public Works stated, the

*"[The] final plat...shall not be recorded until Developers met all conditions of this agreement or provide a performance guaranty...[in the amount equal to the Engineers Estimate plus 10%]"*

5. The City's original 1987 regulations required a performance guaranty, but there was a provision for a waiver in the case of new subdivisions:

*"A performance bond or other acceptable guarantee in the amount of 100% of the project cost, which bond shall be waived in the case of new subdivisions, in which ROW dedication via plat filing or recordation, cannot occur until improvement are installed and accepted." HCC 11.20.070 as amended by Ord 87-6(s) and later amended in 2023.*

6. Even though the HCC allowed performance bonds to be waived in the case of new subdivisions, subdivision agreements issued by Public Works, as far back as 2003 required a performance bond, in the amount of 110% of the estimated costs of improvements. I didn't see where this practice was codified.

7. Our current Subdivision Development Agreement template says,

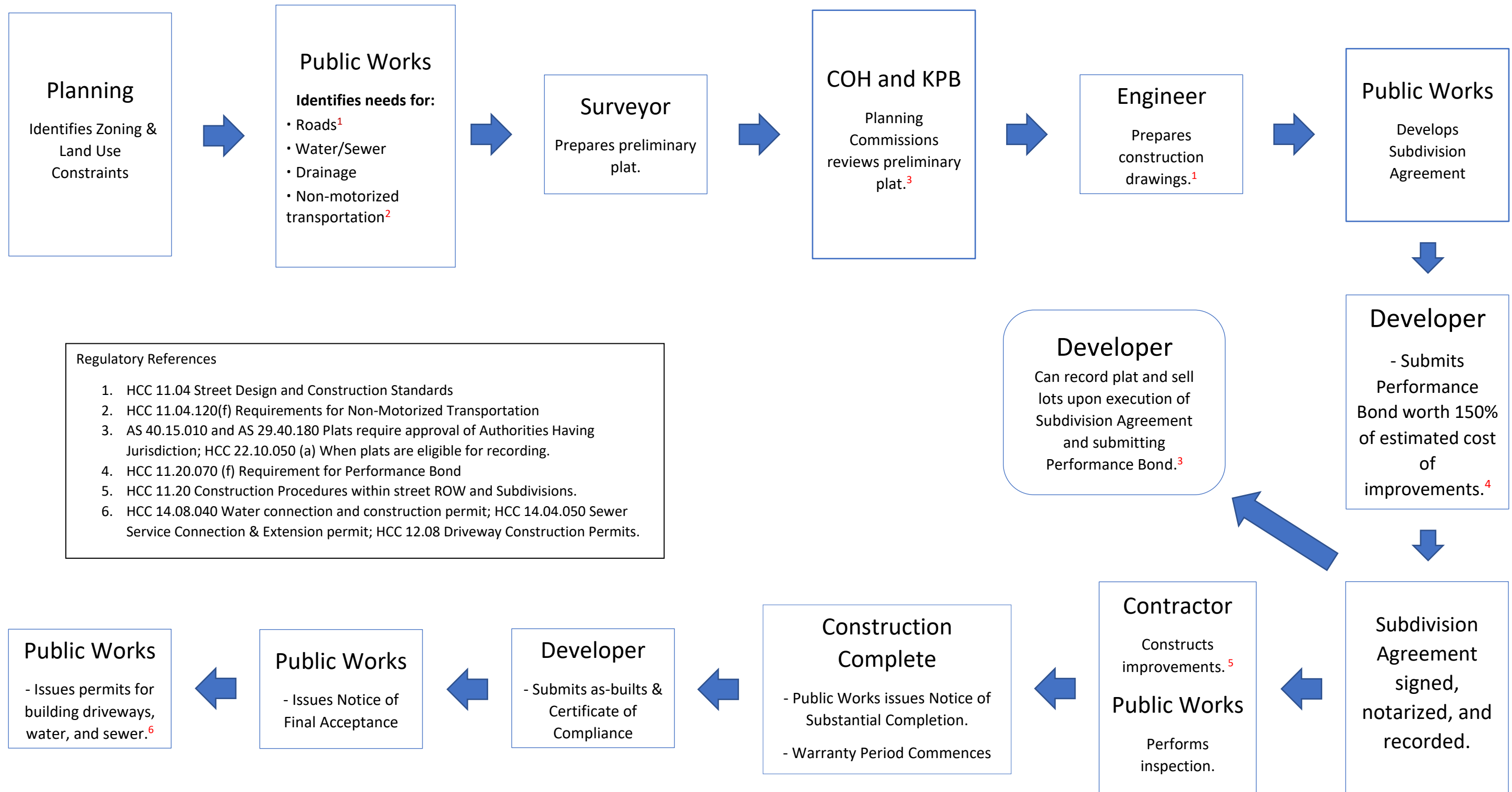
*"The final plat for the subdivision or any portion thereof shall not be recorded until Developer has met all conditions of this agreement (or provides a performance guaranty for work not completed in a form approved by the City)."*

