



Homer City Hall

491 E. Pioneer Avenue

Homer, Alaska 99603

www.cityofhomer-ak.gov

City of Homer Agenda

Planning Commission Regular Meeting

Wednesday, September 15, 2021 at 6:30 PM

City Hall Cowles Council Chambers

Webinar ID: 979 8816 0903 Password: 976062

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

CALL TO ORDER, 6:30 P.M.

AGENDA APPROVAL

PUBLIC COMMENTS 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 or someone from the public, in which case the item will be moved to the regular agenda.

- [A.](#) Planning Commission Regular Meeting Minutes of September 1, 2021 **p. 3**

PRESENTATIONS / VISITORS

REPORTS

- [A.](#) Staff Report 21-58, City Planner's Report **p. 9**

PUBLIC HEARINGS

- [A.](#) Staff Report 21-59, Conditional Use Permit 21-07 for two retail buildings at 1554 Homer Spit Road **p. 32**

PLAT CONSIDERATION

PENDING BUSINESS

NEW BUSINESS

- [A.](#) Staff Report 21-60, Review of Planning Commission Bylaws and Policies and Procedures Policy Manual **p. 52**



B. Staff Report 21-52 Converted Shipping containers **p.** 77

INFORMATIONAL MATERIALS

A. City Manager's Report for September 13, 2021 City Council Meeting **p.** 86

B. Kenai Peninsula Borough Notice of Decisions **none**

C. Planning Commission Calendar **p.** 99

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

COMMENTS OF THE STAFF

COMMENTS OF THE COMMISSION

ADJOURNMENT

Next Regular Meeting is Wednesday, October 6, at 6:30 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



Session 21-19, a Regular Meeting of the Planning Commission was called to order by Chair Scott Smith at 6:31 p.m. on September 1, 2021 at Cowles Council Chambers in City Hall located at 491 E. Pioneer Avenue, Homer, Alaska, and via Zoom Webinar.

PRESENT: COMMISSIONERS VENUTI, SMITH, BENTZ, HIGHLAND, AND CHIAPPONE

ABSENT: COMMISSIONERS BARNWELL AND CONLEY (EXCUSED)

STAFF: CITY PLANNER ABBOD
DEPUTY CITY CLERK KRAUSE

APPROVAL OF THE AGENDA

Chair Smith requested a motion to approve the agenda.

HIGHLAND/BENTZ MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS ON ITEMS ALREADY ON THE AGENDA

RECONSIDERATION

CONSENT AGENDA

A. Planning Commission Regular Meeting Minutes of August 18, 2021

Chair Smith read the Consent Agenda into the record and requested a motion of approval.

HIGHLAND/BENTZ MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED.

Chair Smith requested clarification on removing Item A under Plat Considerations since it has been pulled by the applicant.

Commissioner Bentz called for a point of order noting that that action should have commenced during the agenda approval.

A brief discussion ensued noting that removal of the item could be addressed as it came up on the agenda.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PRESENTATIONS / VISITORS

REPORTS

A. Staff Report 21-53, City Planner's Report

Chair Smith introduced the item and deferred to City Planner Abboud.

City Planner Abboud spoke to his written staff report, highlighting the following:

- Welcomed back Commissioner Bentz
- Excused and unexcused absences are not calendar but appointment terms, so July 1st through June 30th
- Economic Development Commission had a worksession on August 31st and there will be a Wayfinding and Streetscape presentation in October to the Commission.
- Tim Dillion with KPEDD will be making a presentation to City Council on September 13th or the EDC on the 14th regarding the opportunities that could be available and you can attend by Zoom.
- Requested a Commissioner to volunteer to make the report to City Council for the September 13th meeting.

Commissioner Highland volunteered for the September 13th meeting. There were no volunteers for the September 27th Council meeting.

City Planner Abboud provided clarification on who the speaker will be for the Council meeting and EDC.

Commissioner Venuti stated that the agenda was already closed when the final decision was issued on the Appeal of Planning Commission Decision on Zoning Permit 1020-782 and he requested that the discussion of using connexes as building structures be on the September 15th agenda.

City Planner Abboud responded that it was his intent to bring that item back plus a few other items he was working on but he deferred to Deputy City Clerk Krause on the status of that issue.

Deputy City Clerk Krause reported receiving documents filed by Mr. Griswold and so she did not believe that it would be addressed by the Planning Department's agenda deadline.

B. Public Works Campus Task Force Report

It was noted that the Task Force provided a final report at the last meeting.

PUBLIC HEARINGS

PLAT CONSIDERATION

A. Staff Report 21-55, Terra Bella Subdivision Preliminary Plat

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

City Planner Abboud reported that this item was requested to be pulled from the agenda to consider the comments from the public and requested this to be on the October 9, 2021 agenda. He confirmed that this item will be properly noticed and property owners notified so that they can comment on any proposed changes.

Chair Smith confirmed with the Clerk that a motion was not required to pull the item from the agenda.

B. Staff Report 21-56, REVISED West Hill Subdivision – Harness Addition Preliminary Plat

Chair Smith introduced the item by reading of the title and invited City Planner Abboud to provide his staff report to the Commission.

City Planner Abboud provided a summary review of Staff Report 21-56 to the Commission. He noted that there was a steep ravine on the western edge of Lot 4 A and requested a thirty foot drainage easement.

There was no applicant present.

There were no questions from the Commission on this item.

There was a misunderstanding from an applicant on the next Plat Consideration that it was appropriate for them to comment at this time during the agenda. Chair Smith extended his apologies to the Commission he was under the impression that they were commenting as a member of the public.

Chair Smith requested a motion and second.

BENTZ/HIGHLAND MOVED TO ADOPT STAFF REPORT 21-56 AND RECOMMEND APPROVAL OF THE REVISED WEST HILL SUBDIVISION – HARNESS ADDITION PRELIMINARY PLAT TO CHANGE LOT LINES BETWEEN THREE PROPERTIES WITH THE FOLLOWING COMMENTS:

1. SHOW STEEP RAVINE AREA ALONG THE WESTERN AREA OF LOT 4A
2. DEDICATE A 30 FOOT DRAINAGE EASEMENT ALONG THE WESTERN LOT LINE OF LOT 4A FOR A BRANCH OF BIDARKI CREEK.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

C. Staff Report 21-57, Bunnell's Subdivision Haigh 2021 Replat Preliminary Plat

Chair Smith introduced the item by reading of the title and invited City Planner Abboud to provide his report.

City Planner Abboud provided a summary of Staff Report 21-57 for the Commission.

Chair Smith invited the Applicant to make a presentation or speak to their application.

Ruby Haigh, applicant, expressed her appreciation for the opportunity to speak to the commission. She did not have any questions but hoped that the Commission approved this action tonight.

Commissioner Venuti questioned how Swatzell started and stopped and how it evolved into a street that stopped and started like it does.

City Planner Abboud responded that he did not have the total history on that since he has only been in town for 13 years and this was one method to begin correcting the problem and that hopefully over time they can gather rights of way to have the street go through.

There was no public comment.

VENUTI/HIGHLAND MOVED TO ADOPT STAFF REPORT 21-57 AND RECOMMEND APPROVAL OF BUNNELL'S SUBDIVISION HAIGH 2021 PRELIMINARY PLAT TO MODIFY LOT LINES BETWEEN TWO LOTS WITH THE FOLLOWING COMMENTS:

1. INCLUDE PLAT NOTE STATING PROPERTY OWNER SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLAND DESIGNATION (IF ANY). PROPERTY OWNERS ARE RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE AND FEDERAL PERMITS.
2. DEDICATE 30 FOOT RIGHT OF WAY (SWATZELL STREET) FOR A FULL 60 FOOT RIGHT OF WAY
3. DEDICATE A 15 FOOT UTILITY EASEMENT FRONTING THE NEW 30 FOOT DEDICATION
4. DEDICATE 15 FOOT DRAINAGE EASEMENT CENTERED ON THE CREEK OVER LOT 50A

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS

NEW BUSINESS

INFORMATIONAL MATERIALS

- A. City Manager Report for August 23, 2021 City Council Meeting

Chair Smith commented on the valuable information regarding COVID response and questioned how that affects the Commission and meeting via Zoom.

City Planner Abboud responded that it would be taken care of when they address the bylaws and that conducting the hybrid meetings as they are with the Chambers available for those that cannot connect and following CDC guidelines using that room as they are, is still an option.

- B. Kenai Peninsula Borough Notice of Decisions
- C. Planning Commission Calendar

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY STAFF

Deputy City Clerk Krause expressed her apologies for not having the correct process outlined in the Commission's working agenda on amending the agenda regarding the removal of the Preliminary Plat and that it was a good meeting overall.

City Planner Abboud commented that they will have a few more items on the agenda since he will be present to work on the packet.

COMMENTS OF THE COMMISSION

Commissioner Bentz commented that reviewing the informational materials and the October tasks with a potential overview on floodplain or other hazard regulations to connect between the Comprehensive Plan and current regulations she would be interested in looking at wetland values and mitigation strategies and planning tools that they have and curious if they could get a guest speaker from the floodplain management and river center manager in Kenai at the borough level as a potential speaker.

Commissioner Highland welcomed Commissioner Bentz back to the Commission and noted it was a good meeting.

Commissioner Chiappone expressed appreciation for Commissioner Venuti questioning how Swatzell Street ended up isolated like it is and appreciated the logic to get the right of ways cleared now so that it would be one less step in the future. He appreciated learning something new at each meeting.

Commissioner Venuti expressed appreciation for the brief meeting and expecting a bit of a report from the City Planner on his trip to the conference and if he learned any new tricks that they could benefit from.

City Planner Abboud provided a brief report on his experience and the amount of development and money that was available; the state of Arizona put the clamps on vacation rentals and they cannot be prohibited anywhere in the state. Another issue was affordable housing and there was an economy of scale and one especially for homeless veterans using tiny homes that met code which has been very successful which was supported by a non-profit. Still looking for solutions as the issue of affordable housing is experienced all over. He provided comment on the area where he stayed in Paradise Valley there was no convenient food place within 3.5 miles and it was not walkable. Arizona had total different

opinion on response to COVID. He will try to think of other things and provide in his report for the next meeting.

Chair Smith commented that he was glad that the City Planner had a good trip. He questioned the use of the Transportation Plan and evaluating community needs and knowing what is in place and the Commission's responsibility to it so he would appreciate an overview or worksession on that topic and then the question of how to evaluate what streets or connections do they require. He would appreciate additional training on the subject. He then asked about the preliminary plats always referencing checking with the Corps of Engineers and that discussion would be better suited for another meeting.

City Planner Abboud responded to the question regarding Corps of Engineers note being put on all preliminary plats and provided examples of when he worked for the City of Bethel, Alaska. He noted that he always requires the applicant to check prior to development that way they also get a heads up on any issues that may be relevant before doing the work and creating plans.

Commissioner Bentz commented on her experience planning around or in wetlands, especially dumping or filling and changing the waterways of the US and navigable waters. That might be a good topic for the October agenda.

ADJOURN

There being no further business before the Commission, the meeting was adjourned at 7:27 p.m. Next Regular Meeting is Wednesday, September 15, 2021 at 6:30 p.m. A worksession is scheduled for 5:30 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska and via Zoom webinar.

RENEE KRAUSE, MMC, DEPUTY CITY CLERK II

Approved:_____



City of Homer

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Planning

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TO: Homer Planning Commission
FROM: Rick Abboud, AICP, City Planner
DATE: September 15, 2021
SUBJECT: Staff Report 21-58, City Planner's Report

City Council 9.13.21

Ordinance 21-50, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 2.58 Boards and Commissions Regarding Teleconferencing, Attendance, Vacancies, Recording Clerk, Staff Reports and Recommendations, and Rules of Order. City Clerk. Recommended dates Introduction August 23, 2021 Public Hearing and Second Reading September 13, 2021

Memorandum 21-145 from City Clerk as backup

Ordinance 21-50(S) An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.58 Boards and Commissions Regarding Teleconferencing, Attendance, Vacancies, Recording Clerk, Staff Reports and Recommendations, Rules of Order and 2.72.040 Planning Commission Terms of Commission Members
Memorandum 21-1xx from Deputy City Clerk as backup

Ordinance 21-xx An Ordinance of the City Council of Homer, Alaska Amending the FY2022 Capital Budget Appropriating \$75,000 from the HERC CARMA Fund for Professional Services for Public Process and Feasibility of a New Multi-Use Center. City Manager. Introduction September 13, 2021 Public Hearing and Second Reading September 27, 2021.

Resolution 21-0xx A Resolution of the City Council of Homer, Alaska Amending the City of City Fee Schedule under Camping, City Clerks, Homer Police Department, Planning and Zoning, and Public Works Fees. City Clerk.
Memorandum 21-0xx from Deputy City Clerk as backup

Resolution 21-0xx, A Resolution of the City Council of Homer, Alaska Expressing Support for Alaska Municipal League Resolution Regarding Appointments to Borough Planning Commission. Mayor.

Transportation

Since the effort that stalled in 2019, due to COVID and projects on Pioneer Avenue and Lake Street, we seem to be gaining momentum to address the need for an update to the transportation plan. Our community is growing and many are concerned with the thoughtful provision of both motorized and non-motorized options to deal with increasing populations now and into the future. I plan to have a more substantive conversation with the commission in the near future. As this is a legislative item, you are encouraged to engage with the community citizens and leaders.

Strategic Planning

The Planning Office is going to work on some long overdue strategic planning. With a vast array of duties and a limited staff, it is apparent that we need to size up our priorities and match with capacity. Some items we will address is a reasonable schedule to work on updating planning documents. Many of the components of the Comprehensive Plan and eventually the Comprehensive Plan itself will need to be updated. It is rather difficult to work on more than one at a time and a schedule would help keep us on track. We will have to think of all of this in the context of everything else that needs attention. We also want to use this exercise as an opportunity to hone our skills in facilitating in electronic formats, as we do not see the trend of remote participation going away anytime soon. I will keep you informed on items that may be proposed for a Commission work list.

Hazard Mitigation

With any luck, we hope to begin working with a contractor selected by the state to bring our hazard mitigation plan in compliance, so that we may qualify for federal grant funding opportunities. This was something that fell off the board during the response to COVID as many of the state officials were assigned to COVID response duties as were we. I hope to incorporate the information we have gathered from our Landslide Analysis and our (soon to be completed) Coastal Erosion Study.

Funding Opportunities for HERC

Attached is a memo regarding an opportunity to gain funds for the removal of the existing structures and construction of a new facility. This is something that will need an expedited time to take advantage of the opportunity. More information is likely prior to the meeting, as City Council will be responding to the issue at their Monday meeting.

Economic Development Advisory Commission

The EDC continues to work on the wayfinding plan, with a work session scheduled for September 28th. Staff thinks by mid-October there would be enough detail for a presentation to the Planning Commission (October 20th). The EDC will be working on their annual strategic plan this month; a copy will be provided to the Planning Commission in October.

Commission September Calendar Item – Economic Development Speaker

The calendar item this month is to hear from an economic development speaker. There are two opportunities to hear speakers: one is at the Council meeting on Monday the 13th and the other is at the Economic Development Commission meeting on Tuesday the 14th. Tim Dillon, Executive Director of the Kenai Peninsula Economic Development District will be providing an update and talking about potential grant funding. He is speaking on both days. Robert Green, Homer Advisor for the Alaska Small Business Development Center, will be an additional speaker at Tuesday's EDC meeting. City meeting details are available on the city website. Both of these speakers are also scheduled to speak at the October Chamber of Commerce luncheon. If you are interested in economic development, I encourage you to hear one of these presentations!

Commissioner report to City Council

9/27 _____

10/10 _____

Attachments

BOA Final Decision – Zoning Permit 1020-782

HERC memo and draft ordinance



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

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(p) 907-235-3130

(f) 907-235-3143

September 8, 2021

Re: Board of Adjustment Final Decision
Appeal of Planning Commission Decision on Zoning Permit 1020-782

Please find enclosed the Board of Adjustment Final decision on the above referenced matter.

This document has been redistributed to the parties involved with the added language of "Notice of Appeal Rights" included.

Sincerely,

Renee Krause, MMC
Deputy City Clerk II

Copies to:

Frank Griswold, Appellant

Scott and Stacy Lowry, Property Owners

Rick Abboud, City Planner

Robert Dumouchel, City Manager

Max D. Holmquist and Michael R Gatti, Jermain, Dunnagan & Owens, P.C.

Scott A Brandt-Erichsen, Keene & Currall Attorneys at Law

BEFORE THE BOARD OF ADJUSTMENT FOR THE CITY OF HOMER

In the Matter of:

APPEAL OF DECISION ON
ZONING PERMIT 1020-782

)
)
)
) On appeal from the decision of the
) Homer Planning Commission May 7, 2021,
)
)

FINAL DECISION

The Board of Adjustment (BOA) met in open session on August 2, 2021 and heard arguments in the above referenced matter. At the conclusion of the hearing, the BOA recessed into executive session to deliberate. The Board of Adjustment participants in this proceeding and decision included Mayor Ken Castner as chair, who was a non-voting participant, and council members Donna Aderhold, Heath Smith, Storm Hansen-Cavasos and Rachel Lord. Council Member Caroline Venuti did not participate in the hearing or decision due to conflict of interest as determined by vote of the balance of the BOA. The BOA met August 23, 2021, to complete its deliberations and adopt a final decision. After deliberation and consideration of the Record and the arguments of the parties, the BOA decision is as set forth herein.

I. FACTS AND PROCEEDINGS BELOW

The Applicants, Scott and Stacy Lowry, are the owners of the property at 541 Bonanza Avenue within the Central Business District (CBD). (Record on Appeal (R.) at 18-20.) The property was previously two separate lots, but was reconfigured into a single lot by vacation of the lot line in 1993. (R. 44.) There was one existing single-family home on the lot. (R. 24-25, 262.) The owners placed a “conex” single-family dwelling on the property on July 20, 2020. (R. 44.) The Planning Department staff contacted the owners and advised them that they would need to

apply for a Conditional Use Permit (CUP) and to obtain a zoning permit (ZP) for the structure. (R. 44, 258.) On September 2, 2020 the owners applied for a use permit to place a second mobile home on the property. The application was treated as a CUP application for a mobile home park under Homer City Code (HCC) 21.18.030(c). (R. 43.)

In the course of the proceedings regarding the September 2, 2020 CUP application, the Planning Commission determined that the structure was not a mobile home, and so a CUP for the dwelling constructed from a conex was denied. (R. 6, 36, 259.) The Planning Department staff then advised the owners that they could apply for a zoning permit for the structure as an accessory dwelling on the lot. (R. 259.) On September 10, 2020, the owners applied for a zoning permit for a 360 square foot dwelling constructed from a conex to be located on the property and not connected to the existing dwelling. (R. 18-31.) The application was approved and ZP 1020-782 was issued on October 5, 2020. (R. 17.)

