May 4, 2011
5:30 P.M.

Cowles Council Chambers
491 East Pioneer Avenue
Homer, Alaska

WORK SESSION
Advisory Planning Commission
AGENDA

1. Call To Order, 5:30 P.M.

2. Discussion of Items on the Regular Meeting Agenda

3. Staff Report PL 11-57, Internally Lit Signs ***(Please refer to page 83 of the regular meeting packet.)***

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

5. Commission Comments

6. Adjournment

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

MAY 4, 2011
WEDNESDAY AT 7:00 P.M.
COWLES COUNCIL CHAMBERS

REGULAR MEETING
AGENDA

1. Call to Order

2. Approval of Agenda

3. Public Comment

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

4. Reconsideration

5. Adoption of Consent Agenda

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

1. Approval of Minutes of April 20, 2011 ***Page 1***
2. Time Extension Requests
3. Approval of City of Homer Projects under HCC 1.76.030 g.
4. KPB Coastal Management Program Reports

6. Presentations

7. Reports

A. Staff Report PL 11-53, City Planner's Report ***Page 9***

8. Public Hearings

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

A. Staff Report PL 11-48, CUP 11-06, 4721 Homer Spit Road, Central Charters Boardwalk Expansion ***Page 11***

B. Staff Report PL 11-49, 1295 Mission Road, Alaska Bible Institute, for "more than one building containing a permitted principal use on a lot" per HCC 21.12.030(n). ***Page 35***

9. Plat Consideration

A. Staff Report PL 11-51, Bollenbach (N/C) Preliminary Plat ***Page 63***

10. Pending Business

A. Staff Report PL 11-52, Draft Ordinance 11-xx, East End Mixed Use ***Page 73***

B. Staff Report PL 11-57, Internally Illuminated Signs ***Page 83***

11. New Business

12. Informational Materials

A. City Manager's Report dated April 11, 2011 ***Page 91***

B. "Planning Made Easy," excerpt of Chapter 5-Ethics ***Page 93***

13. Comments of The Audience

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

14. Comments of Staff

15. Comments of The Commission

16. Adjournment

Meetings will adjourn promptly at 10 p.m. An extension is allowed by a vote of the Commission. The next regular meeting will be held on May 18, 2011 at 7:00p.m. There will be a work session at 5:30p.m.

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
APRIL 20, 2011

UNAPPROVED

Session 11-06, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 7:01 p.m. on April 20, 2011 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS DOLMA, DRUHOT, HIGHLAND, MINSCH, VENUTI

ABSENT: COMMISSIONER BOS

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK JACOBSEN
PLANNING TECHNICIAN ENGEBRETSEN

APPROVAL OF AGENDA

The agenda was approved by consensus of the Commission.

PUBLIC COMMENT

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

There were no public comments.

RECONSIDERATION

There were no items for reconsideration.

ADOPTION OF CONSENT AGENDA

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

1. Approval of the April 6, 2011 minutes
2. Time Extension Requests
3. Approval of City of Homer Projects under HCC 1.76.030 g
4. KPB Coastal Management Program Reports

The Consent Agenda was approved by consensus of the Commission.

PRESENTATIONS

There were no presentations scheduled.

REPORTS

A. Staff Report PL11-47, City Planner's Report

City Planner Abboud reviewed the staff report.

PUBLIC HEARINGS

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The

Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

No public hearings were scheduled.

PLAT CONSIDERATION

No plats were scheduled.

PENDING BUSINESS

A. Staff Report Pl 11-46 Sign Code Amendments

DOLMA/HIGHLAND MOVED TO BRING STAFF REPORT PL 11-46 TO THE TABLE FOR DISCUSSION.

No objection was expressed and discussion ensued.

The Commission had discussion with staff on the sign code amendments during their worksession.

Regarding item two in the staff report there was agreement with staff's comments to bring the sign size back up as it may be hard for people to see some of the buildings that are sitting back from the road.

DRUHOT/HIGHLAND MOVED TO CHANGE ITEM TWO TO READ 30 SQUARE FEET OF SIGN ALLOWANCE INSTEAD OF 20 SQUARE FEET FOR BUILDINGS WITH WALL FRONTAGE OF 0-199 SQUARE FEET.

Commissioner Highland noted that a concern for the future of Homer is that we continue to keep the signs as small as we can within reason but this seems to be a reasonable amendment.

Commissioner Venuti commented that a 4x5 sign will be pretty big.

There was brief discussion whether consideration should be given to the location of the building or boardwalk in relation to the road. Buildings which are closer would have a smaller allowance than those set back farther from the road. City Planner Abboud and Planning Technician Engebretsen responded that concept would be very challenging to explain and regulate.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

DOLMA/VENUTI MOVED TO ACCEPT THE STAFF RECOMMENDATION TO CHANGE THE 40 SQUARE FEET TO 50 SQUARE FEET FOR BUILDINGS 200 TO 349 SQUARE FEET.

Commissioner Dolma commented that after looking at examples of existing signs it might be a hardship for people who already have signs currently in place. This is a compromise between preserving the status quo and making amendments to the ordinance.
VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

VENUTI/HIGHLAND MOVED TO ACCEPT STAFF RECOMMENDATIONS ON BANNERS MOUNTED TO A BUILDING TO BE ON A PERMANENT RIGID FRAME ON ALL EDGES.

Commissioner Venuti expressed his desire to get this to the public for their feedback.

Chair Minch agreed with staff comments that if people come into compliance with sign square footage then the banner issue may take care of itself.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was discussion that staff recommends removing the word building.

MINSCH/DRUHOT MOVED TO DELETE BUILDING ON LINE 6.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

VENUTI/HIGHLAND MOVED TO MAINTAIN THE COMMISSION'S POSITION TO NOT ALLOW SANDWICH BOARD SIGNS.

Commissioner Druhot commented that she would like to see no sandwich boards on the spit and eliminate them in Marine Commercial, which helps with safety issues. There is good reasoning for having some of these in town if they are kept off sidewalks and closer to the businesses.

While the Commission agreed that there are safety issues with the sandwich boards in the right-of-way and on the side walk out on the spit, there were comments for and against allowing them in town. Some felt there could be options to be allow them in town if business owners would keep them away from sidewalks, closer to their businesses, and put away when businesses are closed. Others felt business owners won't comply because right now they leave them out all night and it will be difficult to enforce after hours.

The discussion turned to temporary event signs and how this action would affect them. Staff will work with the City Attorney to define event signs.

MINSCH/HIGHLAND MOVED TO AMEND TO INCLUDE ITEM 6 THAT EVENT SIGNS MAY DISPLAYED AND STAFF WILL WORK WITH THE CITY ATTORNEY ON A DEFINITION.

There was brief discussion.

VOTE: (Primary Amendment): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

VENUTI/HIGHLAND MOVED TO AMEND THE ORIGINAL MOTION TO STATE COMMERCIAL SANDWICH BOARD SIGNS.

There was brief discussion.

VOTE: (Primary amendment): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

VOTE: (Main Motion as Amended): YES: MINSCH, HIGHLAND, VENUTI, DOLMA
NO: DRUHOT

There was discussion about item 7 and including amnesty language in code. Planning Technician Engebretsen noted that there is conforming language in the sign code and it is very problematic code wise to write in more amnesty with another compliance timeframe. The suggestion of working it into the whereas clauses as a policy statement and working with businesses to educate them on the requirements and deadlines is cleaner. There is no language in the code that requires a building be in compliance to get a sign permit. City Planner Abboud reiterated comments from a previous meeting that he has had discussion with the City Attorney who said a sign permit may not be held up because of other violations on the property.

MINSCH/DRUHOT MOVED TO ACCEPT ITEM 7 PAGE 17 REFERENCING SIGNS NEED TO COMPLY WHEN FACES CHANGE OR WITHIN 3 YEARS STAFF WILL WORK WITH THE ATTORNEY ON THE APPROPRIATE POLICY STATEMENT THAT WILL BE INCLUDED IN THE DRAFT ORDINANCE.

There was brief discussion clarifying that this does not relate to sandwich boards or banners which the Commission has already stated are not allowed.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

DOLMA/HIGHLAND MOVED THAT BANNING TEMPORARY COMMERCIAL SANDWICH BOARDS IS EFFECTIVE IMMEDIATELY UPON ADOPTION BY THE CITY COUNCIL.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was brief discussion about internally illuminated signs and having a moratorium on any new internally illuminated signs in the city. Planning Technician Engebretsen warned that they consider the unintended consequences that may result from this. Currently code allows externally illuminated signs with the upward facing lighting. She asked that they be cognizant that if one is eliminated there will be more of the other. She suggested more time be spent on this.

B. Staff Report PL 11-41, Draft Ordinance 11-xx East End Mixed Use

DOLMA/HIGHLAND MOVED TO BRING THE DRAFT ORDINANCE FOR EAST END MIXED USE TO THE FLOOR FOR DISCUSSION.

No objection was expressed and discussion ensued.

Comments included:

- Include all of the proposed areas of GC1 and GC2 in the Mixed Use District. It would include Meadow Drive and would be a simplistic way to accommodate the residential needs.
- The East End Mixed Use is not intended to solve any specific person or property owner's issue. This is a recommendation of the Comprehensive Plan.
- Consider changing just the annexed area to the Mixed Use District for now and then revisit issues with the other areas.
- Consider whether the uses in the annexed area are appropriate down East Road through the GC1 and GC2 zones, or if the lines should be changed.
- The whole area is a commercial growth area. There is no other place to go with it in town.
- East End Mixed Use will not resolve the nonconforming issues in the area, but it will fix some issues and broaden uses in the area.

The Commission reviewed the proposed allowances in the ordinance for the Mixed Use District and started off considering whether the uses listed were appropriate for the triangle annexed area.

Suggested changes included a definition for open air business, eliminating the size limit for boats on line 42, remove public and private stables on line 90, and line114 more than one building with a permitted principle use be allowed outright.

The Commission would like to revisit all allowances relating to residential use, moving fish processing on line 67 to conditional use, and moving underground bulk petroleum storage line 73 to conditional use.

At the next discussion the Commission would like to focus on residential uses and the district area.

VENUTI/HIGHLAND MOVED TO POSTPONE THIS TO THE NEXT WORKSESSION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

C. Staff Report PL 11-45, Draft Ordinance Amending Chapter 21.34, Conservation District

Chair Minsch acknowledged that the Commission discussed the draft ordinance regarding the conservation district during the worksession and this will come back to them from staff.

NEW BUSINESS

A. Staff Report PL 11-44 Replacement and/or Expansion of Nonconforming Residential Structures

City Planner Abboud reviewed the staff report.

Chair Minsch commented that it is important to remember that nonconforming applies to commercial uses as well as residential uses.