8. In 2023, HCC 11.20.070 was amended to require a larger performance bond.

*"A performance bond or other acceptable guaranty in the amount of 150 percent of the design engineer's construction cost estimate is required." HCC 11.20.070(f) adopted in 2023 by Ord 23-15.*



# City of Homer Subdivision Development Process



**PLANNING COMMISSION  
2023 Calendar**

	<b>AGENDA ITEM DEADLINES</b>	<b>MEETING DATE</b>	<b>COMMISSIONER SCHEDULED TO REPORT</b>	<b>CITY COUNCIL MEETING FOR REPORT*</b>	<b>ANNUAL TOPICS/EVENTS</b>
<b>JANUARY</b>	12/14/22 Public Hearing Items 12/16/22 Preliminary Plat Submittals 12/23/22 Regular Agenda Items	01/04/23		Monday, 01/09/23 6:00 p.m.	•
	12/28/22 Public Hearing Items 12/30/22 Prelim Plat Items 01/06/23 Regular Agenda Items	01/18/23		Monday 01/23/23 6:00 p.m.	•
<b>FEBRUARY</b>	01/11/23 Public Hearing Items 01/13/23 Prelim Plat Items 01/20/23 Regular Agenda Items	02/01/23	Highland	Monday 02/13/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• PC Training on Legislative vs Quasi-Judicial decisions</li> <li>• Developing and Writing Decisions &amp; Findings</li> </ul>
	01/25/23 Public Hearing Items 01/27/23 Prelim Plat items 02/03/23 Regular Agenda Items	02/15/23		Monday 02/27/23 6:00 p.m.	•
<b>MARCH</b>	02/08/23 Public Hearing Items 02/10/23 Prelim Plat Items 02/17/23 Regular Agenda Items	03/01/23		Monday 03/13/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• AK APA Conference</li> <li>• Comp Plan &amp; Title 21 Update, Grading Permit, Homer Housing Event Presentation/Discussion</li> </ul>
	02/22/23 Public Hearing Items 02/24/23 Prelim Plat Items 03//23 Regular Agenda Items	03/15/23		Tuesday 03/28/23 6:00 p.m.	• Presentation on Old Town, Transportation Plan Updates and Timeline
<b>APRIL</b>	03/15/23 Public Hearing Items 03/17/23 Prelim Plat Items 03/24/23 Regular Agenda Items	04/05/23		Monday 04/10/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• HNMTTP Review</li> <li>• Comp Plan Review</li> </ul>
	03/29/23 Public Hearing Items 03/31/23 Prelim Plat Items 04/07/23 Regular Agenda Items	04/19/23		Monday 04/24/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• Amend meeting Schedule to once per month</li> <li>• Amend Public Comment Submittal deadline</li> </ul>
<b>MAY</b>	04/12/23 Public Hearing Items 04/14/23 Prelim Plat Items 04/21/23 Regular Agenda Items	05/03/23	Barnwell	Monday 05/08/23 6:00 p.m.	•
	04/26/23 Public Hearing Items 04/28/23 Prelim Plat Items 05/05/23 Regular Agenda Items	05/17/23		Monday 05/22/23 6:00 p.m.	•
<b>JUNE</b>	05/17/23 Public Hearing Items 05/19/23 Prelim Plat Items 05/26/23 Regular Agenda Items	06/07/23		Monday 06/12/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• Reappointment Applications will be sent out</li> <li>•</li> </ul>