Frank Griswold appealed the issuance of ZP 1020-782 to the Planning Commission on October 22, 2020. (R. 14-16.) In mid-December, 2020, Mr. Griswold inquired about what the procedures would be for the hearing. (R. 131-134.) Draft proposed procedures for the hearing were provided to Mr. Griswold on December 28, 2020. (R. 138.) Mr. Griswold objected to some of the procedures¹. (R. 137.) The Planning Commission hearing was initially set for January 6, 2021. (R. 108.) Action on the appeal was postponed on the City's Motion in order to clarify procedures, which were then prescribed in accordance with HCC 21.93.310. (See R. 109-110; 117; 159;

¹ At the August 2, 2021 hearing on the appeal Mr. Griswold reiterated that he objected to the procedures set out by the Planning Commission, and had desired more time to make a presentation of evidence and the opportunity to subpoena witnesses to compel them to testify. Mr. Griswold did not identify what testimony or other evidence he alleges he was prevented from presenting.

and 166-168.) The hearing was held by the Planning Commission on March 11, 2021. (R. 7.) The Planning Commission allowed Mr. Griswold to cross examine two City witnesses at the appeal hearing. (R. 262-264.)

The Planning Commission was scheduled to deliberate on April 7, 2021, but that was postponed until Mr. Griswold's allegations of bias were addressed by the Planning Commission. (R. 7.) The Commission did not disqualify Chair Smith for bias or partiality. (R. 7.) Deliberations took place April 15, 2021 and April 21, 2021 before concluding. (R. 7.) The Planning Commission issued a decision upholding the ZP on May 7, 2021. (R. 6-11.) The Planning Commission decision was appealed to the BOA on May 10, 2021. (R. 3-5.)

II. ISSUES ON APPEAL

The Appeal requests that the BOA reverse the Planning Commission decision and direct the Planning Department to order removal of the structure. (R. 4-5.) The points on appeal (R. 3-5) may be summarized as:

1. The ZP is invalid because a planning technician cannot issue a ZP, and that only the City Planner may exercise that authority.
2. It is improper to waive the violation of HCC 21.70.010(b), failure to get a ZP prior to commencement of work.
3. The structure in question is a single-family dwelling and HCC 21.18.030(j) prohibits second single-family dwellings on one lot without a CUP.
4. The Commission erred in finding the structure was a detached accessory dwelling unit.
5. The structure constructed violates nuisance standards in HCC 21.18.080.
6. The Commission erred in finding that a new driveway permit is not required.
7. The Commission erred when it ruled that Commission Chair Smith was not disqualified by bias.

8. The Commission made procedural errors improperly implementing HCC 21.93.300(d) which denied due process due to restricting ability of the appellant to develop the Record.

9. The Commission made procedural errors improperly by not providing for filing of briefs by non-parties under HCC 21.93.300(d).

10. The Commission failed to identify the parties as appellees and respondents.

11. The notice of the Planning Commission hearing on the appeal did not satisfy the requirements of HCC 21.94.020(b).

12. In the hearing before the Planning Commission the Homer City Attorney failed to identify who they represented and acted in conflict with the City Attorney duties under HCC 2.16.010(e).

III. Standard of Review.

Decisions by the Planning Commission are entitled to a presumption of validity.² The BOA defers to the findings of the Commission regarding disputed issues of fact where adopted by a majority of the Planning Commission.³ Findings of fact adopted expressly or by necessary implication by the Planning Commission shall be considered as true if they are supported by substantial evidence in the Record.⁴ “Substantial evidence” means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.⁵ When applying the substantial evidence test, the review does not independently re-weigh the evidence.⁶ The review should only determine whether such evidence exists, and not choose between competing inferences.⁷

If the Planning Commission failed to make a necessary finding of fact the BOA may

² *South Anchorage Concerned Coalition v. Coffey*, 862 P.2d 168, 172 (Alaska 1993).

³ HCC 21.93.540(e).

⁴ HCC 21.93.540(e).

⁵ HCC 21.93.540(e); See also *Miller v. ITT Services*, 577 P.2d 1044, 1046 (Ak 1978). A review for substantial evidence is highly deferential review, and may call for review of the entire Record to ensure that evidence detracting from the agency’s decision is not dramatically disproportionate to the evidence supporting it. *Public Safety Employees Assn, AFSCME Local 803, AFL CIO v. City of Fairbanks*, 420 P.3d 1243, 1248 (Ak 2018).

⁶ *Yahara v. Construction & Rigging, Inc.*, 851 P.2d 69, 72 (Alaska 1993).

⁷ *Handley v. State, Dep’t of Revenue*, 838 P.2d 1231, 1233 (Alaska 1992); *Interior Paint Co. v. Rodgers*, 522 P.2d 164, 170 (Alaska 1974).

exercise its independent judgment to make the finding of fact, or may remand it to the Planning Commission to make the finding of fact on that issue.⁸ In reviewing the Planning Commission's decision, the BOA will exercise independent judgment on the legal issues raised by the parties, including the interpretation or construction of the Homer zoning code, ordinances, or other provisions of law.⁹ The BOA will make its decision on the basis of the record and will not consider new evidence or changed circumstance.¹⁰

IV. DISCUSSION

The issues raised by Mr. Griswold in his appeal fall into three general categories: 1) issues relating to the merits of interpretation and application of the HCC to the dwelling unit described in the application; 2) other alleged code violations such as the after the fact permit application, assertion that the structure is still a shipping container and therefore a nuisance, and the argument that there is a defect in the driveway permit; and 3) procedural issues. The core of the dispute on the merits is the question of whether substantial evidence supports the Planning Commission finding that the structure proposed here could be constructed as an accessory dwelling unit in the CBD zone with only a ZP and without a CUP.

A. The Planning Commission Decision That a Zoning Permit Was All That Was Required For the Structure is Supported by Substantial Evidence in the Record.

The arguments offered by Mr. Griswold asserted that the ZP was applied for a single-family residence and was issued for a single-family residence, and that a second single-family residence

⁸ HCC 21.93.540(e).

⁹ HCC 21.93.540(d). This differs slightly from the rule recognized by the courts which calls for deference to the Planning Commission interpretation of ordinances within its area of expertise if the interpretation has a reasonable basis in fact and law, even if the court might have decided the issue differently. *Davis Wright Tremain v. State Dept of Admin*, 324 P. 3d 293, 299 (Ak 2014). It also differs from the rule calling for courts to defer to the agency interpretation of its regulations if the agency's interpretation is reasonable and not arbitrary. *Hanley v. State Department of Revenue*, 838 P.2d 1231, 1233 (Alaska 1992)

¹⁰ HCC 21.93.510(a).

on the same lot is prohibited without a CUP under HCC 21.18.030(j). The City responds that HCC 21.18.030(j), which provides that a CUP is required if the application is for “more than one building containing a permitted principal use on a lot,” does not control when the second building is a single-family dwelling which is an accessory dwelling unit under HCC 21.18.020(ii). This latter section provides that among the permitted uses in the CBD zone (i.e. uses which require only a ZP) are:

“ii. One detached dwelling unit, excluding mobile homes, as an accessory building to a principal single-family dwelling on a lot.”

Mr. Griswold responds that the structure here is a single-family residence and is not accessory to the existing single-family residence, but constitutes a separate, and second, principal use on a single lot which requires a CUP. (R. 258.) The Planning Commission found that the proposed structure was an accessory dwelling unit. (R. 8.)

HCC 2.03.040 sets out definitions for Title 21. Among those definitions are definitions of “dwelling” and “accessory” which provide:

“Accessory building” means an incidental and subordinate building customarily incidental to and located on the same lot occupied by the principal use or building, such as a detached garage incidental to a residential building.”

“Dwelling” or “dwelling unit” means any building or portion thereof designed or arranged for residential occupancy by not more than one family and includes facilities for sleeping, cooking and sanitation.”

“Dwelling, single-family” means a detached dwelling unit designed for residential occupancy by one family.”

The Planning Commission heard testimony from witnesses that the structure here met the definition of accessory dwelling unit because it was smaller and subsequent to the existing single-family dwelling. (R. 262.) The City in its briefing referred the BOA to the legislative history of Ordinance 11-44(S) enacting the language in HCC 21.18.020(ii) as supporting the interpretation

that an accessory structure would be smaller than the principal use structure. The application submitted represented that the project did not represent more than one building with a primary use on the lot, which would trigger the requirement for a CUP. (R. 19.) At the August 2, 2021 hearing Mr. Griswold argued that a structure cannot be both a single-family dwelling and be an accessory use.

The BOA finds that HCC 21.18.020(ii) clearly contemplates that an accessory dwelling unit, which is not a mobile home, may be permitted with only a ZP. HCC 21.18.030(j) calls for a CUP if there is more than one building containing a principal use on the lot. It does not specifically speak to more than one single-family residence. Reading these two code sections together and giving effect to each, a detached accessory dwelling unit which is a single-family residence is permitted in the CBD zone without a CUP. Mr. Griswold's argument that there cannot be two single-family dwelling units on one lot would be inconsistent with the language of and purpose of HCC 21.18.020(ii) which permits an accessory detached single-family dwelling.

The fact that the permit (R. 17.) refers to a single-family dwelling is not a material defect because a second single-family dwelling is permitted if it is accessory to the other single-family dwelling. If the scope of the structure is such that it is not accessory, then it would be a second structure with a principal use, and a CUP would be required. Therefore, the resolution of this issue turns on the question of whether the Planning Commission's factual conclusion that this was an accessory dwelling unit is supported by substantial evidence in the Record.

The Record reflects that the ZP was issued for a 360 square foot single-family dwelling unit. The existing single-family dwelling unit is shown as 20 feet by 47 feet, or about 940 square feet. (R. 24.). The testimony described the structure as accessory as being smaller and less prominent. (R. 262.) Based upon the facts here, as found by the Planning Commission, the

proposed use meets the requirements in HCC 21.18.020(ii). That conclusion is supported by substantial evidence in the Record.

Mr. Griswold also made an argument which was not carried through to the August 2, 2021 hearing that accessory dwelling units required that the persons in the accessory unit must be related to the occupants of the primary residence. This argument appears to have been abandoned. Even if it was not abandoned, no such requirement appears in the HCC, and such a requirement would be inconsistent with the common usage of such structures as rentals.

Mr. Griswold expressed concern about whether the property would actually be used as functionally two independent rental units with the attributes of two principal uses rather than a primary and accessory use. It is possible that any permitted accessory use may be permitted as an accessory use when the permit is issued, and subsequently the use of the property may be modified such that it no longer fits that situation. For example, if a residence has a garage used for storage as an accessory structure, if the residence is removed the storage garage would become the only use of the property and thus become the primary use, and may or may not be permitted except as a non-conforming use.

The requirement for a new ZP when the use has been changed or expanded beyond the scope of the ZP issued is explicitly spelled out in HCC 21.70.010(a)(4). Similarly, if the structure which has been determined to be accessory is expanded, and additional ZP will be required under HCC 21.70.010(a)(3). When such a situation arises, whether a new ZP is required by the change in circumstances, use or alteration of size of a building is a factual question based upon the circumstances at the time, and if the use is no longer a permitted accessory use, then the conditions may be addressed through enforcement action.

Put another way, if an applicant seeks a ZP for a detached accessory dwelling unit for a summer rental to supplement their income accessory to their home, then that scenario is contemplated as permitted in HCC 21.18.020(ii). The physical attributes of the structures may be no different from those here. If subsequently the actual use shifts and the actual use ceases to be accessory, then it may be addressed through enforcement requiring the appropriate permit or requirement of a supplemental ZP. The Record here, however, contains substantial evidence which supports the Planning Commission determination that the 360 square foot single-family dwelling proposed is an accessory use allowed under HCC 21.18.020(ii).

B. The Planning Commission Properly Rejected the Appellant's Other Substantive Points on Appeal

Mr. Griswold asserted three issues on appeal which alleged code violations or errors of substance in the processing to the application for a ZP which Mr. Griswold argued support reversal of the Planning Commission decision. These included: the Planning Commission erred when it permitted the waiver of a violation of HCC 21.70.010(b) for failure to get a ZP prior to commencement of work; the structure constructed violates nuisance standards in HCC 21.18.080; and the Planning Commission erred in finding that a new driveway permit is not required.

Each of these arguments is not well supported. The Planning Commission's rejection of the arguments is supported by both the HCC and the substantial evidence in the Record. Initially, HCC 21.70.010(b) is violated where a party commences an activity for which a ZP is required without first obtaining the permit. Mr. Griswold is correct that the Record here shows a violation of this provision. However, the remedy for such a violation is not Mr. Griswold's requested remedy of voiding or denial of a ZP and requiring the structure to be torn down. The City of Homer has decided, as a policy choice, to provide for a liquidated penalty for this violation and has adopted a fee for "after the fact" permit applications.

The Record shows that the fees charged included the \$200 permit fee and the increase by 1.5 times the normal fee for a total of \$300 due in fees as a late application penalty. (R. 18.) The Record shows that the fee was paid. (R. 27, 260.) The Record supports that there was a violation of HCC 21.70.010(b) and that the penalty for the violation was imposed. The remedy for the violation is not removal of the structure. The Planning Commission finding that the violation of HCC 21.70.010(b) is not sufficient grounds for denial of the ZP is supported by substantial evidence in the Record.

Second, Mr. Griswold argued that a dwelling constructed using a modified shipping container was still a shipping container and therefore a nuisance under HCC 21.18.080(c). The Planning Commission found that the structure did not violate HCC 21.18.080 because it had been modified to become a dwelling unit and was no longer a shipping container. (R. 8-9.) Assistant Planner Brown testified that he personally viewed the interior of the structure. (R. 259, 264.) It contained appliances, some furniture, cooking facilities, sleeping areas and two entrances or exits. (R. 259.) The conclusion that the structure was a dwelling and no longer a shipping container is supported by substantial evidence in the Record.

Mr. Griswold argued that the City Planner is required to verify that the applicant has a driveway permit before issuing a ZP, and that the driveway permit here, (R. 30-31), had been extinguished through disuse. The Planning Commission found that the failure to obtain a new driveway permit did not invalidate the ZP. This conclusion is supported by the fact that the Record reflects that there are two driveway permits serving the property, neither one of which has been shown to have been revoked or terminated (R. 30, 31, 261). The argument that one driveway was abandoned through disuse does not establish that the permit for that driveway was revoked or

terminated. The Planning Commission finding that no additional driveway permit was required in order to issue a ZP is supported by substantial evidence in the Record.

C. The Planning Commission Properly Rejected the Asserted Procedural Errors.

Mr. Griswold asserted a number of procedural errors which he argues render the Planning Commission decision materially defective and call for reversal of their decision. These include the arguments that:

1. The ZP is only valid if it is issued by the City Planner, and a ZP issued by a Planning Technician is invalid.
2. The Commission erred when it failed to disqualify Commission Chair Smith for bias or partiality.
3. The Commission made procedural errors improperly implementing HCC 21.93.300(d) which denied due process due to restricting ability of the appellant to develop the Record.
4. The Commission made procedural errors improperly by not providing for filing of briefs by non-parties under HCC 21.93.300(d).
5. The Commission failed to identify the parties as appellees and respondents.
6. The notice of the Planning Commission hearing on the appeal did not satisfy the requirements of HCC 21.94.020(b).
7. In the hearing before the Planning Commission the Homer City Attorney failed to identify who they represented and acted in conflict with the City Attorney duties under HCC 2.16.010(e).

1. The Planning Technician is Authorized to Issue Zoning Permits

The Planning Commission found that the ZP was not invalid due to issuance by Planning Technician Brown. The HCC authorizes the City Planner to issue a ZP. It also authorizes the City Planner to delegate that authority to assistants under his supervision. The Record reflects that is precisely what was done in this case. (R. 261, 262, 264.) There is no reversible procedural error from Planning Technician Brown issuing the ZP rather than the City Planner doing so personally.

2. The Planning Commission Did Not Err in Ruling on Allegations of Partiality.

There is a presumption of impartiality¹¹. When the Planning Commission addressed Mr. Griswold's allegations of impermissible partiality by Planning Commission Chair Smith, it properly declined to disqualify Chair Smith. The process called for in the HCC is disclosure of the potential bias or partiality by the member involved and consideration of that issue by the remainder of the body. That occurred, and the Planning Commission did not rule that Chair Smith had a disqualifying partiality. (R. 280-290.) Chair Smith stated that he had no disqualifying bias or partiality. (R. 205.) The allegations here do not overcome the presumption of impartiality. The Record supports this conclusion.

3. The Planning Commission Did Not Deny the Appellant Due Process or Improperly Implement HCC 21.93.300(D).

Initially, the City argued that the BOA lacks the authority to rule on constitutional questions. Regardless of the constitutional question, the BOA is charged with evaluating whether there has been a substantive procedural error which may require a remand¹². The process here complied with the requirements of the Homer City Code.

HCC 21.93.300(d) provides:

“d. The Commission may accept new testimony and other evidence, including public testimony, and hear oral arguments as necessary to develop a full record upon which to decide an appeal from an act or determination of the City Planner. Any person may file a written brief or testimony in an appeal before the Commission.”

Mr. Griswold argues that he was denied the opportunity to develop a full Record on the basis that he was not permitted the amount of time he requested and that he was not allowed to compel the testimony of persons he desired to call as witnesses. The HCC does not provide for

¹¹ See *Button v. Haines Borough*, 208 P.3d 194, 208 (Alaska 2009).

¹² HCC 21.93.560(a)(2)

subpoena powers for Planning Commission hearings, and witnesses cannot be compelled to testify before the Planning Commission. Failure to compel witnesses was not a violation of the process in the code. Mr. Griswold was aware of the lack of subpoena powers as early as January 27, 2021, well before the March 11, 2021 hearing. (R. 211.) He had adequate time to develop and submit his evidence without subpoenas.

The procedures gave notice and the opportunity to present evidence, both prior to and at the hearing. If a party had more evidence to present than they could provide in the time set for the hearing they had the ability to submit it in written form prior to the hearing. The Record does not support a conclusion that Mr. Griswold was denied the opportunity to present the evidence or testimony he chose to offer. He did not make an offer of proof identifying any facts which he was prevented from presenting. There is no evidence to support the conclusion that Mr. Griswold was prejudiced by either the amount of time for his presentation of evidence or the lack of ability to compel witnesses to testify. The allegation is unsupported and does not establish a material or substantial procedural error.

4. The Planning Commission Did Not Err by Failing to Affirmatively Invite Additional Briefs From the Public

Mr. Griswold alleges that the procedures did not invite other persons to file briefs in violation of HCC 21.93.300(d). This code section permits any person to file briefs, but does not require that they be solicited. There is no evidence that anyone who desired to file a brief was prevented from doing so, and in fact third parties did submit testimony. (R. 118.) This allegation is unsupported, and does not establish any procedural error, much less a material or substantial procedural error.