The Commission reviewed the questions raised in the staff report. Some Commissioners supported not allowing residential nonconforming structures to be replaced or rebuilt and others felt it should be allowed within a time frame. Agreement was expressed not to continue to allow mobile homes.

Point was raised that if a person buys a home and the City says that the mobile homes in the area are nonconforming, the person has an expectation that through zoning their area will grow to improve the surroundings, but a mobile home could be just as important to someone as a stick house. In considering the bigger picture if someone conducting a business and gets caught up in the nonconforming, it affects their livelihood. You get an emotional spin on this in looking at words like family, residence, homes, but it clouds the non conforming issue. The purpose is to look at what the most good for the most people.

The Commission took a break at 9:16 p.m. The meeting resumed at 9:19 p.m.

VENUTI/DOLMA MOVED THAT WE NOT CHANGE OUR CODE WHICH DOES NOT ALLOW FOR RECONSTRUCTION OF A NON CONFORMITY IF THE STRUCTURE IS DAMAGED IN EXCESS OF 50% OF THE STRUCTURES PRE DAMAGED VALUE.

Comment was made when looking at this for the good of the whole City and how we continue to improve. If you throw out nonconformities, you might as well throw out zoning.

VOTE: YES: MINSCH, VENUTI, DOLMA
NO: HIGHLAND, DRUHOT

Motion failed.

DOLMA/VENUTI MOVED THAT NON CONFORMING RESIDENTIAL STRUCTURES SHALL NOT BE ALLOWED TO EXPAND OR BE ALLOWED AS A SECOND PERMITTED STRUCTURE.

There was no discussion.

VOTE: YES: DRUHOT, MINSCH, DOLMA, HIGHLAND, VENUTI

Motion carried.

INFORMATIONAL MATERIALS

A. City Manager's Report
B. Article, 'Planning Made Easy'

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

There were no audience comments.

COMMENTS OF STAFF

There were no staff comments

COMMENTS OF THE COMMISSION

Commissioner Dolma thanked staff for the good input, he appreciated the pictures that allowed him to evaluate some of his preconceived ideas. He thanked everyone for working hard.

Commissioner Highland expressed her appreciation for the information from "Planning Made Easy". It is good information and she appreciates being educated as they go along.

Chair Minsch and Commissioners Venuti, Dolma, and Druhot had no comments.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 9:27 p.m. The next regular meeting is scheduled for May 4, 2011 at 7:00 p.m. in the City Hall Cowles Council Chambers.

_____
MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____

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STAFF REPORT PL 11-53

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: May 4, 2011
SUBJECT: Planning Director's Report

April 25th Council Meeting

Ordinance 11-13(A), An Ordinance of the City Council of Homer, Alaska, Amending the FY 2011 Operating Budget by Appropriating $15,000 from the Port and Harbor Reserve Account for the Purpose of Implementing the Long Term Parking Permit Plan and for New Signage at the Approach Ramps. City Manager. Introduction April 11, 2011, Public Hearing and Second Reading April 25, 2011.
There was no public testimony.
ADOPTED without discussion.

Ordinance 11-15, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 10.04.100, Vehicles and Other Wheeled Conveyances; and Homer City Code 10.04.110, Violation--Penalty; Regarding the Regulation of Parking in the Harbor Area. City Manager/Port and Harbor Director. Recommended dates: Introduction April 25, 2011, Public Hearing and Second Reading May 9, 2011. 6
ADOPTED without discussion.

Resolution 11-040, A Resolution of the City Council of Homer, Alaska, Amending the Port of Homer Terminal Tariff No. 600 to Provide for Parking Fees. City Manager/Port and Harbor Director.
Memorandum 11-062 from City Clerk as backup.
ADOPTED as AMENDED with discussion.

Resolution 11-041, A Resolution of the City Council of Homer, Alaska, Approving and Adopting a New, Amended Standard Ground Lease Document, and Authorizing the Amendment of the City of Homer Property Management Policy and Procedures Manual to Conform to the Amended Standard Ground Lease Document. City Manager/Lease Committee.
Memorandum 11-060 from Lease Committee Staff as backup.
Memorandum 11-058 from City Manager to Lease Committee as backup.
POSTPONED to May 24, 2011. Worksession scheduled for May 9, 2011.

Resolution 11-042, A Resolution of the City Council of Homer, Alaska, Expressing Opposition to Kenai Peninsula Borough Ordinance 2011-07 Which Reduces the Number of Borough Planning Commission Members from Thirteen to Eleven and Combines the Designated Homer and Seldovia Seats into One. City Manager.
ADOPTED without discussion.

May 9th City Council Meeting

Ordinance 11-15, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 10.04.100, Vehicles and Other Wheeled Conveyances; and Homer City Code 10.04.110, Violation--Penalty; Regarding the Regulation of Parking in the Harbor Area. City Manager/Port and Harbor Director. Introduction April 25, 2011, Public Hearing and Second Reading May 9, 2011.

Ordinance 11-, An Ordinance of the City Council of Homer, Alaska, Amending the 2008 Homer Comprehensive Plan to Incorporate the Homer Spit Plan and Recommending Approval of the Amendment by the Kenai Peninsula Borough. Planning.
Recommended dates: Introduction May 9, 2011, Public Hearing and Second Reading May 24, 2011.
Memorandum 11- from City Planner as backup.

Ordinance 11-, An Ordinance of the City Council of Homer, Alaska, Recommending a Petition for Zoning Change. Planning. Recommended dates: Introduction May 9, 2011, Public Hearing and Second Reading May 24, 2011.

Resolution 11-, A Resolution of the City Council of Homer, Alaska, Approving and Adopting a Transfer of Responsibility Agreement (TORA) Between the City and the Alaska Department of Transportation and Public Facilities (ADOT/PF) Regarding Regulation of Parking and Pedestrian Access. City Manager.

Resolution 11-, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for the Construction of Carter Drive Access, West Homer Elementary Trail, and Jack Gist Park Improvements to the Firms of _____ of _____, _____ in the Amounts of $_____ and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk.

Resolution 11-, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for the Soundview Avenue/Woodard Creek Culvert Replacement Project to the Firm of _____ of _____, _____ in the Amount of $_____ and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk.

Activities: Dotti conducted some well attended sign workshops. The office is starting to get busy with people inquiring and submitting applications for projects. We are seeing a bit of everything in the mix. As is usual with springtime, we are fielding calls from people claiming damage from altered drainage as a result of their neighbors activities. These can be particularly difficult to address. Given our level of regulation and review in consideration of the "no adverse effect" cause in code, we will not always have a government solution for the dilemmas that citizens describe. The Planning Office and City as a whole is hamstrung by the fact the so much development has and is occurring without the benefit of a comprehensive storm water plan. The last to develop seem to shoulder the responsibility for maintaining the fractured and haphazard drainage pattern to which we have become accustom. Any comprehensive solution is costly to the tune of tens of millions. Even as we continue to address the larger, and thus, development of greater impact, the smaller routine single family housing continues to put additional strain on our (and the term may not be able to be understated) 'system'. In many cases we have no alternative to consider them "civil" issues between neighbors.

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STAFF REPORT PL 11-49

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Dotti Harness-Foster, Planning
MEETING: May 4, 2011
SUBJECT: CUP 11-06 Central Charters Boardwalk

This is a quasi-judicial decision and requires 5 yes votes.

SYNOPSIS: The existing Central Charters Boardwalk has five buildings: Central Charters, Captains Patties, Sea Lion Gallery, Alpaca and new this year, The Crab Shack. The boardwalk owner requests an expansion for five units to be used for overnight accommodations and an addition to Captains Patties restaurant. The applicant is also requesting a setback exception along the west lot line to allow a corner of one building (26 s.f.) to encroach into the side setback.

This CUP includes existing and proposed uses and structures in the Marine Commercial District.

HCC 21.28.030 (a)	Restaurants and drinking establishments (existing)
HCC 21.28.030(h)	Hotel and motels (existing and proposed)
HCC 21.28.030(i)	More than one permitted principal use on a lot (existing)
HCC 21.28.030(j)	Planned unit development (for setback exception)
HCC 21.28.040(d)	More than 8,000 s.f. of building area (existing) or a building area in excess of 30% of the lot area.

Applicants:	Seabright Survey + Design
Property Owners:	William and Catrin Lovett
Location:	4241 Homer Spit Road
Parcel ID:	18103307
Lot Size:	0.88 acres equals 38,333 s.f.
Zoning Designation:	Marine Commercial
Existing Land Use:	Boardwalk with five existing buildings
Surrounding Land Use:	North: Retail, restaurant South: Kachemak Bay East: Retail, restaurant West: Open recreation space
Comprehensive Plan:	1999 Homer Spit Comprehensive Plan pg 4.
Flood Plain Status:	Flood Dev. Permit for boardwalk expansion issued 4/28/2010
Utilities:	Public water and sewer
Public Notice:	Notice was sent to34 property owners of 41 properties as shown on the KPB tax assessor rolls.

The Central Charters Boardwalk has five (5) existing buildings with a combined square footage of 8,042 sf. The existing buildings are used for retail, restaurant and a booking office.

Boardwalk addition: Permitted and under construction is a boardwalk expansion that is elevated 45 inches above the existing boardwalk. The increased deck elevation was engineered to meet FEMA requirements per Homer's Flood Prone Areas code HCC 21.41. The new boardwalk extends the existing boardwalk to the northwest and wraps around to the southern bay side. A handicap accessible ramp will connect the existing and new boardwalk. As proposed, the additional boardwalk will house five (5) units for overnight accommodations, a laundry/mechanical room and a southern bay side additional for Captains Patties Restaurant.

FEMA regulations require that when the boardwalk is complete, the applicant is to submit an engineer certified Flood Elevation Certificate which verifies that the boardwalk was constructed to meet Homer's Flood Prone Areas HCC 21.41. **Staff recommends that the final Elevation Certificate for the boardwalk be submitted prior to issuance of a Zoning Permit for the buildings.**

A setback variance was granted on May 4, 1989 which allowed the extension of the deck up to the north property line along Homer Spit Road. The pilings for the existing and proposed deck are setback five feet (5') from the property lines and the deck planks cantilever five feet (5') to the property lines. This proposal asks for a zero (0) building setback on the west corner of one of the buildings. If approved, this request would allow approximately 26 sf of building area to be in the side setback.

Parking: Eight (8) parking spaces are provided on private property. HCC 21.55.100(d) requires five (5) parking spaces for year-round permanent employees. All of the businesses on the Central Charters Boardwalk are seasonal, with no year-round permanent employees. In an effort to be consistent with other CUPs, this site meets the need for five (5) parking spaces per HCC 21.55.100(d).