<b>JUNE</b>	05/31/23 Public Hearing Items 06/02/23 Prelim Plat Items 06/09/23 Regular Agenda Items	06/21/23	Monday 06/26/23 6:00 p.m.	•
<b>JULY</b>	06/28/23 Public Hearing Items 06/30/23 Prelim Plat Items 07/07/23 Regular Agenda Items	07/19/23	Monday 07/24/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• Reappointment Application Due</li> <li>• Spit Comp Plan review</li> </ul>
<b>AUGUST</b>	07/12/23 Public Hearing Items 07/14/23 Prelim Plat Items 07/21/23 Regular Agenda Items	08/02/23	Monday 08/14/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• Election of Officers</li> <li>• Capital Improvement Plan</li> </ul>
	07/26/23 Public Hearing Items 07/28/23 Prelim Plat Items 08/04/23 Regular Agenda Items	08/16/23	Monday 08/28/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• Training - City Clerk's Office</li> </ul>
<b>SEPTEMBER</b>	08/16/23 Public Hearing Items 08/18/23 Prelim Plat Items 08/25/23 Regular Agenda Items	09/06/23	Monday 09/11/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• Economic Development Visitor</li> <li>• Draft Transportation Plan Link</li> <li>• Ord 23-21(S)(A)</li> </ul>
	08/30/23 Public Hearing Items 09/01/23 Prelim Plat Items 09/08/23 Regular Agenda Items	09/20/23	Monday 09/25/23 6:00 p.m.	This Meeting has been canceled as Planning Staff will be attending annual Training Conference
<b>OCTOBER</b>	09/13/23 Public Hearing Items 09/15/23 Prelim Plat Items 09/22/23 Regular Agenda Items	10/04/23	Monday 10/09/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• Floodplain or other Hazard regulation Overview</li> </ul>
	09/27/23 Public Hearing Items 09/29/23 Prelim Plat Items 10/06/23 Regular Agenda Items	10/16/23	Monday 10/23/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• Annual Meeting Schedule</li> </ul>
<b>NOVEMBER</b>	10/11/23 Public Hearing Items 10/13/23 Prelim Plat Items 10/20/23 Regular Agenda Items	11/01/23	Monday 11/27/23 6:00 p.m.	
<b>DECEMBER</b>	11/15/23 Public Hearing Items 11/17/23 Prelim Plat Items 11/24/23 Regular Agenda Items	12/06/23	Monday 12/11/23 6:00 p.m.	<ul style="list-style-type: none"> <li>• Review Commission Bylaws, Policies and Procedures</li> <li>• Town Center Plan Review</li> </ul>

\*The Commission's opportunity to give their report to City Council is scheduled for the Council's regular meeting following the Commission's regular meeting, under Agenda Item 8 – Announcements/ Presentations/ Borough Report/Commission Reports. Reports are the Commission's opportunity to give Council a brief update on their work. Attend via Zoom or in Person.



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

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

### Memorandum

TO: Mayor Castner and Homer City Council  
FROM: Rob Dumouchel, City Manager  
DATE: August 23, 2023  
SUBJECT: City Manager's Report for August 28, 2023 Council Meeting

---

#### Safety Exercise with USCG

City public safety officials met with the Coast Guard and the State Troopers to discuss the make-up of a joint response to a mass maritime shooting event or a similar event involving an active shooter in our port area. We spoke about our respective agencies' capabilities and training. The Coast Guard highlighted the differences in responding to these events on a vessel versus in a building. The following day, our Police officers joined the Coast Guard for a walk through on the Tustumena. We appreciate the opportunity to get a thorough tour of the vessel and walk through various responses to different situations with the Coast Guard.

#### Code Enforcement Progress

I have been working with staff to build better processes for code enforcement within the City. In reviewing Homer City Code Chapter 5.16 for public nuisance abatement, we found that certain powers to enforce nuisance regulations can be delegated to positions within the City outside of the Police Department if the City Manager grants them in writing. To meet that standard, I have written a memo which grants the City Planner, Volunteer Fire Chief, City Engineer, and Public Works Director the authority to enforce elements of HCC Chapter 5.16.

#### Park Plans – Public Engagement Opportunities

Corvus Design will be in Homer on September 12<sup>th</sup> and 13<sup>th</sup> to host a variety of public meetings to gather input for the Bayview Park Plan and the Karen Hornaday Park Plan. Once times and locations are determined the information will be advertised publicly.

#### Hornaday Park Playground Improvements

Funded through a mix of donations from the Homer Foundation and the FY24/25 Capital Budget, the Hornaday Park Playground is getting some needed updates and repairs. The large slide and tire swing have been replaced. We are anxiously awaiting delivery of two new diggers, one of which is an accessible design, to be installed in the lower sandpit between the slide and the rope climber.