5. There Was No Error in Identification of Parties

Mr. Griswold argues that there was a procedural error in the proceedings because the Planning Commission did not properly identify the parties to the appeal. Mr. Griswold refers to the procedures for processing the appeal identified by the Planning Commission under HCC 21.93.300-310. (R. 168.) Those procedures state in part that “the Commission may question each of the parties listed above.” (R. 168.) Mr. Griswold acknowledges that the HCC does not require the applicants for a permit to be identified as parties, but nonetheless desires that the applicants, as well as the staff processing the application, be named as parties to the appeal, apparently for the purpose of allowing the Commission to question them.

Initially, whether the “parties” referred to in the procedures were only the appellant and appellee, or included other interested persons providing comment, or extended to the applicants, naming the applicants or additional persons as parties would not have entitled Mr. Griswold to question the applicants. The procedure indicated that the Commission may question parties, and there is no evidence that the Commission was precluded from questioning any person it desired to question.

Moreover, while the applicants may have rights to participate in an appeal if they desire, they are not required to do so. Regardless, naming the applicants or City staff as named parties to the appeal would have no substantive impact. Failure to name those persons as parties did not prejudice Mr. Griswold’s ability to present his appeal.

6. The Planning Commission Hearing Notice Satisfied the Requirements of HCC 21.94.020(B).

Mr. Griswold argues that the notice for the Planning Commission hearing was required to include a brief or common description of the property under HCC 21.94.020(b)(2) and notice of where the public could view the meeting packet under HCC 21.94.020(b)(4). The required notice of hearing for a Planning Commission appeal hearing is provided for in HCC 21.93.100(b) which

refers to providing notice of the appeal to property owners within 300 feet under HCC 21.94.030, and does not require the specific components listed in HCC 21.94.020(b), which applies to a public hearing on an application, not to an appeal. The notice was proper.

Additionally, Mr. Griswold clearly had notice and participated. Thus, even if there was a defect in the notice he was not prejudiced. Mr. Griswold has not identified any person who is alleged to have been unaware of the appeal due to the lack of any information listed in HCC 21.94.020(b). This point on appeal is rejected.

7. In The Hearing Before the Planning Commission The Homer City Attorney Clearly Stated That He Was Representing The City And Not The Planning Commission.

Mr. Griswold argues that the Planning Commission believed that the City Attorney was representing the Commission. The Record shows that the City Attorney clearly stated that he was representing the City in the appeal, and not the Planning Commission, and that Commissioners were well aware of that fact. (R. 247, 251-252.) Thus, Mr. Griswold's assertion is not supported by the Record.

V. CONCLUSION

The appellant and respondent filed extensive briefs and provided argument during the appeal on this matter. The discussion above addresses each substantive issue raised by the parties. To the extent there was a point not discussed in this decision, the failure to discuss an argument should be interpreted as our finding that it was not determined to be material and did not provide a basis for overturning the Planning Commission decision.

The BOA finds that a remand is not called for in this case under HCC 21.93.560 because there is sufficient evidence in the Record on all issues material to the decision of the case; there was no substantial procedural error which requires further consideration by the Planning

Commission; and there is no other cause requiring further proceedings by the Planning Commission.

The BOA further finds that The Planning Commission decision is supported by substantial evidence in the Record, and the appellant did not establish that any material procedural error occurred in the proceedings. Therefore, the May 7, 2021 decision of the Planning Commission upholding ZP 1020-782 is AFFIRMED for the reasons stated above.

Dated this 7th of SEPTEMBER, 2021.



Board of Adjustment Chair
Mayor Ken Castner

NOTICE OF APPEAL RIGHTS

This is a final decision. Pursuant to Homer City Code, Chapter 21.91.130, any party who actively and substantively participated in the proceedings before the Homer Board of Adjustment, the City Manager, the City Planner, or any governmental official, agency, or unit may appeal this decision directly to the Superior Court. An appeal to the Superior Court shall be filed within 30 days of the date of distribution of this decision.

I hereby certify that a true copy
of the foregoing document was
hand delivered/mailed on the
8th day of
September, 2021, to:
Frank Griswold; Scott + Stacy Lowry; Rob Dumouchel
Michael Gatti; Max Holmquist; Rick Abboud; S. Brandt-Erichsen
By: Beneé Krause, MMC, Deputy City Clerk



City of Homer

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Planning

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Memorandum

TO: ECONOMIC DEVELOPMENT, PLANNING, AND PARK ARTS RECREATION
AND CULTURE COMMISSIONS

THROUGH: ROB DUMOUCHEL, CITY MANAGER

FROM: JULIE ENGBRETSSEN, DEPUTY CITY PLANNER

DATE: SEPTEMBER 8, 2021

SUBJECT: HERC FEASIBILITY FUNDING

HERC Funding Opportunity

A new federal grant may be available to pay for demolition and building a new facility. But before the City can apply for funding, we need to sharpen the vision and get closer to a usable and fundable project. The feasibility study will build on the 2018 work of the HERC Task Force; we're not starting over! To meet the timelines and level of detail needed for the grant opportunity, some outside help and expertise is needed.

City Actions

The Council agenda for Monday, September 13, 2021 includes draft ordinance 21-xx. This ordinance requests \$75,000 in funding for professional services, for a public process and feasibility study for the HERC. If Council approves the funding, a Request for Proposals will be issued and a firm selected. Work needs to begin quickly (October) to be complete by the end of the year. A draft of the grant proposal also needs to be completed in that timeframe.

Attachment

Draft Ordinance 21-XX

**CITY OF HOMER
HOMER, ALASKA**

City Manager

ORDINANCE 21-xx

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
AMENDING THE FY 2022 CAPITAL BUDGET BY APPROPRIATING
\$75,000 FROM THE HERC CARMA FUND FOR PROFESSIONAL
SERVICES FOR A PUBLIC PROCESS AND FEASIBILITY STUDY OF A
NEW MULIT-USE CENTER.

WHEREAS, The HERC Task Force completed its work in January, 2019, and

WHEREAS, The HERC demolition/Community Recreation Center was identified as a
Council-Initiated 2020 Priority, and

WHEREAS, A demolition cost for the two structures on the site has been estimated; and

WHEREAS, The COVID-19 pandemic paused work on many city priorities, and

WHEREAS, The City and Council are now able to refocus efforts on large projects to
benefit the City, and

WHEREAS, Due to federal funding there is a near term opportunity to apply for grants
to cover the demolition of the existing structures and fund a design build process for a new
multi-use facility; and

WHEREAS, To apply for funds the City and its residents need to clarify what kinds of
public and private activities should take place in a new facility, and how the facility will cover
operations and maintenance expenses after construction; and

WHEREAS, Hiring a consultant to work through a public process with citizens and to
create a long term business plan is needed if the city is going to apply for funding, and to
support the facility long term if the project is constructed.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby amends the FY 2022 Capital Budget by
appropriating \$75,000 from the HERC CARMA FUND for professional services.

<u>Account</u>	<u>Description</u>	<u>Amount</u>
156-0396	HERC CARMA FUND	\$75,000



Section 2. This is a budget amendment ordinance only, is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 27th day of September, 2021.

CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:



City of Homer

www.cityofhomer-ak.gov

Planning

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Staff Report 21-59

TO: Homer Planning Commission
FROM: Rick Abboud, AICP, City Planner
DATE: September 15, 2021
SUBJECT: Conditional Use Permit (CUP) 21-07

Synopsis The applicant proposes two retail sites on the lot in the General Commercial 1 (GC1) District. A Conditional Use Permit (CUP) is required per HCC 21.24.030 (j), more than one building containing a permitted principle use on a lot.

Applicant: Kenton Bloom
1044 East End Road Suite A
Homer, AK 99603

Owner: Harmon and Pauli Hall
64362 Bridger Road
Homer, AK 99603

Location: 1554 Homer Spit Road

Legal Description: T 06S R 13W SEC 21 Seward Meridian HM 2017018 BAY VIEW SUB
HIGH TIDE REPLAT TRACT A

Parcel ID: 17922011

Size of Existing Lot: 1.3 Acres

Zoning Designation: General Commercial 1 District (GC1)

Existing Land Use: Commercial

Surrounding Land Use: North: Commercial Fuel/retail
South: Airport vacant/Mud Bay
East: Airport
West: Commercial UPS/brewery

Comprehensive Plan: GOAL 4: Support development of a variety of well-defined commercial/business districts for a range of commercial purposes.
Implementation: Support infill of existing commercial districts prior to expansion of a district

Wetland Status: No wetlands present

Flood Plain Status: Not in a floodplain.

BCWPD: Not within the Bridge Creek Watershed Protection District

Utilities: Public utilities service the site.

Public Notice: Notice was sent to 16 property owners of 24 parcels as shown on the KPB tax assessor rolls.

ANALYSIS: The applicant is proposing to support two retail operations with two structures on-site.

Parking

The applicant proposes two retail stores that total approximately 850 square feet. Retail stores are required to provide one space per 300 square feet, but not less than two spaces. This equates to a minimum of 5 spaces and the applicant proposes 6 spaces. If more spaces are necessary, there is ample room on the existing impervious surfaces found on-site.

Impervious coverage

The site has had long standing previous development, of which only the Salmon Sisters site is left. This has left a large existing area of impervious coverage in which the added gift shop will not alter. No storm water plan is triggered by code.

Nonconformity

The structure housing the Salmon Sisters has been in existence since 1971, according to the Kenai Peninsula Borough records. This predates the application of zoning in Homer and I have found no records that indicate any setback has applied to the structure prior to the adoption of zoning in 1982. Records indicate that a CUP was approved for more than one building... in 1986, for the addition of a portable building supporting a seasonal (May 15th through September 15th) retail fishing tackle and sporting goods sales. I do request that the gazebo like structure currently found on-site be removed, as it is not part of the request.

Landscaping

Currently, the site has an expanse of non-pervious surface adjacent to the northern section of Spit Road and FAA Drive with a row of boulders lining Spit Road providing a barrier to keep vehicles from turning off of Spit Road. The boulders may likely be in the right-of-way (ROW). The provision for the second structure that predicates the need for the CUP is transitional in nature until the applicant more fully and permanently develops the lot. I do not believe that an extensive landscaping requirement is in order for the transitional nature of the proposal. The rocks do perform a needed function and can technically count as landscaping, although they may need to be moved at the request of Alaska DOT if they are found inside of the ROW.

The criteria for granting a Conditional Use Permit is set forth in HCC 21.71.030, Review criteria, and establishes the following conditions:

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

Analysis: HCC 21.24.030 (j), more than one building containing a permitted principle use on a lot may be approved by a Conditional Use Permit.

Finding 1: The applicable code authorizes the proposed structures with a CUP and retail businesses are a permitted use.

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

Applicant: The retail uses of this property conform with the surrounding exiting uses.

Analysis: The General Commercial 1 District (GC1) is intended to provide for businesses that require direct motor vehicle access.

Finding 2: The proposal appropriately provides a business locations in proximity to a road for direct motor vehicle access, as indicated in the purpose of the district.

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

Applicant: We do not feel that the seasonal nature of the retail uses on this property will have much effect on the surrounding property values.

Analysis: Many uses in the GC1 district have greater negative impacts than would be realized from retail operations. Air charter, railroads, heavy equipment sales and repair, and auto fueling stations would have a greater impact on nearby property values.

Finding 3: Two retail facilities are not expected to negatively impact the adjoining properties greater than other permitted or conditional uses.

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

Applicant: The proposed retail use is in harmony with the existing retail uses near the property.

Analysis: The proposal is compatible with surrounding uses and structures as the neighboring uses are commercial and are more intense and larger. The proposal will not be a detriment to existing uses.

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

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

Analysis: The site is served by a paved road and full array of utilities and services.

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

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

Applicant: The proposed usage is estimated to have very little effect, if any, negative effect on the existing neighborhood character.

Analysis: Desirable neighborhood character could be described by a portion of the Purpose statement for the district, the General Commercial 1 (GC1) District is primarily intended to provide sites for businesses that require direct motor vehicle access and may require larger land area, and to provide business locations in proximity to arterials and transportation centers. The site is to be accessed from the North and not from Spit Road. A row of landscaping rocks now prevents access from Spit Road and access is gained from FAA Drive, creating a safer access. Intensity is estimated to be lower than that of neighboring businesses.

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

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

Applicant: Not at all.

Analysis: Given that the access is not gained from the higher traffic right-of-way and the site is well served by city services and the relative expected traffic count will be lower than that of nearby businesses, it is not expected that the proposal will be unduly detrimental.

Finding 7: The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area and the city as a whole.

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

Analysis: Gaining a CUP and a valid zoning permit will allow compliance with applicable regulations

Finding 8: The proposal will comply with applicable regulations and conditions specified in Title 21.

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

Applicant: Community Values – Diverse Economy. Land Use – Develop variety of commercial districts. We feel this proposal is on alignment with the 2018 Comprehensive Plan

Analysis: Goals of the Land Use Chapter of the Homer Comprehensive Plan include encouraging infill and support of development of a variety of well-defined commercial/business districts for a range of commercial purposes.

Finding 9: The proposal aligns with land use goals and objectives of the Comprehensive Plan and no evidence has been found that it is contrary to the applicable land use goals and objects of the Comprehensive Plan.

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

Analysis: The Outdoor lighting section of the CDM is the only applicable section.

Finding 10: Project complies with the applicable provisions of the CDM.

Condition 1: Outdoor lighting must be down lit per HCC 21.59.030 and the CDM.

HCC 21.71.040(b). b. In approving a conditional use, the Commission may impose such conditions on the use as may be deemed necessary to ensure the proposal does and will continue to satisfy the applicable review criteria. Such conditions may include, but are not limited to, one or more of the following:

- 1. Special yards and spaces:** No specific conditions deemed necessary
- 2. Fences and walls:** No specific conditions deemed necessary
- 3. Surfacing of parking areas:** No specific conditions deemed necessary.
- 4. Street and road dedications and improvements:** No specific conditions deemed necessary.
- 5. Control of points of vehicular ingress and egress:** No specific conditions deemed necessary.
- 6. Special provisions on signs:** No specific conditions deemed necessary.

7. Landscaping: No specific conditions deemed necessary.

8. Maintenance of the grounds, building, or structures: No specific conditions deemed necessary.

9. Control of noise, vibration, odors or other similar nuisances: No specific conditions deemed necessary.

10. Limitation of time for certain activities: No specific conditions deemed necessary.

11. A time period within which the proposed use shall be developed: No specific conditions deemed necessary.

12. A limit on total duration of use: No specific conditions deemed necessary.

13. More stringent dimensional requirements, such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.

14. Other conditions necessary to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.

PUBLIC WORKS COMMENTS: None

PUBLIC COMMENTS: One comment in support of the proposal.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission approve CUP 21-07 with findings 1-10 and the following condition:

Condition 1: Outdoor lighting must be down lit per HCC 21.59.030 and the CDM.

Attachments

Application

Site Photos

Public Notice

Steven Veldstra Email



City of Homer

www.cityofhomer-ak.gov

Planning

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Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Applicant

Name: Kenton Bloom, PLS Telephone No.: 907-299-1091

Address: 1044 East Road Suite A Homer AK Email: Seabightz@yahoo.com

Property Owner (if different than the applicant):

Name: Harmon and Pauli Hall Telephone No.: 907-229-4972

Address: 64362 Bridger Road Email: quiet@alaska.net

PROPERTY INFORMATION:

Address: 1554 Homer Spit Road Lot Size: 1.3 acres KPB Tax ID # **17922011**

Legal Description of Property: T 06S R 13W SEC 21 SEWARD MERIDIAN HM 2017018 BAY VIEW
SUB HIGH TIDE REPLAT TRACT A

For staff use:

Date: 8/10/21 Fee submittal: Amount \$500

Received by: TJB - Finance Date application accepted as complete

Planning Commission Public Hearing Date:

Conditional Use Permit Application Requirements:

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

Circle Your Zoning District

	RR	UR	RO	CBD	TCD	GBD	GC1	GC2	MC	MI	EEMU	BCWPD
Level 1 Site Plan	x	x	x			x			x			x
Level 1 ROW Access Plan	x	x							x			
Level 1 Site Development Standards	x	x										
Level 1 Lighting			x	x	x	x	x	x	x	x	x	
Level 2 Site Plan			x	x	x		x	x		x	x	
Level 2 ROW Access Plan			x	x	x		x	x		x	x	
Level 2 Site Development Standards			x*	x	x	x	x	x			x	
Level 3 Site Development Standards									x	x		
Level 3 ROW Access Plan						x						

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

- Y/N Are you building or remodeling a commercial structure, or multifamily building with more than 3 apartments? If yes, Fire Marshal Certification is required. Status: No
- Y/N Will your development trigger a Development Activity Plan?
Application Status: No
- Y/N Will your development trigger a Storm water Plan?
Application Status: No
- Y/N Does your site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required. Application Status: No
- Y/N Is your development in a floodplain? If yes, a Flood Development Permit is required. No
- Y/N Does your project trigger a Community Design Manual review? No
If yes, complete the design review application form. The Community Design Manual is online at: <http://www.ci.homer.ak.us/documentsandforms>
- Y/N Do you need a traffic impact analysis? No
- Y/N Are there any nonconforming uses or structures on the property? Yes
- Y/N Have they been formally accepted by the Homer Advisory Planning Commission? No
- Y/N Do you have a state or city driveway permit? Status: Yes
- Y/N Do you have active City water and sewer permits? Status: Yes

1. Currently, how is the property used? Are there buildings on the property? How many square feet? Uses within the building(s)? There is the existing established building being rented by Salmon Sisters (600 S.F.) and another building (250 S.F.) that is seasonal and mobile. Both buildings are used for retail sales.

2. What is the proposed use of the property? How do you intend to develop the property? (Attach additional sheet if needed. Provide as much information as possible). The existing use of the property is to provide for two retail buildings that are seasonal in use. The property is fully developed and has all utilities and existing access off of FAA Road. The buildings are situated on an existing gravel pad.