Staff note: In the past, AkDOT issued parking permits but those permits have expired and AkDOT will not be reissuing those permits.

The combined building area is more than 8,000 sf of building area which requires a CUP per HCC 21.28.040(d).

8,042 sf = The existing building area
3,824 sf = The proposed new building area
11,866 sf = Total combined building area

The combined building area is 31% of the lot area which requires a CUP per HCC 21.28.040(d).

Hotel and motels in the Marine Commercial district require a CUP per HCC 21.28.030(h). Homer City Code defines a hotel or motel as "....any building or group of buildings containing six or more guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests...." There are five existing "guest units", three upstairs in the Central Charters building, and two upstairs in the Sea Lion Gallery building. When complete this parcel will have a total of ten (10) overnight accommodation units.

Fire Marshal: The buildings on the Central Charters Boardwalk have several Fire Marshal certifications dating back to 1990's. The uses and floor plans may or may not be as permitted. In additional to the Fire Marshal review for the new buildings, **staff recommends that the applicant provide verification that all the buildings (existing and proposed) meet State of Alaska Fire Marshal standards based on their current use.**

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: HCC 21.28.030 (a) Restaurants and drinking establishments
HCC 21.28.030(h) Hotel and motels (existing and proposed)
HCC 21.28.030(i) More than one permitted principal use on a lot.
HCC 21.28.030(j) Planned unit development
HCC 21.28.040(d) More than 8,000 sf of building area

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

Analysis: The "purpose of the Marine Commercial District is primarily for water-related and water-dependent uses and the business and commercial uses that serve and support them, including but not limited to fishing, marine transportation, off-shore energy development, recreation and tourism. It is recognized that unique natural features of Homer's marine environment contribute significantly to the economic and social environments, therefore performance standards are required to minimize the impact of development on the natural features on which they depend" per 21.28.010.

The project supports tourism with retail, recreational fishing booking office, overnight accommodations and a restaurant. The raised boardwalk minimizes the impact of development on the natural features.

Finding 2: This project is compatible with the purpose of the Marine Commercial 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.

Analysis: The adjoining property to the west is owned by the City of Homer and is zoned Open Space Recreational. The applicant is requesting a setback exception along the west lot line to allow a corner of one building (26 sf) to encroach into the side setback.

The adjoining property to the SE is privately owned and is developed as a boardwalk with retail, charter offices and restaurants.

The value of the adjoining property should not be negatively affected greater than that of other permitted or conditionally permitted uses in the district such as cold-storage facilities and wholesale outlets for marine products.

Finding 3: No evidence has been found that the project will have a negative impact on the adjoining properties.

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

Analysis: The surrounding land uses include fish processing, retail, charters office and restaurants which is compatible with the proposed project.

Finding 4: The proposed boardwalk expansion is compatible with of the surrounding land.

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

Analysis: The site is served with city water and sewer along a paved State of Alaska highway.

Finding 5: Public services and facilities are adequate to serve the project.

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.

Analysis: The existing Captain Patties Restaurant is a two-story, 1,815 sf structure. The proposed addition to Captain Patties is single-story, on the bay side and not visible from Homer Spit Road.

Also proposed, is one building with five overnight accommodations units with an attached laundry/mechanical room. This single-story, 1,776 sf building with a maximum building height of twelve feet (12') and views to the south, bay side. According to the North Elevation approximately half of this 5-unit building sits behind the Alpaca store and the Crab Shack with a roofline lower than the existing buildings.

The addition of 2,048 sf to Captain Patties Restaurant plus five (5) overnight accommodation units, to an already mixed used site is difficult to isolate the traffic impacts. The *Trip Generation, 7th Edition* published by the Institute of Transportation Engineers estimates 58 peak vehicle trips for a retail center which does not require a Traffic Impact Analysis per HCC 21.76.060.

Finding 6: This project is in harmony with the scale, bulk, coverage, density, and traffic generation of the surrounding Marine Commercial district.

Finding 7: This project will not have an undue harmful effect on the character of the Marine Commercial Spit activity.

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

Analysis: The proposed project is designed to meets all current health and safety requirements. There is a variety of Fire Marshal certificates from the 1990's for a variety of buildings and uses. **Staff recommends that applicant provide verification that all the buildings meet State of Alaska Fire Marshal standards based on their current use. This verification to be provided prior to issuance of a Zoning Permit.**

Finding 8: The proposed project will not be detrimental to the health, safety or welfare of the surrounding area or city as a whole.

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

Analysis: An approved CUP and zoning permit is required.

Finding 9: The proposed project will comply with the applicable regulations.

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

Analysis: 1999 Homer Comprehensive Plan Update is the adopted plan that identifies the future vision of the Homer Spit. On page 4 it states, "Manage the land and other resources of the Spit to accommodate its natural processes, while allowing fishing, tourism, and other marine related development, and open space/recreational uses." Action items encourage the mix and cluster of charter offices, boat and gear suppliers and other tourist related activities, construction of walkways and weather-protected picnic areas.

A raised boardwalk accommodates the natural processes and provides walkways. The businesses on the boardwalk promote fishing and tourism and are cluster with other near-by charter office and tourist related activities.

Finding 10: The site meets the goals and objectives of the 1999 Comprehensive Plan.

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

Analysis: Only the Outdoor Furnishing section of the CDM applies. The proposal includes outdoor seating, seasonal planters and hanging baskets.

Finding 11: The proposal provides outdoor furnishings on the boardwalk.

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 conditions deems necessary.
2. **Fences, walls and screening.** Screening is provided between the individual overnight units.
3. **Surfacing of vehicular ways and parking areas.** Gravel
4. **Street and road dedications and improvements (or bonds).** No conditions deems necessary.
5. **Control of points of vehicular ingress and egress.** No conditions deems necessary.
6. **Special restrictions on signs.** No conditions deems necessary.
7. **Landscaping.** Seasonal planters and hanging baskets will be placed around the boardwalk.
8. **Maintenance of the grounds, buildings, or structures.** No conditions deems necessary.
9. **Control of noise, vibration, odors, lighting or other similar nuisances.** No conditions deems necessary.
10. **Limitation of time for certain activities.** No conditions deems necessary.
11. **A time period within which the proposed use shall be developed and commence operation.** No conditions deems necessary.
12. **A limit on total duration of use or on the term of the permit, or both.** No conditions deems 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.**

Analysis: A setback variance was granted on May 4, 1989 which allowed the extension of the deck up to the property line. By today's standards a Commercial PUD provides for flexibility for building setbacks, per HCC 21.52.060(d). A Planned Unit Development (PUD) provides flexibility of Dimensional Requirements.

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.** No conditions deems necessary.

21.52.060(b)A planned unit development that includes commercial, noncommercial or industrial uses shall comply with the following requirements and conditions:

1. The PUD site shall have direct access to an arterial or collector street.

Finding 12: The project has direct access to Homer Spit Road, a State of Alaska Highway.

2. Utilities, roads and other essential services must be constructed, installed and available for the immediate use of occupants of the PUD.

Finding 13: Utilities and roads exist and are available for use by the occupants.

3. The PUD shall be developed with a unified architectural treatment.

Analysis: The Central Charters Boardwalk will be development in a cohesive marine-nautical theme to blend the natural environment.

Finding 14: The PUD will be developed with a unified architectural treatment.

c. If topographical or other barriers do not provide adequate privacy for uses adjacent to the PUD, the Commission may impose conditions to provide adequate privacy, including without limitation one or both of following requirements:
1. Structures located on the perimeter of the planned development must be set back a distance sufficient to protect the privacy of adjacent uses;

Analysis: All the structures meet the five (5) foot building setback except one building corner, 26 sf of along the west property line. Privacy fences will be built for all five (5) overnight units. The applicant requests an exception to this setback requirement. The adjacent property to the west is zoned Open Space Recreation and the parcel is owned by the City of Homer.

Finding 15: The project does not interfere with the privacy of the adjacent uses which is Open Space Recreational land owned by the City of Homer.

2. Structures on the perimeter must be permanently screened by a fence, wall or planting or other measures sufficient to protect the privacy of adjacent uses.

Analysis: The overnight accommodation building includes a privacy fence along a portion of the west property line.

Finding 16: The structure on the west perimeter provides a permanent fence to protect the privacy of adjacent uses, Open Space Recreation.

d. Dimensional Requirements. Setbacks and distances between buildings within the development shall be at least equivalent to that required by the zoning district in which the PUD is located unless the applicant demonstrates that:

1. A better or more appropriate design can be achieved by not applying the provisions of the zoning district; and

Finding 17: The five (5) unit building could be moved out of the setback area.

2. Adherence to the dimensional requirements of the zoning district is not required in order to protect health, safety and welfare of the occupants of the development and the surrounding area.

Finding 18: Exception to the dimensional requirements does not affect the health safety and welfare of occupants of the development and the surrounding area.

PUBLIC WORKS COMMENTS: No comment.

FIRE DEPARTMENT COMMENTS: Fire Chief Painter – Fire Marshal approval required.

STAFF COMMENTS/RECOMMENDATIONS: *Approval of a Conditional Use Permit requires five yes votes.*

The Planning Commission to approve CUP 11-06 by adopting SR 11-49 with Findings 1–18 which denies the five foot (5') building setback along the west property. The following conditions apply:

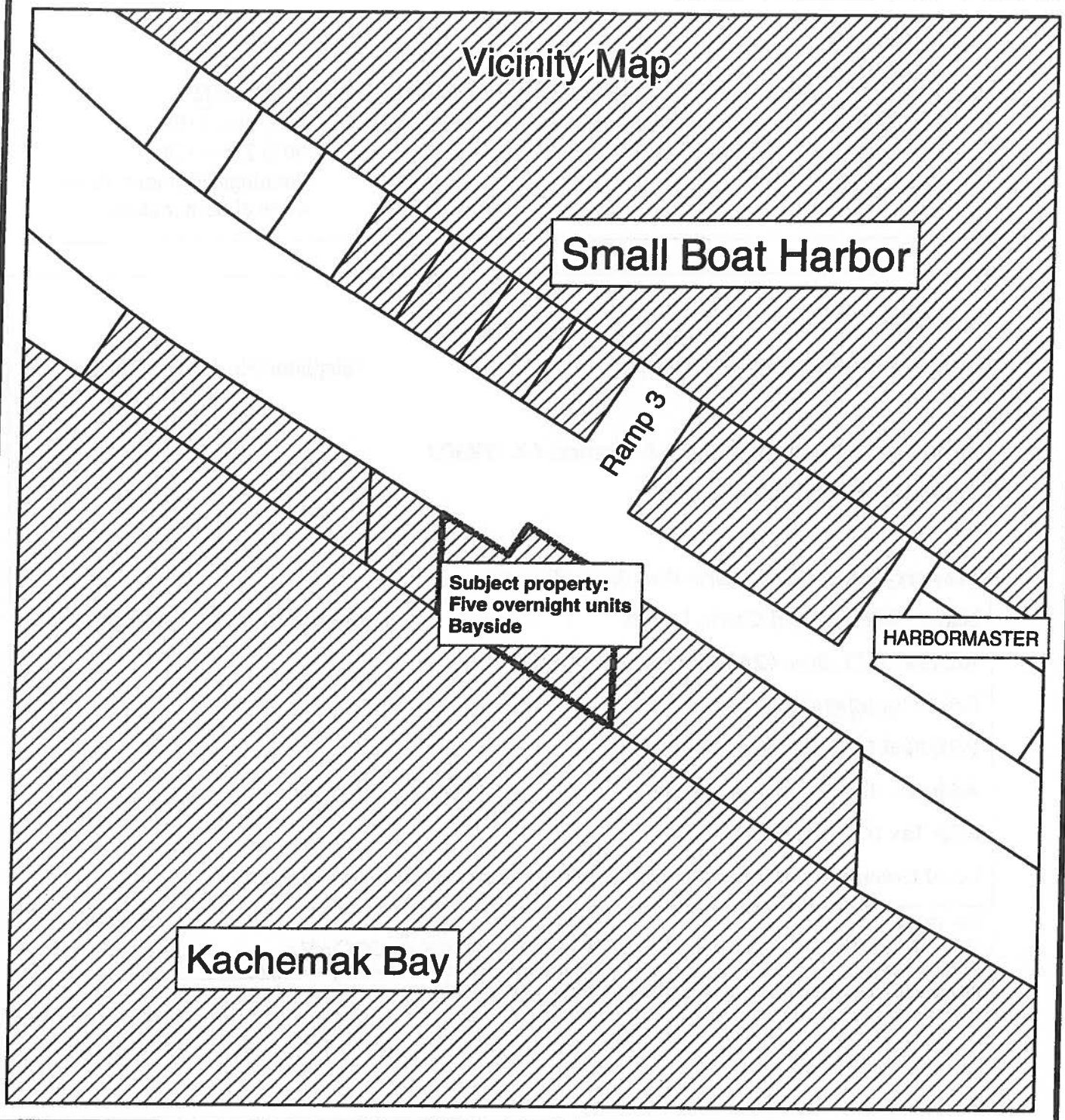
1. Prior to issuance of a Zoning Permit for the structures, the applicant to submit an engineer certified Flood Elevation Certificate proving the boardwalk meets Homer's Flood Prone Area code HCC 21.41.

2. Prior to issuance of a Zoning Permit, the applicant to provide verification that all the buildings (existing and proposed) meet State of Alaska Fire Marshal standards based on their current use.

IF the Planning Commission chooses to approve CUP 11-06 and allow for a zero (0) building setback, to allow for 26 sf of building area along the west property line, the HAPC needs to replace Findings 17.

ATTACHMENTS

1. Location map
2. Application
3. Site Plan page 1 of 3
4. North Elevation page 2 of 3
5. South Elevation page 3 of 3



City of Homer
Planning and Zoning Department
4.20.11

CUP 11-06
4241 Homer Spit Road

Shaded area is w/i 300ft notice

0 150 300 Feet

N

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 Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-3106
Fax (907) 235-3118
E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

Applicant

Name: Seabright Survey + Design Telephone No.: 907-235-4247

Address:1044 East Road Suite A Homer, AK 99603

Email:seabrightz@gmail.com

Property Owner (if different than the applicant):

Name: William and Catrin Lovett Telephone No.: 907-299-0901

Address: P.O. Box 4243 Homer, AK 99603

Email: inua2@alaska.net

PROPERTY INFORMATION:

Address: 4241 Homer Spit Road Lot Size: 0.88 acres

KPB Tax ID # 181-033-07

Legal Description of Property: Lot 22 Homer Spit Subdivision Amended

For staff use: 21-2106

Date: 4/12/11 Fee submittal: Amount $1000.00

Received by: Date application accepted as complete 4/12/11

Planning Commission Public Hearing Date: May 4, 2011

RECEIVED
APR 12 2011
CITY OF HOMER
PLANNING/ZONING

Conditional Use Permit Application Requirements:

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

Circle Your Zoning District

	RR	UR	RO	CBD	TCD	GBD	GC1	GC2	MC	MI	OSR	BCWPD
Level 1 Site Plan	x	x	x			x			x		x	x
Level 1 ROW Access Plan	x	x							x		x	
Level 1 Site Development Requirements	x	x										
Level 1 Lighting			x	x	x	x	x	x	x	x		
Level 2 Site Plan			x	x	x		x	x		x		
Level 2 ROW Access Plan			x	x	x		x	x		x		
Level 2 Site Development Requirements			x*	x	x	x	x	x	x	x		
Level 3 ROW Access Plan						x						
DAP/SWP questionaire				x	x	x	x	x	x	x		

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

Yes Are you building or remodeling a commercial structure or multifamily building with more than 3 apartments? If yes, Fire Marshal Certification is required. Status: Formal Fire Marshal approval is pending approval of the CUP/PUD.

No Will your development trigger a Development Activity Plan? Application Status: Not Applicable

No Will your development trigger a Storm water Plan? Application Status: Not Applicable

No Does your site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required. Application Status: Not Applicable

Yes Is your development in a floodplain? If yes, a Flood Development Permit is required. Existing Permit is in place

Yes Does your project trigger a Community Design Manual review? We are providing details on the location of outdoor furnishings and planters on the site plan

No Do you need a traffic impact analysis?

No Are there any nonconforming uses or structures on the property?

N/A Have they been formally accepted by the Homer Advisory Planning Commission?

Yes Do you have a state or city driveway permit? Status: Exisiting

Yes Do you have active City water and sewer permits? Status: Existing

1. Currently, how is the property used? Are there buildings on the property? How many square feet? Uses within the building(s)? There are currently five buildings on the existing boardwalk. The existing uses are all seasonal, tourist related retail shops. These include retail shops, a restaurant, charter office and overnight lodging.

   Existing Building Square Footages:
   Captain Patties 1815 s.f.
   Sea Lion Gallery 1248 s.f.
   Alpaca Sweaters 320 s.f.
   Central Charters 4219 s.f.
   The Crab Shack 440 s.f
   Total existing built square footage: 8042 s.f.

2. What is the proposed use of the property? How do you intend to develop the property? The proposed development of the property is primarily the addition of five fully equipped cabins for overnight accommodations and an addition to the existing Captain Patties restaurant.

   Proposed New building Square Footages:
   Addition to Captain Patties 2048 s.f.
   New overnight lodging (5 cabins) 1776 s.f.
   Total proposed new building square footage: 3824 s.f.
   Total combined building square footage: 11,866 s.f.

   Both of these improvements will be constructed on new boardwalk approved in March, 2010 and currently under construction. This new boardwalk is engineered and designed to meet the most current flood zone requirements. The elevation of the new boardwalk will be approximately 45" above the existing boardwalk. There will be steps and a universally accessible ramp to provide access between the two boardwalks.

Care has been taken to create a design for the proposed new development that is harmonious with the existing buildings on this boardwalk and the overall flavor of the Spit boardwalk developments in general. Along with the proposed new construction, there will be a variety of upgrades and enhancements of the existing buildings. The intention is to continue develop the boardwalk into a cohesive and attractive setting that provides a variety of products and services to visitors and locals alike.

Attention has been given to the street side view and the design keeps the new roofline lower than the existing buildings. The views from the proposed new buildings look out over the ocean and outer bay. This creates a unique dining experience for guests at the restaurant, especially in the long evenings of summer. The cabins are also oriented towards the outer bay. They have privacy fences between each cabin as well adjacent to the public spaces. Access to the cabins and the restaurant addition is by a 5' wide walkway. There is also a 5' wide deck in front of the cabins. There is also a mechanical room on the northwesterly end of the deck that will include a boiler system for the cabins, laundry and washing facilities and an universally accessible bathroom.

The proposed buildings will be sided in a wooden board and batten style, similar to the existing Central Charters building. The color palette will include muted grays and blues. This will help the buildings blend nicely together and with the surrounding landscape.

CONDITIONAL USE INFORMATION: (Please use additional sheet(s), if necessary)

a. What code citation authorizes each proposed use and structure by conditional use permit?
HCC 21.28.030(a) Restaurants and drinking establishments
HCC 21.28.030(b) Hotels and motels (six or more units)
HCC 21.28.030(i) More than one building containing a permitted principal use on a lot.
HCC 21.28.030(j) Planned Unit Development

b. Describe how the proposed uses(s) and structures(s) are compatible with the purpose of the zoning district. The proposed development is an upgrade of an existing boardwalk development. The new buildings are examples of long term investment in Homer Spit tourism. The specific uses are compatible with existing uses on this boardwalk and in the zoning district in general. The expansion of

Captain Patties Restaurant provides more tables with dramatic views of Kachemak Bay. The new cabins will provide overnight lodging that is of a high quality and with the same great views. These improvements exemplify the best case scenario in meeting the goals of this zoning district.

c. How will your proposed project affect adjoining property values? The adjacent property values will likely experience positive effects from this improvement. "A rising tide raises all boats."

d. How is your proposal compatible with existing uses of the surrounding land? The proposed development is an improvement of the long established Central Charters Boardwalk development. The expansion of the restaurant and availability of additional lodging creates more activity and interest in the immediate area of retail shops and tourist oriented services.

e. Are/will public services adequate to serve the proposed uses and structures? Yes. City of Homer sewer and water mains front the property.

f. How will the development affect the harmony in scale, bulk, coverage and density upon the desirable neighborhood character, and will the generation of traffic and the capacity of surrounding streets and roads be negatively affected? The existing Central Charters Boardwalk is a landmark on the Homer Spit. The scale and orientation of the proposed improvements are both in harmony with this boardwalk and the surrounding character of this area of the Spit. The improvements are intended to meet the existing demand for services during the short summer tourist season.

g. Will your proposal be detrimental to the health, safety or welfare of the surrounding area or the city as a whole? This development is designed to meet all current requirements in health and safety. The raised boardwalk is a good example. The additional height establishes the revised FEMA requirement for elevation of boardwalks on the Spit. All future improvements or new development of boardwalks will have to meet this standard. The tsunami evacuation plan for the Homer Spit will be posted prominently in all of the businesses and in each of the overnight cabins.

h. How does your project relate to the goals of the Comprehensive Plan?
The 2006 Town Center Plan and the 2008 Comprehensive Plan are online at: http://www.ci.homer.ak.us/documents/planning. We are advised that the Comprehensive Plan is not yet online and to leave this section blank.