#### City Phone System Upgrade Complete

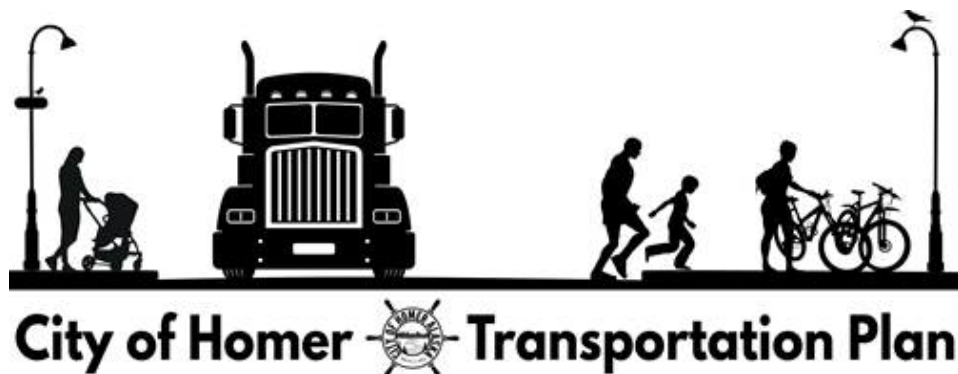
On Tuesday, August 22, 2023, IT staff completed upgrades to the City's phone system which was funded by emergency ordinance 23-38 and extended by 23-47. Upgrades entailed replacing 68 of the oldest desktop phones in use by city staff (most of those replaced were about 20 years old), as well as replacing five separate departmental call manager servers with one new Avaya call manager. These older servers were each a single

point of failure and in some cases were running on computer hardware that is over 20 years old. The new call manager resides on server infrastructure at City Hall that has redundancy built in to provide more robust levels of reliability and availability. The move to put the entire City staff on Avaya phones also means that internal calls can be made with the four-digit dialing plan across all City locations.

### **Transportation Plan Update**

The public review draft of the Transportation Plan is out! Copies of the plan and comment forms are available at City Hall and the library, or via the City website. There will be a public presentation and open house on Tuesday, September 26<sup>th</sup> at the college, 6-8 pm. Comments on this draft will be accepted until October 10<sup>th</sup>. Thereafter, a draft with revisions based on public comment will be presented to the Planning Commission in late 2023, followed by the City Council in 2024. Council will be provided with a full project update in September.

<https://www.cityofhomer-ak.gov/publicworks/inviting-public-comment-transportation-plan-draft>



### **Dog Poop**

I'm receiving reports from the field that an unprecedented amount of dog poop is accumulating in our parks, ball fields, and beaches. We provide numerous dog poop bag dispensers throughout the City and Parks maintenance staff cleans up what they can, but poop scooping is a personal responsibility and not a municipal service. We're considering ways to better educate the public and enforce existing regulations to reduce this public health hazard. In certain situations, up to a \$300 fine is possible under existing code, but we'd much rather folks just clean up after their dogs!

### **Short Term Rental Tracking**

Earlier this year, the City entered into a one year agreement with GovOS to test their short term rental tracking service. Once we got past the set up and initial data collection, the program proved to not be a good fit for the City in the long run and I have terminated the agreement. The City will be refunded for the remainder of the contract. We were able to develop a better idea of the volume of short term rentals within the City. For instance, 206 units (more than double what the Borough has on file as paying sales tax) at an average rent of \$334 were tracked in June with an 80% occupancy which equates to approximately \$1,653,300 in taxable sales. Unfortunately, the connections to actual addresses for enforcement purposes were not meeting our needs. I think it is the unique challenge of rural Alaska that made this so difficult and I don't expect another vendor will perform much better. Councilmembers Aderhold and Davis have been working on this topic with me and I am looking forward to working with them to develop the next phase of action.



### Summer Maintenance for Winter Trails

City staff have been working alongside our loyal crew of volunteers from Homer Drawdown to make continued improvements on our trails in town. Resurfacing of Karen Hornaday Nature Trails and Calhoun Trail have been ongoing, with some work still to be done this season. The primary goal this summer has been improving existing trails so that they are more accessible and easier to maintain in the winter time. This has also included several vegetation removal work parties as we reclaim our trails from the encroaching greenery.