CONDITIONAL USE INFORMATION: Please use additional sheets if necessary. HCC21.71.030

- a. What code citation authorizes each proposed use and structure by conditional use permit? 21.24.030 J Multiple Buildings on one lot.
- b. Describe how the proposed uses(s) and structures(s) are compatible with the purpose of the zoning district. The retail uses of this property conform with the surrounding existing uses. See area map.
- c. How will your proposed project affect adjoining property values? We feel that the seasonal nature of the retail use on this property will not have much effect on the surrounding property values.
- d. How is your proposal compatible with existing uses of the surrounding land? The proposed retail use is in harmony with the existing retail uses near the property.
- e. Are/will public services adequate to serve the proposed uses and structures? Public access and utilities exist and are sufficient to serve the proposed uses and structures.
- f. How will the development affect the harmony in scale, bulk, coverage and density upon the desirable neighborhood character, and will the generation of traffic and the capacity of surrounding streets and roads be negatively affected? The proposed usage is estimated to have very little effect, if any, negative effect on the existing neighborhood character
- g. Will your proposal be detrimental to the health, safety or welfare of the surrounding area or the city as a whole? Not at all.
- h. How does your project relate to the goals of the Comprehensive Plan?
Find it online at www.cityofhomer-ak.gov/planning/comprehensive-plan

Community Values – Diverse Economy
Land Use – Develop variety of commercial districts

We feel this proposal is in alignment with the 2018 Comprehensive Plan

i. The Planning Commission may require you to make some special improvements. Are you planning on doing any of the following, or do you have suggestions on special improvements you would be willing to make? (**circle each answer**)

1. Y/N Special yards and spaces.
2. Y/N Fences, walls and screening.
3. Y/N Surfacing of parking areas.
4. Y/N Street and road dedications and improvements (or bonds).
5. Y/N Control of points of vehicular ingress & egress.
6. Y/N Special provisions on signs.
7. Y/N Landscaping.
8. Y/N Maintenance of the grounds, buildings, or structures.
9. Y/N Control of noise, vibration, odors, lighting, heat, glare, water and solid waste pollution, dangerous materials, material and equipment storage, or other similar nuisances.
10. Y/N Time for certain activities.
11. Y/N A time period within which the proposed use shall be developed.
12. Y/N A limit on total duration of use.
13. Y/N Special dimensional requirements such as lot area, setbacks, building height.
14. Y/N Other conditions deemed necessary to protect the interest of the community.

PARKING

1. How many parking spaces are required for your development? 4

If more than 24 spaces are required see HCC 21.50.030(f)(1)(b). N/A

2. How many spaces are shown on your parking plan? 6

3. Are you requesting any reductions? No

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

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

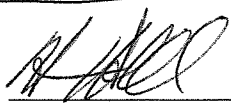
CIRCLE ONE:

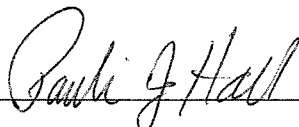
Owner of record

Lessee

Contract purchaser

Applicant signature:

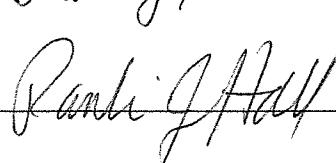




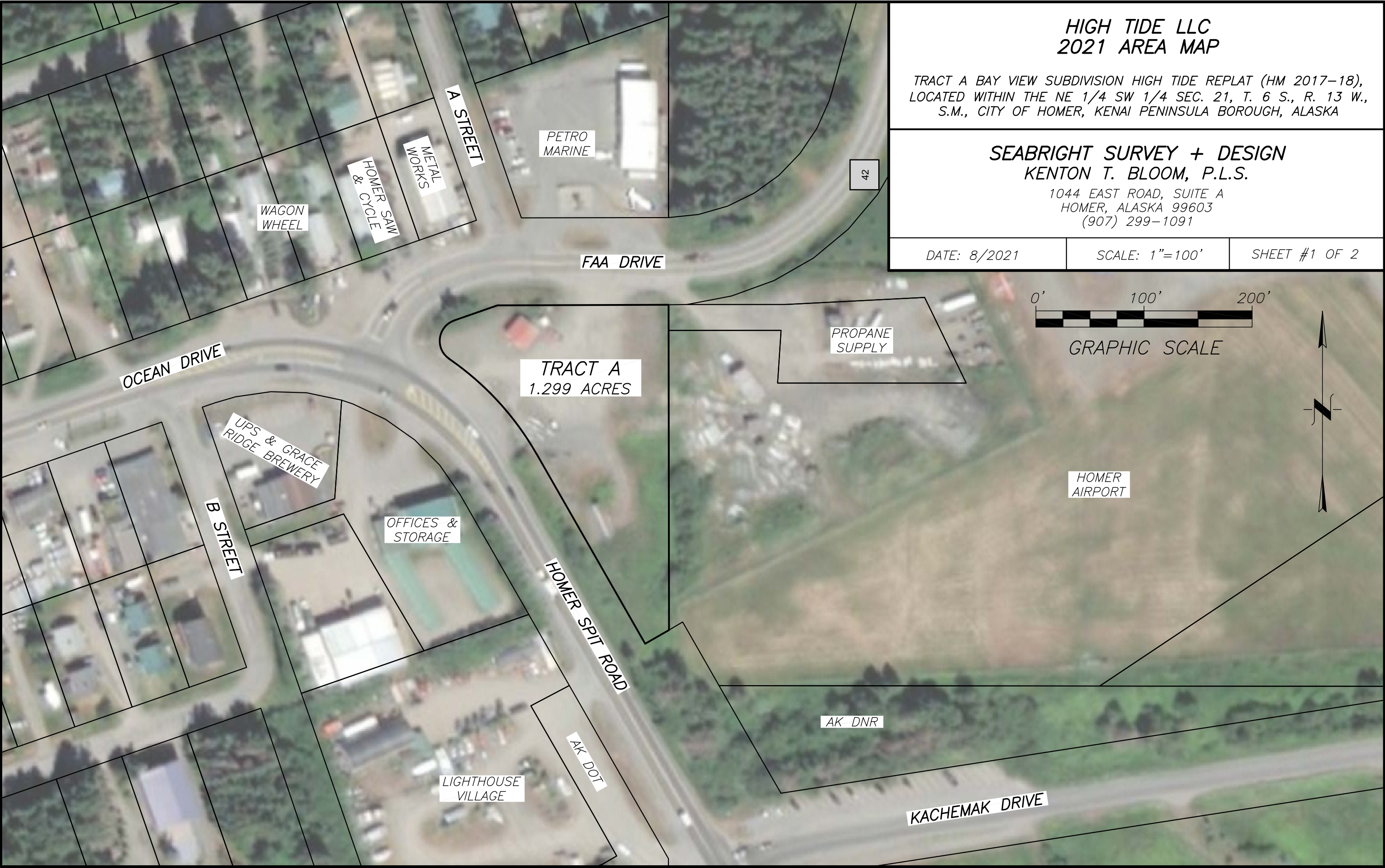
Date: 8-10-21

Property Owner's signature:





Date: 8-10-21



**HIGH TIDE LLC
2021 AREA MAP**

TRACT A BAY VIEW SUBDIVISION HIGH TIDE REPLAT (HM 2017-18),
LOCATED WITHIN THE NE 1/4 SW 1/4 SEC. 21, T. 6 S., R. 13 W.,
S.M., CITY OF HOMER, KENAI PENINSULA BOROUGH, ALASKA

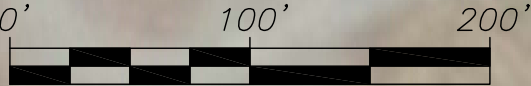
**SEABRIGHT SURVEY + DESIGN
KENTON T. BLOOM, P.L.S.**

1044 EAST ROAD, SUITE A
HOMER, ALASKA 99603
(907) 299-1091

DATE: 8/2021

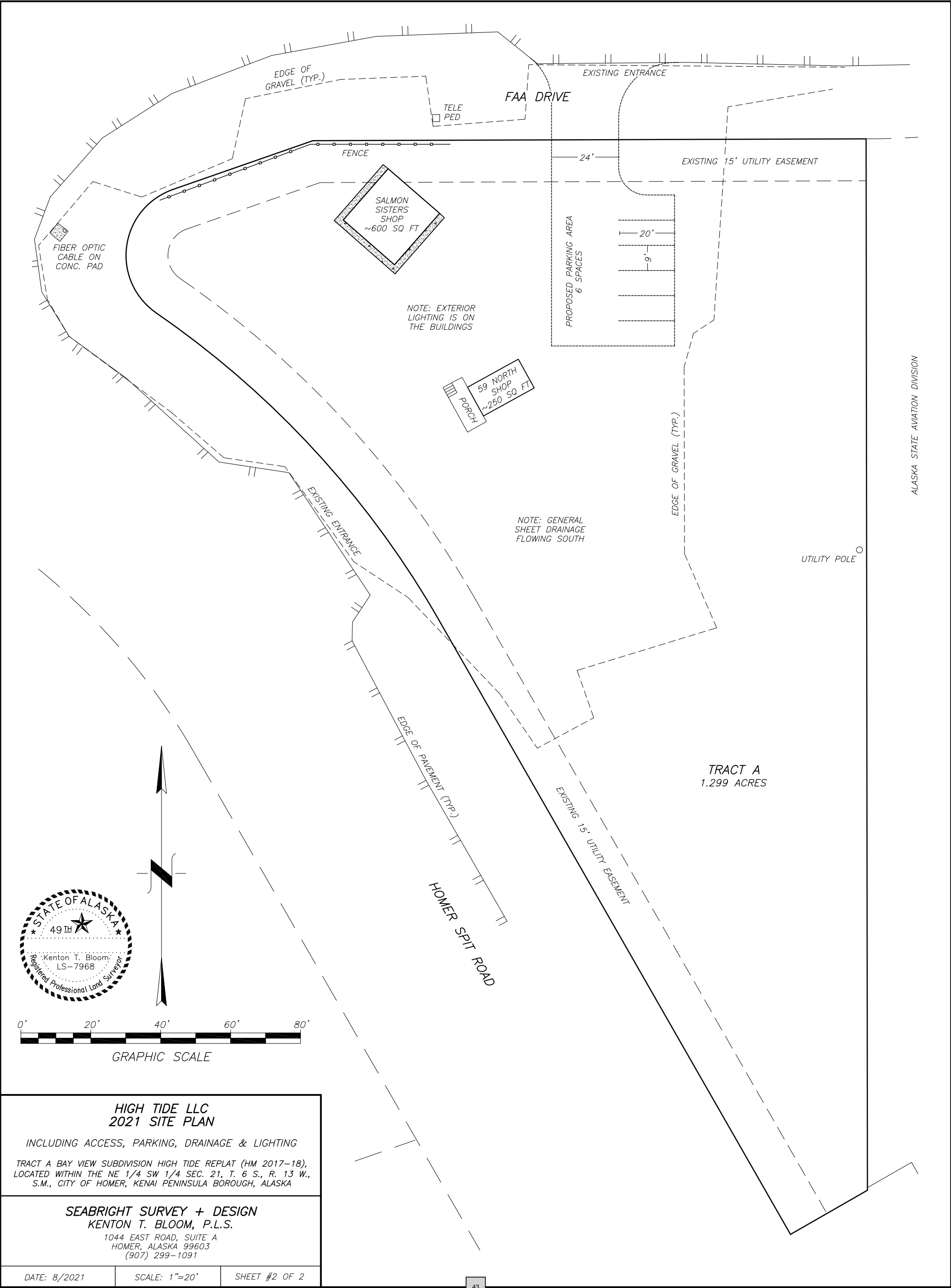
SCALE: 1"=100'

SHEET #1 OF 2



GRAPHIC SCALE









From: [Steve Schulz](#)
To: [Travis Brown](#)
Subject: Height of buildings at Halls property
Date: Friday, August 20, 2021 4:45:53 PM

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

Salmon Sister 13'
59°North. 13'6"

Sent via the Samsung Galaxy S8 Active, an AT&T 5G Evolution capable smartphone

Site Photos, westerly facing 9.9.21



PUBLIC HEARING NOTICE

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Planning Commission on Wednesday, September 15, 2021 at 6:30 p.m. via a virtual meeting, on the following matter:

A request for Conditional Use Permit (CUP) 21-07 for two retail buildings at 1554 Homer Spit Rd., Tract A Bay View Sub High Tide Replat, T. 6 S., R. 13W., S.M., HM 2017018. A CUP is required for more than one building containing a permitted principal use on a lot, according to HCC 21.24.030(j).

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

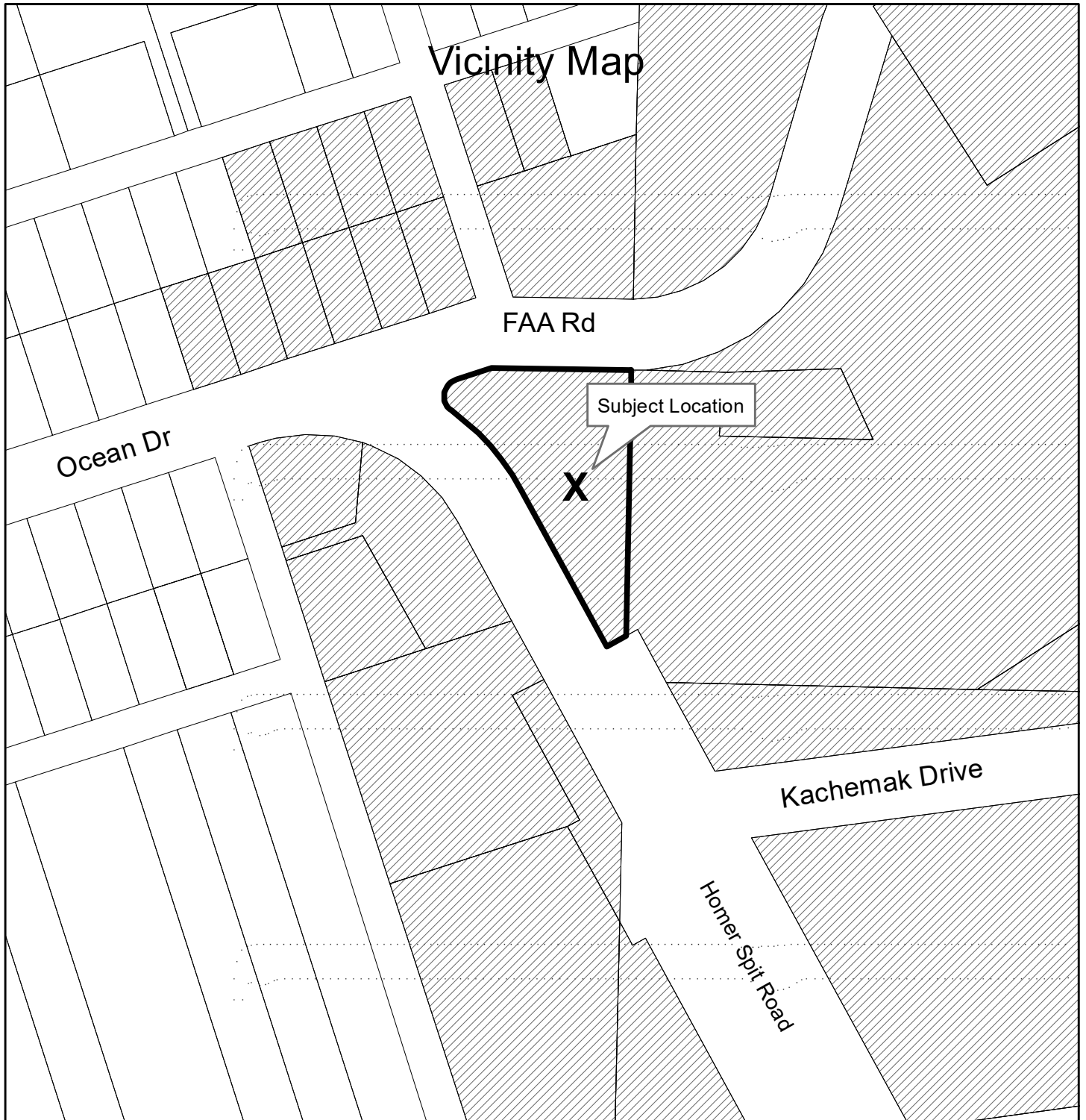
Visit the link above or call the City Clerk's Office to learn how to provide verbal testimony during the meeting via telephone or the Zoom online platform. Written comments can be emailed to planning@ci.homer.ak.us or mailed to Homer City Hall, 491 E. Pioneer Ave., Homer, AK, 99603. They may also be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

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

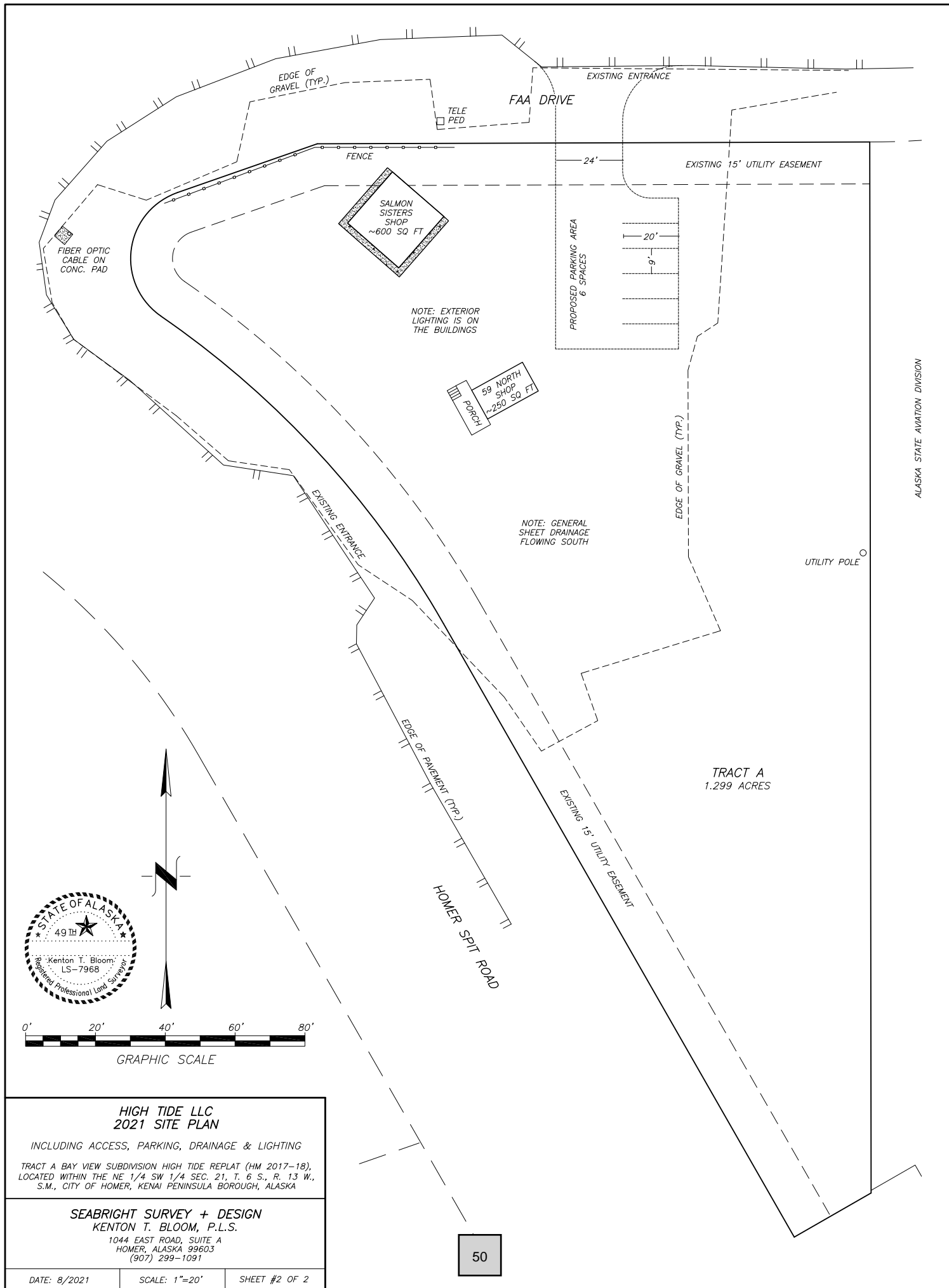
NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 300 FEET OF PROPERTY

.....

