



Homer City Hall

491 E. Pioneer Avenue

Homer, Alaska 99603

www.cityofhomer-ak.gov

City of Homer Agenda

Planning Commission Regular Meeting

Wednesday, April 20, 2022 at 6:30 PM

Cowles Council Chambers and Via Zoom Webinar

Webinar ID: 979 8816 0903 Password: 976062

Dial: 1 669 900 6833 or 1 253 215 8782 Toll Free 1 877 853 5247 or 1 888 788 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. Minutes for the Regular Meeting on April 6, 2022 **pg 3**

B. Decisions and Findings for CUP 22-02, A Request to Allow Eighteen Dwellings at 2161 East End Road **pg 13**

PRESENTATIONS / VISITORS

REPORTS

A. Staff Report 22-27, City Planner's Report **pg 18**

PUBLIC HEARINGS

A. Staff Report 22-28, Rezone of a Portion of the Rural Residential (RR) Zoning District to Urban Residential (UR) Zoning District **pg 31**

PLAT CONSIDERATION

PENDING BUSINESS

A. Planning Commission Regular Meeting Minutes of March 2, 2022 Amended **pg 61**

[B.](#) Staff Report 22-29, Tiny Homes **pg 68**

[C.](#) Staff Report 22-31, Coastal Bluff Regulations **pg 75**

NEW BUSINESS

[A.](#) Staff Report 22-30, Homer Non-motorized Trails & Transportation Plan Implementation **pg 81**

INFORMATIONAL MATERIALS

[A.](#) City Manager's Report for the April 11, 2022 City Council Meeting **pg 93**

[B.](#) Planning Commission Calendar 2022 **pg 97**

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, May 4, 2022, at 6:30 p.m. A worksession is scheduled for 5:30 p.m. All meetings are scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska and via Zoom Webinar. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.

Session 22-05, a Regular Meeting of the Planning Commission was called to order by Chair Scott Smith at 6:30 p.m. on April 6, 2022 at the Cowles Council Chambers in City Hall located at 491 E. Pioneer Avenue, Homer, Alaska, and via Zoom Webinar.

PRESENT: COMMISSIONERS SMITH, CONLEY, VENUTI, BARNWELL, HIGHLAND, CHIAPPONE

ABSENT: COMMISSIONERS BENTZ (EXCUSED)

STAFF: CITY PLANNER ABBOD
DEPUTY CITY CLERK KRAUSE

CONSULTANT: KEN CASTNER, MAYOR

The Commission held a worksession prior to the regular meeting at 5:30 p.m. On the agenda was a discussion on the Staff Report 22-25, Rural Residential to Urban Residential Zoning District, West Homer Area.

APPROVAL OF THE AGENDA

HIGHLAND/VENUTI MOVED TO APPROVE THE AGENDA AS PRESENTED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS ON ITEMS ALREADY ON THE AGENDA

Jon Faulkner, 35 year city resident, commented in opposition to West Homer Area Rezone citing that in his opinion the changes were not coming from the people, but from the City, and he believed that the voices of the residents who live in the area should have a stronger voice than those that live outside the affected area. He expressed his belief that zoning at its core is a protective layer for the community and residents. He acknowledged that there was change and a demand for services and housing in Homer. He continued that zoning is designed to protect investments in the quality of life that existed when people bought their property; to be consistent and to be protective of private property rights so that the whims of time don't actually impact communities in this way. He further stated that he believed that the standard should shift from the residents to object, to the city should prove that the people directly affected are actually in favor of this action and he believed that there is a legal standard and wanted the record to reflect that the city should transparently understand that legal standard and try to observe it. He believed that there was more at stake than a view or density. He further stated that property owners Reynolds and Beth Holliman are his neighbors to the west and are out of the country but can emphatically attest and certain that they are opposed to this petition.

Arn Johnson, city resident of 55 years, commented that he has been a property owner for about 29 years on Hillside Place and stated that he was opposed to the rezoning for the following reasons; one until

they have a firm drainage program he would like to say that making smaller lots is not a good thing as there is already problems with drainage in the area; secondly he believed that making smaller lots will reduce the larger property owners property values down and agreed with Mr. Faulkner that he has not heard any of the property owners up there even visit that this was good thing until the City brought the issue forward.

RECONSIDERATION

CONSENT AGENDA

- A. Planning Commission Regular Meeting Minutes of March 16, 2022

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

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

PRESENTATIONS / VISITORS

REPORTS

- A. Staff Report 22-23, City Planner's Report

City Planner Abboud provided a summary of Staff Report 22-23 and highlighted the following:

- Changes in Administration configuration and impact to Planning Department
- Council failed to introduce the ordinance amending City Code regarding the use of shipping containers as dwellings
- The appeal, Griswold vs City of Homer regarding the bicycle shop was used as an example on how to do something right during the 2022 APA Conference.
- Planning related tasks were discussed at the Council Visioning event - fast forward of the Comprehensive Plan, Title 21 rewrite, non-motorized transportation, sidewalks, affordable housing and density projects
- APA Conference Part 2 availability for Commissioner training opportunity

City Planner Abboud requested volunteers to provide the Commission Report to Council at the April 11th meeting or the April 25th meeting and there were none. Chair Smith will submit a written report to the Clerk.

City Planner Abboud facilitated a brief discussion on the impacts to the Planning Department on the changes to staffing.

Chair Smith congratulated City Planner Abboud on his work involving the action taken on the Bike Shop.

PUBLIC HEARINGS

- A. Staff Report 22-24, Conditional Use Permit 22-02, A Request to Allow Eighteen Dwellings at 2161 East End Road

Chair Smith introduced the item by reading of the title.

Commissioner Highland declared that she may have a conflict of interest.

Chair Smith requested a motion.

VENUTI/CHIAPPONE DECLARED COMMISSIONER HIGHLAND HAD A CONFLICT.

Commissioner Highland explained that she was included in the notice mailed out for this action as she is on the Board of the non-profit that owns and manages the Cottonwood Horse Park. She provided clarification that in previous actions before the Commission it was standard procedure for those commissioners to recuse themselves from participating. She stated that she would not benefit financially from the action.

VOTE. YES. SMITH, CHIAPPONE.

VOTE. NO. VENUTI, CONLEY, BARNWELL.

Motion failed.

City Planner Abboud provided a summary of Staff Report 22-24 for the Commission. He shared an overhead aerial of the property location and drawings of the proposed project. City Planner Abboud then reviewed the density component in depth.

Bill Hand, Applicant, commented on his project providing some comparison to his previous project development on Shannon Lane.

Chair Smith opened the public hearing.

Hayley Norris, city resident, testified her appreciation on receiving notice of the project and that it is residential and not commercial. Ms. Norris expressed concerns regarding clear cutting; density for the area; higher use of Adams Street and possible hazards of resident's guests trying to park along the Street as it did not appear that there would be additional

parking to accommodate their guests. She noted that she did not have sewer services on her property but this project would bring that service closer.

Chair Smith closed the public hearing after verifying with the Clerk that there was no additional members of the audience present wishing to provide testimony. He opened the floor to questions from the Commission.

City Planner Abboud and Mr. Hand Applicant responded on the following questions:

- Fire Marshall review and approval requirement for commercial projects will follow established regulations if required. This project was reviewed by the Fire Chief. Fire Marshall approval is necessary before obtaining a zoning permit. He did not believe that since this was single family housing that it would require Fire Marshall approval.
- Calls regarding the open slash burning in the area of this project and complaints on the thick smoke and how can the Commission address that issue.
 - Provision of the Fire Chief and the time line for the requirement of a burn permit has just passed.
 - While this issue may be an important topic of concern and discussion, it is not pertinent to this permit and should be discussed at a separate meeting.
- Water metering for the project will only be one meeting for all dwellings and is going to be a similar set up to his Shannon Lane rental properties.
- Unit will be two bedroom, 1 bath with two parking spaces per dwelling. There will be additional room towards the north for snow plow that could afford additional parking.
- The sewer line will be extended along East End Road 320 feet which will bring the sewer main closer to many property owners.
- Currently all rentals are one year lease, applicant did not participate in the vacation rental market.
- Ratio to vegetation related to development is good
- Current plans are to leave the remaining open or green space as is there will be a retention pond to the east of the development along Adams Drive on the southern portion. It is believed that leaving the vegetation along East End Road will act as a natural noise buffer.
- Storm water management plan is being worked on by Bishops Engineering and is a requirement for the development.

Chair Smith requested a motion and second.

HIGHLAND/VENUTI MOVED TO ADOPT STAFF REPORT 22-24 AND RECOMMEND APPROVAL OF CONDITIONAL USE PERMIT 2022-02 TO CONSTRUCT EIGHTEEN, 768 SF, 2 BEDROOM HOMES ON A 4.32 ACRE LOT WITH FINDINGS 1-10 AND CONDITIONS 1 & 2 AS FOLLOWS:

CONDITION 1: LIGHTING WILL BE DOWNLIT PER HCC 21.59.030 AND THE CDM
CONDITION 2: DUMPSTER SHALL BE SCREENED ON THREE SIDES.

Clarification was requested on whether there should be two dumpsters.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Smith commented his appreciation for the applicant attending the meeting.

PLAT CONSIDERATION

PENDING BUSINESS

A. Staff Report 22-25, Rural Residential to Urban Residential District, West Homer Area

Chair Smith introduced the item by reading of the title.

City Planner Abboud reported that they reviewed and discussed this topic at the worksession. He noted the comments received from the public on the proposed amendments.

Chair Smith opened the floor for comments or questions from the Commission.

Commissioner Highland questions the action as described in the Comprehensive Plan regarding the rezone. She then questioned the public comments regarding legal aspects.

City Planner Abboud responded that they are fully within their legal rights to amend the zoning districts. He further stated that they can moved some of the boundaries of the proposed district.

Commissioner Barnwell expressed concerns on how to address the concerns about rezoning expressed by the property owners. He also asked about drainage plans and if that should be addressed first before the re-zone.

City Planner Abboud responded providing examples and that drainage is a city wide issue. The city is working on that at this time. A drainage plan would need a management plan and then creation of policy. He commented on subdividing and that is when they would have the hard ask for the drainage easements.

Commissioner Venuti commented on storm water but focus has been on the eastside of West Hill road and asked if anything has been done on the west side of the road.

City Planner responded that they have an engineer working on that at this time.

Mayor Castner responded on the action that has been going on regarding stormwater and drainages and is being looked at in three sections, noting the areas to the east, central and west. He commented that he has been working hard during his tenure as Mayor to address this issue and if the Commission does not approve the rezone then they will be in the position of having more conditional use permits to increase the density similar to what was conducted tonight.

City Planner Abboud added to the Mayor's statement that that they saw it within the photo he shared earlier where people are desiring to get per unit per 10,000 square feet which is completely within their rights.

Commissioner Chiappone commented that the concerns expressed by the public and commissioners were changing from a rural lifestyle to a lesser rural lifestyle, stormwater, lack of sidewalks and pedestrian issues, bringing additional traffic into the area from the rezone as the cons and the pros is that it will increase density by adding the ability for additional housing opportunities and asked how these actions would benefit the city.

City Planner Abboud responded that the city will be providing easier opportunities for property owners and developers that want to provide housing and that the city is following the infrastructure which is very spread out and expensive. he further noted that by amending the zoning district the city is following or completing the goals as outlined in the Comprehensive Plan and by providing opportunities for infill on the water and sewer infrastructure will provide some relief to current customers on the costs and allow the city to grow efficiently and where the city can and should plan that growth.

City Planner Abboud stated that the Planning Department will be sending out another notice to those property owners in the area of the proposed change and within 300 feet, a public hearing will be scheduled for the next meeting. He further advised the Commission that this item would be a legislative topic and therefore the Commissioners are encouraged to speak to people regarding this topic. The Commissioners can listen to residents' concerns and then the Commission can make their recommendation to Council on the proposed action.

City Planner Abboud responded to Chair Smith that the boundaries of the proposed zoning district can be modified if the Commission determines that would be in the best interests of the City. He provided some input on impacts if the boundaries were modified as recommended by the public during the worksession.

NEW BUSINESS

A. Staff Report 22-26, Tiny Homes

Chair Smith introduced the item by reading of the title.

City Planner Abboud provided a summary of Staff Report 22-26. He highlighted the following:

- Not built to any standard
 - typically considered an RV by industry standards
 - there is no prohibition currently if someone wants to build a tiny home on their property
 - it may be okay to have these tiny homes allowed in an RV park
- may want to have a designated area for tiny homes
- currently wheeled option is considered an RV
- developments with a congregation of tiny homes

Chair Smith requested a motion and second to discuss.

HIGHLAND VENUTI MOVED TO OPEN DISCUSSION ON STAFF REPORT 22-26 TINY HOMES.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

City Planner Abboud facilitated discussion on Tiny Homes and the following topics were covered:

- Homes were getting smaller over the years and that it would be proactive to discuss the subject
- Address the tiny home as a mobile home since it was believed they were not made to move around like an RV
- Having Tiny Homes pop up in a variety of locations and they could address them as a mobile home however there are no standards that tiny homes are built to where mobile homes have a standard.
- the expense of constructing a home in these times and meeting affordable housing needs
- Making a requirement that they are connected to water and sewer and not on wheels
- Use of tiny homes for employee housing
- seasonal residences
- use of tiny homes as permanent dwellings and which districts should they be allowed
- impacts when a building code is implemented in the future
- clusters of small homes similar to developments after World War II still used today

City Planner Abboud will do some more research and bring back for the next meeting recommendations how the city could regulate the use of tiny homes as dwellings.

INFORMATIONAL MATERIALS

- A. City Manager's Report for March 29, 2022 City Council Meeting
- B. Kenai Peninsula Borough Notice of Decisions
- C. Planning Commission Calendar

City Planner Abboud provided some comments on the Commission Calendar items that would be on future agendas such as the Comprehensive Plan and Non-motorized Trails & Transportation Plan.

COMMENTS OF THE AUDIENCE

COMMENTS OF THE MAYOR

Mayor Castner expressed his appreciation for the work that the Commissioners do and that he did not want them to feel rebuffed by the connex issue that did not get through first reading, he assured the Commission that there was very thoughtful discussion by Council regarding doing things piecemeal or to do something comprehensively to address building code related things. Council member Lord recalled the City Planner once stating that you could build something out of egg cartons and no one would say anything about it. Mayor Castner then reported that during COVID they found that there were 1023 small businesses in Homer that collected sales tax. He was astounded by the number and stated that he has always been a student of economy and economics of what we have working for us and not a proponent of taxes, taxes do follow economy, but when you look at the tax rate it shows we have moved from collecting just under \$7 million a year in sales tax to over \$11 million a year. Using those figures as a yardstick, Homer is growing very quickly. He noted that when he first became Mayor there were 105 employees, today the City still has 105 employees and he expressed concerns on their capacity; the City wants to build a \$150 million Port/Harbor which brings the question if they have the capacity to pull that off. The City Manager has been tasked to determine how best to put together the personnel to get these things completed. He continued by noting the promotion of Ms. Engebretsen and she will be working with a team to spend time in advanced planning and knitting together the opportunities and grants so that it can be built, maintained and insured, which are huge costs. There are all these ancillary things that go into a well-planned approach to growth. Mayor Castner commented that it has been a tough three and a half years that he has been Mayor, there have been a lot of changes, some of them big but today he believes that many people would not even notice those changes such as cleaning up the city balance sheet and getting rid of debt, but that just places the city in a good economic condition with reserve capital, working capital and great opportunities to receive new grants and do some expansion. He commented on the overlap in master planning things, drainage issues, pedestrian, smoke from fires and he receives calls from numerous people stating a town this size and this mature should not have to deal with, you fill in the blank. So for the next couple of months he will be attending more commission meetings of the various advisory bodies, mainly port and planning, as he is a Consulting member in accordance with City Code, because the city will be moving quickly and he did not want the Commissions to feel left behind when they start examining these issues. He then explained that he is a visionary person and he did not want it to seem that he shares his vision and then they go for it and have the Commission feel like they were never given the opportunity to provide their recommendations, so he was attending meetings out of respect and hope that if they heard something then it's probably true but the City will be working diligently as they can to bring

some of these things together while they have the capacity and team that he feels can get it done. He expressed his appreciation again for everything that the Commission does for the City.

COMMENTS OF THE STAFF

City Planner Abboud commented that it was an exciting time and there is a lot of positive energy on some of the things he was excited about , lots of moving pieces in which he is glad to have played or play a role and figuring out the best way to implement some of these things.

Deputy City Clerk Krause commented on the great meeting that the Commissioners got through a lot of items on their agenda in a timely manner and then announced that the Clerk's Office will be taking on the task of packet/agenda development and distribution to provide some relief to the planning department due to the staffing changes. She stated that she will be working on the packet for the April 20th meeting but Deputy City Clerk Tussey will be developing and distributing the May 4th packet as she would be on vacation.

COMMENTS OF THE COMMISSION

Commissioner Highland expressed her appreciation to the Mayor for attending the meeting and it is really exciting stuff that is coming forward, commenting that growth was a little scary for her but they have to face it and do the best they can while trying to maintain their quality of life. She believed that they were attempting some really big jobs for everyone to take on.

Commissioner Barnwell expressed his appreciation for the Mayor attending their meeting and hear his thoughts and vision for the city going forward. He personally has some small thoughts and big thoughts, and that the small thoughts are specifically related to this meeting. He opined that mobile tiny home discussion were really good and he appreciated having it, he thinks about the issues of affordable housing every day and just the general trends in society on the needs for this and the aspect of elite versus the worker bees and how the city should address the need for affordable housing. Commissioner Barnwell expressed that he believes it needs more discussion and research. He agreed that it is not an RV in his opinion even though it has wheels but having grown up in Alaska I can tell you, you would not drive very far with those things. But he expressed that he found Mr. Hand's proposal appealing and was a good solution towards the affordable housing while not perfect and maybe not the most aesthetic thing in the world but it is a good start. He believes that the Commission should be creative in their solutions and considering the little houses on the East Coast and what was done in the 20-'s and 30's. He then expressed that the public did have some points to consider such as careful planning, drainage studies and pedestrian walkways are all interrelated but seems a bit hurried and while the need to follow the infrastructure but there has to be a comprehensive way to get there and did not believe that this particular rezone was the way to get there. Just his two cents.

Commissioner Chiappone provided anecdotal story on the first home his parents owned after World War II and the culture of the United States has always been to want more and bigger, he himself has renovated several homes always going bigger. He can see where in, and this is an abstract, that the small homes solve a problem of affordable housing and density but they might contribute to the stratification of our society between the haves and the have nots so that you end up possibly

stigmatizing people or labeling people as someone who can't afford a real house quote unquote and is living in some kind of tiny house. The item tonight about the 18 small homes are great, he expressed loving the idea of having 60% of the property left to natural vegetation. Commissioner Chiappone commented further on recently spending two weeks in Arizona where they are running out of room and building gigantic apartment buildings to answer these problems, noting that obviously the city did not want to go in that direction.

Commissioner Conley expressed that he had some conflicting thoughts tonight and thinking about what was discussed during the meeting. He appreciated Mr. Hand's project with all the units and it is wonderful to see local people stepping up to solve a problem, but did not believe that it was going away anytime soon. Having grown up in Homer and raising his own family, he catches himself being really guarded about what the vision of what they want for Homer, and it is interesting the subject of tiny homes and he shared the sentiments of Commissioner Chiappone, but a bigger issue is that if they allow the small affordable units and with the tourism problem of people using them for Airbnb, VRBO's, this will consequently push the mid-range home costs for the person with an average income out of reach and believes that they should be looking at these projects considering what may happen in the future and what Homer may look like.

Commissioner Venuti commented that it was an interesting meeting and great comments. He expressed his appreciation for everyone showing up.

Chair Smith expressed that he had the privilege to be the grandson in law of an individual who recognized the need for housing following the Second World War and he provided housing for all those coming back home. He built 7000 tiny homes, well we would call them tiny today, in Rapid City South Dakota, which were really the first ever track homes built in the United States and now you can drive through any Midwestern town and see reproductions of his pioneering efforts and he opined that the city was in the same situation and with their discussion about the Community Design Manual evaluation coming up, perhaps it would be good for the Commission to have a work session or two as our own dream conversations or vision casting to perceive the needs of Homer and what direction that the city should take, possible solutions. He would like to have more free discussion on the topic rather than a guided discussion. He then commented on the fire department regulations and overnight uses. He expressed his appreciation being able to work with everyone on the Commission and for the Mayor attendance at the meeting tonight.

ADJOURN

There being no further business before the Commission, the meeting was adjourned at 8:45 p.m. The next Regular Meeting is Wednesday, April 20, 2022 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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HOMER PLANNING COMMISSION

Approved CUP 2022-02 at the Meeting of April 6, 2022

RE: Conditional Use Permit (CUP) 2022-02

Address: 2161 East End Road.

Legal Description: T 6S R 13W SEC 15 Seward Meridian HM 2013043 SCENIC VIEW SUB
SCENIC GROVE ADD N NO 1 2013 REPLAT LOT 2-A-1

DECISION

Introduction

Bill Hand (the “Applicant”) applied to the Homer Planning Commission (the “Commission”) for a Conditional Use Permit (CUP) under Homer City Code HCC 21.12.030(m) which allows more than one building containing a permitted principle use on a lot in the Rural Residential District.