*Volunteer Mike Haines raking gravel while Parks Coordinator Chad Felice operates the Toolcat and Parks Technician Matt Hornaday runs the compactor on the upper section of Calhoun Trail.*

### Attachments:

- August Employee Anniversaries
- Memorandum dated August 17, 2023 from City Manager Granting Enforcement Powers under HCC Chapter 5.16
- Memorandum dated August 23, 2023 from Special Projects and Communications Coordinator Re: Homer Harbor Expansion Monthly Written Update
- Council Work Session Schedule



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

(p) 907-235-8121 x2222

(f) 907-235-3148

## Memorandum

TO: MAYOR CASTNER AND CITY COUNCIL  
FROM: Andrea Browning  
DATE: August 28, 2023  
SUBJECT: August Employee Anniversaries

---

I would like to take the time to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer over the years.

<b>Joe Inglis</b>	<b>Public Works</b>	<b>11</b>	<b>Years</b>
<b>Kellen Stock</b>	<b>Police</b>	<b>3</b>	<b>Years</b>
<b>Rob Dumouchel</b>	<b>Admin</b>	<b>2</b>	<b>Years</b>
<b>Winnifred Wade</b>	<b>Police</b>	<b>1</b>	<b>Year</b>



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

(p) 907-235-8121 x2222

(f) 907-235-3148

## Memorandum

TO: Mayor Castner and Homer City Council

FROM: Rob Dumouchel, City Manager

DATE: August 17, 2023

SUBJECT: Granting of "Department" Powers to City Planner, Fire Chief, City Engineer, and Public Works Director under HCC Chapter 5.16

---

City staff are attempting to refocus our efforts as they apply to issues related to code enforcement in our neighborhoods. There are existing codes which are seldom used. In using Homer City Code (HCC) Chapter 5.16 PUBLIC NUISANCE ABATEMENT as a tool, we believe that we can make an impact on the growing instances of code violations within residential neighborhoods.

HCC Chapter 5.16 includes a definition for the term "Department" in which "Department" means the Police Department or another department or division of the City designated in writing by the City Manager to have the authority, in whole or in part, to enforce the chapter. The intent of this memo is to grant the City Planner, Volunteer Fire Chief, City Engineer, and Public Works Director the authority to enforce elements of HCC Chapter 5.16.

While some nuisances are criminal in nature and require the use of police officers to manage and mitigate, others have a public health and safety aspect which can be more effectively and appropriately handled by either the Planning Division or the Volunteer Fire Department. If either official requires backup for safety purposes, that will be provided by the Homer Police Department.

**Staff Recommendation:** Receive informational report





# MEMORANDUM

---

## Homer Harbor Expansion Study Monthly Written Update

**Item Type:** Informational Memorandum  
**Prepared For:** Mayor and City Council  
**Date:** August 23, 2023  
**From:** Jenny Carroll, Special Projects and Communications Coordinator  
**Through:** Rob Dumouchel, City Manager and Bryan Hawkins, Port Director

---

**Purpose:** This memorandum provides the fifth Homer Harbor Expansion Study monthly written update to Homer City Council per Resolution 23-037.

**Study Activities Update:** The U.S. Army Corps of Engineers (USACE) Project Development Team has completed the Scoping Phase and successfully completed the Alternatives Milestone.

The second phase of the study is underway. USACE activities include:

- Environmental coordination with agencies; sending Tribal engagement letters and regular engagement with the Environmental Stakeholder Working Group. Next meeting is scheduled for August 23<sup>rd</sup>.
- Economic benefits analysis; developing and submitting a survey for the harbor fleet USACE approval; identifying current fleet and future with and future without scenarios.

### HDR – Owner Representative Activities

- Coastal Numerical Modeling (waves, tides/storm surge, sediment transport) of existing conditions.
- Maintaining and updating project website
- Assisting USACE with future with and future without scenario designs
- Coordinating second Community meeting scheduled for Saturday, September 23, 2023 at 10 am. The event will be held at the Kenai Peninsula College Campus at 533 E Pioneer Avenue in Room P201. It will include an update from HDR and the USACE on the study and design alternatives that are moving forward, as well as the opportunity to work in small focus groups to offer input and ideas on reaching HHE Charter objectives. More information about this opportunity will be forthcoming.

**USACE Project Management Plan:** The USACE is still working to finalize the Project Management Plan (PMP), which defines study costs and timeline for deliverables.