VICINITY MAP ON REVERSE



<p><i>City of Homer</i> Planning and Zoning Department September 1, 2021</p>	<p align="center">Request for Conditional Use Permit 21-07 1554 Homer Spit Rd</p> <div data-bbox="592 1816 1031 1900" style="border: 1px solid black; padding: 5px; margin: 10px auto; width: fit-content;"> Marked lots are within 300 feet and property owners notified. </div> <div data-bbox="633 1921 990 1984" style="text-align: center;"> <p>0 150 300 Feet</p> </div>	<div data-bbox="1291 1690 1331 1795" style="text-align: center;"> <p>N</p> </div> <div data-bbox="1128 1806 1510 1953" style="font-size: small;"> <p><i>Disclaimer: It is expressly understood the City of Homer, its council, board, departments, employees and agents are not responsible for any errors or omissions contained herein, or deductions, interpretations or conclusions drawn therefrom.</i></p> </div>
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From: Steven Veldstra <stevenv@akwagonwheel.com>
Sent: Wednesday, September 8, 2021 5:26 PM
To: Department Planning
Subject: 1554 Homer Spit Road CUP

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

City of Homer Planning Department,
We are in favor of a Conditional Use Permit for two retail buildings at 1554 Homer Spit Road. Additional businesses near our business help bring in more customers to our little corner of Homer, and we all benefit from additional sales which also brings more sales tax going to our city.

Steven Veldstra



1506 Ocean Drive
Homer, AK 99603

[907-235-8777](tel:907-235-8777)

www.akwagonwheel.com



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Staff Report PL 21-60

TO: Homer Planning Commission
FROM: Rick Abboud, City Planner, AICP
DATE: August 18, 2021
SUBJECT: By-laws & Policies and procedure manuals

Introduction After having a look at the documents on the meeting of August 18th, we may make recommendation for Council to adopt.

Analysis The City Clerks have produced Ordinance 21-50(S) which is expected to be adopted at the Council meeting of September 15th. I have updated language to mirror the Clerk's ordinance including the understanding of the wish of the Commission to provide a maximum of 6 missed meetings prior to creating a vacancy. Also included is updated pronoun language as requested.

Staff Recommendation Review and discuss. Make recommendation to City Council for adoption.

Attachments

Ord. 21-50(s)

Draft Bylaws 9.10.21

HPC Policies and Procedures Manual Draft 9.10.21

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

City Clerk

3
4 **ORDINANCE 21-50(S)**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
7 AMENDING HOMER CITY CODE 2.58 BOARDS AND COMMISSIONS
8 REGARDING TELECONFERENCING, ATTENDANCE, VACANCIES,
9 RECORDING CLERK, STAFF REPORTS AND RECOMMENDATIONS,
10 AND RULES OF ORDER, **AND 2.74 PLANNING COMMISSION**
11 **TERMS OF COMMISSION MEMBERS.**
12

13 WHEREAS, The State of Alaska Open Meetings Act allows elected officials to attend
14 meetings by teleconference; and
15

16 WHEREAS, Attendance at regular meetings, special meetings, and worksessions by
17 teleconference has been effective and efficiently employed by the board and commissions
18 since April 2020; and
19

20 WHEREAS, Allowances for the continued ability to attend meetings by teleconference
21 outside of emergency situations is beneficial to conducting the business of the City of Homer;
22 and
23

24 WHEREAS, Current code reference to a seat being vacated by a member missing 30% of
25 the meetings isn't equitable based on the varying schedules of the Boards and Commissions
26 and 50% requires that a member must attend at least half of their regularly scheduled
27 meetings each year; and
28

29 WHEREAS, In reviewing Homer City Code 2.58 other clarifications were made regarding
30 Recording Clerk, Staff Reports, and Rules of Order.

31 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
32

33 Section 1. Homer City Code Chapter 2.58.050, entitled "Required procedures" is hereby
34 amended as follows:
35

36 2.58.050 Required procedures.
37

38 Except as otherwise provided in this title, bylaws for boards and commissions shall contain:
39

40 a. Presiding Officer. The presiding officer of the board or commission shall be the chairperson.
41 In the chairperson's absence, the vice-chairperson shall be the presiding officer. In all other
42 circumstances, the most senior member shall preside. The presiding officer shall preserve

order and decorum at all meetings of the board or commission, while promoting discussion by all members in deliberations unless otherwise prohibited by law.

b. Staff Liaison. The City Manager shall designate an employee to serve as a staff liaison to each board or commission. The staff liaison shall assist the chairperson in setting meetings, preparing agendas, and other documentary material, and coordinating the acquisition of needed materials and training.

c. Recording Clerk. The City Clerk shall designate a recording clerk to take minutes for each board and commission and that designee shall serve as the board's or commission's parliamentary advisory pursuant to AS 29.20.380(10) **and HCC 2.12.010** and assist the chairperson with ~~compliance with the commission's or board's bylaws~~ **the conduct of the meeting.**

d. Quorum. Four commission or board members shall constitute a quorum of seven members; and five commission or board members shall constitute a quorum of eight members.

e. Voting. Each member, including the chairperson, shall vote, and shall not abstain from voting, unless such member claims a conflict of interest, **or has an excused absence,** in which event the member shall be excused from voting. The member shall then state for the record the basis for the abstention.

1. Four affirmative votes of seven members and five affirmative votes of eight members are required to pass a motion.
2. Voting will be by a roll call vote, the order to be rotated; or by unanimous consent if no objection is expressed.
3. Voting by proxy or absentee is prohibited.

f. Staff Reports and Recommendations. The staff liaison shall submit reports and recommendations for those agenda items requiring decisions or recommendations by any board or commission. Other staff having experience, education, and professional training in the subject matter may provide input into the reports and recommendations, or may provide supplemental ~~ones~~ **information.** The ~~material~~ **information** submitted may be oral, written or graphic, or some combination of all. Except as otherwise provided in this code, the reports and recommendations shall be accepted as evidence of record to the same extent as oral testimony and exhibits accepted from applicants, opponents, persons who are subjects of an inquiry, expert and lay witnesses, and members of the public who provide information for the record of the proceedings.

g. Attendance. ~~Any commission or board member who misses three consecutive regular meetings without being excused, or 30 percent of all meetings within a calendar year, shall be removed from the board or commission. **A member shall be removed from the board or commission who has three consecutive unexcused absences, or misses half of all meetings within an appointment year, whether excused or unexcused.**~~ Any member who is unable to attend a meeting, whether regular or special, shall contact the City ~~Clerk~~, staff liaison, or chairperson as soon as possible **in advance no later than two hours prior to the scheduled meeting time** for excusal.

h. Vacancies. A commission or board member's appointment is vacated under the following conditions:

1. A member fails to qualify to take office within 30 days after their appointment;
2. A member resigns;
3. A member is physically or mentally unable to perform the duties of the office;
4. A member is convicted of a felony or of an offense involving a violation of their oath of office;
5. A member ~~misses~~ **has** three consecutive regular meetings without being excused, or 30 percent of all meetings within a calendar year **unexcused absences, or misses half of all meetings within an appointment year, whether excused or unexcused.**

i. Rules of Order. Boards and commissions shall abide by the current edition of Robert's Rules of Order. ~~If Robert's Rules of Order conflict with the board or commission bylaws or other provisions of this code, the bylaws and/or code provisions shall apply. **insofar as it is consistent with the board's or commission's bylaws, other provisions of the Homer City Code, or standing rules. In all other cases, bylaws, the code, or the standing rule shall prevail.**~~

j. Training and Model Procedures.

1. Training sessions developed or arranged by the City Clerk and approved by the City Manager shall be mandatory unless a member's absence is excused by the chairperson.
2. The City Manager and/or City Clerk, in their discretion and in consultation with the City Attorney as needed, may develop model procedures to be used as a guide for boards and commissions.

k. Teleconferencing. Teleconference participation is allowed with notice to the clerk no later than two hours prior to the scheduled meeting time.

Section 2. Homer City Code Chapter 2.58.060, entitled “Teleconferencing” is hereby enacted to read as follows:

2.58.060 Teleconferencing.

a. This section governs the teleconference participation of board and commission members at all regular meetings, special meetings, and worksessions.

b. “Teleconference” means remote participation by telephone or web-based format by a member for a meeting of the board or commission which must enable the remote member, for the duration of the meeting, to clearly hear and to be heard by the chairperson, all other members, the staff liaison, the Clerk, and any public in attendance.

c. “Appointment year” means the 12 month period commencing the first day of the first month after expiration of terms.

d. The preferred procedure for all meetings is that all members should make all reasonable effort to be physically present at the designated time, date, and location within the City for the meeting. Teleconference participation is intended for good cause which may include, but is not limited to, absences required for work-related events, family emergencies, medical-related issues, or other good cause. Teleconferencing is not to be used as a regular means of attendance at meetings except temporarily during events described in section (g). A board or commission member allowed by this section to participate by teleconference shall, while actually on the teleconference, be deemed present at the meeting for all purposes.

e. Members who cannot be physically present for a meeting shall notify the clerk in advance no later than two hours prior to the scheduled meeting time of their intent to appear by teleconference.

f. All members teleconferencing will establish a connection by telephone or web-based format and shall make every effort to participate in the entire meeting. If teleconference participation is interrupted due to poor connectivity and hinders the active participation of a member in the meeting, the chairperson will request a brief recess to allow the person to attempt to reestablish a connection. If the member cannot reestablish a connection after a recess and a quorum remains, the chairperson shall proceed with the meeting and the clerk shall note in the minutes of the meeting the member’s inability to participate in the meeting due to technical difficulties. If quorum is lost the chairperson

shall adjourn the meeting and remaining agenda items will carry over to the next regular or special meeting.

g. Section (d) does not apply to meetings held while an emergency disaster declaration is in effect and the nature of the disaster significantly impacts a member's ability to attend a meeting other than by teleconference or other technological means.

Section 3. Homer City Code Chapter 2.72 Planning Commission Section 2.72.040 Terms of Commission members is hereby amended as follows:

2.72.040 Terms of Commission members.

a. Members of the first Commission shall be appointed for the following terms:

1. Three members shall be appointed for three-year terms;
2. Two members shall be appointed for two-year terms;
3. Two members shall be appointed for one-year terms.

b. At the end of the respective terms set forth in subsection (a) of this section, members shall be appointed for full three-year terms.

c. ~~Any Commissioner who shall have two successive unexcused absences shall be subject to removal by the Commission by a majority vote of the members present.~~ **A commission member's appointment is vacated under the following conditions:**

- 1. A member fails to qualify to take office within 30 days after their appointment;**
- 2. A member resigns;**
- 3. A member is physically or mentally unable to perform the duties of the office;**
- 4. A member is convicted of a felony or of an offense involving a violation of their oath of office;**
- 5. A member has three consecutive unexcused absences, or misses six meetings in an appointment year.**

Section 4. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this __ day of _____, 2021.

CITY OF HOMER

208

209

210

KEN CASTNER, MAYOR

211 ATTEST:

212

213

214 MELISSA JACOBSEN, MMC, CITY CLERK

215

216 YES:

217 NO:

218 ABSTAIN:

219 ABSENT:

220

221 First Reading:

222 Public Hearing:

223 Second Reading:

224 Effective Date:

HOMER ADVISORY PLANNING COMMISSION BYLAWS

The Homer Advisory Planning Commission is established with those powers and duties as set forth in Title 12, Section 762, of the Homer City Code (HCC). The Commission is established to maximize local involvement in planning and to implement and recommend modifications to the Homer Zoning Ordinance, Title 21, and Subdivisions, Title 22. The Commission's jurisdiction is limited to the area within the City boundaries and that area designated as the Homer Bridge Creek Watershed Protection District.

The Homer Advisory Planning Commission ("Commission") consists of seven members; no more than one may be from outside the city limits. Members will be appointed by the Mayor subject to confirmation by the City Council for three-year terms (except to complete terms). The powers and duties of the Commission are described in HCC 12.762.030.

A. To abide by existing Alaska State law, Borough Code of Ordinances, where applicable, and Homer City Code pertaining to planning and zoning functions;

B. To abide by Robert's Rules of Order, so far as this treatise is consistent with Homer City Code;

C. Regular Meetings:

~~All Commission members should be physically present at the designated time and location within the City for the meeting.~~ **Meeting participation by Teleconferencing is not permitted. "Teleconference" means remote participation by telephone or web-based format by a member for a meeting of the board or commission which must enable the remote member, for the duration of the meeting, to clearly hear and to be heard by the chairperson, all other members, the staff liaison, the Clerk, and any public in attendance. Commissioners are expected to comply with teleconferencing requirements found in HCC 2.58.060.**

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

Chapter 1.14.

5. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by vote of the Commission.

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

D. Special Meetings:

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

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

E. Duties and Powers of the Officers:

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

F. Committees

1. The Chair shall appoint committees for such specific purposes as the business of the Commission may require. Committee appointments will be confirmed by the Commission. Committee membership shall include at least two Commissioners. Other Committee members may be appointed from the public.
2. One Committee member shall be appointed Chair and be responsible for creating an agenda and notifying the City Clerk of meetings so they may be advertised in accordance with Alaska State Law and Homer City Code.

3. One Committee member shall be responsible for furnishing summary notes of all Committee meetings to the City Clerk.
4. Committees shall meet in accordance with Commission bylaws and Robert's Rules.
5. All committees shall make a progress report at each Commission meeting.
6. No committee shall have other than advisory powers.
7. Per Robert's Rules, upon giving a final report, the Committee is disbanded.

G. Motions to Reconsider:

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

H. Conflict of Interest:

A member of the Commission shall disqualify ~~himself/herself~~ **themselves** from participating in any official action in which ~~he/she~~ **they** ~~has~~ **have** a substantial financial interest per HCC 1.128. The member shall disclose any financial interest in the topic before debating or voting. The member cannot participate in the debate or vote on the matter, unless the Commission has determined the financial interest is not substantial.

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

I. Situation of personal interest

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

J. Ex parte Communications

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

K. Quorum; Voting:

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

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

L. Findings:

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

M. Consensus:

The Commission may, from time-to-time, express its opinion or preference concerning a subject brought before it for consideration. Said statement, representing the will of the body and meeting of the minds of the members

may be given by the presiding officer as the consensus of the body as to that subject without taking a motion and roll call vote.

N. Abstentions:

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

O. Attendance: Any member who is unable to attend a meeting, whether regular or special, shall contact the clerk in advance, no later than two hours prior to the scheduled meeting time for excusal.

P. Vacancies:

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

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

- 1. A member fails to qualify to take office within 30 days after their appointment;**
- 2. A member resigns;**
- 3. A member is physically or mentally unable to perform the duties of the office;**

217
218 4. A member is convicted of a felony or of an offense involving a violation
219 of their oath of office;

220
221 5. A member has three consecutive unexcused absences, or misses six
222 meetings in an appointment year.

223
224
225 **Q. Procedure for Consideration of Agenda Items:**
226

227 The following procedure will normally be observed:

- 228
229 1. Staff presents report and makes recommendation;
230 2 If the agenda item involves an applicant s/he **they** may make a
231 presentation;
232 3. Commission may ask questions of the applicant and staff.
233

234 **R. Procedure for Consideration of Public Hearing Items:**
235

- 236 1. Staff presents report and makes recommendation;
237 2. Applicant makes presentation;
238 3. Public hearing is opened;
239 4. Public testimony is heard on item (presentation of supporting/opposing
240 evidence by public – Commission may ask questions of public);
241 5. Public hearing is closed;
242 6. Rebuttal of evidence by staff (if any);
243 7. Rebuttal of evidence by applicant (if any);
244 8. Commission may ask questions of the applicant, and staff.
245 9. The Commission will move/second to accept the staff report, with or
246 without staff recommendations. The Commission will discuss the item,
247 may ask questions of staff, and make amendments to the
248 recommendations of staff. Amendments may be made by
249 motion/second.
250 10. The Commission may continue the topic to a future meeting. Once the
251 public hearing is closed no new testimony or information will be
252 accepted from the public. The Commission may ask questions of the
253 applicant and staff.
254

255 **S. Procedure for Consideration of Preliminary Plats:**

256 The following procedure will normally be observed:

- 257 1. Staff presents report and makes recommendations;

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

T. The Commission shall act as a body:

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

U. Bylaws Amended:

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

V. Procedure Manual:

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

HOMER ADVISORY PLANNING COMMISSION
491 E. PIONEER AVENUE
HOMER, ALASKA

DATE
WEDNESDAY AT 6:30 P.M.
COWLES COUNCIL CHAMBERS

**REGULAR MEETING
AGENDA**

1. Call to Order

2. Approval of Agenda

3. Public Comment

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

4. Reconsideration

5. Consent Agenda

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

6. Presentations

7. Reports

8. Public Hearings

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

9. Plat Consideration

10. Pending Business

11. New Business

12. Informational Materials

13. Comments of the Audience

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

14. Comments of Staff

15. Comments of the Commission

16. Adjournment

Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission. Notice of the next regular or special meeting or work session will appear on the agenda following "adjournment."

Policies and Procedures

Homer Advisory Planning Commission



201421

QUALIFICATION STATEMENT

Nothing in this chapter should be considered in lieu of any applicable laws and procedures found in the Alaska State Statutes, the Kenai Peninsula Borough Code of Ordinances, where applicable, or the Homer City Code.

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INTRODUCTION

The purpose of this policy manual is to clarify the role of the Homer Advisory Planning Commission (“Commission”) in administration of the Homer Zoning Ordinance, Title 21, and Subdivisions, Title 22. Further, this manual describes policies for the Commission that are supplementary or explanatory to the requirements of Homer City Code.

This manual is divided into sections, which explain the policies for administering and implementing the land use permitting ordinances and the zoning ordinance.

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

PUBLIC TESTIMONY AND COMMENT

The Commission invites citizen participation regarding matters brought before it for consideration.

For any public participation before the Commission, the citizen should walk to the microphone located at the rostrum directly in front of the Commission podium, sign in, and after receiving recognition from the Chair, state his/her name and address and purpose for appearing. Comments are limited to three minutes. **Alternately, participation may also be made by means of telephone or web-based formats as instructed on the Clerks web page or meeting notice.** In special circumstances, this time limit may be extended by two minutes by the Chair with concurrence of the body. Items that generate a large amount of citizen interest may be taken out of their regular position on the agenda at the discretion of the Commission as an accommodation to the public. Moving these items on a published agenda will be done at the beginning of the meeting, during the adoption of the agenda.

Comment time limits

Comments and testimony are limited to three minutes. In special circumstances, this time limit may be adjusted by two minutes up or down by the Chair with concurrence of the body.