The applicant proposes to construct eighteen two-bedroom single-family dwellings on a 4.32 acre lot located in the Rural Residential District.

A public hearing was held for the application before the Commission on April 6, 2022, as required by Homer City Code 21.94. Notice of the public hearing was published in the local newspaper and sent to 24 property owners of 17 parcels as shown on the Kenai Peninsula Borough tax assessor rolls. Public notices contained information on how to submit written testimony, participate telephonically, or participate on the Zoom meeting platform.

At the April 6, 2022 meeting of the Commission, six Commissioners were present. Commissioner Bentz was not present and had an excused absence. The Commission approved CUP 2022-01 unanimously with two conditions.

Evidence Presented

City Planner, Rick Abboud, reviewed the staff report. The applicant, Bill Hand, gave a brief presentation and answered questions of the Commission. Neighbor, Haley Norris, testified about her concerns of the proposed development including the density, clear cutting, and the adequacy of parking on the lot. She also mentioned that it would bring City sewer services closer to her lot.

Findings of Fact

After careful review of the record and consideration of testimony presented at the hearing, the Commission determines Condition Use Permit 2022-02, to allow eighteen structures on a lot, satisfies the review criteria set out in HCC 21.71.030 and is hereby approved.

The criteria for granting a Conditional Use Permit is set forth in HCC 21.71.030 and 21.71.040.

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

Finding 1: The applicable code authorizes the proposed use and structures.

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

Finding 2: The proposed use and structures are compatible with the Rural Residential District.

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

Finding 3: Multiple single-family houses are not expected to negatively impact the adjoining properties greater than other permitted or conditional uses.

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

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

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

Finding 5: Public services will be adequate, prior to occupancy, to serve the proposed single-family structures.

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

Finding 6: The Commission finds the proposal will not cause undue harmful effect upon desirable neighborhood character.

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

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

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

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

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

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

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

Finding 10: Project will comply with the applicable provisions of the CDM when following condition 1.

Condition 1: Outdoor lighting shall 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. **Condition 2:** Dumpsters shall be screen on three sides.

Conclusion: Based on the foregoing findings of fact and law, Conditional Use Permit 2022-02 is hereby approved, with Findings 1-10 and Condition 1 & 2.

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

Condition 2: Dumpsters shall be screen on three sides.

Date

Chair, Scott Smith

Date

City Planner, Rick Abboud

NOTICE OF APPEAL RIGHTS

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

CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to the below listed recipients on _____, 2022. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk on the same date.

Date

Travis Brown, Planning Technician

Bill Hand
PO Box 3129
Homer, AK 99603

Michael Gatti
JDO Law
3000 A Street, Suite 300
Anchorage, AK 99503

Rob Dumouchel, City Manager
City of Homer
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Staff Report Pl 22-27

TO: Homer Planning Commission
FROM: Rick Abboud, AICP, City Planner
DATE: April 20, 2022
SUBJECT: City Planner's Report

City Council 4.11.22

Ordinance 22-18(S), An Ordinance of the City Council of Homer, Alaska Amending the FY22 Capital Budget by Appropriating \$461,446 from the Homer Accelerated Water and Sewer Program (HAWSP) Fund to Fund the City's Portion of Costs for Bunnell Ave/Charles Way Water and Sewer Special Assessment Districts. City Manager/Public Works Director. Introduction March 29, 2022, Public Hearing and Second Reading April 11, 2022.

Memorandum 22-064 from Public Works Director as backup.

ADOPTED without discussion.

Commissioner Training

April 24th is the date for part two of Planning Commissioner Training –*Deeper Dive*. If you are interested, let me know. If you attended part one, you should have notice of this meeting.

Hope you can attend! For additional questions, please contact Elizabeth Appleby at elizabeth.appleby@anchorageak.gov.

I have scheduled a training with the City Attorney at the May 4th Worksession.

Appeal of CUP 20-15 (Wild Honey)

An Administrative Law Judge has ruled in favor of the City, the issue is moot. The decision is attached.

Permitting software

We continue to work on modifying and testing the software with hope that it will be ready in May.

Hazard Mitigation Plan Update

The Draft Hazard Mitigation Plan has been distributed to stakeholders and is available for public review on our web site <https://www.cityofhomer-ak.gov/planning/2022-city-homer-local-hazard-mitigation-plan> for review until April 15. It is being submitted to the state, who may take up to 30 days for review and then to FEMA for a review of up to 45 days.

Rural Residential Rezone Update:

We have mailed out the flier and created a web page for information for on the Planning page of the City website <https://www.cityofhomer-ak.gov/planning/proposed-zoning-map-amendment>

Our schedule:

~~March 7: mail out flier, launch website~~

~~March 14th -25th: Chat with a planner timeframe~~

~~April 6th: Work session with PC~~

~~April 7th hearing notice mailed~~

April 20th Public hearing

We will develop a similar process for those to the east as we progress or finish the west depending on our experiences.

Economic Development Advisory Commission

The EDC met on Tuesday April 12th. They continue to work on a SWOT analysis of Homer's quality of life, and the balance between growth, community change and quality of life. They understand this is a really big topic which lends itself to a community-wide conversation. I think their work will be helpful as a pre-cursor to the next comprehensive plan.

Also, it seems like every commission is interested in housing, and the current worker housing shortage. The City Council has identified this as a priority. When there is a process/planning framework in place, the commissions will have a lot of input! Stay tuned.

Commissioner Report to Council

4/25/22 _____

5/9/22 _____

Attachments:

Administrative Law decision CUP 20-15

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE CITY OF HOMER BOARD OF ADJUSTMENT**

In the Matter of)	
)	
CONDITIONAL USE PERMIT 2020-15)	OAH No. 21-2585-MUN
)	CUP 2020-15
_____)	

DECISION

I. INTRODUCTION

This matter involves a City of Homer Conditional Use Permit to rebuild a building — a permit that was vacated when its applicant withdrew its application. Despite the permit being vacated, Frank Griswold would like Homer Board of Adjustment to issue a decision on his appeal seeking to vacate the permit. The City filed a motion to dismiss the appeal as moot. Mr. Griswold opposed that motion, arguing for a public interest exception, and filed a myriad of his own motions related to his appeal.

Both parties’ motions are the subject of this decision. As discussed below, the subject of the appeal no longer exists and the relief Mr. Griswold seeks is no longer available, so the appeal itself is moot. The issues Mr. Griswold raised are not the type of issues that are likely to repeatedly evade review nor are they issues of public concern that justify the Board deciding a moot appeal.

Because the appeal is moot, Mr. Griswold’s motions related to the appeal are moot as well. The motions are also meritless, as set forth below.

The City’s motion to dismiss is granted and all other pending motions are denied.

II. BACKGROUND

The Homer Advisory Planning Commission approved Conditional Use Permit (“CUP”) 20-15 for the applicant to tear down and rebuild a restaurant structure within a 20-foot building setback and in excess of 30 percent of the lot area.¹ Mr. Griswold appealed that decision (“Appeal”) to the Board of Adjustment, which remanded the matter to the Planning Commission on March 9, 2021 for further review.²

¹ R. 69-73.
² R. 278-82.

The City Planner stated in a staff report to the Planning Commission that the Appeal had been remanded.³ Mr. Griswold moved for default judgment against the City Planner, claiming this was an *ex parte* communication.⁴ The Commission did not rule on that motion.

While the matter was on remand to the Planning Commission, the applicant withdrew the CUP application.⁵ The City then moved to dismiss the Appeal because (1) the application withdrawal mooted the appeal; and (2) the application withdrawal left the Commission without jurisdiction.⁶ Mr. Griswold opposed the motion, claiming a public interest exception to mootness. Mr. Griswold also filed several motions — a motion for default, claiming more *ex parte* communications, a motion to strike the application withdrawal as “new evidence,” and a motion to cancel the Planning Commission’s August 4, 2021 meeting, at which it planned to address the City’s Motion to Dismiss.⁷ The Planning Commission did not specifically rule on Mr. Griswold’s motions. But it did grant the City’s motion and dismissed the Appeal at its August 4, 2021 regular meeting.⁸

Mr. Griswold then filed a motion for reconsideration and motion to supplement his points on appeal.⁹ At an October 20, 2021 regular meeting, the Planning Commission voted to “den[y] taking up” these two motion.¹⁰

At a December 13, 2021 special meeting, the Homer City Council, sitting as the Board of Adjustment, took up the dismissal and Mr. Griswold’s motion to supplement points on appeal.¹¹ The Board of Adjustment voted to refer all pending issues to a hearing officer for decision.¹² The City engaged the Office of Administrative Hearings to provide an Administrative Law Judge as hearing officer.

Prior to the hearing, the City and Mr. Griswold agreed that scope of the hearing and the hearing officer’s decision would be seven motions that either had not been ruled on at all or had not been rule on by the Board of Adjustment. These were the City’s motion to dismiss the Appeal as moot and Mr. Griswold’s motions for sanctions and default, for default judgment, to strike

³ <https://mccmeetings.blob.core.usgovcloudapi.net/homerak-pubu/MEET-Packet-3d1c75928fa148a6a513ece9cceb4c79.pdf> at 11.

⁴ R. 545-46.

⁵ R. 288.

⁶ R. 287.

⁷ R. 317, 324, 328.

⁸ R. 339.

⁹ R. 344, 350.

¹⁰ R. 494-95.

¹¹ R. 559.

¹² R. 562-63.

evidence, to cancel a Planning Commission meeting, to reconsider the City’s motion to dismiss, and to supplement points on appeal.

A hearing was held March 1, 2022. As specified in HCC 21.93.540, a hearing on an appeal consists of oral argument by the appellant and appellee. Mr. Griswold provided argument as the appellant and the City provided argument as the appellee.

III. DISCUSSION

A. City’s Motion to Dismiss Appeal

The City filed a motion to dismiss the Appeal as moot on May 14, 2021. The City argues that because the applicant withdrew the permit that is the subject of the Appeal, the Appeal is moot and municipal tribunals lack jurisdiction to hear the Appeal.¹³ Mr. Griswold opposed the motion, arguing the public interest exception to mootness should apply.¹⁴ In response, the City argued that as an administrative tribunal, the Board of Adjustment cannot apply the judicially-created public interest exception to that doctrine.¹⁵

There can be no question here that Mr. Griswold’s Appeal is moot. “A claim is moot if it is no longer a present, live controversy, and the party bringing the action would not be entitled to relief, even if it prevails.”¹⁶ Mr. Griswold appealed issuance of the 20-15 CUP. After he filed the appeal, the applicant withdrew the CUP application.¹⁷ As the City explained at the hearing, this withdrawal vacated the permit and the applicant has no procedural avenue to revive that permit or application. The controversy here is over whether the City should grant a specific CUP based on a specific permit. Because there is no live application or permit, no live controversy remains.¹⁸ The relief Mr. Griswold seeks — revocation of the CUP — is similarly unattainable since there is no CUP to be revoked. The Appeal is moot. It can continue only if an exception to the mootness doctrine applies.

¹³ R. 286-87.

¹⁴ R. 313-16.

¹⁵ R. 320; Hearing. Despite the briefing being complete, Mr. Griswold proceeded to file not one but two surreplies — a “Motion to Correct/Clarify Appellant’s Opposition to Motion to Dismiss Appeal” on July 26, 2021 in which he again argued that the Appeal is not moot and an “Argument Regarding Motion to Dismiss Appeal” on July 28, 2021, also arguing the Appeal is not moot. R. 330-33. Generally a party may not submit a surreply without leave to file. But because the City did not challenge these filings, and both continue the same arguments Mr. Griswold raised in his opposition, both were considered as part of Mr. Griswold’s briefing.

¹⁶ *Fairbanks Fire Fighters Ass’n, Loc. 1324 v. City of Fairbanks*, 48 P.3d 1165, 1167 (Alaska 2002).

¹⁷ R. 288.

¹⁸ See, e.g., *Alaska Community Action on Toxics v. Hartig*, 321 P.3d 360, 366-67 (Alaska 2014) (appeal regarding expired permit is moot).

The City's argument that an administrative tribunal can consider the judicially-created mootness doctrine but not its judicially-created public interest exception is incorrect. Quasi-judicial administrative decision makers regularly consider application of the public interest exception.¹⁹ The City offered no authority or basis for concluding that Homer City proceedings cannot consider this exception.

For that exception to apply, however, Mr. Griswold must show that the disputed issues (1) are capable of repetition; (2) would repeatedly evade review under the mootness doctrine; and (3) are "so important to the public interest as to justify overriding the mootness doctrine."²⁰

The issues Mr. Griswold raised are not likely to repeat. Mr. Griswold listed 14 issues in his Appeal. Ten are fact-specific issues related to this particular application and its review and appeal process.²¹ Issues related to a particular factual situation and the process provided for review of that situation are not capable of repetition for purposes of the public interest exception.²² Mr. Griswold argued that the applicant could later resubmit a similar CUP application and thus the issues would repeat. But that application would go through its own review process with its own record and decisions approving or denying it. This application, this record, the decision here would not be replicated.

Mr. Griswold's remaining four points on appeal make legal claims that are not validly raised here and in that sense are not likely to repeat. First, Mr. Griswold claims an equal protection violation because the code provision at issue includes an exception for certain areas.²³ The CUP here is not in those areas, so a constitutional claim regarding those areas is not ripe.²⁴

¹⁹ See, e.g., *Matter of X E. N.*, OAH No. 16-0053-PER at 2 (2016) (considering public interest exception to mootness); *Matter of Interior Alaska Fish Processors, Inc.*, OAH No. 12-0258-DEC at 2-4 (Dep't of Environmental Conservation 2012) (same).

²⁰ *Ulmer v. Alaska Rest. & Beverage Ass'n*, 33 P.3d 773, 777-78 (Alaska 2001).

²¹ See points on appeal three (Commission's findings conclusory and not supported by substantial evidence), five (a Commissioner was not impartial); six (applicant did not produce sufficient evidence), 7 (application contained false or misleading information), 8 (City Planner should have issued CUP as separate instrument from the approval), 9 (Commission misapplied CUP review criteria), 10 (Commission included multiple variances), 11 (Commission should have issued multiple CUPs), and 14 (Commission waived zoning provisions). R.9-10. As to point on appeal four, Mr. Griswold should be aware that the City of Homer is not subject to Philippine law nor does this legal concept exist in Alaska or United States law.

²² *Smith v. Cleary*, 24 P.3d 1245, 1251-52 (Alaska 2001) (procedural due process challenges could repeat, but would be based on different facts and circumstances and therefore better addressed on a record developed for a future dispute); *Krohn v. State, Dep't of Fish and Game*, 938 P.2d 1019 (Alaska 1997) (issues regarding adoption of emergency regulation were dependent on the particular factual and procedural circumstances and therefore not capable of repetition).

²³ R. 8 (point on appeal 1); HCC 21.18.040(b)(4).

²⁴ See, e.g., *Brause v. State, Dep't of Health & Social Services*, 21 P.3d 357, (Alaska 2001) (statutory provision could not be challenged in advance of a decision involving that provision).

Second, Mr. Griswold claims two code provisions conflict.²⁵ But the superior court determined, in an appeal filed by Mr. Griswold, that they do not.²⁶ As the superior court pointed out in yet another appeal by Mr. Griswold, he is collaterally estopped from attempting to relitigate this issue.²⁷ Mr. Griswold is similarly barred from raising that issue here. Third, Mr. Griswold claims the Commission's review process violates a doctrine of Philippine administrative law.²⁸ The City of Homer is not subject to Philippine law, nor does this doctrine exist in United States or Alaska law. Finally, Mr. Griswold claims a term in a Homer Comprehensive Plan is per se invalid under Supreme Court precedent, but the case Mr. Griswold cites did not reach this holding.²⁹ Because these issues are not appropriately raised here in the first place, they are not the type of issue likely to repeat in the future.

Even if any of Mr. Griswold's claims were conducive to repetition, no claim regarding a CUP is likely to evade review. Mr. Griswold argued at the hearing that these issues would evade review because he or another appellant might not go to the trouble of appealing a future application. But the public interest exception is not tool of convenience. It is a tool to avoid injustice. Whether an issue would repeatedly evade review refers to whether a tribunal would be unable to review an issue before it is mooted, not whether parties will be motivated to seek that review. This element of the public interest exception is about procedure and time.³⁰ For example, short term permits that expire before any party can challenge their issuance have been found likely to evade review.³¹ There is no such problem here. As the City explained at the hearing, the terms of a CUP generally exceed the time it takes to resolve an appeal.

Mr. Griswold pointed to the application withdrawal as an instance of his issues evading review. But in a similar case involving a withdrawal by the State, the Supreme Court declined to apply the public interest exception because the issue would only evade review if State

²⁵ R. 8 (point on appeal 2).

²⁶ R. 164-65.

²⁷ R. 196-97.

²⁸ R. 9 (point on appeal 4).

²⁹ R. 10 (point on appeal 12). Mr. Griswold claims "infill" is per se invalid, citing *Griswold v. City of Homer*, 925 P.2d 1015, 1023 n.9. But the court there gave "filling in vacant places" as an example of a goal that is not per se legitimate. Being not per se legitimate is not the same thing as being per se invalid.

³⁰ *Mullins v. Local Boundary Comm'n*, 226 P.3d 1012, 1019 (Alaska 2010) ("We analyze this prong of the public interest exception test by comparing the time it takes to bring the appeal with the time it takes for the appeal to become moot.") (cleaned up).

³¹ See, e.g., *State, Dep't of Natural Res. v. Greenpeace, Inc.*, 96 P.3d 1056, 1062 (Alaska 2004) (permits could evade review because they were so temporary that it was "nearly impossible to obtain administrative and judicial review of a temporary permit" before they expired); *Kodiak Seafood Processors Ass'n v. State*, 900 P.2d 1191, 1196 (Alaska 1995) (applying public interest exception to claims regarding permits that would likely expire before they could be litigated, but not to claims regarding procurement which did not have the same potential to expire before review).

continuously withdrew similar measures.³² The record offers no reason to suspect CUP applicants will repeatedly withdraw CUP applications whenever appealed. If a party has similar issues with a CUP in the future, that party will be able to raise those issues in an appeal with sufficient time to resolve that appeal.

Finally, the disputed issues here are not issues “so important to the public interest as to justify overriding the mootness doctrine.”³³ Mr. Griswold has challenged a permit to rebuild a single building. He tried to characterize the Commission’s CUP review process as part of a regular practice, but the record does not support that assertion. What we have here is a challenge to a particular permit and to the unique circumstances surrounding its approval. Addressing these fact-specific issues now would likely have only a remote impact, if any, on review of other CUP applications in the future, providing nothing more than an example that might be cited by analogy. No principles of urgent public import would be resolved definitively.

Courts and quasi-judicial administrative tribunals do not pontificate on the meaning of laws in hypothetical situations; they apply laws to the controversies in front of them. When a controversy ceases to exist, so too does the need to resolve that controversy. Only in rare circumstances does the public interest exception compel a court or other tribunal to move forward — where the issues are so important to the public and so likely to repeat yet evade review that it compels a decision. Those circumstances do not exist here. When the Commission approves CUP applications in the future, a party can appeal those approvals and raise issues then.

The City’s Motion to Dismiss is granted. That dismissal moots Mr. Griswold’s other motions. The merits of each motion are nonetheless addressed below.

B. Mr. Griswold’s Motion for Sanctions and Default Judgment

Mr. Griswold filed a Motion for Sanctions and Default Judgment on April 8, 2021 claiming that the Planning Commission “received *ex parte* communications” about Mr. Griswold’s Appeal of CUP 20-15 at its March 17, 2021 regular meeting.³⁴ Mr. Griswold does not identify this alleged communication. He states only that it was provided by City Planner Rick Abboud, that Mr. Abboud is a party to the CUP 20-15 Appeal, and that other parties to the Appeal were not given notice and therefore Mr. Abboud’s communication was *ex parte*. Mr. Griswold asks for default judgment to be entered against Mr. Abboud.

³² *Young v. State*, 502 P.3d 964, 970 (issues regarding State’s withdrawal of stipulation to print and distribute signature booklets for ballot initiative that was under review was unlikely to repeat).

³³ *Ulmer v. Alaska Rest. & Beverage Ass’n*, 33 P.3d at 778.

³⁴ R. 545.

Mr. Griswold offered no evidence of a communication between Mr. Abboud and the Planning Commission regarding Mr. Griswold's CUP 20-15 Appeal. The motion does not identify or include any such communication. The record does not include documents related to the Planning Commission's March 17, 2021 regular meeting either. The agenda, agenda packet, supplemental packet, public notice, and approved minutes for this meeting, however, are all public documents available on the City's website.³⁵ A review of those documents explains why they are not part of the record here — there is not a single mention of CUP 20-15 or Mr. Griswold's Appeal in the minutes. The only reference to CUP 20-15 in any of these documents is in a staff report from Mr. Abboud in which he states that the matter had been remanded back to the Commission.³⁶

The City Code's provision on *ex parte* communications, HCC 21.93.710, prohibits certain communications between the decision maker and parties to the appeal or members of the public.³⁷ Here, the City Planner acted as a part of the municipal staff, not as a party to the appeal itself. He did not file the Appeal. He did not intervene in the Appeal. He did not file any briefs related to the appeal. The record includes no affirmative act by Mr. Abboud to participate as a party. Thus while a City Planner has the option to become a party to an appeal, he did not do so in Mr. Griswold's appeal.³⁸ Mr. Griswold himself admitted that Mr. Abboud was not a party to the Appeal in his Appeal brief on the merits.³⁹ And because Mr. Abboud is not a party, he not barred from communicating with the decision maker.