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

1. Yes Special yards and spaces. The boardwalk is a special space and is designed to provide viewing areas and outdoor seating.
2. Yes Fences, walls and screening. Fencing and screening for privacy are being planned for this project.
3. No Surfacing of parking areas. The project scope proposes increasing the amount of parking within the R/W adjacent to the property by 4 spaces.
4. N/A Street and road dedications and improvements (or bonds).
5. N/A Control of points of vehicular ingress & egress.
6. Yes Special provisions on signs. We are participating in ongoing discussions and workshops regarding signage on the Homer Spit.
7. Yes Landscaping. There will be areas of seasonal planters and hanging baskets placed around the boardwalk.
8. Yes Maintenance of the grounds, buildings, or structures. Maintenance of the existing buildings and boardwalk will be ongoing.
9. N/A Control of smoke, odors, gases, particulate matters, noise, vibration, heat, glare, water and solid waste pollution, dangerous materials, material and equipment storage, or other similar nuisances.
10. N/A Time for certain activities.
11. Yes A time period within which the proposed use shall be developed.
12. No A limit on total duration of use.
13. Yes Special dimensional requirements such as lot area, setbacks, building height. The proposed buildings are designed to minimize visual impact and there only a minor area of setback affected by this improvement.
14. Yes Other conditions deemed necessary to protect the interest of the community.

PARKING

1. How many parking spaces are required for your development? 5

   If more than 24 spaces are required see HCC 21.50.030(f)(1)(b).
2. How many spaces are shown on your parking plan? 8 spaces are shown on the property and 16 are located in the R/W
3. Are you requesting any reductions? No

PUD HCC 21.52.060(b)

b. A planned unit development that includes commercial, noncommercial or industrial uses shall comply with the following requirements and conditions:

1. The PUD site shall have direct access to an arterial or a collector street. The site is directly accessed by the Homer Spit Road, a State maintained highway.
2. Utilities, roads and other essential services must be constructed, installed and available for the immediate use of occupants of the P.U.D. Public sewer and water is installed. Fire protection is available.

3. The P.U.D. shall be developed with a unified architectural treatment. The marine environment is the theme of the boardwalk and the proposed development will serve to enhance the existing buildings. Upgrades and improvements of the existing buildings will also increase the overall cohesiveness on the Central Charters boardwalk.

c. If topographical or other barriers do not provide adequate privacy for uses adjacent to the P.U.D., the Commision may impose conditions to provide adequate privacy, including without limitation one or both of the following requirements:

1. Structures located on the perimeter of the planned unit development must be setback a distance sufficient to protect the privacy of adjacent uses. The Central Charters boardwalk was previously granted a setback variance on May 4, 1989. This same variance has also been applied in the Floodplain Development Permit granted on March 1, 2010. Due consideration has been given to privacy concerns, especially with the overnight lodging proposed for this project. We have designed these cabins with privacy fences and without windows on the side walls. The one cabin that falls partially within the setback does not have any impact on the privacy of the adjacent vacant ocean frontage owned by the City of Homer.

2. Structures on the perimeter must be permanently screened by a fence, wall or planting or other measures sufficient to protect the privacy of adjacent uses. The side wall of buildings adjacent to the vacant ocean frontage is privatized by walls and seasonal plantings. There is no privacy issue with the property to the southeast.

d. Dimensional Requirements. Setbacks and distances between buildings within the development shall be at least equivalent to that required by the zoning district in which the P.U.D. is located unless the applicant demonstrates that:

1. A better or more appropriate design can be achieved by not applying the provisions of the zoning district. The existing building setbacks to the R/W are approved by variance granted May 4, 1989. These dimensions are noted on the site plan. The request for a variance for setback on the northwest side affects a corner of one cabin.

2. Adherence to the dimensional requirements of the zoning district is not required in order to protect health, safety and welfare of the occupants of the development and the surrounding area. We have provided for accessibility and open areas on the new boardwalk. This allows movement throughout the entire area. The walkways are a minimum of 5' wide and the ramp meets the standards for universal accessibility.

e. The site development standards of HCC 21.50.030 shall be met. We believe these requirements are fully met. The beachfront location is well drained. The existing site is developed. New site work will be limited to improving additional parking in the R?W for public use.

Include a site plan, drawn to a scale of not less than 1" = 20' which shows allow existing and proposed structures, clearing, fill, vegetation and drainage. We have included various graphic renderings of the project including:

- A site plan detailing the existing and proposed structures as well as the parking plan and existing ingress/egress to the Homer Spit Road. This plan also details the adjacent property and uses.

- Profile views of the proposed project from both the roadway side and the ocean side of the property.

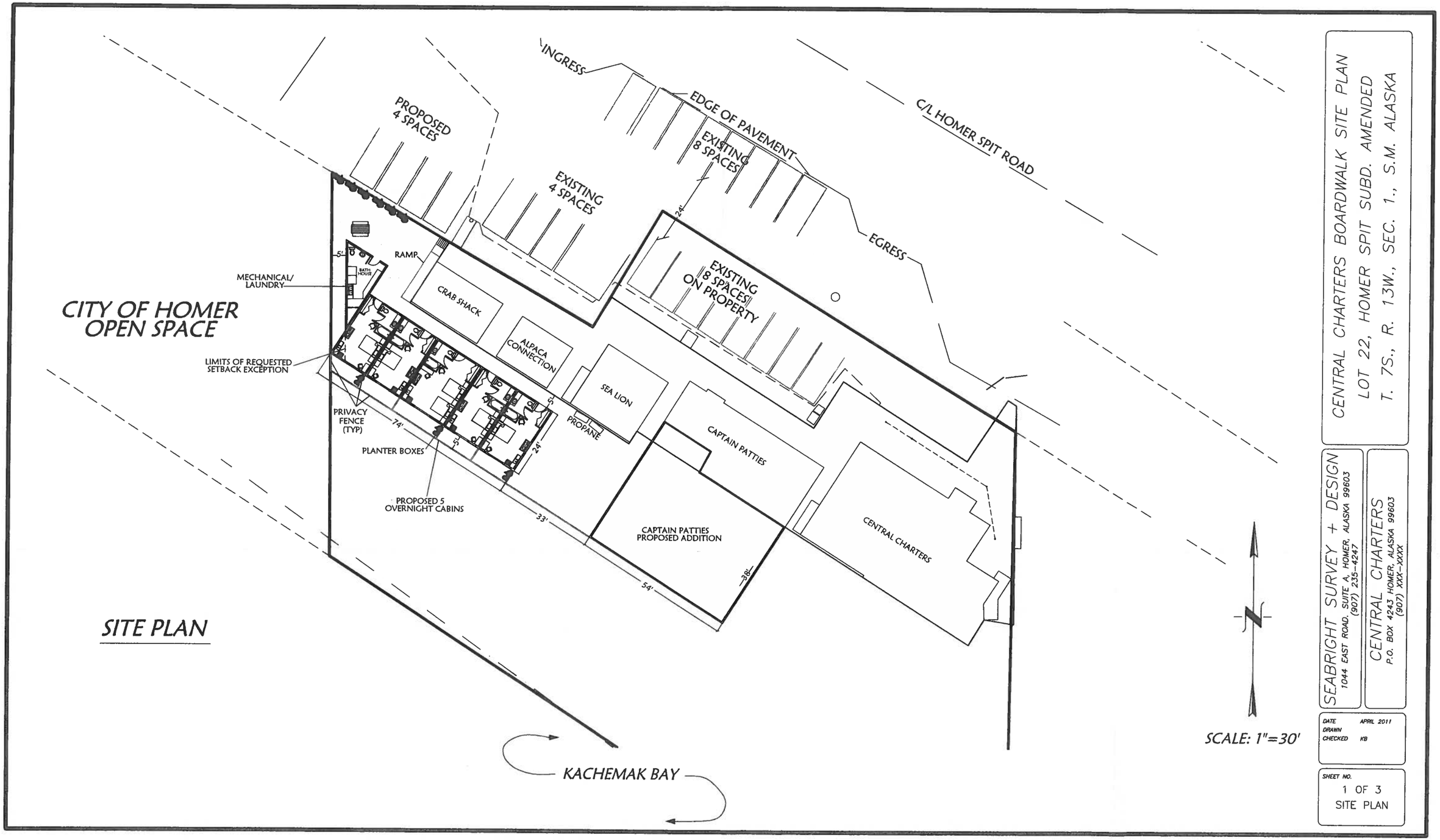
- An overview of the larger surrounding area that shows the neighborhood in which the Central Charters Boardwalk is an integral part.

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

CIRCLE ONE: Owner of record Lessee Contract purchaser

Applicant signature: Kenton Bloom Date: 4/11/11

Property Owner's signature: Cathy Lovett Date: 4-11-11


INGRESS
EDGE OF PAVEMENT
C/L HOMER SPIT ROAD
PROPOSED 4 SPACES
EXISTING 4 SPACES
EXISTING 8 SPACES
EGRESS
EXISTING 8 SPACES ON PROPERTY
24'
5'
RAMP
BATH HOUSE
MECHANICAL/ LAUNDRY
CRAB SHACK
ALPACA CONNECTION
SEA LION
PROPANE
CAPTAIN PATTIES
CAPTAIN PATTIES PROPOSED ADDITION
CENTRAL CHARTERS
CITY OF HOMER OPEN SPACE
LIMITS OF REQUESTED SETBACK EXCEPTION
PRIVACY FENCE (TYP)
74'
PLANTER BOXES
PROPOSED 5 OVERNIGHT CABINS
33'
54'
38'
SITE PLAN
KACHEMAK BAY
SCALE: 1"=30'
CENTRAL CHARTERS BOARDWALK SITE PLAN
LOT 22, HOMER SPIT SUBD. AMENDED
T. 7S., R. 13W., SEC. 1., S.M. ALASKA
SEABRIGHT SURVEY + DESIGN
1044 EAST ROAD, SUITE A, HOMER, ALASKA 99603
(907) 235-4247
CENTRAL CHARTERS
P.O. BOX 4243 HOMER, ALASKA 99603
(907) XXX-XXXX
DATE APRIL 2011
DRAWN
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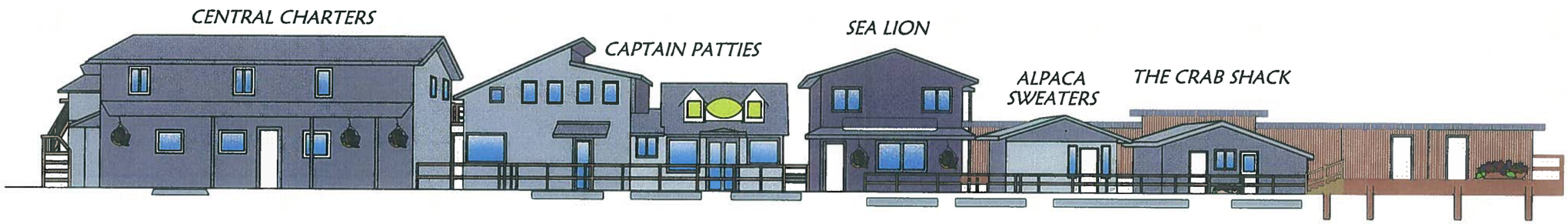
SHEET NO.
1 OF 3
SITE PLAN