Public Comment

Any citizen desiring to speak on any matter other than public hearing items or preliminary plats on the agenda may do so under “Public Comments.” After the public comment period is introduced, the Chair may recognize any member of the public who wishes to address the Commission. No official action will be taken by the Commission under this item.

75
76
77 **Public Hearings and Plats**

78 The public may comment on public hearing items and preliminary plats when those agenda
79 items are addressed by the commission. These are generally items eight and nine on the
80 regular agenda.

81
82 **Comments on topics not on the agenda**

83 Any citizen desiring to speak on a matter not on the agenda may do so under “Comments of
84 the Audience,” item number thirteen on the regular agenda.

85
86
87 **DELIBERATION of QUASI-JUDICIAL DECISIONS**

88
89 When making a quasi-judicial decision, the Commission may choose to deliberate at an open
90 meeting, or may choose to meet at a time, date and location set by the Commission. Such a
91 meeting for deliberations only is not subject to the Open Meetings Act and is not required to
92 be open to the public.

93
94
95 **APPEALS**
96 **(Quasi-judicial)**
97

98 **PURPOSE**

99 ~~The purpose of review of appeals before the Commission is to ascertain that errors of fact or~~
100 ~~interpretation have not been made pertaining to zoning matters. Generally, appeals to the~~
101 ~~Commission will be appeals of a determination, decision, or permitting matter decided upon~~
102 ~~by the City Planner.~~

103
104 ~~The City Council, sitting as the Board of Adjustment, hears appeals of decisions made by the~~
105 ~~Commission. For example, conditional use permits, variance, etc, can be appealed to the~~
106 ~~Board of Adjustment, or a matter that was appealed to the Commission can be further~~
107 ~~appealed to the Board of Adjustment.~~

108
109 **Public Hearing**

110 ~~Appeals before the Commission require a public hearing. Notice of the public hearing will be~~
111 ~~in accordance with HCC 21.93 and HCC 21.94.~~

112
113 **Review Standards**

114 ~~In reviewing an appeal request, the Commission will consider:~~

- 115
116 1. ~~Documentation of evidence;~~

- 117 2. ~~— The Record of Appeal; and~~
118 3. ~~— Controlling sections of Chapter 21 Homer City Code;~~
119 4. ~~— Any new evidence or testimony presented during the public hearing.~~
120 Once the public hearing is closed, the Commission cannot hear additional comments on the
121 topic.
122

123 **Determination**

124 All decisions will be in writing. The officially adopted minutes shall be made part of the
125 decision. A specific statement of findings and reasons supporting the decision shall be made.
126 Copies of the decision will be promptly mailed to the persons participating in the appeal.
127

128 An appeal from an action or determination of the Commission is to be filed with the city clerk
129 within thirty days of the distribution of the decision document.
130
131

132 **REVIEW OF BRIDGE CREEK WATERSHED** 133 **PROTECTION DISTRICT** 134

135 **PURPOSE**

136 The Commission may approve development within the Bridge Creek Watershed Protection
137 District (BCWPD) subject to the standards provided in the zoning ordinance and in compliance
138 with the Comprehensive Plan, for those uses or structures specified within the Bridge Creek
139 Watershed Protection District ordinance. The purpose is to prevent the degradation of the
140 water quality and protect the Bridge Creek Watershed to ensure its continuing suitability as a
141 water supply source for the City's public water utility. These provisions benefit the public
142 health, safety, and welfare of the residents of the City of Homer and other customers of the
143 city's water system by restricting land use activities that would impair the water quality, or
144 increase the cost for treatment.
145

146 **Conditional Use**

147 A conditional use permit may be issued in accordance with Chapter 21.671 and subject to the
148 requirements of the Bridge Creek Watershed Protection District Chapter 21.40.060 Conditional
149 uses and structures, and/or Chapter 21.40.080 Erosion sediment control, Chapter 21.40.090
150 Agricultural activity, Chapter 21.40.100 Timber growing and harvesting operations, Chapter
151 21.40.110 Stream buffers, and Chapter 21.40.130 Exceptions to buffers.
152

153 **Preliminary Plats**

154 The Commission will review and comment on all subdivision proposals within the Bridge
155 Creek Watershed Protection District.
156
157

158 **REVIEW POLICIES FOR CONDITIONAL USE PERMITS** 159 **(Quasi -judicial)**

PURPOSE

It is recognized that there are certain uses which are generally considered appropriate in a district, provided that controls and safeguards are applied to ensure their compatibility with permitted principal uses. The conditional use permit procedure is intended to allow Commission consideration of the impact of the proposed conditional use on surrounding property and the application of controls and safeguards. This procedure assures that the conditional use will be compatible with the surrounding area and in keeping with the character and integrity of the neighborhood.

Public Hearing

A public hearing before the Commission is required before a conditional use permit may be granted. Notice of the public hearing will be in accordance with HCC 21.94.

Review Standards

The Commission has 45 days from the close of the public hearing to make a decision on a conditional use permit application. The applicant may agree, in writing, to the extension of the 45 day time period for Commission action.

The Commission may approve, approve with conditions, or disapprove an application. The Commission must prepare written findings and reasons supporting its decision. If a conditional use permit is denied, the written findings and reasons for that decision will be approved by those who voted against the permit, even if the number against is less than a majority of the Commission.

Specific conditions may be required. Such conditions will be part of the terms under which the conditional use permit is granted and violations of such terms shall be deemed a violation of this ordinance. Failure to meet any time limitations imposed by the conditional use permit shall void the permit. An extension may be granted following a public hearing on the matter. Extensions will be granted for good cause only.

The development of the conditional use project or site, following issuance of the permit, will be in accordance with the conditions of the permit, standards of the zoning regulations and/or the approved site plan. Failure to observe any conditions or standards will be deemed a violation.

Determination

The Commission must make findings of fact sufficient to support its decision. Upon determination the Commission will document the decision and the basis for decision. The petitioner will be notified by mail by a copy of the meeting minutes and the decision documentation.

Appeals

The Commission Chair will alert the petitioner and other interested parties in attendance that an appeal of the Commission's decision is possible and that the appeal must be filed within ~~thirty~~ **fifteen** days of the distribution of the decision document.

NONCONFORMITY REVIEW POLICIES (Quasi -judicial)

PURPOSE

The Commission shall review and determine the nonconformity of certain structures and uses. The purpose of review is to establish the commencement date of use, establish the effective date of applicable regulations, and formally accept the nonconformity.

City code states which nonconformities are reviewed by the City Planner and which are reviewed by the Commission. Generally, the Commission will be reviewing nonconforming uses within the city, excluding the areas annexed on March 20, 2002.

Public Hearing

The Commission shall conduct a public hearing per HCC 21.94.

Review Standards

It shall be the responsibility of the owner to show proof of continuing nonconformity of any property, use or structure.

Prior to determining the nonconformity of a use or structure, the Commission will determine:

1. The commencement date of use;
2. The effective date of applicable regulations.

There may exist uses, or structures which were legal before the effective date of the controlling regulation, but which are now prohibited under the terms of the existing ordinance. See HCC 21.61.040.

To avoid undue hardships, actual construction lawfully begun prior to the effective date of the zoning ordinance will be allowed to continue provided the work will be carried on diligently. Actual construction is defined as the placement of materials in a permanent position and fastened to produce a product.

Nonconforming Uses of Land/Structures

When a lawful structure exists prior to September 28, 1982, or March 20, 2002 for annexed areas, but does not meet the district or ordinance requirements, it shall be considered



nonconforming. Nonconforming structures may be continued and/or expanded only if the nonconformity of the structure does not increase.

Legally existing structures are those that:

1. Exist prior to effective date of Ordinance 4-300-2 (Interim Zoning Ordinance) dated June 13, 1966.
2. Exist prior to effective date of Ordinance No. 33 (Kenai Peninsula Borough) dated May 2, 1967 and are in compliance with Ordinance 4-300-2.
3. Exist prior to effective date of Ordinance 78-13 (Kenai Peninsula Borough) dated May 16, 1978 and are in compliance with Kenai Peninsula Borough Ordinance No. 33 and Homer Ordinance 4-300-2.
4. Exist prior to effective date of Ordinance 82-15 (Homer Zoning Ordinance) dated September 28, 1982 and are in compliance with previous zoning ordinance requirements.

Once a structure made nonconforming by this title is abandoned or brought into conformity with this title, the structure shall thereafter conform to the regulations of the zone in which it is located, and the nonconformity shall not be allowed to continue.

A lawful nonconforming use may continue so long as it remains lawful. No nonconforming use may be enlarged to occupy a greater area of land than was occupied as of the date it became nonconforming, or August 12, 2008, whichever is later. Once a use made nonconforming by this title is abandoned, changed, discontinued, or ceases to be the primary use of a lot, the use of that lot shall thereafter conform to the regulations of the zone which the lot is located, and the nonconformity shall not thereafter be resumed or allowed to continue.

Determination

Upon presentation of such proof that establishes the continuing nonconformity of any use or structure, the Commission shall formally accept the nonconformity, as a valid use or structure until such time as the use ceases. Upon determination by the Planning Commission staff will document the decision and basis for decision. The petitioner will be notified by mail by a copy of the relevant meeting minutes and the decision documentation.

Appeals

The Commission Chair will alert the petitioner and other interested parties that an appeal of the Commission's decision is possible. The appeal must be filed within ~~thirty~~ **fifteen** days of the distribution of the decision document. The City Clerk will process all appeals.

PRELIMINARY PLAT REVIEW POLICIES

PURPOSE

The purpose of this policy statement is to clarify the position of the Commission with regard to their recommendations of acceptance or denial of preliminary plats. This review provides the opportunity for the City to make comments and recommendations to the Kenai Peninsula Borough Planning Commission. The Kenai Peninsula Borough holds platting powers for the entire borough, both inside and outside the city limits. The Homer Advisory Planning Commission acts as an advisory body to the Borough Planning Commission on plat matters inside city limits and within the Bridge Creek Watershed Protection District.

The preliminary plat process allows an exchange of information between the subdivider, the Planning and Zoning Office, and the Commission. Proper utilization of the preliminary process should result in a recommendation of approval for the majority of the plats.

Procedures

General. Kenai Peninsula Borough Code 20.12.050 governs subdivisions in first class cities. A surveyor will submit one full size copy and a 11" x 17" reduced copy of the preliminary plat to the ~~Planning Director~~ **City Planner** when subdividing land in the City of Homer or the Bridge Creek Watershed Protection District. The Commission shall review the plat and take action within forty-nine days of the date of receipt unless the applicant agrees to an extension. Recommendations of the Commission based upon lawful ordinances shall be incorporated in the final plat.

The Commission will consider plats and make recommendations. The staff report and minutes are then forwarded to the borough planning department.

The borough planning commission makes the final determination. Once the preliminary plat has been accepted, the final plat is submitted to the borough for either administrative approval or approval by the borough planning commission.

ZONING ORDINANCE AMENDMENTS

PURPOSE

The Commission will review all proposals to amend the zoning ordinance or zoning map and make recommendations to the City Council per HCC 21.95. Neither the Commission nor City Council may consider a zoning ordinance request which is substantially the same as any other amendment submitted within the previous nine months and which was rejected.

Initiation/Application

Amendments to the zoning ordinance will be made in accordance with HCC 21.95. When the amendment request is accepted as complete by the Planning ~~Department~~ **Office**, the matter

will be presented within 30 days to the Planning Commission, according to the Commission meeting schedule and due dates.

Public Hearing

A public hearing before the Commission is required. Notice of the public hearing will be in accordance with HCC 21.94. In the case of a zoning ordinance amendment or major district boundary change, no notification of neighboring property will be required, but notices will be posted in at least three public places.

Review Standards

Zoning text and zoning map amendments shall be reviewed according to HCC 21.95.

Determination

The Planning Commission shall submit to the City Council its written recommendations per 21.95.060(d) regarding the amendment proposal along with the Planning Department's report on the proposal, all written comments on the proposal, and an excerpt from its minutes showing its consideration of the proposal and all public testimony on the proposal. Such recommendations of the Commission shall be advisory only and shall not be binding on the City Council.

POLICY FOR REVIEW OF ZONING VARIANCES (Quasi-judicial)

PURPOSE

The Commission may grant a variance to provide relief when a literal enforcement of the regulations and standards of the zoning ordinance, Chapter 21, would deprive a property owner of the reasonable use of his real property.

The purpose of review is to ascertain that those conditions specified as necessary to granting a variance shall be satisfied; that the variance will be the minimum necessary to permit the reasonable use of land or structure, and that the variance will not be granted which will permit a land use in a district in which that use is otherwise prohibited.

Public Hearing

A public hearing before the Commission is required before a variance may be granted. Notice of the public hearing will be in accordance with HCC 21.94.

Review Standards

In reviewing a variance request and prior to granting a variance, the Commission must consider the standards of review as established in HCC 21.72. All of the conditions must exist before a variance can be granted.

Determination

The Commission must prepare written findings and reasons supporting its decision. If a variance is denied, the written findings and reasons for that decision will be approved by those who voted against the permit, even if the number against is less than a majority of the Commission. Upon determination, staff will document the decision and the basis for decision. The petitioner will be notified by mail with a copy of the meeting minutes (those portions that apply to the petition) and the decision documentation. The Commission Chair will alert the petitioner and other interested parties that an appeal of the Commission's decision is possible. The appeal must be filed within thirty days of the distribution of the decision document. The City Clerk will process all appeals.



City of Homer

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Planning

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Staff Report PL 21-52

TO: Homer Planning Commission
FROM: Rick Abboud, AICP, City Planner
DATE: August 18, 2021
SUBJECT: Use of Shipping Containers

Introduction It was the suggestion of the Planning Commission to have a conversation of the use of shipping containers. The main concern was the use of shipping containers for dwelling units.

Analysis The use of shipping containers to make dwellings is becoming a more popular proposal. Two of the main concerns regarding their use are aesthetics and safety. In the use of residential context, these are two issues that Homer has basically left to self-regulation in any type of dwelling of three units or less.

Aesthetics

No regulations exist that would dictate any particular style concerns for a residence unless it was subject to a private covenant. Blue board finish, no problem. Tarp, no problem. Milk cartons, no problem, and so on, as far as city regulations are concerned. We have reliance on mortgage financiers to hold the development to a building standard. These structures are supposed to be compliant with current building standards. One may be able to make an albatross that conforms to codes and nearly anything goes when not financed.

Many do not like the looks of the metal rectangle and it takes some creative modification to make them look like something else. Even for the use of storage, many municipalities require that they be hidden from view. In Anchorage, shipping container homes are not allowed for use as dwellings and it is something that is dealt with by the building department and not in zoning code. Without a building code, we end up with permitting fabric buildings (yurts) as principle dwellings (or possibly anything that might be proposed), as there are no prohibitions. It was also suggested that you would not see an application of a shipping container turned into a code compliant dwelling, as it would be cheaper to make a stick build. On the other side of the cost conversation is a memo from the City of Long Beach that provides a detailed analysis of the subject including cost estimates from 2017.

Safety

Required safety measures for residences are minimal and only pertain to associated 'special hazards' such as construction on or near steep slopes. Shipping containers authorized for use as dwellings in larger cities are subject to building codes.

Staff Recommendation

Have a discussion and make a recommendations for further consideration of the subject.

Attachments

Shipping container building concerns - Ohio
Cargo Container permits – King County
Shipping container construction – Long Beach



BBS MEMO

Ohio Board of Building Standards

May 20, 2019

6606 Tussing Road, P.O. Box 4009, Reynoldsburg, Ohio 43068-9009

THE OHIO BUILDING CODES, BUILDING MATERIALS, AND SHIPPING CONTAINERS

The Ohio Board of Building Standards Industrialized Unit (IU) group frequently receives inquiries about the use of shipping containers as buildings or building components. A shipping container itself is of open construction (all components are visible in the finished product) and as such it is not within the scope of the IU program. However, if the container is modified off site, is of closed construction (assemblies with concealed components), and transported to the site of use, it falls within the scope of the IU program. Whether or not a shipping container is regulated as an IU, if it is modified with interior and exterior finishes, doors, windows, plumbing, or electrical fixtures, compliance with either the Ohio Building Code (OBC) or Residential Code of Ohio (RCO) is required depending on how it will be used.

Therefore, information is required to be provided on construction documents that indicates that the materials used in its construction comply with the applicable OBC referenced standards for metal materials used in a steel framed structure. As with any steel building component, designers must show evidence that a steel building or steel building components will be designed and fabricated according to the referenced standards listed in OBC Chapter 22 for steel building materials. This system of standards compliance is the same used to determine compliance for all Ohio-based IU steel building manufacturers. Consequently, designers cannot overlook this when owners are considering using steel shipping containers from unapproved or unknown sources as building components. Compliance can be accomplished one of three ways:

1. Documentation submitted showing compliance with the appropriate material standards;
2. Alternative engineered design submittals and technical data per OBC Section 106.5; or
3. Designed with strict adherence to the “Conditions of Use” of evaluation reports per OBC Section 114.3.2, by a listed conformity assessment body. (Currently, the Board is aware of the following evaluation reports for shipping containers from ICC-ES which are limited to intact non-retrofitted containers:
 - a. ESR-3764 for SG Blocks, Inc.
 - b. ESR-4082 for Sea Box Inc.
 - c. ESR-4163 for Falcon Structures.)

It appears then that, for most shipping containers manufactured outside the U.S. with no evaluation report, the only way to accept them as structural building materials is to have metal samples from each component type within each container tested and have the welds evaluated by an Ohio recognized conformity assessment body or, when used as an alternative engineered design, have each retrofitted steel container subjected to OBC Chapter 17 testing procedures (refer to OBC Sections 1713 – 1715).

Finally, when reviewing shipping containers for compliance with the codes, particular attention should be given to the following:

1. The wood floor decks in shipping containers are treated with highly toxic insecticides and are difficult to remove without damaging the base structural materials; and
2. Metal quality and strength has a great range of values – approximately 20,000 to 70,000 kips/sq. in. The designer wishing to use shipping containers must provide data documenting what the materials used are in order to determine that they will be used in compliance with the codes.

Objective identification of materials that are manufactured, tested, and listed in compliance with consensus standards protects the building owner regarding material suitability, sustainability, and consistency of construction as well as provides a level competitive playing field for all current listed and compliant material providers. This material identification system used in Ohio and the U.S. ultimately reduces the costs of materials, provides uniformity, and assures safety in the built environment.

Revised March 2019

Cargo Shipping Containers

Building Permit Requirements

Cargo containers, also known as intermodal freight containers, are standardized, reusable portable vessels that were originally designed for use in intercontinental traffic of freight and designed to be mounted on a rail car, truck or ship. When such containers are used as a building or structure, they are subject to the provisions of the building code as adopted and modified by King County. Accordingly, a building permit is required to locate and use such structures. The site and building construction plans shall be adequate to demonstrate compliance with building, fire and site regulatory standards. Structural calculations are required for altered or structurally connected containers.