Furthermore, the City Code expressly states that communications between municipal staff and the decision maker are not prohibited *ex parte* communications so long as the staff member is not a party to the Appeal and the communication does not furnish, augment, diminish, or modify evidence in the record.⁴⁰ Mr. Abboud's statement that the Appeal is on remand did not modify any evidence in the record. The statement itself is not even in the record since the meeting did not address the CUP 20-15 Appeal. Even if it was in the record, the fact that the Appeal had been remanded is a fact already in the record through the remand itself. Because Mr. Abboud is not a party and because his statement did not modify the record, it was not an *ex parte* communication.

³⁵ <https://www.cityofhomer-ak.gov/hapc/planning-commission-regular-meeting-113>.

³⁶ <https://mccmeetings.blob.core.usgovcloudapi.net/homerak-pubu/MEET-Packet-3d1c75928fa148a6a513ece9cceb4c79.pdf> at 11.

³⁷ HCC 21.93.710(a).

³⁸ See HCC 21.93.050.

³⁹ R. 119-20.

⁴⁰ HCC 21.93.710(b)(1).

Nor is the relief Mr. Griswold seeks available. The current City Code does not provide for sanctions for *ex parte* communications.⁴¹ Even under an earlier version of the code, sanctions could only be imposed “against a party to the appeal.”⁴² Mr. Abboud did not participate here as a party. And because he is not a party, default — *i.e.*, judgment against Mr. Abboud on Mr. Griswold’s Appeal of CUP 20-15 — is not an option.

Mr. Griswold’s motion is denied.

C. Mr. Griswold’s Motion for Default Judgment

Mr. Griswold filed a Motion for Default Judgment on July 7, 2021, again arguing that Mr. Abboud had *ex parte* communications with the Planning Commission. Mr. Griswold based this motion on emails Mr. Abboud exchanged with the applicant and then allegedly relayed to the Planning Commission at an April 15, 2021 meeting.⁴³ At the hearing here, Mr. Griswold clarified that he was not asserting that the emails themselves were *ex parte*, but that Mr. Abboud speaking at the meeting about the emails was.

Mr. Griswold cites minutes from the April 15, 2021 Planning Commission meeting in his motion.⁴⁴ Those minutes are not in the record and for good reason — the minutes do not mention the Appeal at all. The minutes address a different appeal by Mr. Griswold challenging a different permit, unrelated to CUP 20-15.⁴⁵

But even if Mr. Abboud had spoken about CUP 20-15 emails at this meeting, that communication would not be *ex parte*. As discussed above, Mr. Griswold took no action to become a party to this particular appeal and communications between non-party municipal staff and the Planning Commission that do not modify the record are not *ex parte* communications. There is no indication from Mr. Griswold’s motion that the alleged communications about the emails — which according to the minutes did not occur — added to or modified the record in any way. Furthermore, default judgment against Mr. Abboud is not an available remedy because he is not a party here and because the City Code does not currently provide for that remedy.

The motion is denied.

⁴¹ See January 10, 2022 Order (explaining that HCC 21.93 as amended by Ordinance 21-44(S), enacted August 9, 2021, would apply to these proceedings because the ordinance addressed procedures).

⁴² See Ordinance 21-44(S) at 17.

⁴³ R. 317.

⁴⁴ R. 317.

⁴⁵ <https://mccmeetings.blob.core.usgovcloudapi.net/homerak-pubu/MEET-Minutes-c954687b3634416f9cfaf760bd509403.pdf>

D. Mr. Griswold's Motion to Strike New Evidence

When the City moved to dismiss the Appeal as moot, it attached an email from the applicant withdrawing the CUP application. Mr. Griswold responded by moving to strike this email from the appeal record as “new evidence.”⁴⁶

Mr. Griswold is correct that generally a record on appeal may not be supplemented with new evidence that was not before the original decision maker. But that is not what the City did here. The City filed a motion regarding the justiciability of the Appeal, and included evidence to support a factual statement it made in that motion. That motion and its attachment were not part of the record for the Appeal, nor would they have become part of that record if the motion had been denied.

The fact that an appeal was pending does not mean the Commission or Board of Adjustment must stick their heads in the sand. Justiciability issues like mootness may be raised at any time. The evidence to support the City's motion to dismiss was not new evidence and was not improper.

Mr. Griswold's motion is denied.

E. Mr. Griswold's Motion to Cancel or Continue the August 4, 2021 Commission Proceeding Regarding Motion to Dismiss Appeal

Mr. Griswold filed a Motion to Cancel or Continue the August 4, 2021 Commission Proceeding Regarding Motion to Dismiss Appeal on July 26, 2021, arguing that the Planning Commission lack authority to consider a motion to dismiss on remand.⁴⁷ The Commission proceeded to discuss the Motion at this August 4, 2021 meeting, so a motion to continue or cancel that discussion is moot.⁴⁸ Mr. Griswold agreed at the hearing here that this motion is moot.

The motion is also without merit. As discussed above, justiciability issues like mootness may be raised at any time. The Commission was not barred from considering the motion to dismiss simply because the Appeal was pending. The mootness doctrine would be rendered meaningless if the pendency of an action prevented a tribunal from considering whether circumstances have rendered it moot.

Mr. Griswold's motion is denied.

⁴⁶ R. 328.

⁴⁷ R. 324.

⁴⁸ R. 338-39.

F. Mr. Griswold's Motion for Reconsideration

Mr. Griswold moved the Planning Commission to reconsider its dismissal of the Appeal as moot.⁴⁹ The City pointed out that the code does not provide for a reconsideration process. The motion is thus procedurally improper.

This motion is also meritless. Mr. Griswold argues that the Commission's authority was limited to deciding his Appeal on remand and that it could not consider dismissal. As discussed above, however, justiciability issues like mootness may be raised and considered at any time.

Mr. Griswold also argued that the dismissal decision did not comport with code provisions related to appeal hearings and appeal decisions. What the Commission granted was a motion to dismiss. It did not decide the appeal on the merits. Thus provisions for appeal hearings and appeal decisions do not apply.

The motion is denied.

G. Mr. Griswold's Motion for Leave to Supplement Points on Appeal to Address Planning Commission's Dismissal of Appeal

Mr. Griswold moved to supplement his point on appeal to include the City's motion to dismiss the appeal. At the hearing Mr. Griswold volunteered that this motion is moot.

It is also unjustified. The Appeal itself addresses issuance of CUP 20-15. The motion to dismiss is a separate issue. Absent the Board consolidating these issues, it would not have been appropriate for Mr. Griswold to add the motion to dismiss to his appeal of the permit's issuance.

The motion is denied.

IV. CONCLUSION

Mr. Griswold's appeal is moot and he has not asserted issues that would justify applying the public interest exception. Accordingly, the City's motion to dismiss is granted.

Mr. Griswold's motions are also moot. They also lack merit for the reasons discussed above. All pending motions by Mr. Griswold are denied.

DATED: April 13, 2022.

By:



Rebecca Kruse
Administrative Law Judge

⁴⁹ R. 344.

NOTICE OF APPEAL RIGHTS

This is a final decision. If you wish to appeal this decision, you must file an administrative appeal to the Alaska superior Court within 30 days from the date of distribution of this decision. See HCC 21.91.130 and Alaska Rule of Appellate Procedure 602.

Certificate of Service: I certify that on April 13, 2022, a true and correct copy of this order was distributed as follows: Frank Griswold (by mail and email); Max Holmquist, Attorney (by email); Michael Gatti, Attorney (by email); Homer Advisory Planning Commission c/o Melissa Jacobsen (by email).

By: Halley Canfield
Office of Administrative Hearings



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Staff Report PL 22-28

TO: HOMER PLANNING COMMISSION
FROM: RICK ABOUD, AICP, CITY PLANNER
DATE: APRIL 20, 2022
SUBJECT: REZONE OF PORTION OF THE RURAL RESIDENTIAL (RR) ZONING DISTRICT TO URBAN RESIDENTIAL (UR) ZONING DISTRICT

Introduction

The City Planner has initiated a zoning map amendment per HCC 21.95.020(d). After notifying the residents in the proposed area along the lower portion of the West Hill Road area and providing an opportunity for their comments at the Commission's last work session and regular meeting, we have scheduled a public hearing to gain testimony on the proposed rezoning. This is the second notice to residents within the area proposed to be rezoned. Along with all residing in the proposed area, notice was extended to those within 300 feet of the proposed action for this hearing.

Analysis

Comprehensive Plan: I have detailed how the proposal is forwarding the recommendations found in the 2018 Homer Comprehensive Plan in the attached memorandum of the staff review (PL 22-04) required for a zoning map amendment. The proposal forwards Goal 1 of Chapter 4, Land Use and the associated objectives. The proposed area for rezone of RR to UR is part of the Land Recommendations Map found on page A-10 of the plan. The past, current, proposed extension of city water and sewer services corresponds with the recommendations and guidelines for a transition from a less dense rural zoning designation to a more dense urban designation found in the descriptions of the districts in Appendix A of the Comprehensive Plan and in the purpose statements of the districts found in Homer City Code.

Zoning Transitions: The newly proposed UR zone continues the existing UR district to the west. The proposed district transitions from the light commercial Gateway Business District to the south where the Scenic Gateway Corridor Overlay District is found within 150 feet of the center line of the Sterling Highway, generally leaving the Gateway Business District buffering the proposed UR District. The proposed UR District then transitions to the RR District to the north and west. The proposed district fits neatly within the expectations of the Comprehensive Plan to transition from more dense centrally located zones to less dense zones further from the center of town.

Water and Sewer: City water and sewer has been and is planned to serve the area of the proposal. Any lot in the RR district is allowed to construct one dwelling per 10,000 square feet when served by piped city water and sewer services. This amount to a 4-fold decrease in the spatial requirement of RR district, when not served by city water and sewer services, where it is required to provide 40,000 square feet per dwelling. Once water and sewer service is provided in RR, the lots are arguably not rural in nature and now fit the density expectations of an urban designation.

Transportation: The newly developed and proposed subdivisions in the area have and will create a more connected network of roads and access that did not exist previously. The soon to be developed Eric Lane-Fairview Avenue connection along with the recently developed Shelly Avenue provides collector services that can distribute traffic to other collectors and arterial roads that lead to points of interest.

Changes in regulation: The attached document, Zoning Differences: Rural Residential (RR) and Urban Residential (UR) reviews the changes in allowance for structures, uses, and dimensional standards between the two districts. Anyone who is currently maintaining an allowed use or structure in RR that is not allowed in UR has the opportunity to document the activity and maintain the use or structure in perpetuity, as allowed in Homer City Code 21.61.

Staff Recommendation

Hold a public hearing and make recommendation to the City Council for adoption of the proposed Zoning Map amendment.

Attachments

Draft Ordinance w/ Exhibits A & B
Planning Memo 22-04
HCP Chapter 4 Goal 1 and Objectives
Land Use Recommendations Map
HCP Appendix A p. A-4&5
Zoning Map
Water and Sewer service maps
Foothills plat
Road Maintenance Map section
Aerial map
Zoning Differences
Public Notice 4.7.22 Mail out
Comments KR, TR, B&RH

**CITY OF HOMER
HOMER, ALASKA**

Planning Commission

ORDINANCE 22-xx

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
AMENDING THE HOMER CITY ZONING MAP TO REZONE A
PORTION OF THE RURAL RESIDENTIAL (RR) ZONING DISTRICT TO
URBAN RESIDENTIAL (UR) ZONING DISTRICT.

WHEREAS, The 2018 Homer Comprehensive Plan Goal 1, Objective B states that the zoning map be updated to support the desired pattern of growth; and

WHEREAS, The 2018 Homer Comprehensive Plan, Land Use Recommendations Map designates the proposed area for consideration of Urban Residential zoning; and

WHEREAS, The residents in and near the proposed action were noticed of the opportunity to provide comment at the Commission's worksession and regular meetings on April 6, 2022 and subsequently held a public hearing on April 20, 2022 as required by HCC 21.95.060(C); and

WHEREAS, The Homer Planning Commission considered the effect of the change on the district and surrounding properties; and

WHEREAS, The Homer Planning Commission determined there is a public need and justification for the rezone; and

WHEREAS, The Homer Planning Commission determined the rezone would not have a negative effect on the public health, safety and welfare; and

WHEREAS, The Homer Planning Commission determined that the rezone was in compliance with the Homer Comprehensive Plan; and

WHEREAS, The zoning district boundaries shall be as shown on the official Homer zoning map per HCC 21.10.020(c).

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer Zoning Map is amended to transfer the parcels listed on the attached Exhibit A from UR zoning district to the RR zoning district as shown on the attached Exhibit B.

Section 2. The City Planner is authorized to note on the Homer Zoning Map the amendments enacted by this ordinance as required by Homer City Code 21.10.030(b).

Section 3. This Ordinance is of a non-code ordinance of a permanent nature and shall be noted in the ordinance history of Homer City Code 21.10.030.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this ____ day of _____, 2022.

CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Exhibit A

PARCEL ID	ACREAGE	LEGAL DESCRIPTION
17508108	0.700	T 6S R 14W SEC 24 SEWARD MERIDIAN HM LT 7 OF ORIGINAL DEROSE PPTY AS DELINEATED ON PLAT 54-2019 OF BOUNDARY SURVEY OF SECS 13&14 T6S R14W
17508109	5.110	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0000000 DAVID L BEAR 1954 BOUNDARY SURVEY TRACT 1
17508117	2.970	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0742008 HILLSIDE ACRES SUB TRACT 5
17508130	1.090	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0780056 HILLSIDE ACRES RESUB LOT 10 LOT 10-A
17508131	1.150	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0780056 HILLSIDE ACRES RESUB LOT 10 LOT 10-B
17508133	1.470	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0800009 HILLSIDE ACRES SUB UNIT 3 TRACT 11A
17508142	1.520	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0830091 HILLSIDE ACRES SUB TRACTS 2 & 13 1983 TRACT 2-A
17508144	1.210	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0830091 HILLSIDE ACRES SUB TRACTS 2 & 13 1983 LOT 13-A
17508146	2.110	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0830103 HILLSIDE ACRES TRACT 6-A
17508151	2.350	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2001058 DEROSE SUB TRACT B TRACT B
17508119	2.310	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0742008 HILLSIDE ACRES SUB TRACT 3
17508134	1.470	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0800009 HILLSIDE ACRES SUB UNIT 3 TRACT 11B
17508147	1.780	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0830103 HILLSIDE ACRES SUB NO 5 TRACT 6-B
17508154	0.960	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002084 HILLSIDE ACRES SUB REPLAT TRACT 4A & 4B TRACT 4-A-1
17508160	0.740	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2008051 DEROSE SUB MARTIN ADDN TRACT A-1
17508161	0.910	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2008051 DEROSE SUB MARTIN ADDN TRACT A-2
17508110	4.650	T 6S R 14W SEC 24 SEWARD MERIDIAN HM - RS FROM 1/16 CORNER OF SECS 13&24 S 629.1 FT; TH E 610 FT; TH S48 DEG 10'E 900 FT TO NW CORNER & POB; TH S48 DEG 10'E 720 FT TO NE CORNER; TH S25 DEG 50'W 312 FT TO N SIDE OF ROW & SE CORNER; TH N48 DEG 10'W 7
17508122	1.720	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0742008 HILLSIDE ACRES SUB TRACT 8
17508126	2.520	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0742008 HILLSIDE ACRES SUB TRACT 12
17508132	1.180	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0780056 HILLSIDE ACRE RESUB LOT 10 LOT 10-C
17508145	1.260	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0830091 HILLSIDE ACRES SUB TRACTS 2 & 13 1983 LOT 13-B
17508156	0.720	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2004040 HILLSIDE ACRES DOROTHY'S ADDN TRACT 9A
17508157	0.600	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2004040 HILLSIDE ACRES DOROTHY'S ADDN TRACT 9B
17508163	4.460	T 06S R 14W SEC 24 SEWARD MERIDIAN HM 2019012 HILLSIDE ACRES SUBD 2018 REPLAT TRACT 7-A
17508164	0.690	T 06S R 14W SEC 24 SEWARD MERIDIAN HM 2019012 HILLSIDE ACRES SUBD 2018 REPLAT TRACT 7-B
17508155	1.550	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002084 HILLSIDE ACRES SUB REPLAT TRACT 4A & 4B TRACT 4-B-1
17508103	1.000	T 6S R 14W SEC 24 SEWARD MERIDIAN HM LT 1 OF ORIGINAL DEROSE PPTY AS DELINEATED ON PLAT 54-2019 OF BOUNDARY SURVEY OF SECS 13&14 T6S R14W
17508128	1.850	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0742008 HILLSIDE ACRES SUB TRACT 14

Exhibit A

PARCEL ID	ACREAGE	LEGAL DESCRIPTION
17508129	11.500	T 6S R 14W SEC 24 SEWARD MERIDIAN HM BEGIN @INTERSECTION OF N-S LAND LINE BETWEEN WALLI & WADDEL HMSTDS & HWY; TH N 491.7 FT TO POB; TH N 1100 FT; TH W 455.4 FT; TH S 1100 FT; TH E TO POB
17508143	1.350	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0830091 HILLSIDE ACRES SUB TRACTS 2 & 13 1983 LOT 2-B
17508158	1.680	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2004040 HILLSIDE ACRES DOROTHY'S ADDN TRACT 9C
17508159	3.260	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2004088 HILLSIDE ACRES SUB 2004 ADDN TRACT 1D
17510205	0.380	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0980031 FOOTHILLS SUB UNIT 3 LOT 7
17510206	0.470	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0980031 FOOTHILLS SUB UNIT 3 LOT 8
17510210	0.370	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0870068 FOOTHILLS SUB UNIT 2 LOT 12
17510203	0.380	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0980031 FOOTHILLS SUB UNIT 3 LOT 5
17510208	0.310	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0980031 FOOTHILLS SUB UNIT 3 LOT 10
17510214	0.340	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0870068 FOOTHILLS SUB UNIT 2 LOT 15
17510204	0.310	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0980031 FOOTHILLS SUB UNIT 3 LOT 6
17510207	0.430	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0980031 FOOTHILLS SUB UNIT 3 LOT 9
17510219	0.320	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 1 BLOCK 1
17510221	0.320	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 3 BLOCK 1
17510222	0.310	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 4 BLOCK 1
17510224	0.350	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 2 BLOCK 4
17510227	0.330	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 5 BLOCK 4
17510235	0.380	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 7 BLOCK 2
17510237	0.330	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 9 BLOCK 2
17510240	0.320	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 2 BLOCK 3
17510246	0.320	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 8 BLOCK 3
17510249	0.350	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 11 BLOCK 3

Exhibit A

PARCEL ID	ACREAGE	LEGAL DESCRIPTION
17510209	0.430	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0870068 FOOTHILLS SUB UNIT 2 LOT 11
17510223	0.370	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 1 BLOCK 4
17510228	0.310	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 6 BLOCK 4
17510231	0.350	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 3 BLOCK 2
17510232	0.360	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 4 BLOCK 2
17510233	0.400	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 5 BLOCK 2
17510234	0.320	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 6 BLOCK 2
17510238	0.340	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 10 BLOCK 2
17510245	0.340	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 7 BLOCK 3
17510215	0.310	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0870068 FOOTHILLS SUB UNIT 2 LOT 16
17510220	0.320	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 2 BLOCK 1
17510229	0.320	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 1 BLOCK 2
17510241	0.490	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 3 BLOCK 3
17510242	0.400	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 4 BLOCK 3
17510244	0.450	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 6 BLOCK 3
17510247	0.330	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 9 BLOCK 3
17510248	0.330	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 10 BLOCK 3
17510211	14.330	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0860101 FOOTHILLS SUB UNIT 1 LOT 1

Exhibit A

PARCEL ID	ACREAGE	LEGAL DESCRIPTION
17510212	0.420	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0870068 FOOTHILLS SUB UNIT 2 LOT 13
17510213	0.300	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0870068 FOOTHILLS SUB UNIT 2 LOT 14
17510225	0.330	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 3 BLOCK 4
17510226	0.330	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 4 BLOCK 4
17510230	0.320	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 2 BLOCK 2
17510236	0.330	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 8 BLOCK 2
17510239	0.370	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 1 BLOCK 3
17510243	0.390	T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2007031 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 2 PHASE ONE LOT 5 BLOCK 3
17510252	2.430	T 06S R 13W SEC 19 SEWARD MERIDIAN HM 2019010 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 3 TRACT A1
17510253	25.560	T 06S R 13W SEC 19 SEWARD MERIDIAN HM 2019010 FOOTHILLS SUB SUNSET VIEW ESTATES ADDN NO 3 TRACT B
17524026	0.000	
17524031	0.000	
17524034	0.000	
17524103	0.740	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 77
17524107	0.360	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 73
17524109	0.460	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 71
17524110	0.490	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 70
17524112	0.340	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 67
17524024	0.000	
17524025	0.000	
17524028	0.000	
17524032	0.000	
17524033	0.000	
17524105	0.540	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 75
17524114	0.430	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 69
17524115	0.690	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 51
17524116	0.640	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 52