- At a recent Project Development Team (PDT) meeting, the USACE informed the City that the Federal funds allocated to the study in FY23 will carry USACE activities through December 2023.
- Presently, the USACE has not secured Federal funding to continue study activities, and they are evaluating a potential pause January 2024 through June 2024, which will change the milestone dates. The USACE anticipates resuming the study in July 2024 by receiving additional Federal funding through a balance of unused funds in the USACE FY24 workplan, though this funding is not confirmed.
- While all USACE general investigation studies (GI's) are incrementally funded, it is unprecedented for a study to pause for lack of continuation funding. However, the Homer Harbor Expansion study falls into a unique cohort of new start general investigations that were funded through congressionally designated spending appropriations. The procedure for securing continuation funding for these studies in the FY24 Federal budget (either through a second federal appropriation or through inclusion in the USACE workplan) was unclear and no funding was included. It is our understanding that all new start GI's funded through FY23 Federal appropriations are in the same position.
- The USACE Colonel Palazzini will be sending a letter to officially update the City.
- City staff is working diligently to assess funding and other opportunities to keep the study on schedule and/or minimize the impacts of a delay.

The PMP also cannot be approved by the vertical team until final study cost has been calculated and agreed upon. Geotechnical activities (sampling) are a significant component expected to increase the study cost above the budgeted \$3M. The City and HDR are working with the USACE geotechnical team to bring those costs down while gathering sufficient data to support basin design assumptions which is important to mitigating risk associated with anticipated construction costs.

### **Communications**

City staff are actively coordinating with the HDR communications team to provide outreach and public information about the study with a current focus on social media posts sharing goals of the study established in the City Council adopted Charter and have just begun promoting the September public scoping meeting.

Study information and updates are consistently being shared in the City's monthly newsletter, through social media (FB and Instagram), and on the Homer Harbor Expansion website.

### **RECOMMENDATION:**

Informational Only.

# WORK SESSION

## AGENDA CALENDAR 2023

<b>Council Meeting Dates</b>	<b>4:00 p.m. Worksession Topic</b>
<b><i>Monday, May 8</i></b>	
<b><i>Tuesday, May 22</i></b>	<i>Coast Guard ws 2 5 COW @ 4</i>
<b><i>Monday, June 12</i></b>	<i>2023 City of Homer Salary and Benefits Survey</i>
<b><i>Monday, June 26</i></b>	<i>FY24/25 Capital Budget</i>
<b><i>Monday, July 24</i></b>	<i>HDR-Homer Harbor Expansion Alternatives Screening and Next Steps</i>
<b><i>Monday, August 14</i></b>	<i>HERC &amp; Hazardous Materials Update – Economic Development Manager &amp; Recreation Manager</i>
<b><i>Monday, August 28</i></b>	<i>2024-2029 Capital Improvement Plan &amp; FY25 Legislative Priorities - Special Projects &amp; Communications Coordinator</i>
<b><i>Monday, September 11</i></b>	<i>HERC – Economic Development Manager &amp; Recreation Manager</i>
<b><i>Monday, September 25</i></b>	<i>Ord 23-49 Amend Title 2 &amp; Re-Organization</i>
<b><i>Monday, October 9</i></b>	
<b><i>Monday, October 23</i></b>	
<b><i>Monday, November 27</i></b>	<i>Recreation</i>
<b><i>Monday, December 11</i></b>	
<b><i>Monday, December 18 If needed</i></b>	

## Bayview Park & Karen Hornaday Park

# Public Forums



The City of Homer invites the public to come and discuss ongoing plans for the **Bayview and Karen Hornaday Parks**.

**Public comments and questions regarding either park project are welcome at any of the three public forums scheduled.** On-site planning exercises will focus on the respective park.

## TUESDAY • SEPTEMBER 12 • 2023



### BAYVIEW PARK PUBLIC FORUM

Location: 195 W Bayview Ave, Homer, AK 99603

Time: 12:00 PM — 1:00 PM

SCAN ME!



### KAREN HORNADAY PARK PUBLIC FORUM

Location: 475 W Fairview Ave, Homer, AK 99603

Time: 3:00 PM — 5:00 PM

SCAN ME!



### CITY HALL PUBLIC FORUM

Location: Upstairs Conference Room at Homer City Hall, 491 E Pioneer Ave, Homer, AK 99603

Time: 5:30 PM — 6:30 PM

SCAN ME!