As with other prefabricated structures such as portables or manufactured homes, building code approval of cargo containers may be obtained through the [Washington State, Department of Labor and Industries \(L&I\), Manufactured Homes & Other Mobile Structures](#).

Exemptions:

1. Residential accessory storage structures less than 200 SF
2. A container used for storage of construction materials and equipment associated with a valid building or grading permit for the property on which it is located.

Exempt structures as noted above shall be:

- a. Not located in required setbacks, parking spaces or fire lane
- b. Separated by at least 10' from all other buildings
- c. Comply with all other building and site requirements as determined appropriate
- d. Non-heated, not used as a habitable space

References

- 2015 Internal Building Code Sect. 105.1- Permit Required
- King County Code Sect. 16.02.240 - Work Exempt from Permit





Date: August 2, 2017

To: Patrick H. West, City Manager *T.H.W.*

From: Amy J. Bodek, Director of Development Services *AJB*

For: Mayor and Members of the City Council

Subject: **Shipping Container Construction**

In May 2017, the City Council adopted 29 recommendations to support the production and preservation of affordable and workforce housing. Please consider this memorandum as a response to Recommendation 3.10: *Encourage the adoption of regulations to allow and incentivize the use of shipping container construction for housing.*

The shortage of housing, coupled with escalating home prices and a lack of affordable rental inventory, has resulted in the consideration of alternative housing solutions, including the use of intermodal shipping containers (containers) for housing development. Containers (a.k.a., transport, freight, portable, dry cargo, or box) are commonly used on oceangoing vessels for the transportation of goods and commodities, as well as storage. Although a fairly new phenomenon, the repurposing of containers as building modules is viewed as a practical solution due to their environmental friendliness, strength, availability, speed of construction, and relatively low expense. However, the use of containers for housing is not a simple matter of placing them on a site and hooking up utilities. The advantages and requirements associated with containers as housing units are addressed below.

Environmental Suitability

It is believed that the use of containers is more eco-friendly than conventional construction. According to the Environmental Protection Agency, traditional building methods account for 60 percent of raw material use and non-industrial waste in the United States. Most agree that the repurposing of containers would save on the energy consumption required to melt them down, as well as limit the use of traditional building materials such as bricks and cement. Other collateral benefits include improved fire resistance, and resistance to termite damage, dry rot, and other fungus related infections.

However, since containers are constructed for transporting goods and were not intended for human habitation, they may contain potentially hazardous elements like chromate, phosphorous, lead-based paints used on the walls to provide rust protections for ocean crossings, arsenic, and chromium used to infuse the wooden floors of the container to deter pest infestation. Therefore, before containers can be made habitable, certain improvements to offset the CO2 carbon savings would be needed, such as sandblasting the walls and roof and replacing or sealing the wood flooring.

Lastly, containers absorb and transmit heat and cold very well. As such, the temperature within containers can be controlled with passive cooling and heating designs by using appropriate insulation and paint; however, it can also be addressed by non-environmentally friendly solutions like energy-consuming air conditioning systems.

Structural Requirements

In many ways, containers are the ideal building material because they are strong, durable, stackable, and modular. Containers can easily be stacked one on top of the other to create multi-story and multi-family dwellings. Due to their robustness, container dwellings can be earthquake resistant if properly designed by a licensed professional. Designs that result in non-traditional stacking (not aligned on four corners) will need additional structural support. Opening for windows, doors, skylights and decks will result in structural deflection or reduced earthquake resistance that will need to be reinforced. The engineering design, coupled with the engineered reinforcements, will add additional expense to the housing development.

Shipping Containers versus Manufactured Buildings

Container construction, like any other method of construction, is required to comply with the California Building Standards Code and receive local permits. The use of manufactured buildings (manufactured or prefabricated) is another non-traditional method of providing housing resources. Manufactured buildings are permitted through the California Housing and Community Development Department (HCD). This allows a manufacturer to receive certification from HCD and use their manufactured buildings Statewide. It provides a faster permitting mechanism for the production of affordable housing units, but may not provide the same aesthetic as shipping containers. Staff has been researching the use of manufactured units and recently received a presentation on the MicroPAD, developed by Panoramic Interests. While not yet certified by the State (permitting is underway and expected shortly), the MicroPAD is a 160-square-foot, self-contained dwelling pod that is easily stacked to create a multi-family building. The pods can be stacked within a matter of weeks and provides turnkey housing for areas in need. The developer requires that the City enter into a long-term lease, provide free land, and eventually purchase the units. While it is currently financially infeasible, it is yet another example of an alternative housing solution.

Cost Comparison

Building with containers may be faster than conventional construction if properly designed by a licensed professional engineer and architect, and site construction constraints and logistics are accounted for by an experienced contractor. Depending on the method of construction, container home construction can be done in a matter of weeks to a few months, whereas conventional home construction could take four to seven months. As indicated in Table 1, containers are cheaper than conventional building construction in most cases. The cost can be further reduced with the mass production of prefabricated containers built off-site at a factory in sections and delivered to a construction site for final

assembly. Another benefit of prefabricated construction is a reduction of time and expense associated with the City's permitting and inspection agencies if HCD is the lead agency that approves the manufactured units built off-site. Notwithstanding HCD's approval, containers used as building modules or structural building components, just like any other conventional development, will need the necessary construction permits from the City.

TABLE 1: ESTIMATED AVERAGE COST OF CONSTRUCTION PER SQUARE FEET ¹

	Conventional ²	Container	Modular/Prefab ³
Single-Family	\$170	\$145	\$135
Multi-Family	\$200	\$240	\$230
Commercial	\$180	\$180	\$160

1. Estimated cost can vary depending on the specific materials used to complete the building, the amount or type of structural system designed for the building, the amount of modification made to the containers, and other external factors such as utilities, transportation, etc.
2. Assumed conventional wood-framed construction.
3. Assumed the modular/prefab's design is approved and inspected through HCD.

Both State and local agencies are now reacting to the growing trend of repurposing containers for residential and nonresidential uses. A patchwork of regulations has emerged, creating potentially conflicting and duplicative requirements from State agencies to local jurisdictions. To provide a clear path for compliance, and to help establish guidelines for future projects, the Development Services Department is engaging in and working with other local, State, and national agencies and organizations to help shape the regulations and codes that will encourage and facilitate the repurposing of containers and their safe and efficient use.

Use of Shipping Containers in Long Beach

In 2012, a residential addition at 2175 San Francisco Avenue was the first project in the City to use two containers in a residential construction. The design called for the containers to be placed on a traditional foundation, secured the containers to the rear of the main house, and added additional structural reinforcements to accommodate cutting openings into the containers for windows and doors.

More recently, a commercial project named "SteelCraft," located at 3768 Long Beach Boulevard, used ten containers of varying sizes to create both retail and restaurant spaces. The containers were placed directly on the ground and supported on the four corners by concrete pad footings. The wood flooring was removed in order to provide access to trench and install utilities under the containers and eventually reinstalled and sealed. Ramps and other site improvements were made to comply with the State's accessibility requirements. The design also called for additional structural reinforcement to accommodate the window and door openings in the containers. The developer stated that the overall cost of the project was similar to traditional wood-framed construction methods; however, the aesthetic appeal of the containers outweighed the additional costs necessary to meet building codes.

Additionally, a small office project is proposed on Artesia Boulevard, which would utilize ten shipping containers (five containers wide and two containers high) to create a two-story infill development. This project is in the conceptual stage.

The City's existing zoning and building codes already accommodate the use of shipping containers or manufactured units for housing projects. Since the City does not develop affordable housing on its own, it relies on the development community to propose the use of these alternative methods and materials. Through its experience in permitting the above mentioned projects, other local governments, including the City and County of Los Angeles, have sought out staff for advice on how to permit their own projects.

Site Plan Review / Shipping Container Aesthetics

As revealed in public comments during recent public hearings on Accessory Dwelling Units, there may be a community perception that the aesthetic quality of shipping containers is incompatible in residential neighborhoods. Homes in Long Beach neighborhoods, with the exception of designated historic districts, exhibit a myriad of building designs and have allowed for architectural creativity over time. The completed shipping container projects in Long Beach are examples that shipping containers can co-exist in many different environments. However, in a 2011 determination allowing shipping containers to be used for residential structures, the Planning Commission deemed that Site Plan Review would be required to ensure that the building design complied with neighborhood aesthetics. This will ensure that shipping containers are used in a contextually-sensitive manner.

Development Services will continue to engage in, and work with, local, State and national agencies and organizations to shape the regulations and code, to facilitate, and thus incentivize, the use of shipping containers in accordance with Item No. 3.10 of the Revenue Tools and Incentives for the Production of Affordable and Workforce Housing.

If you have questions regarding this matter, please contact Oscar W. Orci, Deputy Director, at (562) 570-6369 or oscar.orci@longbeach.gov, or Truong Huynh, General Superintendent, at (562) 570-6921 or truong.huynh@longbeach.gov.

AJB:OO:TH

P:\BUILDING\ADMINISTRATION\CLERICAL INFORMATION\To_From_For MEMOS\2017\BUILDING\8 02 17 SHIPPING CONTAINERS V6.DOCX

CC: CHARLES PARKIN, CITY ATTORNEY
LAURA L. DOUD, CITY AUDITOR
TOM MODICA, ASSISTANT CITY MANAGER
KEVIN JACKSON, DEPUTY CITY MANAGER
REBECCA JIMENEZ, ASSISTANT TO THE CITY MANAGER
OSCAR W. ORCI, DEPUTY DIRECTOR OF DEVELOPMENT SERVICES
TRUONG HUYNH, GENERAL SUPERINTENDENT OF DEVELOPMENT SERVICES
LINDA TATUM, PLANNING BUREAU MANAGER
PATRICK URE, HOUSING DEVELOPMENT OFFICER
MONIQUE DELA GARZA, CITY CLERK (REF. FILE #17-0324)



City of Homer

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Office of the City Manager

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(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum

TO: Mayor Castner and Homer City Council
FROM: Rob Dumouchel, City Manager
DATE: September 8, 2021
SUBJECT: City Manager's Report for September 13, 2021 Council Meeting

Sales Tax Update – 2nd Quarter of 2021

The sales tax data (provided by the Kenai Peninsula Borough) is beginning to back up the observations many of us have made regarding the strength of the local tourist and consumer markets. The graph below shows the total taxable sales for the City of Homer during the second quarter from 2017 to 2021. The dip for COVID in 2020 is quite obvious, as is the strength of the comeback in 2021. The \$69M in reported taxable sales equated to approximately \$3.4M in revenue, an increase of over \$1M from 2020.



Mass Casualty Emergency Response Drill at Homer Airport

On August 24, the City of Homer, Alaska DOT & PF and other area agencies participated in an emergency drill at Homer Airport. The drill is required by the Federal Aviation Administration for airport certification, and gives area responders the opportunity to practice their response procedures to a large number of casualties from an airplane crash or other aircraft emergency and. The exercise simulated a crash landing of a Dash 8 with 23 people on board which required rapid establishment of incident command, scene security and safety, automatic aid from other agencies, triage, medic services, and transport. Thanks to everyone who participated in the successful exercise, including Guardian Air Ambulance, Ravn, and the many volunteers from HVFD and mutual aid partners, Western Emergency Services and Kachemak Emergency Services.



City Hall Safety Training

Back in November 2020 my office coordinated with AMLJIA to host an online de-escalation training program that was delivered to more than 50 staff members. To build on that foundation, I asked the Police Department to develop a safety training program for City Hall that would involve a presentation followed by office visits to discuss individual situations. On August 20th, Sergeant Sean Perry delivered a 30-minute presentation to City Hall staff via Zoom. Afterwards he held sessions with the City Manager's Office, Finance, Clerk's Office, Planning, and IT. Each office space was evaluated and analyzed for risk and self-defense opportunities and staff were able to ask questions directly to Sergeant Perry. Based on the success of this pilot project, we will be expanding the program to other City facilities like the Library, Public Works, and Harbormaster's Office in the near future.

Visit from J&H Consulting, Homer's Lobbying Partners

Reggie Joule and Christine Hess from J&H Consulting, the City's lobbying firm, made a site visit in Homer on August 30th. We toured the HERC campus, the Homer Airport Terminal, and a number of port and harbor facilities. That evening, they presented to the City Council in a special meeting. J&H have been great partners for the City across the last year and I look forward to continuing to move City projects forward with their team.



J&H Consulting team listens to Port Maintenance Supervisor Aaron Glidden discuss maintenance operations

Electronic Payment for Airport Parking Coming Soon

The City has been installing self-service payment kiosks at various locations around town, including the RV dump station near the Public Works building, the airport, and three campgrounds. The RV dump station and the airport parking kiosks are currently operational. The kiosks will allow the public to pay for parking using cash or credit cards.



Strategic Plan for Homelessness on the Kenai Peninsula

Through the Kenai Peninsula Continuum of Care, I have been invited to participate in a pair of stakeholder meetings related to a homelessness strategic plan for the peninsula. City Planner Rick Abboud will be joining me in the discussions. I expect to have more to share at a future Council meeting.

Council Chambers Training and Improvement

Audio and video from the Council Chambers have generally worked very well, except during Council Meetings. Because of the intermittent technical difficulties with systems in the Council Chambers, I asked the Clerks and IT to get together to conduct in-depth training on the system and discuss how to make it better in the future. Additionally, we are expecting new microphones to arrive, possibly as soon as this month, which we believe may help with some of the problems we've been experiencing.



IT and Clerks working together to improve the flow of future hybrid meetings

Email Newsletter

The email newsletter launched on September 1st. We've received a lot of positive feedback on the initial volume. A copy of the newsletter is attached to this report. Those interested in receiving future newsletters can subscribe by emailing Christine Drais at cdrais@ci.homer.ak.us or by visiting: <https://www.cityofhomer-ak.gov/newsletter/subscriptions>.

Personnel Updates

Fire: *Assistant Chief, Lillian Hottmann began her employment with HVFD in February of 2020 as the EMS Assistant Chief, a position responsible for the operations and training of emergency medical responders for the department and to assist the Chief with administrative duties related to EMS. Chief Hottmann has done some really great things for HVFD over the past 18 months and brought our EMS service to a new level. Because of her we now have very comprehensive, up to date protocols that better serve our EMS system and allow us the opportunity to better serve the public. She has more than doubled our capacity to perform ALS care and made some much needed changes to the equipment used by our EMT's. She has raised the bar with each EMT's ability to care for patients and build their confidence as care providers. Because of her persistence and dedication to better the EMS system we now have the best charting EMT's in the area. Thank you Chief Hottmann for all you have done for HVFD. – Chief Kirko*

Public Works: With a series of planned retirements happening this year in the Public Works Department, there are some big departures and new opportunities. See below for updates from the Public Works Director:

Dan Gardner worked for the Public Works Department in various capacities since 1991, rising to the position of Superintendent. He retired on August 23, 2021. Dan enjoys riding his motorcycle and spending time at his cabin on Caribou Lake.

Mike Zelinski has worked for Building Maintenance since 2015. As Dan Gardner has retired, Mike was promoted to fill his position as the Public Works Superintendent. Mike is an avid hockey fan and enjoys cheering on his favorite team, the North Dakota Fighting Hawks.

Enclosures:

1. September 2021 Newsletter
2. September Employee Anniversaries

VOL. 1 | SEPTEMBER 2021

CITY OF HOMER

Monthly Newsletter from the office of the City Manager



WHAT'S NEW?

- Public Safety Notes
- Library News
- Community Corner
- Parks & Community Recreation
- Public Works Department
- Meet the Staff
- Voter Registration Reminder
- City of Homer Roster
- Stay Connected with City Council
- Municipal Art Collection

We hope you will discover something new today as we continue to share information and ways you can tap into what's going on at City Hall and the Homer community.

Check us out on Facebook @cityofhomerak You'll see what's going on with City Parks, the Homer Public Library, Homer Police, and the Volunteer Fire Department. You might see someone you know.

Greetings from City Hall

Welcome to the first monthly newsletter from the City Manager's office, a new way for us to share what's happening in Homer with you. For more frequent updates find us on our new Facebook page @cityofhomerak. You can subscribe to this newsletter and other City resources online at <https://www.cityofhomer-ak.gov/newsletter/subscriptions>



The 2nd Annual Peony Festival was a beautiful success with two weeks of events across town. Compliments to Parks Department for the lush peony beds and colorful sidewalk stencils.



A beautiful sunset on the Homer Peninsula.

PUBLIC SAFETY NOTES



Left to right - Jenny Carroll, Public Information Officer
Mark Kirko, Chief HVFD, Rob Dumouchel, City Manager

EMERGENCY RESPONSE APPRECIATION

The Kenai Peninsula Borough (KPB) Office of Emergency Management sent our staff a plaque recognizing the efforts put forward by the City of Homer in responding to the COVID-19 pandemic. KPB was a key partner throughout our declared emergency. We appreciate them acknowledging and recognizing the contributions made by the City to mitigate the impacts of the pandemic.

911 SYSTEM UPDATE

Homer's 911 system has been updated to the NG911 system deployed by the Kenai Peninsula Borough. The extensive changes to dispatcher workstations are in place to better respond to emergency situations.