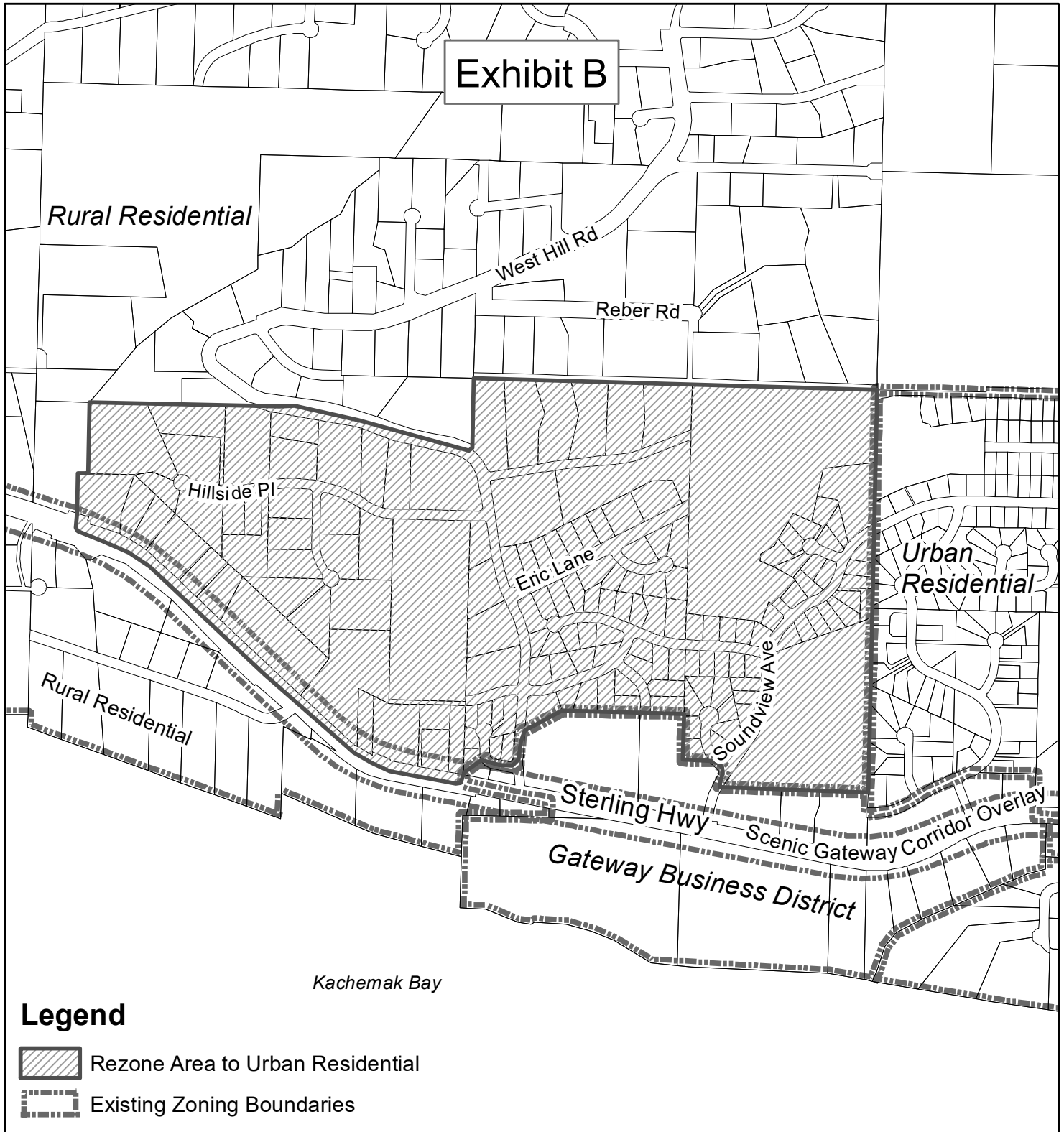
Exhibit A

PARCEL ID	ACREAGE	LEGAL DESCRIPTION
17524128	0.380	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 58
17524027	0.000	
17524029	0.000	
17524030	0.000	
17524104	0.360	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 76
17524106	0.540	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 74
17524118	0.390	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 54
17524121	0.470	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 42
17524129	0.390	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 57
17524134	0.640	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 43
17524174	2.430	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 2
17524175	2.390	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 1
17524113	0.470	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 68
17524117	0.390	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATES LOT 53
17524124	0.520	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 39
17524126	0.350	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 60
17524131	0.410	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 64
17524133	0.510	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 62
17524137	0.440	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 46
17524141	0.530	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 47
17524180	1.720	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB TRACT D
17524108	0.370	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 72
17524111	0.360	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 66
17524119	0.350	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 55
17524120	0.350	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 56
17524122	0.490	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 41
17524123	0.420	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 40
17524125	0.350	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 61
17524127	0.360	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 59
17524138	0.560	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 50
17524139	0.740	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 49
17524130	0.350	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 65
17524132	0.490	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 63

Exhibit A

PARCEL ID	ACREAGE	LEGAL DESCRIPTION
17524135	0.360	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 44
17524136	0.370	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 45
17524140	0.460	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 48
17524170	2.240	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 6
17524171	2.240	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 5
17524172	2.090	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 4
17524173	2.410	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 3
17524177	0.730	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0880016 LILLIAN WALLI ESTATE SUB LOT 36
17524184	0.240	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002052 LILLIAN WALLI ESTATE BAYBERRY HOLLOW ADDN LOT 3
17524187	0.240	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002052 LILLIAN WALLI ESTATE BAYBERRY HOLLOW ADDN LOT 6
17524196	1.740	T 06S R 14W SEC 24 SEWARD MERIDIAN HM 2019029 LILLIAN WALLI ESTATE ROW VACATION PLAT LOT 38-A
17525003	0.910	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0730551 BIDARKI CREEK SUB PLAT OF LTS 2A THRU 5A LOT 4A
17524189	0.280	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002052 LILLIAN WALLI ESTATE BAYBERRY HOLLOW ADDN LOT 8
17524190	0.250	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002052 LILLIAN WALLI ESTATE BAYBERRY HOLLOW ADDN LOT 9
17524192	0.280	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002052 LILLIAN WALLI ESTATE BAYBERRY HOLLOW ADDN LOT 11
17524195	1.210	T 06S R 14W SEC 24 SEWARD MERIDIAN HM 2019029 LILLIAN WALLI ESTATE ROW VACATION PLAT LOT 37-A
17525004	0.910	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0730551 BIDARKI CREEK SUB PLAT OF LTS 2A THRU 5A LOT 3A
17525012	1.010	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2012027 BIDARKI CREEK NO 4 TRACT 1
17524188	0.260	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002052 LILLIAN WALLI ESTATE BAYBERRY HOLLOW ADDN LOT 7
17524191	0.230	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002052 LILLIAN WALLI ESTATE BAYBERRY HOLLOW ADDN LOT 10
17525001	1.030	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0730081 BIDARKI CREEK SUB LOT 6
17525013	2.110	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2012027 BIDARKI CREEK NO 4 TRACT 2
17524185	0.230	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002052 LILLIAN WALLI ESTATE BAYBERRY HOLLOW ADDN LOT 4
17524186	0.250	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 2002052 LILLIAN WALLI ESTATE BAYBERRY HOLLOW ADDN LOT 5
17525002	0.910	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0730551 BIDARKI CREEK SUB PLAT OF LTS 2A THRU 5A LOT 5A
17525005	0.930	T 6S R 14W SEC 24 SEWARD MERIDIAN HM 0730551 BIDARKI CREEK SUB PLAT OF LTS 2A THRU 5A LOT 2A

Exhibit B



City of Homer
Planning and Zoning Department
April 11, 2022

Exhibit B Rural Residential to Urban Residential Rezoning

0 500 1,000 2,000
Feet

41



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



City of Homer

www.cityofhomer-ak.gov

Planning

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Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

MEMORANDUM PL 22-04

TO: Homer Planning Commission
FROM: Rick Abboud, City Planner
DATE: April 20, 2022
SUBJECT: Planning Staff review of text and zoning map amendments West Hill Area Rezone RR to UR

Planning Staff review per 21.95.050

21.95.050 Planning Department review of zoning map amendment. The Planning Department shall evaluate each amendment to the official zoning map that is initiated in accordance with HCC 21.95.020 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

a. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.

Analysis: The general area of the area to be rezoned is represented on the 2018 Homer Comprehensive Plan Land Use Recommendations Map. The proposed amendment complies with Goal 1 of the Comprehensive Plan's Land Use Chapter, to guide Homer's growth with a focus on increasing the supply and diversity of housing. The proposal forwards objectives of Goal 1 including: creating higher densities surrounding the center of town; supporting the desired pattern of growth by updating the zoning map; promoting housing choice by supporting a variety of dwelling options; and promoting density and discouraging sprawl. These objectives are forwarded, as the UR district will allow for less restricted development of housing options such as duplexes or apartments when compared with the RR district.

Finding 1: The zoning map change is consistent with the 2018 Homer Comprehensive Plan.

b. Applies a zoning district or districts that are better suited to the area that is the subject of the amendment than the district or districts that the amendment would replace, because either conditions have changed since the adoption of the current district or districts, or the current district or districts were not appropriate to the area initially.

Analysis: As water and sewer services are expanded in the RR District expectations of density increases. Appendix A of the 2018 Homer Comprehensive Plan specifies that the RR district is to provide area primarily for lower density development and is generally not served by water and sewer services. Whereas, the UR District is described as areas served by water and sewer services. When water and sewer services were extended in the mid 2000's to this part of the RR district and continued in recently proposed and developed subdivisions, the minimum lot size changed from 40,000 to 10,000 square feet per dwelling. This zoning change allows for more residential development as described in the purpose of the UR district in the Homer City Code (HCC). The proposed change in zoning better supports the density that comes with the addition of water and sewer services that are found in the area proposed to be zoned Urban Residential.

Finding 2: The conditions of the district have changed since the adoption of the Rural Residential designation and the Urban Residential District is better suited to the area.

c. Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development, on property within and in the vicinity of the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns.

Analysis: The proposed rezone is served with city water and sewer utilities that are able to support the density allowances in the Urban Residential District. West Hill road provides a collector level of road service that divides the area of proposed rezone, leading to the Sterling Highway. A planned and soon to be constructed link (this season) between Eric Lane and Fairview Avenue will provide an additional source to travel for autos and pedestrians to points of interest toward the commercial areas of town. Additionally, with the recent development of Shelly Avenue, another route has been established to gain access to the Sterling Highway or it can be taken east to several more points of access and interest. These routes are capable to handle traffic expected from the proposed district without incurring unacceptable levels of service.

Finding 3: The rezoning of this area is in the best interests of the public as it supports the Urban Residential District's moderate level of density that is well served by City services.

STAFF COMMENTS/RECOMMENDATIONS:

Planning staff has reviewed the ordinance per HCC 21.95.050 and recommends the Planning Commission conduct a public hearing, and recommend approval to the City Council.

■ CHAPTER 4 LAND USE

Vision Statement: Guide the amount and location of Homer's growth to increase the supply and diversity of housing, protect important environmental resources and community character, reduce sprawl by encouraging infill, make efficient use of infrastructure, support a healthy local economy, and help reduce global impacts including limiting greenhouse gas emissions.

Goals & Objectives for Land Use

GOAL I: Guide Homer's growth with a focus on increasing the supply and diversity of housing, protect community character, encouraging infill, and helping minimize global impacts including limiting greenhouse gas emissions.

Objective A: Promote a pattern of growth characterized by a concentrated mixed-use center, and a surrounding ring of moderate-to-high density residential and mixed-use areas with lower densities in outlying areas.

Many of the community's most important goals are tied to the amount and location of growth. These goals include encouraging affordable housing, protecting environmental quality, creating a walkable community, and efficiently providing public services and facilities. The broad strategy behind this objective is to encourage concentrated residential and business growth in the central area of the city, with densities decreasing in outlying areas. The existing pattern of development in the city and current zoning generally follow this pattern. The alternative to this pattern – to allow this same quantity of growth to spread over a much wider area – works against all these goals.

While concentrating land uses brings many benefits, residents clearly want to maintain a sense of open space and privacy that is often associated with lower density development, particularly in residential areas. As a result, this objective of concentrated growth must be accompanied by a set of standards that ensure housing and commercial areas are well designed. The remainder of this section presents more details on the location of new development. The following sections address the character of new development.

The key element of this section is the generalized Land Use Recommendations Map (*see Appendix A-10, Comprehensive Plan Land Use Recommendations Map*). This is not a zoning map, but a general map of proposed future land uses in Homer. Before these recommendations have the force of law, a separate, subsequent process must occur to amend the City's current zoning code.

Implementation Strategies

- Review Land Use Recommendations Map

Objective B: Develop clear and well-defined land use regulations and update the zoning map in support of the desired pattern of growth.

The Comprehensive Plan Land Use Recommendations Map establishes the location and intent of proposed land use districts, but does not address the standards needed to guide development.

Implementation Strategies

- Revise zoning map
- Encourage preservation of natural system infrastructures
- Review density objectives
- Review appropriate design standards

Objective C: Maintain high quality residential neighborhoods; promote housing choice by supporting a variety of dwelling options.

Diverse, high-quality residential neighborhoods are crucial to the stability and economic health of Homer. Growth puts pressure on housing prices as land prices increase. Neighborhoods established decades ago with large lots face pressure as some landowners create subdivisions with smaller lots, while others would like to preserve the established neighborhood character. Housing choice is crucial to accommodate future growth as the dominant single family large lot developments clearly won't be able to meet future demand in quantity or price.

Implementation Strategies

- Review code for opportunities for appropriate infill
- Support options for affordable housing

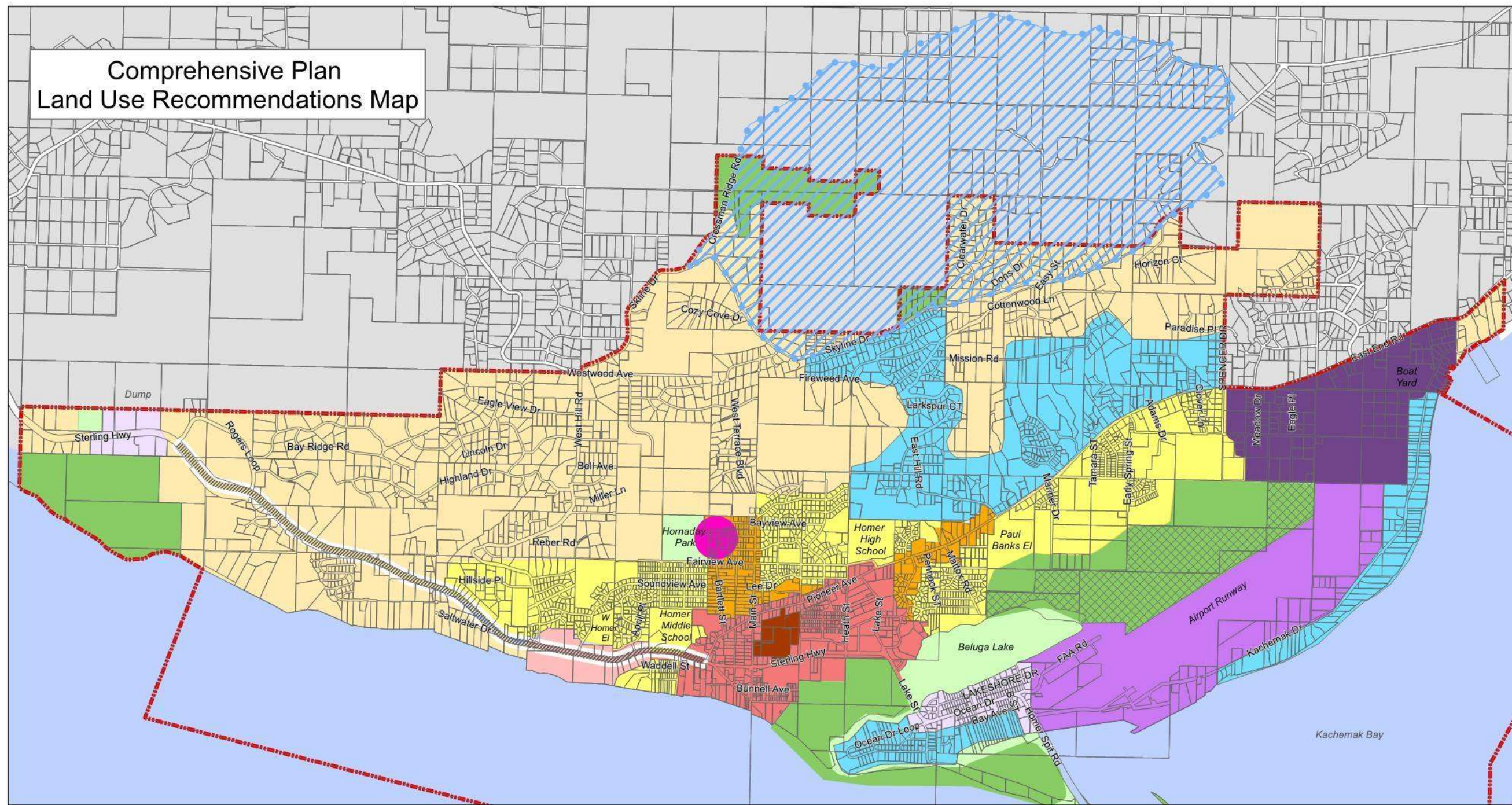


Objective D: Consider the regional and global impacts of development in Homer.

Homer is a community that understands and appreciates its place in the context of the larger, global environment. As shown by its robust environmental nonprofit community and the work of the City's Global Warming Task Force, Homer residents look beyond their boundaries and have expressed the importance of acting locally as a way of addressing global issues.

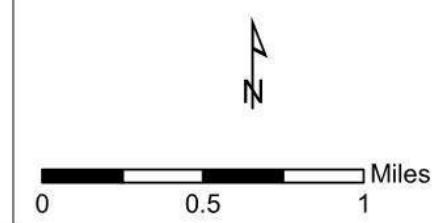
Implementation Strategies

- Review opportunities that support energy efficiency for structures
- Consider land use policies that promote density and discourage sprawl



Legend

Land Use Recommendations	Town Center	Medical District	Rural Residential	City Limits
Bridge Creek Watershed	General Commercial 1	Residential Office	Open Space Rec	Airport Critical Habitat Area
Gateway Business District	General Commercial 2	Urban Residential	Conservation	
Downtown Mixed Use	East End Mixed Use	Residential Transition	Scenic Gateway Corridor Overlay	



City of Homer

- Minimal building setbacks to create a friendly, pedestrian-oriented streetscape.
- Encourage parking off-site (e.g., allowing payment of a fee in lieu of meeting on-site parking standards, through shared parking arrangements, through reducing on-site requirements by providing public parking and protected pedestrian ways).
- **Development standards include:**
 - Create an attractive, pedestrian-oriented environment (e.g., windows and doors that are close to the street, landscaped parking, standards to humanize buildings such as clearly articulated entries).
 - Advisory guidelines re design character, so buildings and other structures within the district are compatible with one another and with the surrounding area.
 - Consider establishing an overlay zone for Old Town so buildings in that portion of the district feature an “Old Homer” historical character.
 - Consider establishing a University district.

MEDICAL DISTRICT

- **Intent** Acknowledge demand for medical services will increase with a larger, aging population. Enact zoning regulations that allow medical services to expand with the growing need for life long medical care, in a localized area near the hospital.
 - Work with area residents and business owners to identify desirable neighborhood character and appropriate performance standards such as building bulk and scale, density, signage, lighting and parking lot development.
 - Other issues may be identified and addressed through the zoning process.

EXISTING LAND USE CATEGORIES

RESIDENTIAL

UR (URBAN RESIDENTIAL)

- **Intent** The R-1 district is intended to provide more intense residential development in the city core, in a manner that matches Homer’s small town character and encourages increased densities near pedestrian-oriented commercial areas.
- **Primary Use** Medium and medium-high density residential including single-family, duplex, and multiple-family; allow for a variety in housing types and housing price levels.
- **Other Uses, Allowances, and Specifications**
 - Areas generally served by water and sewer; central locations with excellent access to a range of urban services and facilities.
 - Residential is primary use; but allows for other uses where these uses maintain residential character.
 - Moderate lot size minimums (for example, 6000 square foot lots for single family homes).
 - Allows bed and breakfasts by right, allows second units and duplexes by right (both subject to standards). (For purposes of this plan, a B&B is defined as lodging where owner proprietor resides on site.)