For more park project information scan the QR codes or go to:

Bayview Park Project  
<https://www.cityofhomer-ak.gov/publicworks/bayview>

Karen Hornaday Park Master Plan Update  
<https://www.cityofhomer-ak.gov/publicworks/karen-hornaday-park-master-plan-update>

**Questions?**

Matt Steffy, Parks & Trails Planner  
907-435-3178

[msteffy@ci.homer.ak.us](mailto:msteffy@ci.homer.ak.us)



## City of Homer Transportation Plan

# OPEN HOUSE

**The public review draft of the Transportation Plan is out!**

Please attend a public presentation and open house on the draft City of Homer Transportation Plan. Comments on this draft will be accepted until October 10<sup>th</sup>, 2023.

**SCAN ME**  
to access the latest  
Transportation Plan draft  
and updates



**TUESDAY**  
**September 26<sup>th</sup> 2023**  
**6:00 PM — 8:00 PM**



**UAA/KPC Kachemak Bay Campus**  
**Pioneer Hall, Room 201**  
**533 E Pioneer Avenue**  
**Homer, AK 99603**

**Next steps:** a revised draft based on public comment will be presented to the Planning Commission late 2023, followed by City Council in 2024. Council will be provided with a full project update in September 2023.

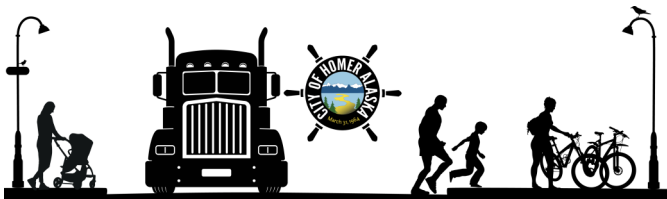
**Copies of the plan and comment forms are available at City Hall and the library, or via the City website.**



**Submit Draft Feedback to Kenny Engineering, LLC at:**  
**[homer.transportationplan@kinneyeng.com](mailto:homer.transportationplan@kinneyeng.com)**

**Open House Questions? Contact:**

**Julie Engebretsen, Economic Development Manager**  
Phone 907-435-3119  
[jengebretsen@ci.homer.ak.us](mailto:jengebretsen@ci.homer.ak.us)







# Planning Department

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

Peter A. Micciche  
Borough Mayor

August 29, 2023

**NOTICE OF DECISION  
KENAI PENINSULA BOROUGH PLAT COMMITTEE  
MEETING OF AUGUST 28, 2023**

Re: Bidarki Creek No 5 Preliminary Plat  
KPB File Number: 2022-160R1

The Plat Committee, as authorized by the Planning Commission pursuant to KPB 2.40.080, reviewed and granted conditional approval of the subject preliminary plat during its regularly scheduled meeting of August 28, 2023. The conditional approval was granted by a unanimous vote based on substantial evidence before the Plat Committee, including staff recommendations within the Staff Report and other information from the public hearing, that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.25, 20.30, 20.40, and must meet 20.60.

Pursuant to Borough Code Section 20.25.100, the Plat Committee's decision specifically adopts and incorporates by reference the Staff Report and Staff's recommendations as the findings and reasons for its actions.

A party of record as defined by Borough Code Section 21.20.210(A)(5) may request that a decision of the Plat Committee be reviewed by the Planning Commission by filing a written request within 15 days of notification of the decision in accordance with KPB 2.40.080.

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



# Planning Department

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

Peter A. Micciche  
Borough Mayor

August 29, 2023

**NOTICE OF DECISION  
KENAI PENINSULA BOROUGH PLAT COMMITTEE  
MEETING OF AUGUST 28, 2023**

Re: W.R. Bell Subdivision 2023 Addition Preliminary Plat  
KPB File Number: 2023-087

The Plat Committee, as authorized by the Planning Commission pursuant to KPB 2.40.080, reviewed and granted conditional approval of the subject preliminary plat during its regularly scheduled meeting of August 28, 2023. The conditional approval was granted by a unanimous vote based on substantial evidence before the Plat Committee, including staff recommendations within the Staff Report and other information from the public hearing, that the preliminary plat meets the requirements of the Kenai Peninsula Borough Code 20.25, 20.30, 20.40, and must meet 20.60.

Pursuant to Borough Code Section 20.25.100, the Plat Committee's decision specifically adopts and incorporates by reference the Staff Report and Staff's recommendations as the findings and reasons for its actions.

A party of record as defined by Borough Code Section 21.20.210(A)(5) may request that a decision of the Plat Committee be reviewed by the Planning Commission by filing a written request within 15 days of notification of the decision in accordance with KPB 2.40.080.

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