PERSPECTIVE VIEW

NORTH ELEVATION

FIVE OVERNIGHT CABINS AND WASHROOM

SCALE: NOT TO SCALE

CENTRAL CHARTERS CONCEPTUAL PERSPECTIVE
LOT 22, HOMER SPIT SUBD. AMENDED
T. 7S., R. 13W., SEC. 1., S.M. ALASKA

SEABRIGHT SURVEY + DESIGN
1044 EAST ROAD, SUITE A, HOMER, ALASKA 99603
(907) 235-4247

CENTRAL CHARTERS
P.O. BOX 4243 HOMER, ALASKA 99603
(907) XXX-XXXX

DATE APRIL 2011
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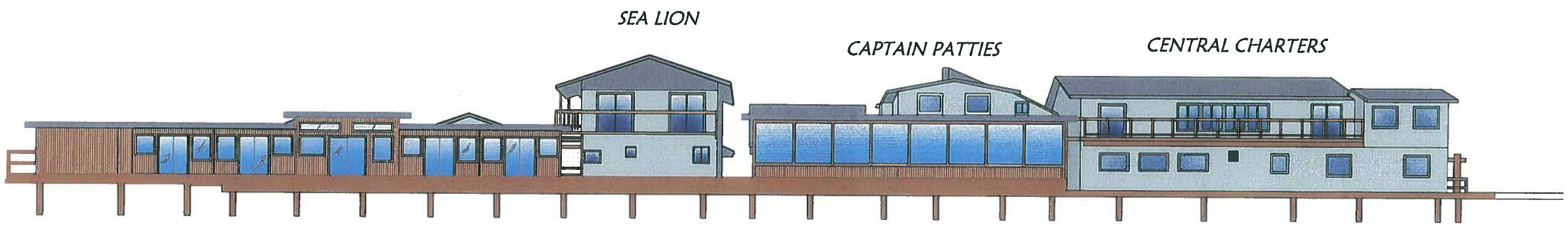
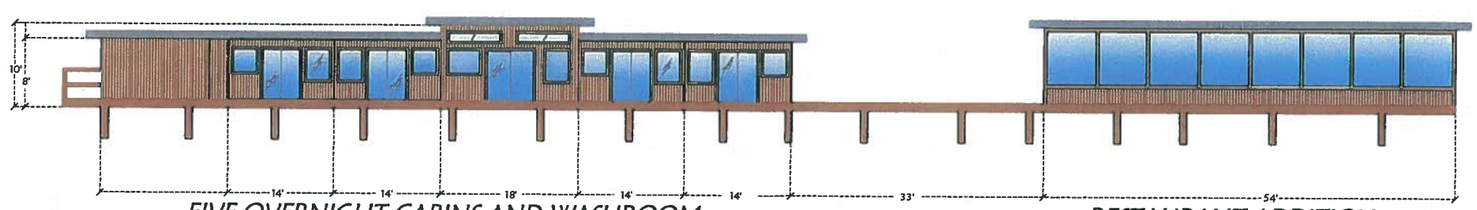
SHEET NO.
2 OF 3
NORTH ELEV.



PERSPECTIVE VIEW



SOUTH ELEVATION

SCALE: NOT TO SCALE

CENTRAL CHARTERS CONCEPTUAL PERSPECTIVE
LOT 22, HOMER SPIT SUBD. AMENDED
T. 7S., R. 13W., SEC. 1., S.M. ALASKA

SEABRIGHT SURVEY + DESIGN
1044 EAST ROAD, SUITE A, HOMER, ALASKA 99603
(907) 235-4247

CENTRAL CHARTERS
P.O. BOX 4243 HOMER, ALASKA 99603
(907) XXX-XXXX

DATE APRIL 2011
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SHEET NO.
3 OF 3
SOUTH ELEV.

City of Homer
Planning & Zoning
491 East Pioneer Avenue
Homer, Alaska 99603-7645

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E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

STAFF REPORT PL 11-49

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: May 4, 2011
SUBJECT: CUP 11-07 at 1295 Mission road for "more than one building containing a permitted principal use on a lot" per HCC 21.12.030(n).

SYNOPSIS: The Alaskan Bible Institute has established a college with staff and housing on two lots with at total area of 14.56 acres. There are two dwellings on the subject lot, a 7.18 acre site; a 7,032 sq. ft. classroom building and a 2,400 sq. ft. shop and the adjoining lot is 6.38 acres containing a 7,918 sq. ft. dormitory, a 1,176 sf. equipment building and 6 dwelling that range from 1,500 to 700 sf. All of the existing structures are eligible for legal nonconforming status. The applicant wishes to build three 42' x 25' (1050 sq. ft.) triplex units to be used for housing of married students. A Conditional Use Permit (CUP) is needed for "more than one building containing a permitted principal use on a lot" per HCC 21.12.030(n). ABI applied to build 3 triplexes on 1 lot. This CUP only addresses the lot of the proposed development.

This is a quasi-judicial action requiring 5 affirmative vote for approval.

Applicants:	Alaska Village Missions/Lance Prouse
Location:	1295 Mission Road
Parcel ID:	17403029
Lot Size(s)	7.18 acres
Zoning Designation:	Rural Residential
Existing Land Use:	School/housing
Surrounding Land Use:	North: Residential South: Vacant East: Residential West: School
Comprehensive Plan:	Land Use, Goal 3: Encourage high quality buildings and site design that complements Homer's beautiful natural setting. p 4-14 Land use, Goal 5: Maintain high quality residential neighborhoods; promote housing choice by supporting a variety of dwelling options. p 4-18 Land Use, Goal 5, Obj. A: Diversify housing stock to meet demand by people earning a broad range of incomes. p 4-18
Wetland Status:	No designated wetlands.
BCWPD:	Not within the Bridge Creek Watershed Protection District
Utilities:	Well and Septic, DEC approved Public Water and in process of documenting Community Wastewater adequate for proposed development

Public Notice: Notice was sent to 8 property owners of 10 parcels as shown on the KPB tax assessor rolls.

Introduction: The applicant wishes to provide housing to married students and their children on the southern portion of their eastern lot. They propose constructing three 1050 sf. triplex dwellings that would be built over the course of several years.

Parking: The Planner shall determine the number of off-street parking required for a use not identified HCC 21.55.090(b). While the structures are dwellings, they are specially associated with the particular use of the school. In this case, I find that traditional dwelling standards are not the best fit. The housing is dormitory in theory, but in practice it serves a group not usually associated with dorms, specifically married students. Each triplex will provide 7 beds to house students and possibly children of the students. I propose, **Condition 1: provide 5 parking spaces per triplex unit.** This is a reduction of 1 space per triplex from current code.

Density: The standards for rural residential density need special considerations for this development. Our standards are based upon a formula which relates lot size to the category of water and sewer service per HCC 21.12.040. These standards usually lead to quite a bit of debate when the proposed development does not resemble the standard single family residence, which I believe they are intended to address. Even breaking down the formula for single family residences can be problematic. Minimum lot sizes are related to dwelling units. Dwelling units have great variations in stature. A one bedroom cabin might be less than 500 square feet and serve only one person. A bed and breakfast might be 3500 square feet and serve a dozen people, yet both, according to code, are one dwelling and thus deserve the same consideration when measuring density. I believe that the code was written to maintain public health, safety and welfare which are best measured by the ability of the development to meet DEC standards for water and sewer systems.

Staff has determined that this particular development, as currently configured, was in operation prior to annexation and now we need to consider an expansion. Currently, everything in the development is permissible with a conditional use permit and I have granted it legal nonconforming status, therefore I see this CUP as a type of modification to an existing acceptable use. While we may need to consider the impact of site as a whole, I believe that our focus should be on the newly proposed facilities and how they might be developed in relation to safety, health and welfare. There are many measures of how we might measure this. The foremost is the sites ability to provide water and sewer service. The water system is classified by AKDEC as a Public Water System, specifically a treated Small Water System with a registered operator. The wastewater system is classified as a Community or Alternate Soil Absorption System. Plans for this type of system must be submitted and reviewed by AKDEC. The system must receive Final Approval to Operate, which the applicant is in the process of obtaining. This type of system qualifies for the greatest density allowable by code. Unfortunately, this type of development does not fit well with our dwelling unit density rating. **Condition 2: Prior to development, DEC certification for a Public Water System and the Final Approval to Operate be presented** indicating approval of the water/wastewater systems as a requirement of obtaining a zoning permit.

Another measure of impact is the physical size of the site. The site is 14.56 acres or 634,233.6 square feet, with a total existing and proposed structure area of 28,415 square feet. This equates to 4.5% of the total site, which does not seem to impose an undue density to the Rural Residential District. According to my estimation the site is on an average slope of somewhere near 16%. This limits development without an engineer's stamped plan to 25% of the site. My measurement shows that the existing and proposed development will be under this amount.

Yet another measurement of density is population. Currently there is approximately 30 faculty that live on the site year round and 35 students that attend classes for 6 months from October to March. The proposed expansion might increase the campus population another 20 or so. The campus population will be capped by the ability to provide approved water and wastewater service. Even so, I believe that maximum campus capacity should be tempered in consideration of Rural Residential District. The population is atypical in the fact that most will only be onsite for 6 months during a 'slow' time for Homer when the neighboring bed and breakfast operations are at a lull and seasonal residents and tourists may not be present. Additionally, the population found on site is not typical of class-session commute that is usually associated with institutes of higher learning. So, on one hand this is a great economic opportunity to shore up activity in the 'down' season and fulfills goals of economic development, on the other, there is an expectation that high population density be tempered for the district. I propose, **Condition 3: Campus population capped at 100 or less dependent upon DEC criteria regarding water and wastewater service.** This provides a reasonable population density of 6.9 persons per acre. A number for comparison could be that according to the 10,000 square foot per dwelling unit figure, approximately 4 units could occupy one acre. The average size of a household for homer is about 2.5 person's times the four units equals a density of 10 people per acre.

The criteria for granting a Conditional Use Permit is set forth in HCC 21.61.020.

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

Finding 1: Adding three multifamily dwellings on one lot requires a CUP for "More than one building containing a permitted principal use on a lot" per HCC 21.12.030(m).