- Allows home-based businesses by right (subject to standards).
- **Development standards**
 - Encourage attractive, diverse housing types (vs. “cookie-cutter” subdivisions).
 - Ensure newer housing is compatible with character of older neighborhoods (for example, by requiring transitional densities, buffer uses).

RR (RURAL RESIDENTIAL)

- **Intent** The R-3 district is intended to provide areas for low density residential development and limited agricultural pursuits.
- **Primary Use** Low-density residential development in outlying locations, generally with less services and/or lower level of service than in urban areas.
- **Other Uses, Allowances, and Specifications**
 - Areas generally not served by water and sewer, nor likely to be served in the near future.
 - Larger lot sizes or cluster subdivisions to preserve sense of open space.
 - Allows accessory housing units by right (subject to standards).
 - Allows bed and breakfasts by right, subject to standards (for purposes of this plan B&B defined as lodging where owner proprietor resides on site)
 - Allows home-based businesses by right, subject to standards; allows some larger non-retail business activities subject to administrative review.
- **Development standards**
 - Option for higher densities and cluster development. Encourage open space subdivisions as alternative to more typical lot layouts.
 - Ensure newer housing is compatible with character of older neighborhoods.

COMMERCIAL AND MIXED USE

CBD (CENTRAL BUSINESS DISTRICT)

- **Intent** The intent of the CBD commercial district is to provide a mixed use business district in the core area of Homer, with greater allowance for vehicular use than in the Downtown district, but still with a character that encourages pedestrian use.
- **Primary Use** Provide a centrally located area within the City for a mixture of urban uses and activities, including general retail shopping, personal and professional services, educational institutions, entertainment establishments, restaurants and related businesses, civic uses, recreation, and residential uses. Allow a mixture of residential and commercial uses but conflicts resolved in favor of business.
- **Other Uses, Allowances, and Specifications**
 - Areas served by public water and sewer, full range of other urban services
 - Allow and encourage relatively high densities (sufficient concentration of uses to encourage circulation by foot).
 - On-site parking required (option for shared parking with an approved parking plan).

City of Homer Zoning Map

0 0.25 0.5 1 Miles

November 2, 2020

Abbreviations
MC = Marine Commercial
MI = Marine Industrial
OSR = Open Space Recreation
CONS = Conservation

Legend

City Limits

2020 Zoning

Zone

Gateway Business District

Central Business District

Town Center

General Commercial 1

General Commercial 2

East End Mixed Use

Marine Commercial

Marine Industrial

Open Space Rec

Conservation

Bridge Creek Watershed

Rural Residential

Urban Residential

Residential Office

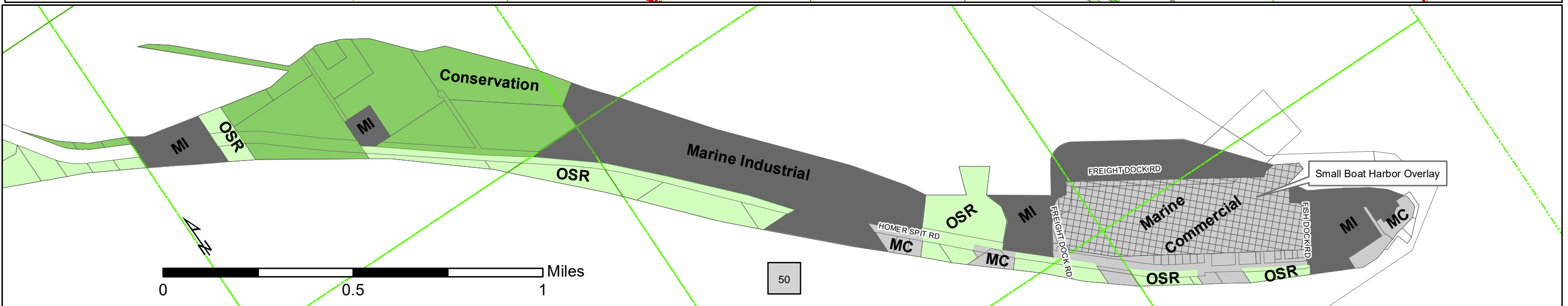
Medical

Scenic Gateway Corridor Overlay

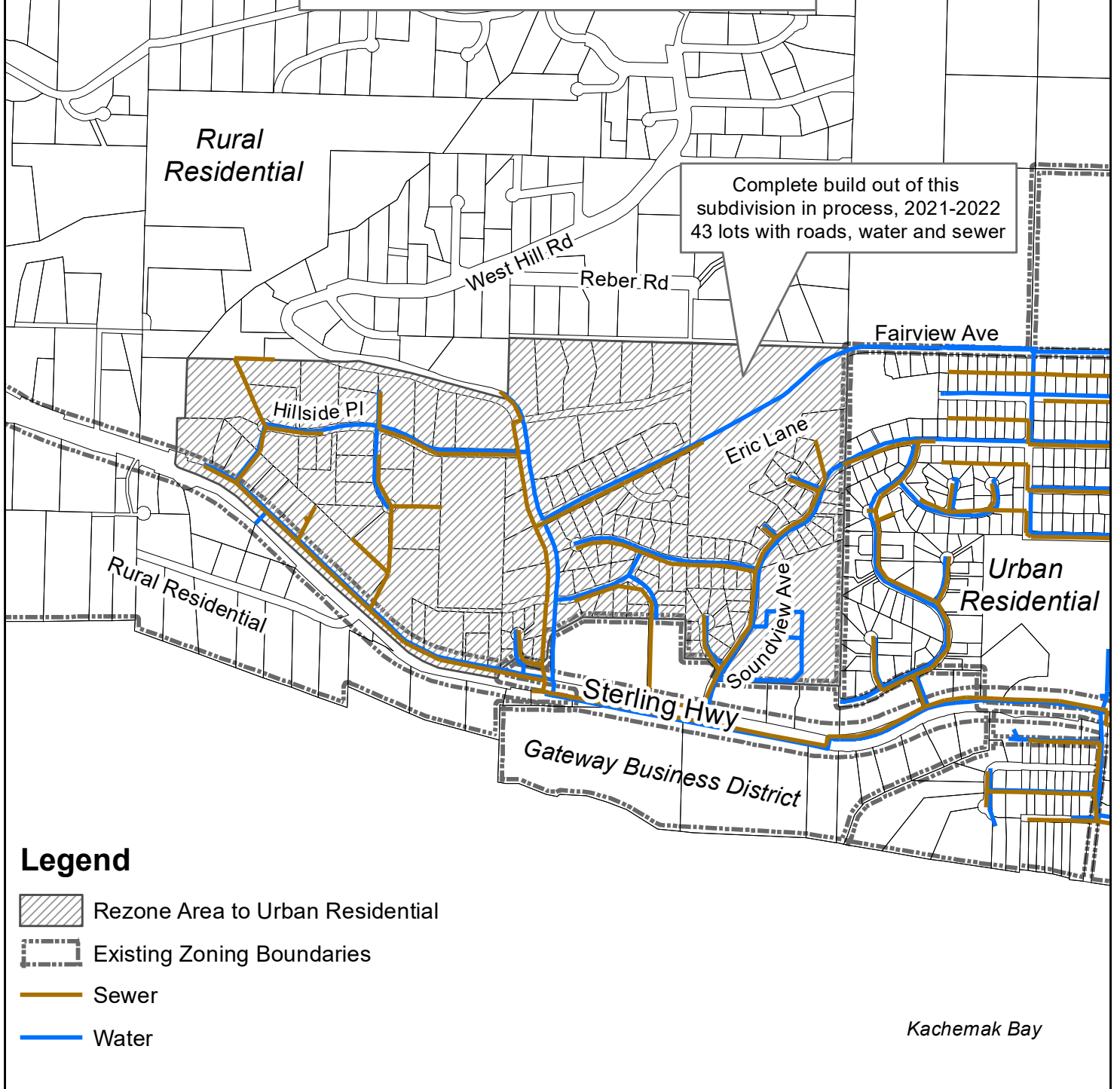
Small Boat Harbor Overlay

Section Lines

Ordinance No.	Date
83-07	2/15/83
83-30	12/13/82
84-28	10/23/84
85-10	5/28/85
86-18	6/24/86
86-23	8/26/86
86-24	8/26/86
86-25	8/26/86
92-47	9/29/92
92-50	12/15/92
98-14	7/27/98
1-27(S)	5/13/02
02-11	5/13/02
02-42(S)(A)	7/28/03
03-08	2/25/03
03-10	2/25/03
03-11(S)(A)	2/25/03
03-03(S)	3/11/03
03-04(S)	3/11/03
03-05(S)	3/11/03
03-09	3/11/03
03-20	5/13/03
03-37	7/29/03
05-07	3/15/05
05-33	6/28/05
06-20(A)	9/15/06
06-22	4/25/06
06-58	9/15/06
06-51(S)(A)	9/26/06
07-52(A-2)	2/25/08
08-06	2/12/08
08-08(A)	3/25/08
08-20	6/24/08
08-12(S)(A-2)	10/14/08
09-44(S)	10/13/09
09-19	10/26/09
12-10	2/28/12
12-11(A)	3/28/12
13-12(S)	5/14/13
16-34	6/28/16
20-02	1/28/20
20-49	8/25/20
20-59(A)	9/29/20



Water/Sewer Infrastructure



City of Homer
Planning and Zoning Department
April 11, 2022

Water/Sewer Infrastructure

0 500 1,000 2,000 Feet

51



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

NOTES

1. BASIS OF BEARING FOR THIS SURVEY WAS DETERMINED BY A HIGH PRECISION GPS SURVEY USING TOPCON DUAL-FREQUENCY HI-PER V RECEIVERS, DIFFERENTIALLY CORRECTED AND PROCESSED WITH MAGNET OFFICE VERSION 3.1 SOFTWARE. NAD83 ALASKA STATE PLANE GRID COORDINATES (U.S. SURVEY FEET) OBTAINED FROM THE GPS OBSERVATIONS WERE BASED ON THE NGS PUBLISHED VALUES FOR FEDERAL BASE NETWORK CONTROL STATION "HOMAR" (PID T0155).

2. TRUE BEARINGS AND DISTANCES WERE DETERMINED BY ROTATING AND SCALING FROM GRID USING FEDERAL BASE NETWORK CONTROL STATION "HOMAR" AS A SCALING POINT. TRUE BEARINGS WERE DETERMINED BY ROTATING GRID INVERSE AZIMUTHS $-1^{\circ}17'13.4''$. TRUE DISTANCES WERE OBTAINED BY DIVIDING GRID INVERSE DISTANCES BY 0.999986696.

3. THE RESULTING SCALED COORDINATES WERE TRANSLATED TO A LOCAL COORDINATE SYSTEM BASED ON FEDERAL BASE NETWORK CONTROL STATION "HOMAR" N=100,000 E=100,000. ALL COORDINATE VALUES REPRESENT GRID DISTANCES IN U.S. SURVEY FEET ORIENTED TO TRUE NORTH.

4. THE 10 FEET FRONTING THE STREET RIGHT-OF-WAYS AND THE FRONT 20 FEET WITHIN 5 FEET OF THE SIDE LOT LINES IS A UTILITY EASEMENT. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.

5. ANY PERSON DEVELOPING THE PROPERTY IS RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE, AND FEDERAL PERMITS, INCLUDING A U.S. ARMY CORPS OF ENGINEERS WETLAND DETERMINATION IF APPLICABLE.

6. THESE LOTS ARE SERVED BY CITY OF HOMER SEWER.

7. ALL LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO CITY OF HOMER ZONING REGULATIONS. REFER TO THE HOMER CITY CODE FOR ALL CURRENT SETBACK AND SITE DEVELOPMENT RESTRICTIONS. OWNERS SHOULD CHECK WITH THE CITY OF HOMER PLANNING DEPARTMENT PRIOR TO DEVELOPMENT ACTIVITIES.

8. SET A 5/8" X 30" REBAR WITH 2" ALCAP (7538-S 2020) AT ALL LOT CORNERS AND RIGHT-OF-WAY POINTS OF CURVATURE UNLESS INDICATED OTHERWISE.

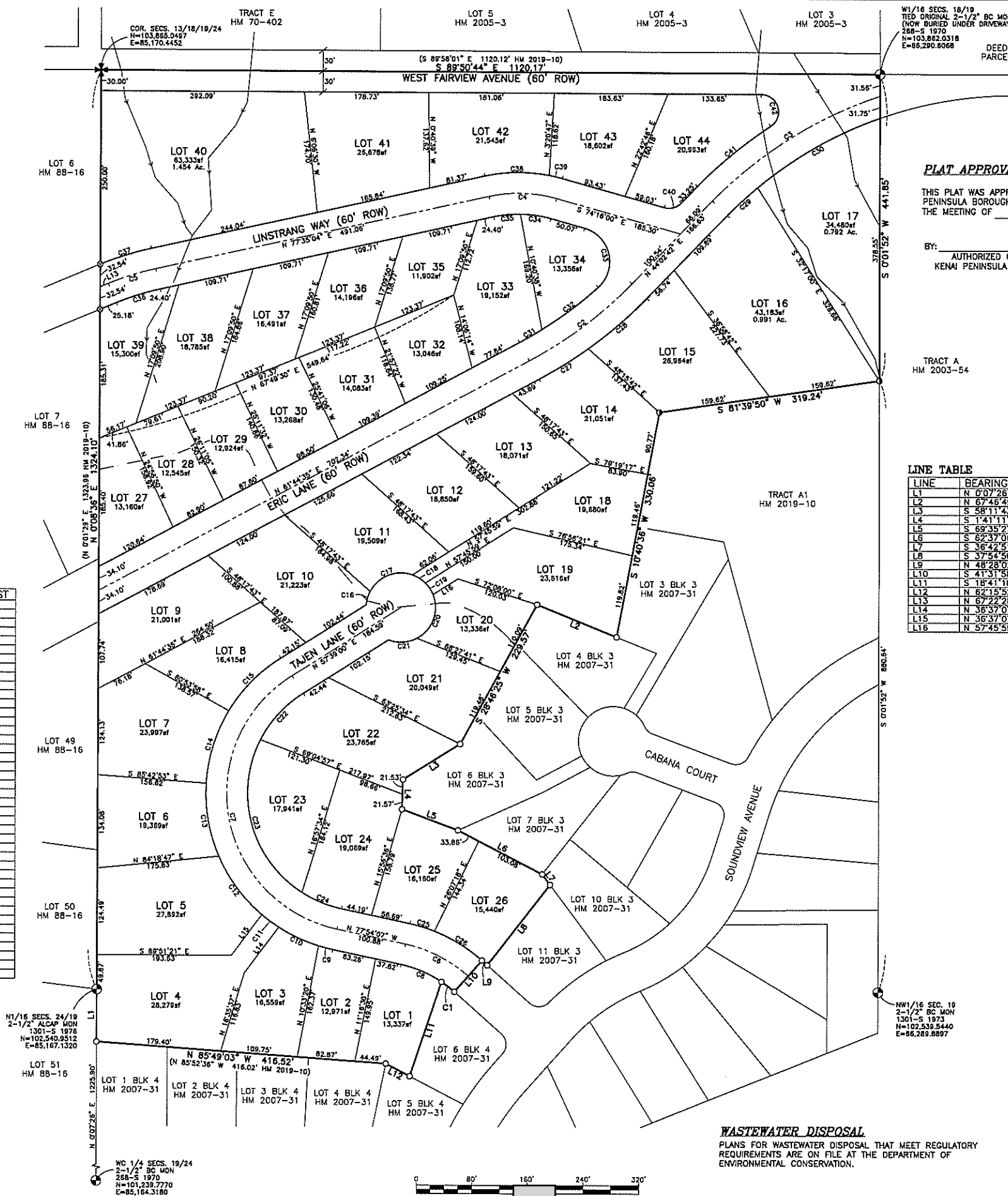
9. THE LOT IS AFFECTED BY AN EASEMENT OF RECORD WITH NO DEFINED LOCATION GRANTED TO HOMER ELECTRIC ASSOCIATION (BK17, PG 328 HRD).

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD BRNG	CHORD DIST
C1	751.97	170.00	23.34	N 52°24'00" W	23.32
C2	27°23'45"	600.00	185.33	N 52°33'39" E	184.60
C3	27°23'45"	600.00	286.09	N 57°44'56" E	284.16
C4	28°08'56"	200.00	98.28	S 88°20'28" E	97.27
C5	10°12'35"	400.00	71.28	N 72°28'46" E	71.18
C6	29°26'05"	200.00	102.75	N 63°11'04" W	101.62
C7	135°33'07"	200.00	473.17	N 10°07'34" W	370.28
C8	21°34'08"	170.00	64.00	N 67°07'03" W	63.62
C9	5°14'55"	230.00	21.07	N 75°16'40" W	21.06
C10	15°37'45"	230.00	62.74	N 64°50'20" W	62.55
C11	7°28'43"	230.00	30.02	N 53°17'05" W	30.00
C12	28°10'52"	230.00	105.10	N 36°27'17" W	104.19
C13	26°47'23"	230.00	107.54	N 9°58'10" W	106.56
C14	27°30'27"	230.00	110.44	N 17°10'56" E	109.39
C15	26°42'41"	230.00	107.23	N 44°19'40" E	106.26
C16	23°21'51"	50.00	20.39	N 13°52'07" E	20.25
C17	61°38'35"	50.00	71.25	N 68°22'20" E	65.37
C18	25°39'27"	50.00	22.39	S 57°50'39" E	22.20
C19	23°04'50"	50.00	20.14	S 33°36'30" E	20.01
C20	84°22'56"	50.00	73.64	N 20°07'23" E	67.16
C21	48°07'57"	50.00	42.00	N 86°22'50" E	40.78
C22	30°52'43"	170.00	91.61	N 42°12'43" E	90.51
C23	83°56'28"	170.00	249.08	N 15°11'13" W	247.37
C24	20°44'08"	170.00	61.52	N 67°32'03" W	61.19
C25	9°16'31"	230.00	37.23	N 73°15'52" W	37.19
C26	20°09'34"	230.00	80.93	N 58°32'49" W	80.51
C27	7°34'21"	630.00	83.27	N 57°57'24" E	83.20
C28	16°07'31"	630.00	111.33	N 49°08'28" E	111.19
C29	5°54'36"	570.00	58.60	N 47°00'01" E	58.77
C30	20°28'06"	570.00	203.63	N 60°11'02" E	202.55
C31	3°44'18"	570.00	37.19	N 59°52'26" E	37.18
C32	10°12'28"	570.00	101.55	N 52°54'03" E	101.42
C33	122°03'49"	50.00	106.52	N 1°14'06" W	87.49
C34	15°01'53"	170.00	44.60	S 81°46'57" E	44.47
C35	13°07'03"	170.00	38.92	N 84°08'35" E	38.84
C36	10°12'35"	370.00	65.93	N 72°28'46" E	65.85
C37	10°12'35"	430.00	76.82	N 72°28'46" E	76.82
C38	23°20'19"	230.00	93.69	N 89°15'13" E	93.04
C39	4°48'37"	230.00	19.31	S 76°40'19" E	19.30
C40	61°41'17"	25.00	26.92	N 74°53'21" E	26.64
C41	12°23'42"	630.00	136.29	N 50°14'33" E	136.02
C42	148°17'08"	25.00	63.83	N 16°42'10" W	47.85

LEGEND

- INDICATES 1917 2-1/2" BC GLO MONUMENT RECOVERED THIS SURVEY
- INDICATES PRIMARY MONUMENT RECOVERED THIS SURVEY AS DESCRIBED
- INDICATES 5/8" REBAR WITH 2" ALCAP (5780-S, 2007) RECOVERED THIS SURVEY
- INDICATES 5/8" REBAR WITH 2" ALCAP (7610-S 2017) RECOVERED THIS SURVEY
- INDICATES 5/8" REBAR WITH 1-1/2" ALCAP (NO LS# OR DATE) RECOVERED THIS SURVEY
- INDICATES LIMIT OF DISCHARGE SLOPE DESIGNATION PER KENAI WATERSHED FORUM WETLANDS ASSESSMENT
- INDICATES APPROXIMATE CENTERLINE OF DRAINAGE

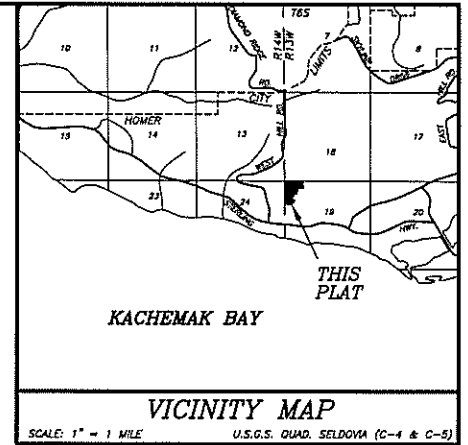


PLAT APPROVAL

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

BY: _____
AUTHORIZED OFFICIAL
KENAI PENINSULA BOROUGH

DATE _____



CERTIFICATE OF OWNERSHIP AND DEDICATION

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

TL INVESTMENTS, LLC
TOM STAFFORD, MANAGER
PO BOX 3403
HOMER, ALASKA 99603

NOTARY'S ACKNOWLEDGMENT

FOR TOM STAFFORD

ACKNOWLEDGED BEFORE ME THIS _____

DAY OF _____, 2020.