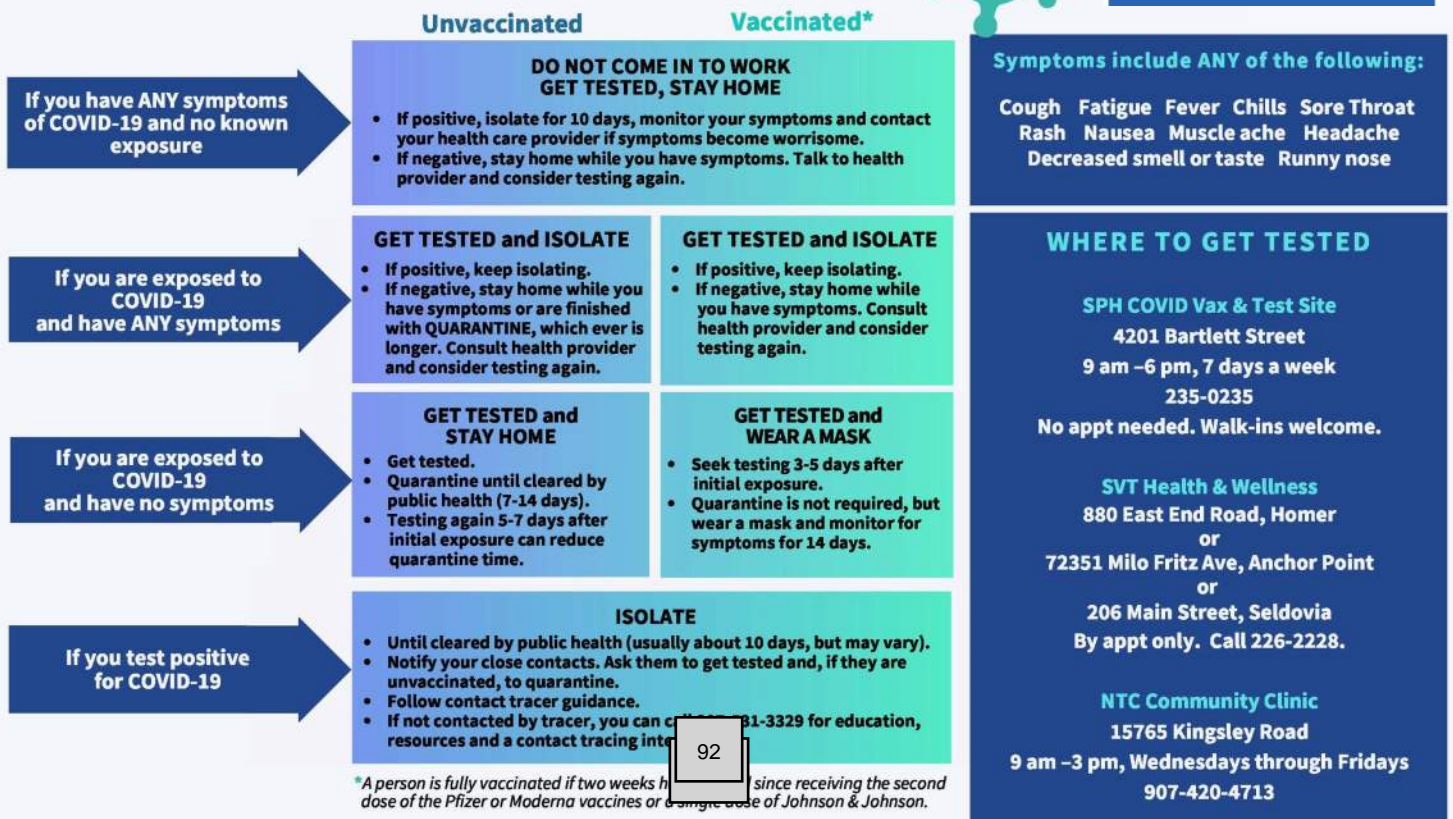
COVID UPDATE - DELTA VARIANT SURGES

There has been a noticeable spike in COVID cases on the Kenai Peninsula in the last month with many cases located here in Homer. The City has an internal COVID working group focused on organizational issues and meets regularly. Mitigation measures have been reinstated in City facilities for staff and visitors. Masks are required in all City buildings. Testing and vaccination opportunities continue to be available in Homer. The City has been providing logistical support of these effort as we navigate through the pandemic.



Feeling Sick or Exposed to COVID-19? Now what?

This guidance applies to the general public. But if you live or work in a high-risk setting such as a correctional institution, health care facility, assisted living facility or a fish processing plant, other guidance may apply.



*A person is fully vaccinated if two weeks have passed since receiving the second dose of the Pfizer or Moderna vaccines or a single dose of Johnson & Johnson.

LIBRARY NEWS

Self-Checkout Stations Live

Checking out is easy at the new Self-Checkout Stations. All you need is your library card, PIN and the items to be checked out. Of course you can still check out at the front desk. Library staff is happy to help.



Library Self-Checkout Machines



Molly of Denali visited the library August 9th.

Alaska Digital Library

Download ebooks and audiobooks - from anywhere! With media available 24/7, your library is always open! Download ebooks, Kindle books and digital audiobooks from the Alaska Digital Library, with a valid library card, your account's PIN (password), and an internet-enabled device.

<https://adl.overdrive.com/>

Fiber Optic Installation

City Council authorized funds to upgrade the library's data connection, taking advantage of a federal government program to offset 70% of the costs (a savings of approximately \$20,000 from the budgeted amount). GCI has completed installation of the new fiber-optic cable which significantly boosts data transfer to 400 megabits/second in both directions from 250 Mbit/sec download and 15 Mbit/sec upload. The new cable also includes an option for future upgrades without extensive site work. The new system went live July 23rd.

Outdoor Wi-Fi & Upgraded Services

Over the past year or so, the library has used CARES Act funds to upgrade remote services and streamline operations. Patrons now have access to outdoor wi-fi and will soon have the ability to submit print jobs over the internet from their personal phones and laptops. Another part of this project went live on August 3 when we switched on three new self-checkout machines!

Community Corner

What's happening around the City of Homer

Be Tsunami Aware. Be Tsunami Prepared. Know Homer's Evacuation Routes and Safe Zones



Many of us live, work, shop or play in Homer's tsunami danger zone. Tsunamis don't happen often, but preparing now could save your life. Knowing Homer's tsunami inundations zones and where to go during an evacuation ahead of time is crucial to your survival - you may only have minutes to get to safety. For more information visit our website at:

<https://www.cityofhomer-ak.gov/emergency-information/be-tsunami-aware-be-tsunami-prepared-know-homers-evacuation-routes-and-safe>.

Like and Follow @HomerVolFireDept on Facebook for news and information on tsunami warnings.

FAA Outreach

At the June 28th Council meeting we heard of complaints about aircraft noise and flight patterns in the city. Homer is an uncontrolled airport (no air traffic control tower) and aircraft are free to operate in a variety of capacities in and around the airport as long as they do so safely. Anything related to airborne operations falls under the FAA's jurisdiction and guidance. If you see a violation of low flying aircraft or have an excessive noise complaint, you can report the tail number to the FAA Flight Standards District Office at 907-280-6800 or the FAA Hotline at <https://hotline.faa.gov/>



Fireweed (*Chamerion angustifolium*)

Kachemak Drive Speed Signs

In September 2020, Council adopted Ordinance 20-51 appropriating funds from the Police CARMA fund to purchase speed radar signs as a traffic calming measure for Kachemak Drive. The devices were acquired by the Police Department and arrangements were made with the Alaska Department of Transportation to install the pole-mounted signs. The signs are now installed and operational on Kachemak Drive.



Parks & Community Recreation

The City of Homer Community Recreation promotes community involvement and life-long learning through educational and recreational opportunities for people of all ages. To accomplish this we maximize usage of all community facilities and resources, while utilizing, expanding and uniting local business and school resources and expertise. This program is designed to recognize cultural diversity and to address social and community concerns. Visit <https://www.cityofhomer-ak.gov/recreation> for the complete list of great programs available daily at the HERC, Homer High School and Homer Middle School. **Schedule subject to change.*



- **Morning Pick Up Basketball** - 6-7am - Monday, Wednesday & Friday - HERC Gym
- **ReAKtion Club** - 10am-12pm - Monday, Wednesday & Thursday - HERC Gym/Outdoors
- **Pick Up Pickleball** - HERC Gym
3:45-5:45pm - Monday Wednesday & Friday ; 9-11am Sunday
- **Cuong Nhu & Karate** - Monday, Wednesday & Friday - HERC Activity Room
4:30-5:30pm Youth Class & 5:45-6:45pm Adult Class
- **Pick Up Ultimate Frisbee** - 8pm - Monday & Thursday - HHS Turf
- **Pick Up Soccer** - 8pm - Wednesday & Friday ; 6:30-8:30pm Sunday - HHS Turf

Payment Kiosk Update

Self-pay kiosks were installed at the RV dump station near Public Works and at the Airport parking lot. Service is up and running at the RV dump station and Homer Airport. Formatting for the other units located in City campgrounds is coming soon.



Skate Park Halfpipe Arrival

Components for the two new halfpipes have arrived for the Skate Park this month. Site preparation at the HERC and plans for assembly are moving forward, so look for more all-ages-action in this area.



STAFF CYBERSECURITY CERTIFICATION

Enterprise Cybersecurity Leadership Certification Finance

Library Director and IT Supervisor, **Dave Berry**, successfully completed the National Association of Counties' (NACo) Enterprise Cybersecurity Leadership Academy in July. The academy, led by industry experts, delivers a proven framework and insights on leading and securing a network and an organization.



Dave Berry with Molly of Denali at a recent Homer Library event.

Public Works Department

One strategy noted during the Public Works section of the Council Budget Work Sessions was a plan to expand the skillsets of existing employees to bring certain tasks in-house more often. To that effect **Joe Inglis**, PW Operator, is being cross-trained to manage the construction of, and inspect, some of the City's construction projects administered by the PW Department. Not only will this be more cost effective than using third party inspectors, it will provide in-house expertise when we need it.

Aaron Yeaton, GIS Technician, is being cross-trained to produce any Corps of Engineers permits, storm water plans, wet land delineations, ground water reports and other environmental action-related documents, which will help the PW Department achieve its sustainability goals.

Meet the Staff



This is the section we like to highlight staff achievements, retirements, departures and new hires to the City of Homer's workforce.

RETIREMENTS

With a series of planned retirements happening this year in the Public Works Department, there are some big departures and new opportunities. Here are a few updates from Public Works Director, Jan Keiser:

Lead Mechanic **Levi Stradling** retired from his job as Lead Mechanic after 19 years of service to the City. Levi was a Master Mechanic, who kept our rolling stock rolling. He was also a Master Craftsman, with an enviable ability to fabricate parts, gizmos and widgets out of seemingly thin air, often, with YouTube How-To videos as his guide. Levi's relocating to Boise. We wish him happy trails!



Levi Stradling

Homer Port & Harbor's **Peter Alfiche** retired this month after 10 years with the City. Peter started as a Fish Dock Temp and was promoted to Operator in 2017. In addition to strong mechanical skills, Peter also has a background in carpentry and he would often think up useful things to build for the plant—such as stools and toolboxes. He also did a few larger projects, such as remodeling the bathroom lobby after a waterline broke in January 2020. Peter is well-liked, respected, and his constant smile will be missed by everyone on the Dock. - Burt Gregory, Fish Dock Supervisor.



John Wythe

John Wythe retired, effective July 30 after 30 years of dedicated service to the Public Works Department. As Lead Operator he was responsible for, in addition to operating heavy equipment, training, coaching, and scheduling the other operators. John says he will be pursuing his passions, which are his new tractor, grandchildren, and his cabin on Tutka Bay, but not necessarily in that order.



Dan Gardner

Dan Gardner worked for the Public Works Department in various capacities since 1991, rising to the position of Superintendent. He retired on August 23, 2021. Dan enjoys riding his motorcycle and spending time at his cabin on Caribou Lake.

PROMOTIONS & NEW HIRES

Paul Raymond, who has been with the Public Works Department for 7 1/2 years as an operator, was promoted to Lead Operator upon John Wythe's retirement. Paul has lived in Homer since 1977. Before starting work with the City, he was an operator for various construction companies in and around Homer and at the KPB Transfer Station. When asked what his hobbies were, Paul said enthusiastically, "BBQ!"



Paul Raymond

Mike Zelinski has worked for Building Maintenance since 2015. As Dan Gardner has retired, Mike was promoted to fill his position as Public Works Superintendent. Mike is an avid hockey fan and enjoys cheering on his favorite team, the North Dakota Fighting Hawks.

Owen Meyer joined the Public Works Department as fulltime Project Technician. Owen will also serve as the ADA Coordinator for PW, working closely with the City's ADA Coordinator, Renee Krause. Owen was selected by the AML to be part of its Conference of Young Alaskans (COYA) this year, which focused on critical issues facing municipal governments. Owen is an accomplished guitarist and member of Toastmasters International.



Owen Meyer

Meet Matt Steffy

Parks Superintendent

Matt Steffy joined the City staff in 2018. He moved to Homer in 2012 after growing up in Soldotna and living in Fairbanks and Valdez for a while. In Fairbanks and Valdez he worked for City and Borough Parks and Recreation Departments. When he first moved to Homer, Matt worked for the Homer Soil and Water Conservation District where he handled a wide variety of duties including grant writing, managing salmon habitat, monitoring weather stations, trail work and community education/outreach.



Matt says that what brought him back to Homer after living in Fairbanks and Valdez was a childhood connection that he had formed because, growing up, his family had a cabin in Peterson Bay, where they spent a lot of time. Homer appeals to him because living next to the mountains and the ocean feeds his soul and he loves the distinctive personality of Homer's community. What Matt loves most about his job is that it is what he would be doing anyway if he wasn't working. He is very passionate about Parks and Trails, feels a distinct sense of accomplishment and pride from giving back to his community and he loves being able to see the impact of his efforts on the people around him. For fun, Matt loves to play music. He plays multiple instruments including guitar, bass, mandolin, drums, banjo and anything else that makes sound. His passion for music has overflowed to his children, all of whom are very musically talented.

VOTER REGISTRATION REMINDER

The voter registration deadline has been extended to September 5. There are a few different ways you can register.

- o **In person - City Hall**
Friday, September 3, 2021
- o **In person - Homer Library**
Saturday, September 4, 2021
- o **Online**
Sunday, September 5, 2021

To find out register to vote online go to:
[https://www.cityofhomer-
ak.gov/citymanager/dont-get-caught-
sleeping-deadline-register-vote-sept-1](https://www.cityofhomer.ak.gov/citymanager/dont-get-caught-sleeping-deadline-register-vote-sept-1)

Emergency Drill at the Homer Airport

On August 24, the City of Homer, Alaska DOT & PF and other area agencies participated in a mass casualty emergency drill at Homer Airport. The drill is required by the Federal Aviation Administration for airport certification, and gives area responders the opportunity to practice their response procedures to a large number of casualties from an airplane crash or other aircraft emergency. The exercise simulated a crash landing of a Dash 8 with 23 people on board which required rapid establishment of incident command, scene security and safety, automatic aid from other agencies, triage, medic services and transport.

Thanks to everyone who participated in the successful exercise, including Guardian Air Ambulance, Ravn, and the many volunteers from HVFD and mutual aid partners, Western Emergency Services and Kachemak Emergency Services.



Thanks to HVFD and KESA volunteers for participating. We missed the crew from WES who were on another call during the drill.



Luis Yoder, IC Trainee from --- performed Incident Command duties under guidance of HVFD Chief Mark Kirko. Chris Chandler, DOT PF Airport Responder Unit stands by.



Medic transport drill for casualties.

City of Homer Roster

Rob Dumouchel, City Manager
Melissa Jacobsen, MMC, City Clerk
Andrea Browning, Personnel Director
Rick Abboud, City Planner
Mark Robl, Chief of Police
Mark Kirko, Fire Chief

Bryan Hawkins, Port Director/Harbormaster
Elizabeth Walton, Finance Director
Jan Keiser, Public Works Director
Dave Berry, Library Director
Nick Poolos, Info. Technology Manager
Mike Illg, Community Recreation Manager

Mayor - Ken Castner (2022)

City Council

Donna Aderhold (2021)
Heath Smith (2021)
Storm P. Hansen-Cavasos (2022)
Rachel Lord (2023)
Caroline Venuti (2023)
Jason Davis (2021)

Commissions & Boards

Planning Commission
Economic Development Advisory Commission
Library Advisory Board
Parks and Recreation Advisory Commission
Port and Harbor Advisory Commission

Standing Committees

ADA Compliance Committee

Special Committees & Task Forces

Public Works Campus Task Force



HOMER MUNICIPAL ART COLLECTION



A Soulful Eye, Melisse Reichman.

Photo, Jim Lavarakas, Far North photography

This life-size, six-month-old humpback whale sculpture by Melisse Reichman measures 110" x 30" x 52," was acquired in September 2014 and is located at End of the Road Park.

In collaboration with the City of Homer Parks, Art, Recreation & Culture Advisory Commission, artwork included in the [Municipal Art Collection](#) has been donated, gifted through bequests or through the Sister City relationships to the City or purchased and or commissioned through the City's 1% for the Arts Program. We hope you will take some time to view these beautiful and interesting pieces located in Homer.

Slide shows of each City location may be seen at - <https://www.cityofhomer-ak.gov/prac/city-homer-municipal-art-collection>

STAY CONNECTED WITH CITY COUNCIL

Go to: cityofhomer-ak.gov/cityclerk/stay-connected-city-council

Here you will find instructions on how to listen, provide testimony and participate in the meetings via Zoom.

Upcoming Meetings

September

1st - 5:30pm	Planning Commission Work Session
6:30pm	Planning Commission Regular Meeting
7th - 5:30pm	Library Advisory Board Regular Meeting
13th - 5:00 pm	City Council Committee of the Whole
6:00 pm	City Council Regular Meeting
14th - 6:00 pm	Economic Development Advisory Commission Regular Meeting
15th - 5:30 pm	Planning Commission Worksession
6:30 pm	Planning Commission Regular Session
16th - 5:30pm	Parks, Art, Recreation & Culture Advisory Commission Regular Meeting
17th - 9:00 am	ADA Compliance Committee Site Accessibility Compliance Audit
22nd - 5:00 pm	Port & Harbor Advisory Commission Regular Meeting



JOIN OUR TEAM

The City of Homer has current Job Openings.
Sign up for Job Alerts or Apply Online at
cityofhomerak.applicantpro.com/jobs

CURRENT JOB LISTINGS

Deputy Fire Chief
EMS Assistant Chief
Full-time Public Safety Dispatcher I
Ice Plant Operator I
Part-time Community Jail Officer (28 hrs)
Temporary Parks Maintenance Laborer

City of Homer

491 E. Pioneer Avenue
Homer, Alaska 99603
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City of Homer

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Office of the City Manager

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Memorandum

TO: MAYOR CASTNER AND CITY COUNCIL
FROM: Andrea Browning
DATE: September 13, 2021
SUBJECT: September 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.

Aaron Glidden	Port	17	Years
Ryan Browning	Police	11	Years
Nick Poolos	Admin	10	Years
Tracie Whitaker	Police	7	Years
Lisa Linegar	Police	6	Years
Tamara Fletcher	Port	5	Years
Jakob Richter	Fire	2	Years

PLANNING COMMISSION ANNUAL CALENDAR
FOR THE 2021 MEETING SCHEDULE

<u>MEETING DATE</u>	<u>SCHEDULED EVENTS OR AGENDA ITEM</u>
JANUARY 2021	
FEBRUARY 2021	AK APA Conference PC training: legislative vs quasi-judicial decisions; decisions and findings
MARCH 2021	Guest speaker and training: KPB Platting/Planning
APRIL 2021	2018 Comprehensive Plan Review
MAY 2021	Transportation work session with Public Works
JUNE 2021	Reappointment Applications Deadline
JULY 2021	Reappointments Spit Plan Review (One meeting this month)
AUGUST 2021	Election of Officers (Chair, Vice Chair) PC training: Roberts rules, OMA Capital Improvement Plan Review
SEPTEMBER 2021	Economic Development speaker (such as KPEDD, chamber, SBA,)
OCTOBER 2021	?? Floodplain or other hazard regulations overview...connect dots between comp plan and our current regs
NOVEMBER 2021	(One meeting this month) Review and Approve the 2022 Meeting Schedule
DECEMBER 2021	(One meeting this month) Review Bylaws, and Policies and Procedures
Semi Annually: PW project update	
Odd Years:	2018 Comprehensive Plan (April) Homer Spit Plan, (July), Review Bylaws, and Policies and Procedures (December)
Even Years:	HNMTTP (April), Transportation Plan (July), Town Center Plan (December)