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 use is consistent with the purpose of HCC 21.12.010 which states in part, "Provide an area in the City for low-density, primarily residential, development;...."

Finding 3: Adding three triplex dwellings to this development constitutes a structure density of less than 5% which constitutes a density compatible with the zoning district.

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

Applicant: It would increase the value of the surrounding area.

Finding 4: The value of adjoining properties will not be negatively affected greater than other permitted uses such as multi-family units and mobile homes or conditionally permitted uses such as kennels, group care homes and recreational facilities.

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

Applicant: We are in an area of several B and B's and rental properties. It is also on the lower end of an existing campus.

Finding 5: This proposal is compatible with existing uses of surrounding land as its peak population is the inverse of neighborhood activities.

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

Applicant: Yes

Finding 6: The well and septic shall meet State Department of Environmental Conversation (AkDEC) standards per HCC 21.12.040 Rural Residential Dimensional Requirements prior to construction.

Finding 7: The site is served with a paved road.

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

Applicant: This will fit nicely in our neighborhood without an excessive impact on the road or neighbors.

Finding 8: A campus population of 100 will not cause and undue harmful effect on the neighborhood.

Finding 9: The development is in harmony with the scale, bulk, coverage and density and will not have a harmful effect of the 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 10: Certification of the water/wastewater service by DEC helps to ensure the health, safety and welfare of the surrounding area and city as a whole.

Finding 11: This proposal is not detrimental to the health, safety or welfare of the surrounding area or the City of the Homer.

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

Finding 12: This proposal shall comply with local, state and federal regulations.

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

Finding 13: This proposal meets the intent of the Homer Comprehensive Plan in that it provides diversified housing stock.

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

Finding 14: Down lit lighting is required per HCC 21.59.020.

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, walls and screening.** No specific conditions deemed necessary.
3. **Surfacing of vehicular ways and parking areas.** No specific conditions deemed necessary.
4. **Street dedications and improvements (or bonds).** No specific conditions deemed necessary.
5. **Control of points of vehicular ingress and egress.** No specific conditions deemed necessary.
6. **Special restrictions on signs.** No specific conditions deemed necessary.
7. **Landscaping.** No specific conditions deemed necessary.
8. **Maintenance of the grounds, and buildings.** No specific conditions deemed necessary.
9. **Control of noise, vibration, odors, lighting 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 and commence operation.** No specific conditions deemed necessary.
12. **A limit on total duration of use or on the term of the permit, or both.** 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.** No specific conditions deemed necessary.
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.** No specific conditions deemed necessary.

PUBLIC WORKS COMMENTS: No comment.

FIRE DEPARTMENT COMMENTS: No comment.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission approve CUP 11-07 for the construction of 3 triplexes with findings 1-14 and the following conditions.

Conditions

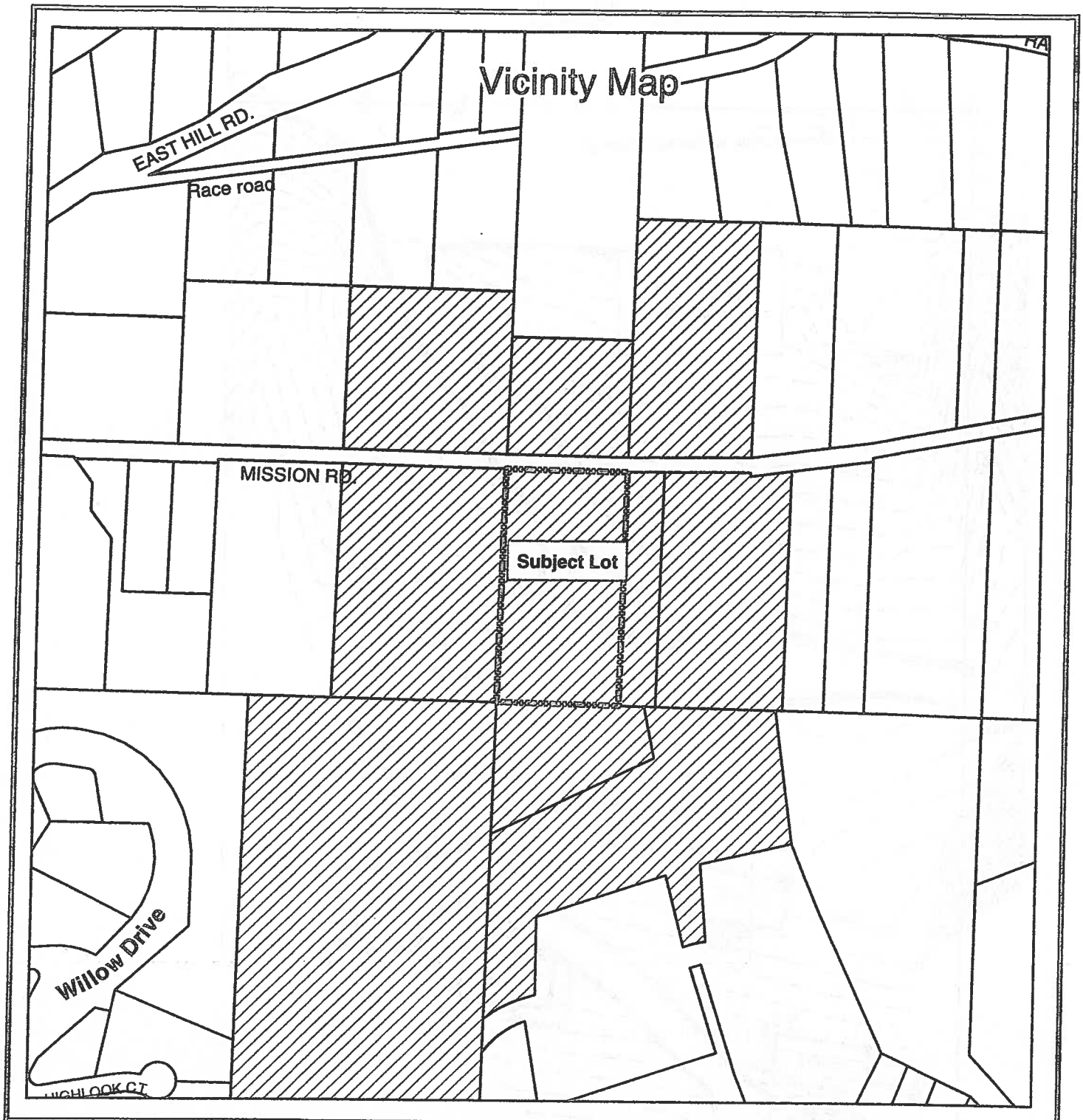
1. **Provide 5 parking spaces per triplex unit.**

2. **Development to comply with city, state and federal requirements per HCC 21.70 Zoning Permit, including Prior to development, DEC certification for a Public Water System and the Final Approval to Operate be presented.**

3. **Campus population capped at 100 or less dependent upon DEC criteria regarding water and wastewater service.**

ATTACHMENTS

1. Location map
2. Site plan
3. AKDEC records
4. Application
5. KPB Assessors records



City of Homer
Planning and Zoning Department
4.20.11

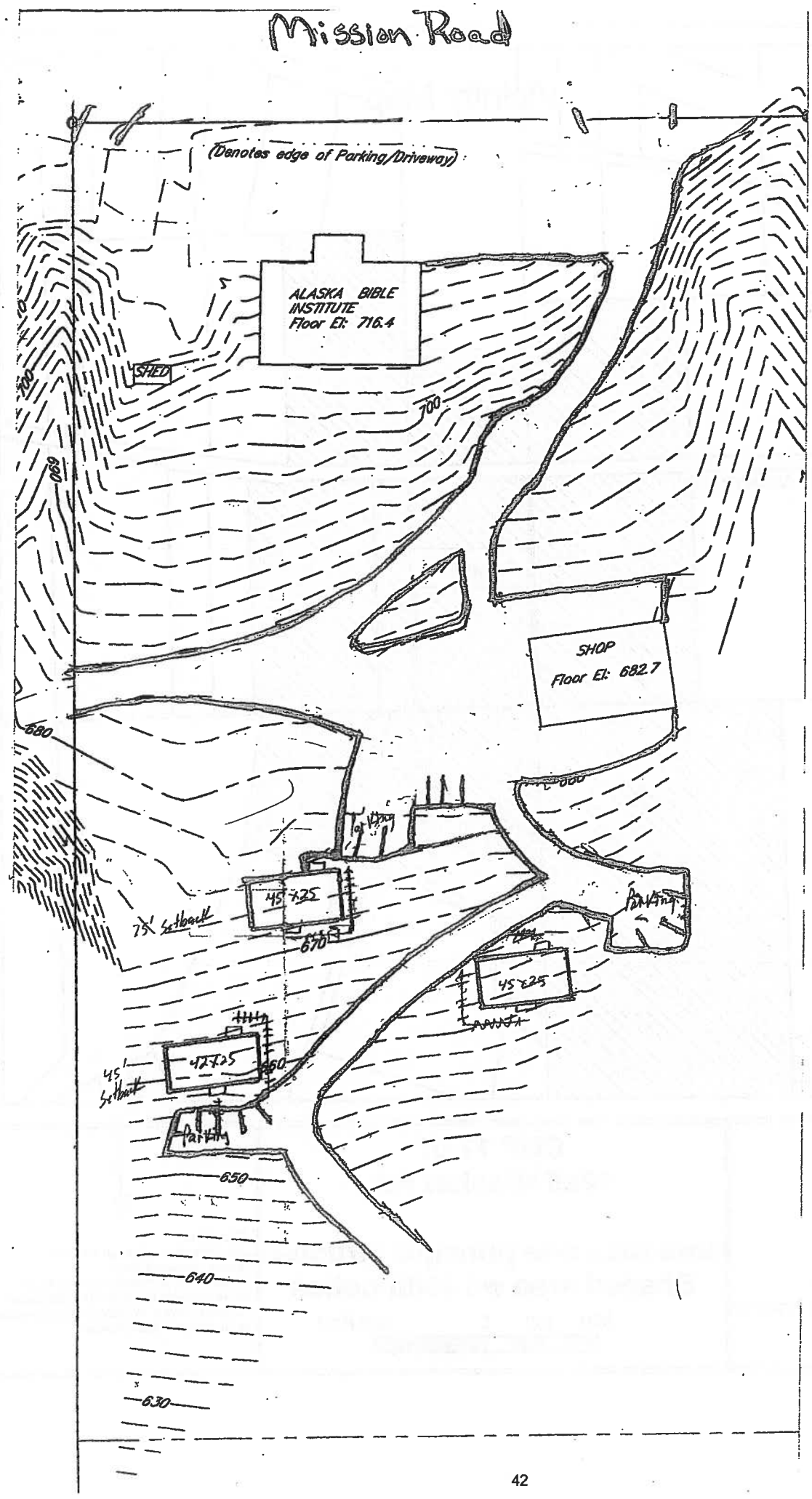
CUP 11-07
1295 Mission Rd.