NOTARY PUBLIC FOR ALASKA

MY COMMISSION EXPIRES: _____

CERTIFICATE OF ACCEPTANCE

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

THE UTILITY EASEMENTS WITHIN THE 10' FEET ADJACENT TO ALL STREET ROW'S AND THE FRONT 20 FEET WITHIN 5 FEET OF SIDE LOT LINES.

ERIC LANE (60' ROW), TAJEN LANE (60' ROW), LINSTRANG WAY (60' ROW), MATCHING 30' ROW WEST FAIRVIEW AVENUE.

THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSE DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.

BY: _____ DATE: _____
KATIE KOESTER, CITY MANAGER
CITY OF HOMER, ALASKA

HOMER RECORDING DISTRICT KPB FILE No. 2020-???

FOOTHILLS SUBDIVISION SUNSET VIEW ESTATES 2020 ADDITION

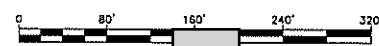
THE SUBDIVISION OF TRACT B
FOOTHILLS SUBDIVISION SUNSET VIEW ESTATES ADDITION NO. 3
(HM 2019-10)
LOCATED WITHIN THE NW 1/4 SEC 19,
T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI
PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA
CONTAINING 25.569 ACRES
OWNER:
TL INVESTMENTS, LLC PO BOX 3403 HOMER, AK 99603

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

DRAWN BY: SCS DATE: APRIL 2020 SCALE: 1" = 80'
CHK BY: SCS JOB #2020-23 SHEET 1 OF 1

WASTEWATER DISPOSAL

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



GRAPH 52 LE

SURVEYOR LICENSE # DATE

Road Maintenance Map



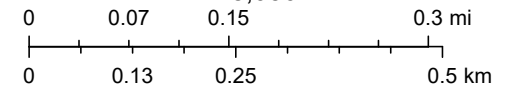
April 13, 2022

Streets

- Rural Road Maintenance
- Urban Road Maintenance
- State Road Maintenance
- City of Homer Parcels

53

1:18,056



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Sources: Esri,

Proposed Zoning Amendment





Zoning Differences: Rural Residential (RR) and Urban Residential (UR)

Permitted uses allowed in RR but not in UR (provision is eliminated or changed as indicated below)

g. Agricultural activities, including general farming, truck farming, livestock farming, nurseries, and greenhouses; provided, that: **(changed)**

1. Other than normal household pets, no poultry or livestock may be housed and no fenced runs may be located within 100 feet of any residence other than the dwelling on the same lot;
2. No retail or wholesale business sales office is maintained on the premises;

h. Private stables; **(changed)**

m. Temporary (seasonal) roadside stands for the sale of produce grown on the premises; **(eliminated)**

n. Mobile homes, subject to the requirements of HCC 21.54.100; **(eliminated)**

Conditional Uses (needing Planning Commission approval) allowed in RR but not in UR (eliminated)

c. Cemeteries;

d. Kennels;

e. Commercial greenhouses and tree nurseries offering sale of plants or trees grown on premises;

f. Mobile home parks;

g. Public utility facilities and structures;

Provisions for the keeping of animals as a Permitted Use in UR (changed)

j. The outdoor harboring or keeping of dogs, small animals and fowl as an accessory to a residential use in a manner consistent with the requirements of all other provisions of the Homer City Code and as long as such animals are pets of the residents of the dwelling and their numbers are such as not to unreasonably annoy or disturb occupants of neighboring property;

o. Public schools and private schools;

Provisions for stables as a Conditional Use in UR (changed)

h. Private stables and the keeping of larger animals not usually considered pets, including paddocks or similar structures or enclosures utilized for keeping of such animals as an accessory use incidental to a primary residential use; such use shall be conditioned on not causing unreasonable disturbance or annoyances to occupants of neighboring property, and on sufficient land to harbor such animals;

Dimensional Standards

Lots in RR are required to have a minimum of 10,000 square feet per dwelling unit.

Lots in UR are required to have a minimum of 7,500 square feet for single-family or duplex dwellings and have the option to provide multi-family (3 or more) dwellings according to floor area and open area requirements.

Multiple-family dwelling containing three or more units shall meet the following standards:

- a. The total floor area shall not be more than four-tenths the lot area;
- b. The total open area shall be at least 1.1 times the total floor area. Open area is any portion of the lot not covered or used for parking spaces and maneuvering.



PROPOSED ZONING AMENDMENT



AMENDING RURAL RESIDENTIAL DISTRICT (RR) TO URBAN RESIDENTIAL (UR)

Homer's population is growing and to keep pace with community needs, the City is considering a land use change to the district located between West Homer Elementary School and Bidarki Creek north of Sterling Highway.

This amendment is part of the long-term vision in the adopted 2018 Comprehensive Plan. To see how this might impact you, visit the web page below.

Proposed Zoning Map Amendment

<https://www.cityofhomer-ak.gov/planning/proposed-zoning-map-amendment>

OPPORTUNITY TO PARTICIPATE

April 20: Public Hearing at 6:30 p.m.
Homer Planning Commission

See reverse side for more information about
the public hearing and how to participate

CONTACT PLANNING

City of Homer Planning Office
491 E. Pioneer Avenue
Homer, AK 99603
907-235-3106
planning@ci.homer.ak.us



[cityofhomer-ak.gov/
planning](https://cityofhomer-ak.gov/planning)

**CITY OF HOMER
PUBLIC HEARING NOTICE
PLANNING COMMISSION MEETING**

A public hearing on the matter below is scheduled for Wednesday, April 20, 2022 at 6:30 p.m. during the Regular Planning Commission Meeting. Participation is available virtually via Zoom webinar or in-person at Homer City Hall.

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA AMENDING HOMER CITY CODE 21.10.030 AMENDING THE HOMER CITY ZONING MAP TO REZONE A PORTION OF THE RURAL RESIDENTIAL (RR) ZONING DISTRICT TO URBAN RESIDENTIAL (UR) ZONING DISTRICT.

In-person meeting participation is available in Cowles Council Chambers located downstairs at Homer City Hall, 491 E. Pioneer Ave., Homer, AK, 99603.

To attend the meeting virtually, visit zoom.us and enter the Meeting ID & Passcode listed below. To attend the meeting by phone, dial any one of the following phone numbers and enter the Webinar ID & Passcode below, when prompted: 1-253-215-8782, 1-669-900-6833, (toll free) 888-788-0099 or 877-853-5247.

Meeting ID: 979 8816 0903

Passcode: 976062

Additional information regarding this matter will be available by 5pm on the Friday before the meeting. This information will be posted to the City of Homer online calendar page for April 20, 2022 at <https://www.cityofhomer-ak.gov/calendar>. It will also be available at the Planning and Zoning Office at Homer City Hall and at the Homer Public Library.

Written comments can be emailed to Planning and Zoning Office at the address below, mailed to Homer City Hall at the address above, or placed in the Homer City Hall drop box at any time. Written comments must be received by 4pm on the day of the meeting.

If you have questions, contact Rick Abboud at the Planning and Zoning Office. Phone: (907) 235-3106, email: planning@ci.homer.ak.us or in-person at Homer City Hall.

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

.....

VICINITY MAP ON REVERSE



Jonathan Faulkner <landsendjdf@gmail.com>

Re-zone.

Jonathan Faulkner <landsendjdf@gmail.com>
To: Jon Faulkner <landsendjdf@gmail.com>

Thu, Apr 7, 2022 at 8:58 AM

Jon- Please Enter this into the record regarding the proposed rezoning from Reynolds and Beth Holiman, 1486 Hillside place

It seems as though the small lot change will induce developers to buy old houses, tear them down, then replat the lots just to get their lot-price-per-house lowered. (Our lot could probably be made into 4 lots)

We are requesting that the existing lots on hillside place be left out of the zoning change. If an owner wants to do a tear down and replat to smaller lots, they should have to bring it before the board.

Many of us bought the older homes on the larger lots because of the spacious yards and abundant trees, brush, and wildlife cover. The proposed change would take away the rural feel because of clearing and grading to create home pads and drives on the smaller lots.

In order to grade this hill for the smaller lots, the trees would have to be removed and substantial amounts of soil would be disturbed. The side slopes of the West hill road embankment above us is already graded at angles only a few degrees less steep than the natural angle of repose.

We have already had 1 mud slide above our house which had to be repaired at considerable expense.

Our water pressure is low right now. It is unlikely that the city is prepared to spend extra dollars needed to upgrade the water system for this increase in density. A study of water pressure and water availability for this area should be required before the rezoning is considered.

With the above facts in mind, we respectfully request that lots down hill from West hill road along Hillside place be left in their current zoning.

Respectfully. Beth and Reynolds Holiman
1486 Hillside Place

Jon. Please edit if you need to and enter into the record. Thanks. Reynolds and Beth

9:00 Eastern Time Wednesday

Sent from my iPhone

Hand Delivered? 4/8/22
Jonathan Faulkner

From: [Kasia](#)
To: [Department Planning](#)
Subject: Proposed Zoning Amendment
Date: Monday, April 11, 2022 2:09:15 PM

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

To Whom it May Concern,

Please do not move forward with the proposal to amend the zoning of our neighborhood from Rural Residential to Urban Residential.

I do not want multi-family housing in our neighborhood. This neighborhood is single-family residential it needs to stay that way. New development also needs to be single family.

This ill-conceived idea is what people do when they think they are going to fix a perceived "problem" but only succeed in creating several real problems. If people feel the need for multi-family housing they should move to Anchorage.

Sincerely,
Katarzyna Robotkay
3866 Cabana Ct
Homer, AK 99603

From: [Travis](#)
To: [Department Planning](#)
Subject: Proposed Zoning Amendment
Date: Monday, April 11, 2022 2:04:03 PM

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

To Whom it May Concern,

Please do not move forward with the proposal to amend the zoning of our neighborhood from Rural Residential to Urban Residential. We are happy with the status of our neighborhood.

We absolutely do not want multi-family housing in our neighborhood. This neighborhood is single-family residential it needs to stay that way. New development also needs to be single family. If people feel the need for multi-family housing they should move to Anchorage.

Sincerely,
Travis Robotkay
3866 Cabana Ct
Homer, AK 99603

Session 22-03, a Regular Meeting of the Planning Commission was called to order by Chair Scott Smith at 6:30 p.m. on March 2, 2022 at the Cowles Council Chambers in City Hall located at 491 E. Pioneer Avenue, Homer, Alaska, and via Zoom Webinar.

PRESENT: COMMISSIONERS BARNWELL, CHIAPPONE, HIGHLAND, VENUTI, CONLEY, AND SMITH

ABSENT: COMMISSIONER BENTZ (EXCUSED)

STAFF: DEPUTY CITY PLANNER ENGBRETSSEN
DEPUTY CITY CLERK KRAUSE

The Commission met at 5:30 p.m. for a worksession prior to the regular meeting. On the agenda was discussion on the Special Events and Mobile Food Truck permitting regulations and the approved Wayfinding and Streetscape Plan.

APPROVAL OF THE AGENDA

HIGHLAND/BARNWELL 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 February 16, 2022

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

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

PRESENTATIONS / VISITORS

REPORTS

- A. Staff Report 22-15, City Planner's Report

Deputy City Planner Engebretsen reviewed Staff Report 22-15 highlighting the following:

- opportunity for training virtually in conjunction with the Alaska Planners Conference
- April 23rd, 2022 deeper dive into specific and technical questions
- At the Planning Conference Week of April 22nd-24th presentations on Coastal Setback regulations and challenges to take the technical information and turn into land use regulations
- EDC has identified affordable workforce housing and balancing the quality of life as the community grows
- New plans for the property at the corner of Pioneer and Sterling Highway information available on the city website
- Notice to property owners regarding changes in zoning

Deputy City Planner Engebretsen provided information in response to Commissioner questions on the proposed community multi-use center and where the information was located on the city website, demolition schedule, and funding.

PUBLIC HEARINGS

A. Staff Report 22-16, Storage Container Dwellings

Chair Smith introduced the item by reading of the title.

Deputy City Planner Engebretsen reviewed Staff Report 22-16 for the Commission.

Chair Smith opened the public hearing and having no one present he closed the public hearing.

Chair Smith requested a motion and second.

HIGHLAND/VENUTI - MOVED TO ADOPT STAFF REPORT 22-16 AND RECOMMEND FORWARDING TO CITY COUNCIL THE DRAFT ORDINANCE AMENDING HOMER CITY CODE 21.03.040 DEFINITIONS USED IN ZONING CODE, "DWELLING" OR "DWELLING UNIT" TO EXCLUDE THE USE OF CONNEX BOXES OR OTHER SIMILAR INTERMODAL SHIPPING CONTAINERS.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried

PLAT CONSIDERATION

A. Staff report 22-17, Puffin Acres Bayweld 2022 Replat

Chair Smith introduced the item by reading of the title.

Commissioner Conley declared he had a conflict of interest.

HIGHLAND/VENUTI MOVED THAT COMMISSIONER CONLEY HAS A CONFLICT OF INTEREST.

Commissioner Conley stated that he is employed by Bayweld but personally he would not financially benefit more than his employment.

VOTE. NO. VENUTI, SMITH, CHIAPPONE, BARNWELL.

VOTE. YES. HIGHLAND.

Motion failed.

Deputy City Planner Engebretsen declared that in accordance with city code she does not have a conflict as the parties involved relationship is not as defined in Homer City Code. She explained that the applicants were her husband's grandfather's brother.

Deputy City Planner Engebretsen reviewed and provided a summary of Staff Report 22-17 for the commission.

Chair Smith opened the public comment period and having no public present he closed the public comment period and requested a motion.

HIGHLAND/VENUTI - MOVED TO ADOPT STAFF REPORT 22-17 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT TO MOVE A LOT LINE SHARED BY TWO PARCELS WITH THE FOLLOWING COMMENT:

1. DISPLAY A 15 FOOT UTILITY EASEMENT ADJACENT TO ALL RIGHTS OF WAY.

There was a discussion on the lot line placement and the distance from the structure and any possible encroachments and the Borough does not allow the moving of lot lines if there will be an encroachment.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS

A. Staff Report 22-18, Building Codes

Chair Smith Introduced the item by reading of the title and invited Deputy City Planner Engebretsen to speak to the staff report.

Deputy City Planner Engebretsen reported that a memorandum was provided for the Commission review and requested a motion of approval and forward to City Council. She noted that a typographical error on second to last line on the first page should have the word "are" inserted after the word "Homer".

Commissioner Highland reported an additional typographical error on page two, second to last line, the word should be "versus" not "verses".

Commissioners reviewed and made the following comments on the content of the memorandum as follows:

Commissioner Barnwell expressed that the tone of the memorandum was conversational and wondered what the City Planner's specific recommendation was to City Council.

Deputy City Planner Engebretsen explained that the memorandum was from the Commission to City Council and read the first line of the memorandum into the record, and noted that the memorandum did not end with that same statement. She stated that the Commission can make changes to the memorandum or they can reformat the memorandum with the recommendation at the top and leave the rest of the memorandum as is.

Commissioner Barnwell expressed that in his opinion the memorandum was a little vague and the Commission has had a lot of discussion on this topic and he for one had mixed feelings about adopting a formal building code or building department at this time. He wanted to make sure that City Council gets a message, in his opinion, get a message like that. Commissioner Barnwell continued by stating that he was not sure that, he hates to say argument, but the argument that they were having at the last meeting and would like to see the memorandum re-written.

Commissioner Highland stated that the first sentence in the memorandum clarifies and goes on to state that there are other ways to do it besides a building department so she was unsure unless Commissioner Barnwell had some other language he wanted use and they could re-write the memorandum right now would be one technique.

Commissioner Barnwell agreed with the first sentence, but expressed that he would prefer to see the very end written as a position statement and assumed it was a question of writing style. He further stated that the first two paragraphs in the memorandum were fine but given that this is such an important topic and issue for Homer, he believed that it should be re-written and he could not do that at this time off the top of his head, but emphasized he would like to see the memorandum concluded better or make some kind of specific recommendation at the end anecdotally stating that he was not a writer like Commissioner Chiappone or Commissioner Venuti.

Commissioner Chiappone questioned if Commissioner Barnwell wanted to specifically state in the memorandum that the Commission recommends investigating the use of contractors as opposed to creating a building department.

Commissioner Barnwell responding that he did and further stated that the memorandum could state something like, it boils down to the question of should we adopt, just speaking out loud from the last meeting, another layer of bureaucracy for a building department and formal building codes when the alternative is to not have such a formalized approach at this time and maybe a third point would be that the Commission recommends the Planning Department look at options a little more closely and do a bit more analysis.

Commissioner Chiappone rephrasing the last statement asked if Commissioner Barnwell wanted to recommend that they do a cost analysis between having a building department versus using existing contractors of some kind.

Commissioner Barnwell responded that was what he was referring to and noted that it was brought up at the last meeting and continued by stating he would like to have a cost analysis and a very clear comparison of the options with the pros and cons.

Deputy City Planner Engebretsen provided two points in response as follows:

- City Council is going to have a visioning session in mid-March and if the Commission would like them to have a conversation on Building Codes then passing this memorandum tonight is important so that it can be placed in the next Council packet. Holding it over to the March 16th Commission meeting is too late and they could potentially lose a year of opportunity on getting it on Council's agenda for action.
- The Planning Department is at its limit on what it can do in-house. Analyzing this in order for something to happen further, City Council will need to approve funding no matter what is decided. The Commission needs to make a motion that they find this item important and that there are different models that can be reviewed and not sure which model would be the best.

HIGHLAND/BARNWELL MOVED TO ADOPT STAFF REPORT 22-18 AND FORWARD THE DRAFT MEMORANDUM TO CITY COUNCIL AND ADMINISTRATION ON IMPLEMENTATION OF LOCAL BUILDING CODES.

Further discussion on the following points ensued:

- concerns of how sustainable a building department would be
- added costs on the contractors
- getting input from the business community in the implementation of building codes and how that would affect them
- expressing a strong belief that it can be and has been done by private businesses since 1994
- Concerns on efficiencies and effectiveness being conducted by a municipal building department compared to private businesses
- this is not a quick process and there will be plenty of opportunity in the future for public comment and testimony
- potential hiring of a consultant as the Planning department is not qualified to draft this language
- this item and subject is beyond the purview of the Planning Commission and while financial aspects may be of a concern the big picture is what the Commission should be focused on
- Specificity is important but to introduce the topic there is enough information contained in the memorandum as presented
- Public hearings will be conducted on funding aspects and regulations in city code

VOTE. NON-OBJECTION. UANNIMOUS CONSENT.

Motion carried.

NEW BUSINESS

INFORMATIONAL MATERIALS

- A. City Manager's Report for Feb. 28, 2022

B. Planning Commission Calendar

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY STAFF

Deputy City Planner Engebretsen commented on the lack of training scheduled from the Borough due to Mr. Huff moving to Homer Electric Association but reminded them of the opportunities offered through the planning conference. She expressed her appreciation for a short meeting.

Deputy City Clerk Krause expressed that she wanted to have Ms. Engebretsen conduct their future commission meetings as she conducts a very efficient and organized meeting.

COMMENTS OF THE COMMISSION

Commissioner Venuti expressed his appreciation for Ms. Engebretsen doing a good job and extended his appreciation to Ms. Krause as well. It was a very interesting meeting.

Commissioner Highland echoed Commissioner Venuti's sentiments regarding staff.

Commissioner Chiappone thanked Ms. Engebretsen for a good meeting. He further commented on the wayfinding and related his experience growing up in Niagara Falls and repeatedly having to direct tourists to the falls, so he appreciated the work done on the signage.

Commissioner Barnwell stated that he was very excited about the Wayfinding Plan and complimented Ms. Engebretsen on a fine piece of work as well as the work of the consultant. He stated that it was exciting to see that come to fruition. Mr. Barnwell expressed his opinion that the Commission did the right thing by approving to forward the Memorandum to City Council and believed it was a good way to get things started and that this was a very good meeting.

Commissioner Conley commented that it was an informative meeting, and thanked the staff.

Chair Smith echoed the Commissioners sentiments on a very good meeting, and expressed his experience traveling and finding your way around a town with proper signage versus one that does not have appropriate signage. He expressed his appreciation for the group efforts and the input from the Commissioners.

ADJOURN

There being no further business before the Commission, the meeting was adjourned at 7:28 p.m. The next Regular Meeting is Wednesday, March 16, 2022 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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Staff Report PL 22-29

TO: HOMER PLANNING COMMISSION
FROM: RICK ABOUD, AICP, CITY PLANNER
DATE: APRIL 20, 2022
SUBJECT: TINY HOMES

Introduction

We had a discussion about “tiny homes” at the last meeting. I am bringing in more information on how our code would treat a tiny home. I do have to take up the issue about what is considered a tiny home, for our purposes. Since a small structure, permanently affixed to a foundation, is allowable and would be (or could be) considered a dwelling unit in Homer, I have to look at a “wheeled structure”, which I contend would be considered a recreational vehicle (RV). These structures are at least “pulled by another vehicle” as described in the definition of recreational vehicle below.

Research shows that the wheeled ‘tiny homes’ are RV’s (as did the article provided in last week’s packet). Tumbleweed, Tiny House Company states on the web (<https://www.tumbleweedhouses.com>) that they make “Certified Green Tiny House RVs.” On a local website (<https://www.tinyhomer.com/homes>) you can clearly see that the structures have a license plate and tail lights. Another site, <https://www.tinyheirloom.com> advertises with logos for NHTSA, RVIA, and NADA, pretty clear evidence that these are vehicles.

Related definitions

“Building” means any structure used or intended for supporting or sheltering any use or occupancy.

“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.

“Recreational vehicle” is a vehicular unit, other than a manufactured home, that is designed and manufactured as temporary lodging for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, and fifth-wheel trailer.

“Recreational vehicle park” means a parcel of land that has been planned and improved for use by two or more recreational vehicles for transient occupancy.

“Dwelling, factory built” means a structure containing one or more dwelling units that is built off-site, other than a manufactured home, and: (1) is designed only for erection or installation on a site-built permanent foundation; (2) is not designed to be moved once so erected or installed; and (3) is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing.

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

“Mobile home” or “manufactured home” means a structure, transportable in one or more sections: (1) that in the traveling mode is eight feet or more in width or 40 feet or more in length, or when erected on site is 320 square feet or more; and (2) that is built on a permanent chassis and is designed for use as a dwelling with or without a permanent foundation when the plumbing, heating, and electrical systems contained therein are connected to the required utilities. A mobile home shall be construed to remain a mobile home whether or not wheels, axles, hitch or other appurtenances of mobility are removed, and regardless of the nature of the foundation provided. A mobile home shall not be construed to be a recreational vehicle or a factory built dwelling.

“Mobile home park” means one or more lots developed and operated as a unit with individual sites and facilities to accommodate two or more mobile homes.

“Lodging” means any building or portion of a building that does not contain a dwelling unit and that contains no more than five guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests.

“Planned unit development” or “PUD” means a residential, commercial, office, industrial, or other type of development, or a combination thereof, approved under the conditional use procedures and applicable provisions of this title and characterized by comprehensive planning for the entire project, the clustering of buildings to preserve open space and natural features, and provision for the maintenance and use of open space and other facilities held in common by the property owners within the project.

“Rooming house” means a dwelling containing not more than five guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests. A rooming house shall not accommodate in excess of 15 guests. A rooming house shall also include any structures associated with the dwelling, such as guest cabins; provided, that a conditional use permit was obtained for any associated structures, if a permit is required in order to have more than

one building containing a permitted principal use on the lot. “Rooming house” does not include bed and breakfast.

“Structure” means anything constructed or erected that requires location on the ground or that is attached to something having location on the ground.

21.04.020 Unlisted uses.

a. Unlisted uses may be allowed within a zoning district upon application of the property owner and written decision by the Planning Commission, if, after a public hearing, the Commission finds the proposed use meets all of the following criteria:

1. The use is not specifically permitted outright or conditionally in any other district;
2. The use is not more appropriate in another district;
3. The use is compatible with the purposes of the district in question;
4. The use is similar to and not more objectionable than other uses permitted outright in that district;
5. The use satisfies any other criteria specifically applicable to approval of unlisted uses in the zoning district in question.

b. In approving an application for a specific unlisted use, the Planning Commission may determine that the unlisted use should be treated as a conditional use. If it does, then the application shall be processed and decided under the provisions of Chapter [21.71](#) HCC. The applicant will be given notice and an opportunity to provide supplemental information in support of the matter as a conditional use permit application.

Analysis

The City and Commissions have a great interest in housing right now. For the larger conversation we should consider some sort of consolidation of the subject among those with interests, so that everyone is not going a different direction (or the same?). It is a good thing to understand the issues that surround tiny homes and how they might play a part in the provision for the continuum to address those without or in need of housing.

Wheeled issues

Definition wise, the wheeled house is definitely tied to the RV. I would have a difficult time separating the two by definition. So, is what is good for the RV also good for the wheeled tiny home? The issue that we could address is the idea of what is temporary. An RV is limited to 90 days of use in a residential setting and is to move every 30 days when found in an RV park and is limited to no more than 120 days in any 12 month period in an RV park (not enforced so

much). Another allowance for RV's was made on the Spit where they may be used for owner or employee use year round. RV' Parks are allowed in GC1, GC2, MC, MI, and portions of the CBD.

At the last minute, I was forwarded an article on how tiny homes were worked into the building code. This would make the case for acceptance as a dwelling. I will track this issue and see how it may work into our regulations.

I will leave the conversation at this point for thoughts to be considered in the future.

Staff Recommendation

Discuss recommend future discussion

Attachments

Tiny Home and ICR

TINY HOME https://constructutopia.com/tiny-home/tiny-homes-get-code-cred?source=UtopiaBlast&oly_enc_id=5356G7934023H8Z

Tiny Homes Get Code Cred

By: Novid Parsi, Utopia Contributing Editor, Mar. 28, 2022

As the tiny-homes market grew, industry members sought common standards.



Tiny living gets huge recognition as diminutive dwellings finally get IRC requirements. Photo by James Frid from Pexels

The interest in tiny homes shows no signs of shrinking. The tiny-homes market is expected to grow by more than [\\$3 billion](#) over the next few years, according to recent [projections](#).

But as tiny got big, industry professionals grew concerned about the lack of common, accepted standards for tiny-home construction.

“There was a lot of confusion in the marketplace about how to regulate these new things,” says Ryan Colker, vice president of innovation, [International Code Council](#) (ICC). “The tiny home industry recognized that, to be considered a viable housing source, they needed a mechanism that shows they fit within the traditional infrastructure already in place.”

That traditional infrastructure is the [International Residential Code](#) (IRC), the industry’s comprehensive requirements for residential buildings (including single-family houses, duplexes, and townhouses).

IRC TINY HOME REQUIREMENTS

“The IRC includes requirements for all other forms of residential construction, so why shouldn’t tiny homes also be considered a viable housing option?” Colker says. “Folks from the tiny home industry really saw the need” for the IRC to incorporate their diminutive dwellings.

Industry members proposed adding a new IRC appendix specific to tiny homes. And after it went through the ICC’s standard development-by-consensus process, [Appendix AQ](#) emerged and was added to the 2018 IRC.

The rest of the IRC still applies to tiny homes as it does to all residential construction—but the appendix delineates the differences. “The IRC provides a common basis for the safety, sustainability, and resilience of all residential structures, and tiny houses fall under that,” Colker says. However: “The code recognizes that there are some differences between tiny houses and traditional residential construction.”

First, a definition of what exactly a tiny home is: Appendix AQ defines tiny homes as single dwelling units of no more than 400 square feet, excluding loft spaces.

WHAT MAKES A TINY HOME LOFT

Speaking of loft spaces: Tiny-home builders love to tout their creative use of lofts—which typically serve as sleeping areas that free up living or storage space beneath them. But what exactly counts as a loft? According to Appendix AQ, a loft is a floor level that’s more than 30 inches above the main floor, open to the main floor on one or more

sides, and used as a living or sleeping space. A loft also has a ceiling height of less than 6 feet 8 inches.

Here are some other provisions of the appendix—much of which applies to lofts:

- Ceiling height: In the main living space and hallways of a tiny home, the ceiling must be no lower than 6 feet 8 inches—4 inches shorter than in traditional residential construction. A tiny home’s kitchens and bathrooms can be no lower than 6 feet 4 inches.
- Loft area: A tiny home’s loft has to have a floor area of at least 35 square feet. If the loft is under a sloped roof, any area of the floor that’s less than 3 feet from the sloped ceiling cannot be counted as part of the required floor area.
- Loft guards: Any open sides of a loft must have guard rails no less than 36 inches high or half the height to the ceiling, whichever is less.
- Loft egress: A skylight or roof window in a loft can serve as a required egress, if it meets the IRC’s requirements for emergency escape and rescue openings.

There are also a number of stipulations regarding loft stairs (including their width, headroom, treads and risers, landings, handrails, and stairway guards), as well as loft ladders (including their size, capacity, and incline).

In the 2021 IRC, the tiny-homes appendix added a section about energy conservation. Because these are smaller structures, the code specifies different requirements for measuring energy conservation (for instance, the air leakage rate can’t exceed 0.30 cubic feet per minute at 50 Pascals of pressure per square foot).

Since Appendix AQ went into effect, the industry has appreciated having clear standards in place, Colker says. “It certainly drives conversations with potential buyers and local code officials, and it provides some certainty and consistency for both the industry and consumers.”

ICC also has aimed to give greater clarity to offsite construction on the whole, including but not limited to prefab tiny homes. The Council recently released two new standards ([1200](#) and [1205](#)) that cover a variety of offsite elements—from design, fabrication, and assembly to inspection and compliance.



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Staff Report PL 22-31

TO: HOMER PLANNING COMMISSION
FROM: RICK ABOUD, AICP, CITY PLANNER
DATE: FEBRUARY 16, 2022
SUBJECT: COASTAL BLUFF REGULATION

Introduction

After previous discussion with the Commission, I have a draft code for review. It is complete in concept, but may need technical review/revision. It is not in ordinance format at this time, but includes line numbers for reference.

Analysis

I am proposing regulation based on the results of the DGGs study. The study has not been published yet and we may need to wait until it is, so that we may refer to it as a basis for our regulation. There are several more points of concern that we may address in the future. For now, we are sticking to coastal setback, as our current code does not address it as intend (since we really don't have much in the way of "coastal bluff", by definition). Previous staff reports have reviewed the study and the need for coastal setbacks due to predictions of erosion, regardless of bluff types.

Regulatory line to measure of setback

I have struck the term "coastal bluff", as it incorporates the use of "bluff" which is a term that is useful in regulation of non-coastal applications and should not have a conflicting definition. It has been replaced with "coastal edge" (lines 1-4), a word that may be revised for better semantics later, but it gets the point across for now. This will be the line which will be used to measure setbacks. The definition is dynamic and is based off the language used in the study.

Transition of standards (lines 42-48)

The Commission expressed support for a 40 foot setback that transitions to a 60 foot setback. These setbacks were based on a 30 year estimated erosion rate. I believe that this is a good place to start and it will require 5 and 10 year reviews or after any significant events. While 30 years is not a particularly long look to the future, our estimates are only based off of seventy some years that has included a significant event that caused a good deal of erosion. Forty feet is a good minimum, as it will not cause conflict with a proposed building code, as it is a distance used to setback from slopes common in building codes.

The 40 foot regulation would start at the east end of town and commence to the north-south section line located just west of Soundview Avenue. This corresponds with the transition where the study indicated a change in the erosion rates. The spit will be excluded with the reference to Mile Post 175 (which unfortunately is not displayed on the Highway – it looks to be just a post w/o a sign right now). It is found on the borough parcel maps and is just past where the Bay Avenue lots extend into the mud of high and extreme tides. Spit development is regulated by FEMA flood regulations. Just past Soundview Avenue, structures will be required to maintain a 60' setback.

Exceptions

Exception to the setback may be approved when the site plan is approved by the City Engineer and a CUP is approved (lines 86-88).

I am also proposing to take the City Planner out of the business of approving erosion control methods (line 63) and determining if development activity is reasonably intended to stabilize the slope (line 84). This is best left to the City Engineer.

This proposed regulation is a good place to start that better prescribes setbacks than current regulation. It allows for reasonable development opportunity while assuring a better measure of safety.

Staff Recommendation

Review and comment. The ordinance may receive further technical review prior to consideration for a public hearing and will be brought back at a later meeting.

Attachments

Draft Ordinance

1 “Coastal ~~bluff~~edge” means a bluff whose toe is the seaward extent of a relatively flat land where a
2 slope break or scarp occurs that is adjacent and within 300 feet of the mean high water line of
3 Kachemak Bay. The chosen coastal edge must represent the seaward extent of land that is neither part
4 of a previous landslide nor a bench on a slope.

5 Chapter 21.44

6 SLOPES & COASTAL DEVELOPMENT

7 21.44.010 Purpose and intent.

8 This chapter regulates development activity and structures in areas affected by slopes, bluffs, ~~coastal~~
9 ~~bluffs, and~~ ravines, and areas subject to coastal setback, and provides the means for additional review
10 and protection to encourage safe and orderly growth to promote the health, welfare and safety of
11 Homer residents.

12 21.44.020 Applicability.

13 a. This chapter applies to all development activity that disturbs the existing land surface, including
14 without limitation clearing, grading, excavating and filling in areas that are subject to any of the
15 following conditions:

- 16 1. Lots with average slopes 15 percent or greater, bluffs, coastal bluffs and ravines;
- 17 2. Located within 40 feet of the top or within 15 feet of the toe of a steep slope, bluff, coastal
18 bluff edge or ravine; and
- 19 3. Any other location where the City Engineer determines that adverse conditions associated
20 with slope stability, erosion or sedimentation are present.

21 b. This chapter imposes regulations and standards in addition to the requirements of the underlying
22 zoning district(s). [Ord. 08-29, 2008].

23 21.44.030 Slope development standards.

24 The following standards apply to all development activity on a site described in HCC 21.44.020:

25 a. No development activity, including clearing and grading, may occur before the issuance of a zoning
26 permit under Chapter 21.70 HCC.

27 b. Area of Development.

28 1. Except where the City Engineer approves a site plan under HCC 21.44.050 that provides for a
29 larger area of development, the area of development on a lot with an average slope:

- 30 a. Of 15 to 30 percent shall not exceed 25 percent of the total lot area.
- 31 b. Greater than 30 percent but less than 45 percent shall not exceed 10 percent of the
32 total lot area.

33 2. The area of development on a lot with an average slope of 45 percent or greater shall not exceed the
34 area of development described in a site plan approved by the City Engineer under HCC 21.44.050.

35 c. Setbacks. Subject to the exceptions to setback requirements in HCC 21.44.040, all development
36 activity is subject to the following setback requirements:

1. No structure may be closer to the top of a ravine, steep slope or noncoastal bluff than the lesser of:

a. Forty feet; or

b. One-third of the height of the bluff or steep slope, but not less than 15 feet.

2. No structure may be closer than 15 feet to the toe of a bluff other than a coastal bluff.

~~3. No structure may be closer than 40 feet to the top of a coastal bluff and closer than 15 feet to the toe of a coastal bluff.~~ **Structures shall be setback 40 feet the coastal edge from points starting from the eastern most extent of Homer adjacent to Kachemak Bay extending to the north south Section Line dividing Sections 19 & 24 Township 6 South Range 14 West Seward Meridian, and excluding all property South of Mile Post 175 of the Sterling Highway. All structures west of the section line shall be setback 60 foot from the coastal edge. No structure may be placed closer than 15 feet from the toe of a coastal edge.**

d. Natural Drainage. The site design and development activity shall not restrict natural drainage patterns, except as provided in this subsection.

1. To the maximum extent feasible, the natural surface drainage patterns unique to the topography and vegetation of the site shall be preserved. Natural surface drainage patterns may be modified only pursuant to a site plan approved by the City Engineer under HCC 21.44.050, and upon a showing that there will be no significant adverse environmental impacts on the site or on adjacent properties. If natural drainage patterns are modified, appropriate soil stabilization techniques shall be employed.

2. The site shall be graded as necessary to ensure that drainage flows away from all structures for a distance of at least 10 feet, especially where building pads are cut into hillsides.

3. The development activity shall not cause an adverse effect on adjacent land and surrounding drainage patterns.

e. Erosion Control.

1. Erosion control methods approved by the ~~City Planner and~~ City Engineer, including without limitation sediment traps, small dams and barriers, shall be used during construction and site development to protect water quality, control soil erosion and control the velocity of runoff.

2. Winter Erosion Control Blankets. If development on a slope is not stabilized by October 15th, erosion control blankets (or a product with equivalent performance characteristics) must be installed upon completion of the seasonal work, but no later than October 15th. The erosion control blankets shall remain in place until at least the following May.

3. Vegetation shall remain undisturbed except as necessary to construct improvements and to eliminate hazardous conditions, in which case it must be replanted with approved materials including ground cover, shrubs and trees. Native vegetation is preferred for replanting operations, and will be used where practicable.

4. Grading shall not alter the natural contours of the terrain except as necessary for building sites or to correct unsafe conditions. The locations of buildings and roads shall be planned to follow and conform to existing contours as nearly as possible. [Ord. 08-29, 2008].

21.44.040 Exceptions to setback requirements.

- a. Any of the following may be located within a setback required by HCC 21.44.030(c):
1. A deck extending no more than five feet into the required setback.
 2. An unoccupied accessory structure having a building area not greater than 200 square feet that is no closer than 15 feet to the top of any bluff or ravine.
 3. A boardwalk, sidewalk, foot path or stairway that provides access to a beach, bluff or accessory structure, and that is located at or within three feet above ground level.
 4. Development activity that the ~~City Planner~~ City Engineer determines is reasonably intended to stabilize an eroding coastal bluff.

b. No structure other than a structure described in subsection (a) of this section may be located in a required setback without a conditional use permit issued in accordance with Chapter 21.71 HCC and a site plan approved by the City Engineer under HCC 21.44.050. [Ord. 08-29, 2008].

21.44.050 Site plan requirements for slope development.

a. No permit for development activity for which HCC 21.44.030 or 21.44.040(b) requires a site plan may be approved unless the City Engineer approves a site plan for the development activity that conforms to the requirements of this section. The City Engineer shall accept or reject the plan as submitted or may require that specific conditions be complied with in order for the plan to meet approval.

b. The site plan shall be prepared by a qualified geotechnical engineer licensed to practice in the State of Alaska and shall include the following information:

1. The location of all watercourses, water bodies, and wetlands within 100 feet of the location of the proposed development activity.
2. The location of all existing and proposed drainage structures and patterns.
3. Site topography shown by contours with a maximum vertical interval of five feet.
4. The location of all proposed and existing buildings, utilities (including on-site well and septic facilities), driveways and streets.
5. The location of all existing vegetation types including meadow, forest and scrub lands, identifying all areas of vegetation that will be removed as well as vegetation to be preserved or replaced. Specifications for revegetation shall also be included.
6. Specific methods that will be used to control soil erosion, sedimentation, and excessive stormwater runoff during and after construction.
7. A description of the stability of the existing soils on site and a narrative and other detail sufficient to demonstrate the appropriateness of the development and construction methods proposed.
8. A grading plan for all areas that will be disturbed by the development activity.
9. A slope stability analysis including the following:
 - a. Summary of all subsurface exploration data, including subsurface soil profile, exploration logs, laboratory or in situ test results, and groundwater information;
 - b. Interpretation and analysis of the subsurface data;

- 116 c. Summary of seismic concerns and recommended mitigation;
- 117 d. Specific engineering recommendations for design;
- 118 e. Discussion of conditions for solution of anticipated problems;
- 119 f. Recommended geotechnical special provisions;
- 120 g. An opinion on adequacy for the intended use of sites to be developed by the proposed grading as
- 121 affected by soils engineering factors, including the stability of slopes.



City of Homer

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[Abstract]

TO: HOMER PLANNING COMMISSION
FROM: RICK ABOUD, AICP, CITY PLANNER
DATE: APRIL 20, 2022
SUBJECT: NON-MOTORIZED TRAIL AND TRANSPORTATION PLAN
IMPLEMENTATION (NMTTP)

Introduction

Matt Steffy is presenting at the work session and this gives the Commission an opportunity for more formal comment on the implementation plan

Analysis

Public Works is presenting an Implementation Plan for the NMTTP. I have determined that the document is detailing projects that are recommended in the current plan and would not constitute an amendment.

Feedback may be given on priority of the items and/or a general statement of support.

Staff Recommendation

Provide feedback on the proposed Implementation plan

Attachments

NMTTP Implementation Plan

City of Homer Non-Motorized Transportation and Trails Plan 2022 Supplement



City of Homer
Non-Motorized Transportation and Trails Plan
2022 Supplement

I. Overview

The City of Homer Non-Motorized Transportation and Trails Plan (“NMTTP”) was created by DOWL Engineers in 2004 as a planning document to guide the development of trails, paths, and sidewalks in the City of Homer. This 2022 Supplement does not necessarily replace the 2004 NMTTP. Rather, it addresses some immediate issues related to new/pending development, changing priorities, resources, and standards to facilitate sensible near-term planning and implementation of non-motorized transportation. A more comprehensive replacement NMTTP will be developed later.

This Supplement was developed by a team consisting of:

- Rob Dumouchel, City Manager
- Rick Aboud, Planning Director
- Julie Engebretsen, Deputy City Planner
- Matt Steffy, Parks Superintendent
- Aaron Yeaton, GIS Technician
- Janette Keiser, PE, Public Works Director



II. Approach

This Supplement considered possible non-motorized transportation routes from two perspectives:

- Perspective #1 – Which areas of the City, affected by recent or proposed development as well as important destinations, would benefit from new non-motorized transportation routes?
- Perspective #2 – Where were new routes needed to improve the function of existing non-motorized routes by providing connectivity or accessibility?

Perspective #1 – Which areas of the City, affected by recent or proposed development as well as important destinations, would benefit from non-motorized transportation routes?

The team identified four primary Areas of Interest, shown in Figure A. These areas were selected because of the extent to which recent development has affected, or the potential for future development could affect, the way people flow from the developments to important destinations. Further the four areas were identified as high priority due to their lack of non-motorized infrastructure as well as their proximity to schools, new residential construction, and recreational opportunities.

Area of Interest #1 – West Homer *(See Figure B)*

This area is currently undergoing rapid development. The City is attempting to address pedestrian access through this area by coordinating with developers involved with on-going design/construction as well as adjacent land owners. For example, West Fairview Avenue will be connected to Eric Lane, as part of a pending development. This connection should have a sidewalk/path at least on one side. Further,

discussions are underway with a landowner at the current terminus of West Fairview to develop trails across their property that would connect Fairview Avenue south to Soundview Avenue by accessing a City culvert easement.



Fairview Ave looking east

The Reber Trail currently connects to the terminus of West Fairview Avenue, providing a popular scenic hike and transportation route to Reber Road off of West Hill Road. Trails counters have measured up to 500 people per week using this trail. The northern-most 300 feet is steep, making it very difficult for most users to climb year round, and particularly dangerous in the winter. This section needs an additional switchback to improve the accessibility of this trail.

Fairview Avenue should allow non-motorized use from Bartlett Street to West Hill Road, through a combination of widened shoulders, sidewalks and trails. Connectivity to West Hill could be through Seascape Drive.

A non-motorized route on West Hill Road should be installed to direct pedestrians and bicyclists from the Sterling Highway to the Reber Trail. This would protect non-motorized traffic from the most dangerous switchback on West Hill Road. It would also connect with the City's non-motorized network, at Eric Lane and further north, at the Reber Trail.

The Karen Hornaday Park should be connected with a wilderness trail to a City-owned parcel on the ridge above the Park. This would provide access to, and use of, this parcel.

Area of Interest #2 – East Homer (See Figure C)

There has been, and continues to be, a lot of development in this area, which is home to multiple important destinations including the Quiet Creek residential subdivision, Homer High School and Glacier View Baptist Church. There are dedicated trail easements in the Quiet Creek subdivision that should connect to the existing trail system on the High School property.

There is a small connector that comes down South Slope Drive to (New) Nelson Avenue that should be developed and maintained.

There is also a dedicated easement that connects Old Nelson Avenue to the High School and the Glacier View Baptist Church and ultimately, to the existing sidewalk along East End Road. A path should be developed in this easement.



South Slope Connector Path

Area of Interest #3 – Town Center (See Figure D)



ADA ramp on Poopdeck Extension Trail

The Town Center consists of a mixture of land ownership, including Cook Inlet Regional Incorporated, Kachemak Heritage Land Trust, City of Homer, and various private parcels. Access is needed from east to west branching off of the existing Poopdeck Trail system. The Poopdeck Trail system is one of Homer's most popular trails. Trail counters have measured up to 160 users/week.

Area of Interest #4 – Beluga Slough (See Figure E)

The Beluga Slough area, rich natural resources, is owned/maintained by the USFWS and the City of Homer. There is an existing boardwalk and trail that connects the Islands and Oceans Visitor Center with Bishop's Beach Park. Numerous local natural resource agencies have expressed a high level of interest in extending the boardwalk to prevent pedestrians from straying into the slough, and its surrounding wetlands. This is because this straying adversely impacts the slough's ecological function as well as breeding migratory birds. Also, the slough is listed as salmon habitat in Alaska's anadromous inventory.

The goal is to ultimately connect the boardwalk from its existing location to the intersection of Lake Street and the Sterling Highway. There are two possible ways of accomplishing this. The first possible route crosses private land owned by the Aspen Hotel and sticks to the edge of the green, upland-ish areas of the slough.

The second possible route is situated entirely on City property, coming off the end of East Bunnell Avenue. Multiple natural resource agencies would be interested in this route and possibly, willing and able to partner with the City in its development, including: Islands & Oceans, Kachemak Bay National Estuarine Research Reserve, and Center for AK Coastal Studies.



Perspective #2 – Where were routes needed to improve the function of existing non-motorized routes by providing connectivity or accessibility? This perspective addressed the function of trails, etc., as elements of transportation infrastructure to get to and from destinations, not just as recreational assets.

From this perspective, the following projects that would improve connectivity and/or accessibility, were identified. These projects are listed in order of priority and are shown on Figure B. Most of these routes fall within the Areas of Interest and are listed in the City of Homer Public Works Department 5-year Capital Improvement Program.

A. Sidewalks	Area of Interest
1. Main Street – North of Pioneer	General
2. West Fairview Avenue	West Homer
3. Ben Walters Way	General
4. Svedlund/Herndon to Senior Center	General
5. Main Street – South of Pioneer to Sterling Highway	Town Center
6. Main Street – Sterling Highway to Bishop’s Beach	General
B. Trails	
1. Karen Hornaday Park – ADA Pedestrian Access Trail	West Homer
2. Upper Reber Trail grade improvements	West Homer
3. Old Nelson Trail	East Homer
4. Bishop Beach Sculpture Trail	Beluga Slough
5. Bishop Beach Wetland Trail	Beluga Slough
6. Beluga Slough Boardwalk Extension	Beluga Slough
C. Paths	
1. East Fairview Avenue	East Homer

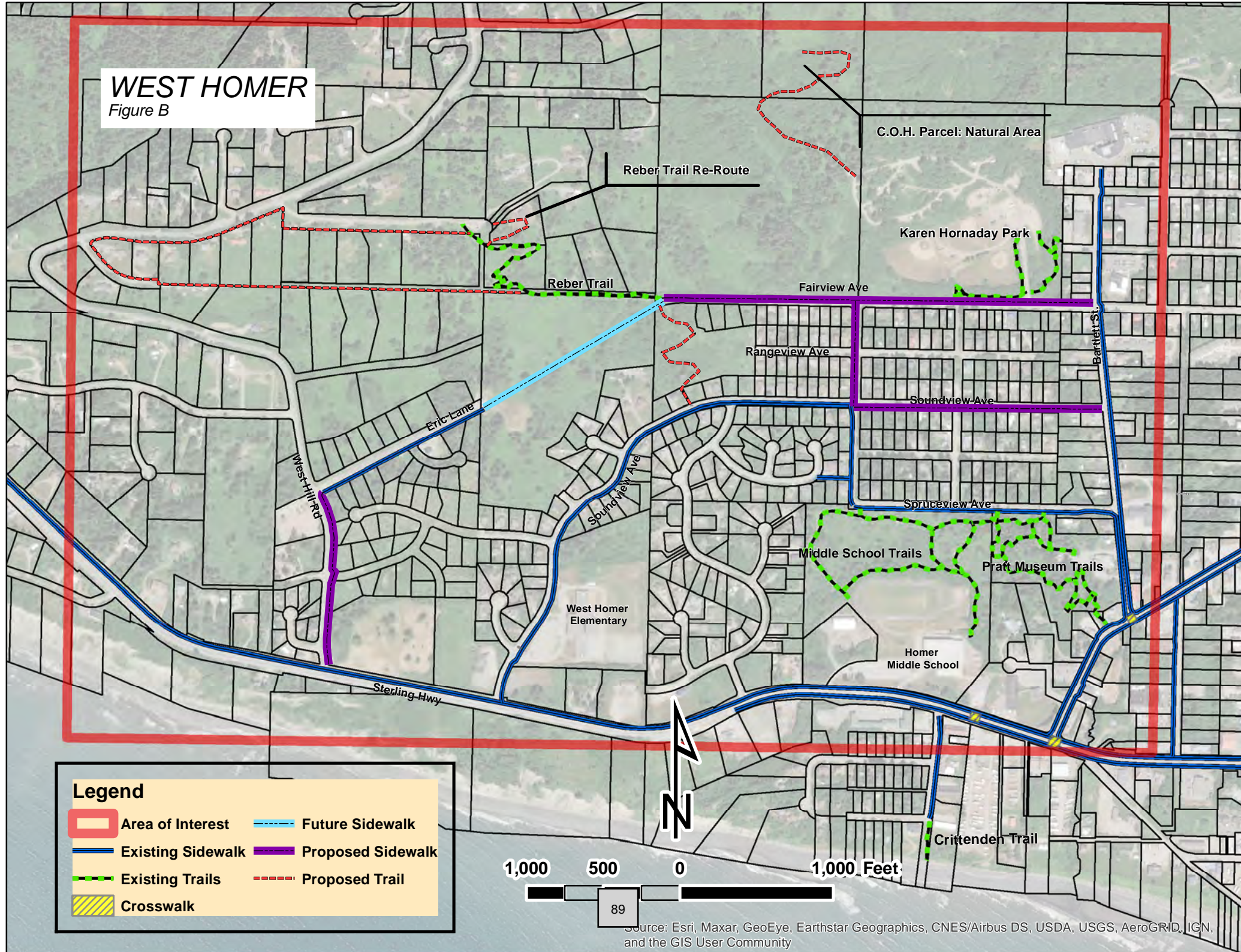
City of Homer: Pedestrian Features and Connectivity Gaps

Figure A



WEST HOMER

Figure B



EAST HOMER

Figure C



South Slope Connector

East Hill Rd.





Nelson Ave

Sanjay Court Route

Old Nelson Easement Route

Homer H.S. Complex

Legend

-  Area of Interest
-  Existing Sidewalk
-  Existing Trails
-  Proposed Trail

300 150 0 300 Feet



90

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Pioneer Ave

Klondike Ave

Bonanza Ave

Grubstake Ave

Hazel Ave

Sterling Hwy

Islands & Oceans/
Alpine Hotel Trails

Poopdeck Trails

TOWN CENTER

Figure D

Main St

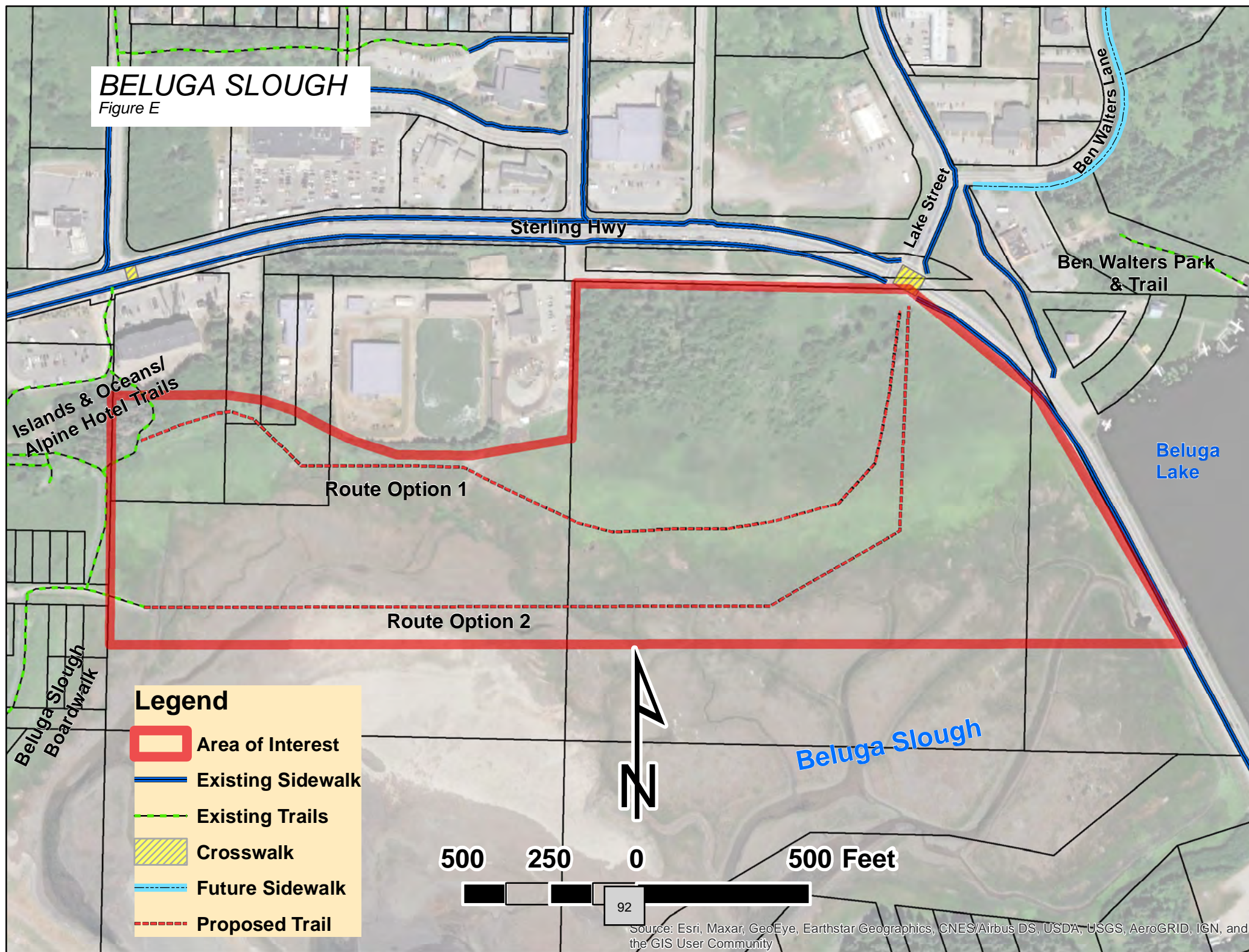
Legend

-  Area of Interest
-  Existing Sidewalk
-  Existing Trails
-  Crosswalk
-  Future Sidewalk
-  Proposed Sidewalk
-  Proposed Trail

500 250 0 500 Feet

BELUGA SLOUGH

Figure E





City of Homer

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Memorandum

TO: Mayor Castner and Homer City Council
FROM: Rob Dumouchel, City Manager
DATE: April 7, 2022
SUBJECT: City Manager's Report for April 11, 2022 Council Meeting

Barge Redoubt

On March 31st the barge Redoubt broke free from its moorings and drifted ashore in Mud Bay. This triggered calls from the public to the Harbormaster's office. The Harbormaster kept Coast Guard Sector Anchorage, Homer Dispatch, and my office updated as the situation unfolded. The tug Bob Franko and support vessel Allan G were able to work together to get the Redoubt moved back to deeper waters.



Food Truck Follow Up

Immediately after the passage of Ordinance 22-15(S)(A), staff began the transition of mobile food service (food truck) licensing from the Police Department to the Planning and Economic Development offices. We have compiled contact information for food trucks that have been licensed in Homer in the past few years and will be proactively reaching out with information on the updated code and fees. For the few food trucks that registered before the code change, I have staff offering refunds of the difference between the old and new license fees to ensure a fair starting point for the trucks doing business in Homer this year.

Short Term Rentals and Sales Tax

My office and the Finance Director have been collaborating on a public education flyer that will be mailed to all utility customers regarding sales tax for rentals. Short term rentals are subject to sales tax on a per-unit, per-night basis. The taxes collected must be remitted to the Kenai Peninsula Borough. We are in the process of sharing a draft with KPB sales tax division staff to ensure that it is accurate and does not conflict with any information provided by the Borough. If all parties

water/sewer bills at the end of April. Regarding the larger discussion about short term rentals and the impacts they create on the City, I am working with Planning and Economic Development on the topic and intend to come to Council with a proposed pathway for addressing this issue in a comprehensive manner at a future meeting.

Kachemak Way Sewer Repair

Update from the Public Works Director regarding the recent road closure and sewer repair project on Kachemak Way: *It pays to have a Plan B when you go out of town! This is the lesson a homeowner on Kachemak Way learned recently. The fellow who was looking after the house noticed sewage starting to back up in the house. He called Public Works, who after investigating the situation, concluded the service line was broken, in the road way, making it the City's responsibility. The operators mobilized traffic control to close the road to through traffic and a large excavator to dig up the service line. The water/sewer crew found two separate cracks in the service line, repaired them, and turned the site back to the operators who filled in the hole, cleaned up the site and got traffic moving again the same day. The homeowner came back to a happy and healthy house.*

Main Street Sidewalk – It's Time!

The design for the Main Street Sidewalk is complete and we're advertising the project for bid. Bids will be due May 2, 2022, and brought to the City Council for contract award on May 9. We're projecting construction will start in early June and be complete by October 31st. The project will install an asphalt sidewalk on the west side of Main Street from the Homer Theatre to Dehl Avenue, by Bayview Park. The project will include ADA ramps at all intersections, ADA access to Bayview Park and storm drain upgrades.

Coast Guard City Planning

The City's relationship to the Coast Guard is very important and there is a strong desire to strengthen that relationship over the coming years. At the visioning session in March, pursuit of a Coast Guard City designation was identified as a future project. Christine Drais, Assistant to the City Manager, and Councilmember Venuti met April 1st to start talking about the process of become a Coast Guard City and ways the City and other local stakeholders can work together to make Homer a great homeport for those stationed here.

Burn Regulations

Fire Chief Kirko and I met with Councilmembers Venuti and Aderhold to discuss issues connected to burning within city limits. We are evaluating existing code and permit conditions to see how they can be modernized to better serve the community. I anticipate an extended public engagement process that may be integrated into the building code and code enforcement discussions that were a high priority for Council at the visioning in March.

State Approval of Homer as Official Early Voting Site

Update from the City Clerk: *In past State elections, Homer City Hall has served as an Absentee in Person polling site for the two weeks prior to each election. What this means is voters come in and complete an absentee in person affidavit envelope, are issued a ballot, the voted ballot is sealed its envelope, and batches of envelopes with voted ballots are mailed daily to Juneau. Once in Juneau the envelopes are reviewed, voter registration is verified, cross checks are completed to ensure the absentee voter didn't vote on election day, and then those ballots are counted and included in the final count that gets certified. Over the last several years the number of absentee in person voters has increased significantly in Homer and our Region 1 Director requested that Homer be added as an Early Voting Site. What this change means is that when voters come in during the two weeks prior to election day, they will check in with the election official who will pull up their information and print an affidavit form for the voter to sign affirming that they are a registered voter and that their information is correct. The voter*

will then be issued a ballot that will be counted by the optical scan unit that's on site, just like on election day. Those counts will then be transmitted to Juneau and be included in the election day results. If a voter comes to vote early and their voter registration information is incorrect, then they will be asked to use the absentee in person voting method, and their absentee in person affidavit envelope will be used to update their voter registration through the State system. The Clerk's office is very excited about this change! Please feel free to call us at 907-235-3130 with questions, and if we don't have the answer, we'll help you find it. The deadline to update your voter registration for the June 11th State Special Election is May 15th. Voter registration is available at the City Clerk's Office, the Homer Public Library, and online at elections.alaska.gov. You will also find a helpful video at that web address that explains Ranked Choice Voting. If you're interested in serving as an election official in the 2022 elections please contact the Clerk's office.

Grant Symposium and Lobbying Efforts

Senator Murkowski's office is hosting a federal grants symposium in Anchorage April 11th and 12th. The City's grant specialist, Special Project Coordinator Jenny Carroll, and Harbormaster Bryan Hawkins will be attending the symposium to gather valuable information for the City. They are also tentatively scheduled to make a brief trip to Juneau to reconnect with some legislators regarding City priorities.



April 1, 2022

City of Homer
491 E. Pioneer Ave
Homer, AK 99603

Dear Mayor Castner, City Council, and City Staff,

This letter serves as our quarterly report for the period January 1st to March 31st, 2022. The Homer Business Advisor, Robert Green, has been busy this quarter working with clients gearing up for what should be a record-setting summer. Entrepreneurs in Homer have really appreciated having a business advisor on site, who is an expert in the community. In the absence of a Homer Business Advisor in 2019, the Alaska SBDC provided 156.5 advising hours to Homer clients, but surpassed that total in this quarter alone. Here is a summary of deliverables to the Homer community during the quarter:

Advising Hours: 184.7
Total Clients Advised: 57
New Businesses Started or Bought: 5
Jobs Supported: 237
Capital Infusion: \$183,500
Client Satisfaction Surveys: 91% positive

The contract rate for a business advisor is \$55 per hour, which includes salary, benefits, fixed, and administrative expenses. In addition to local expertise, the Alaska SBDC provides IBISWorld industry reports, retailing for \$925 each, and ProfitCents financial analyses, valued at \$2,750 each, to clients free of charge. Here is a summary of value provided to the Homer community during the quarter:

Business Advisor: \$27,335
IBISWorld Industry Reports: \$9,250
ProfitCents Financial Analyses: \$16,500
Total: \$53,085

We would like to thank the City of Homer for their support of the Homer Business Advisor position. Robert has been doing a great job with our clients in the Homer area and we feel this will be a beneficial partnership for years to come. Please do not hesitate to contact us if you have any questions.

Sincerely,

DocuSigned by:

A stylized signature of Jon Bittner in black ink, enclosed within a blue DocuSign signature line.
F3E1FE8A6ADF4BD...

Jon Bittner
Executive Director
Alaska SBDC

PLANNING COMMISSION ANNUAL CALENDAR
FOR THE 2022 MEETING SCHEDULE

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

Semi Annually: PW project update

Odd Years: 2018 Comprehensive Plan (April) Homer Spit Plan, (July), Review Bylaws, and Policies
and Procedures (December)

Even Years: HNMTP (April), Transportation Plan (July), Town Center Plan (December)