More than one principle structure
Shaded area w/i 300ft notice

300 150 0 300 Feet

N

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.


Mission Road
(Denotes edge of Parking/Driveway)
ALASKA BIBLE INSTITUTE
Floor El: 716.4
SHED
700
690
SHOP
Floor El: 682.7
680
45'x25'
75' Setback
670
Parking
45'x25'
42'x25'
660
45' Setback
Parking
650
640
630

Division of Water

Alaska Certified Water/Wastewater Operator Database

Regulated System Record

The current classification scoring system for the selected facility is shown below. You may also return to search results.

Facility Name: Alaska Village Mission Water System
Community: Homer
Owner/Employer: Alaska Village Mission
Type of Facility: Small Water System
Classification Level: Treated

A small water system is a community or non-transient non-community (Class A) water system that serves less than 500 people and less than 100 service connections. Water systems that serve more than 500 people, but less than 15 service connections, are also considered small water systems.

The "treated" designation means that one treatment chemical is added to the water. Passive forms of treatment may be used to treat water at a small treated system. Examples of passive treatment include the use of cartridge filters, UV disinfection, or water softeners. Membrane filtration is not considered passive treated. Small systems treating with membrane filtration, chemically aided filtration, or multiple chemicals are classified as water treatment systems.

Exception: Transient non-community (Class B) water systems using surface water as a source are classified as small Treated regardless of treatment complexity.

Operators

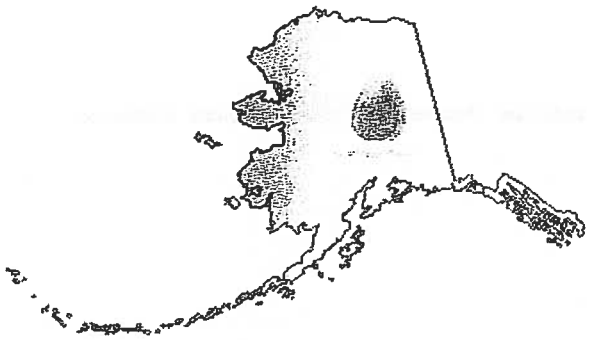
Name	Role	Cert. Level	Expiration Date	CEU Req. Met
Daniel Kropf	Primary	Small-Treated	12/31/2012	No

For more information, please review the Water and Wastewater Operator Certification and Training Regulation (18 AAC 74).

Drinking Water Program

Program Overview

Program Manager: James Weise
Phone (907) 269-7647
Fax (907) 269-7655



Of Interest

Program Overview
Drinking Water
Drinking Water Protection
Training Opportunities
Security
Related Links
Publications
Mission and Services

Alaska Department of Environmental Conservation, Division of Environmental Health, Drinking Water Program requires Public Water Systems (PWS) be in compliance with the state drinking water regulations, in accordance with the Federal Safe Drinking Water Act and Amendments, for the public health protection of the residents and visitors to the State of Alaska.

1. **What is a Public Water System?**
   A Public Water System (PWS) supplies water to consumers and is NOT a private water system. There are different categories of PWS that supply water to consumers. Each category of systems have their own set of requirements they must meet.

   Community water system (CWS)
   - expects to serve, year round, at least 25 individuals
   - is expected to serve, year round, at least 15 residential service connections

   Non-Transient Non Community Water System (NTNCWS)
   - regularly serves the same 25 or more individuals for at least 6 months of the year

   Transient Non Community Water System (TNCWS)
   - is not a CWS or NTNCWS
   - regularly serves at least 25 individuals each day for at least 60 days of the year

   Class C public water system
   - Is not a CWS, NTNCWS or TNCWS system and is not a private well or a duplex

2. **What do the drinking water regulations do?**
   The drinking water regulations set the standards for safe drinking water, and they identify the regulated drinking water contaminants and the level of those contaminants allowed in the water. These contaminants could be harmful for those who drink the water, especially the elderly, children, or individuals with developing or compromised immune systems or that have immune deficiencies.

   What types of contaminants do we regulate?
   - Bacteria, Viruses (from septic systems, etc) and parasitic protozoans
   - Lead and Copper
   - Nitrate and Nitrite (commonly from septic systems and manure piles)
   - Heavy Metals like Arsenic and Cadmium
   - Volatile Organic Contaminants (VOC) like Benzene and gasoline
   - Synthetic Organic Contaminants (SOC) like pesticides and herbicides
   - Other Organic Contaminants (OOC) like Dioxin and PCBs

3. **How do these contaminants affect us?**
   Consuming water containing contaminants above the established Maximum Contaminant Level (MCL) set by the regulations over a period of time could cause chronic (long term) or acute (short term) health problems.

Who can you contact at DEC about Drinking Water issues and questions, and where can you find your information?

Anchorage: (907) 269-7656
Fairbanks: (907) 451-2108
Juneau: (907) 465-5350
Soldotna: (907) 262-5210
Wasilla: (907) 376-5038

System Type or Facility Served by System	PLAN APPROVAL STEPS	Checklists, Forms and Submittal Requirements
Community or Alternate Soil Absorption System Community soil absorption system means a soil absorption system serving : one or more multi-family dwellings (3-plex or larger); a mobile home park, a trailer park or a recreational vehicle park; two or more single-family homes, duplexes, commercial establishments, or institutions; or a combination of two or more of the structures listed above. Alternate soil absorption system means a method of soil absorption treatment and disposal other than a conventional system (i.e., a mound system). Does not include nonwater-carried disposal methods such as composting, incineration, or privies.	1. Plans must be submitted to DEC and approved prior to construction. 2. Approval to Construct issued.(valid for two years) 3. Record drawings and confirmation all conditions met. 4. Final Approval to Operate issued. Refer to Fee Schedule (Appendix A) for associated fee. 18 AAC 72.260; 18 AAC 72.990	Data Sheet/General Checklist Community and Alternate Soil Absorption System Checklist Soils Analysis and Report Owner's Statement Plans must be signed and sealed by a Professional Engineer. Record drawings must be signed and sealed by a Professional Engineer.
Package Treatment Plants (less than 1,500 GPD)	1. Plans must be submitted to DEC and approved prior to construction. 2. Approval to Construct issued.(valid for two years) 3. Record drawings and confirmation all conditions met. 4. Final Approval to Operate issued. Refer to Fee Schedule (Appendix A) for associated fee. 18 AAC 72.263	Data Sheet/General Checklist Package Plant Checklist Soils Analysis and Report Owner's Statement Plans must be signed and sealed by a Professional Engineer. Record drawings must be signed and sealed by a Professional Engineer.

City of Homer Planning & Zoning
491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-3106
Fax (907) 235-3118
E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

Applicant
Name: Lance Prouse Telephone No.: 435-1235
Address: 1295 Mission Rd. Email: lanceprouse@gmail.com
Property Owner (if different than the applicant):
Name: Alaska Village Ministries Telephone No.: 235-[illegible]
Address: 1295 Mission Rd. Email:
PROPERTY INFORMATION:
Address: 1295 Mission Rd. Lot Size: _____ acres KPB Tax ID #
Legal Description of Property:

For staff use:
Date:_____ Fee submittal: Amount
Received by:_____ Date application accepted as complete
Planning Commission Public Hearing Date:

Conditional Use Permit Application Requirements:

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

Circle Your Zoning District

	RR	UR	RO	CBD	TCD	GBD	GC1	GC2	MC	MI	OSR	BCWPD
Level 1 Site Plan	x	x	x			x			x		x	x
Level 1 ROW Access Plan	x	x							x		x	

Level 1 Site Development Requirements	x	x								
Level 1 Lighting			x	x	x	x	x	x	x	x
Level 2 Site Plan			x	x	x		x	x		x
Level 2 ROW Access Plan			x	x	x		x	x		x
Level 2 Site Development Requirements			x*	x	x	x	x	x	x	x
Level 3 ROW Access Plan						x				
DAP/SWP questionaire				x	x	x	x	x	x	x

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

Y/N Are you building or remodeling a commercial structure, or multifamily building with more than 3 apartments? If yes, Fire Marshal Certification is required. Status: _____

Y/N Will your development trigger a Development Activity Plan?
Application Status: ___

Y/N Will your development trigger a Storm water Plan?
Application Status:

Y/N Does your site contain wetlands? If yes, Army Corps of Engineers Wetlands Permit is required. Application Status: _____

Y/N Is your development in a floodplain? If yes, a Flood Development Permit is required.

Y/N Does your project trigger a Community Design Manual review?
If yes, complete the design review application form. The Community Design Manual is online at: http://www.ci.homer.ak.us/documentsandforms

Y/N Do you need a traffic impact analysis?

Y/N Are there any nonconforming uses or structures on the property?

Y/N Have they been formally accepted by the Homer Advisory Planning Commission? N/A

Y/N Do you have a state or city driveway permit? N/A
Status:_____

Y/N Do you have active City water and sewer permits? Status: N/A
_____

- Currently, how is the property used? Are there buildings on the property? How many square feet? Uses within the building(s)? [illegible]

- What is the proposed use of the property? How do you intend to develop the property? (Attach additional sheet if needed. Provide as much information as possible).
[illegible]

CONDITIONAL USE INFORMATION: (Please use additional sheet(s), if necessary)

a. What code citation authorizes each proposed use and structure by conditional use permit?

b. Describe how the proposed uses(s) and structures(s) are compatible with the purpose of the zoning district.

c. How will your proposed project affect adjoining property values? [illegible]

d. How is your proposal compatible with existing uses of the surrounding land?
[illegible]

- Are/will public services adequate to serve the proposed uses and structures? [illegible]

- **How will the development affect the harmony in scale, bulk, coverage and density upon the desirable neighborhood character, and will the generation of traffic and the capacity of surrounding streets and roads be negatively affected?** This will fit nicely in our neighborhood without an excessive impact on the road or neighbors

- **Will your proposal be detrimental to the health, safety or welfare of the surrounding area or the city as a whole?** No. It will actually be a great asset to all. These units will bring married couples with children to our area. Most of which are here to be a valuable part of the community.

- **How does your project relate to the goals of the Comprehensive Plan?**
  The 2006 Town Center Plan and the 2008 Comprehensive Plan are online at:
  http://www.ci.homer.ak.us/documents/planning

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

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

similar nuisances.

PARKING

- How many parking spaces are required for your development? 15 total

  If more than 24 spaces are required see HCC 21.50.030(f)(1)(b).
- How many spaces are shown on your parking plan? 11 +
- Are you requesting any reductions? 1 +

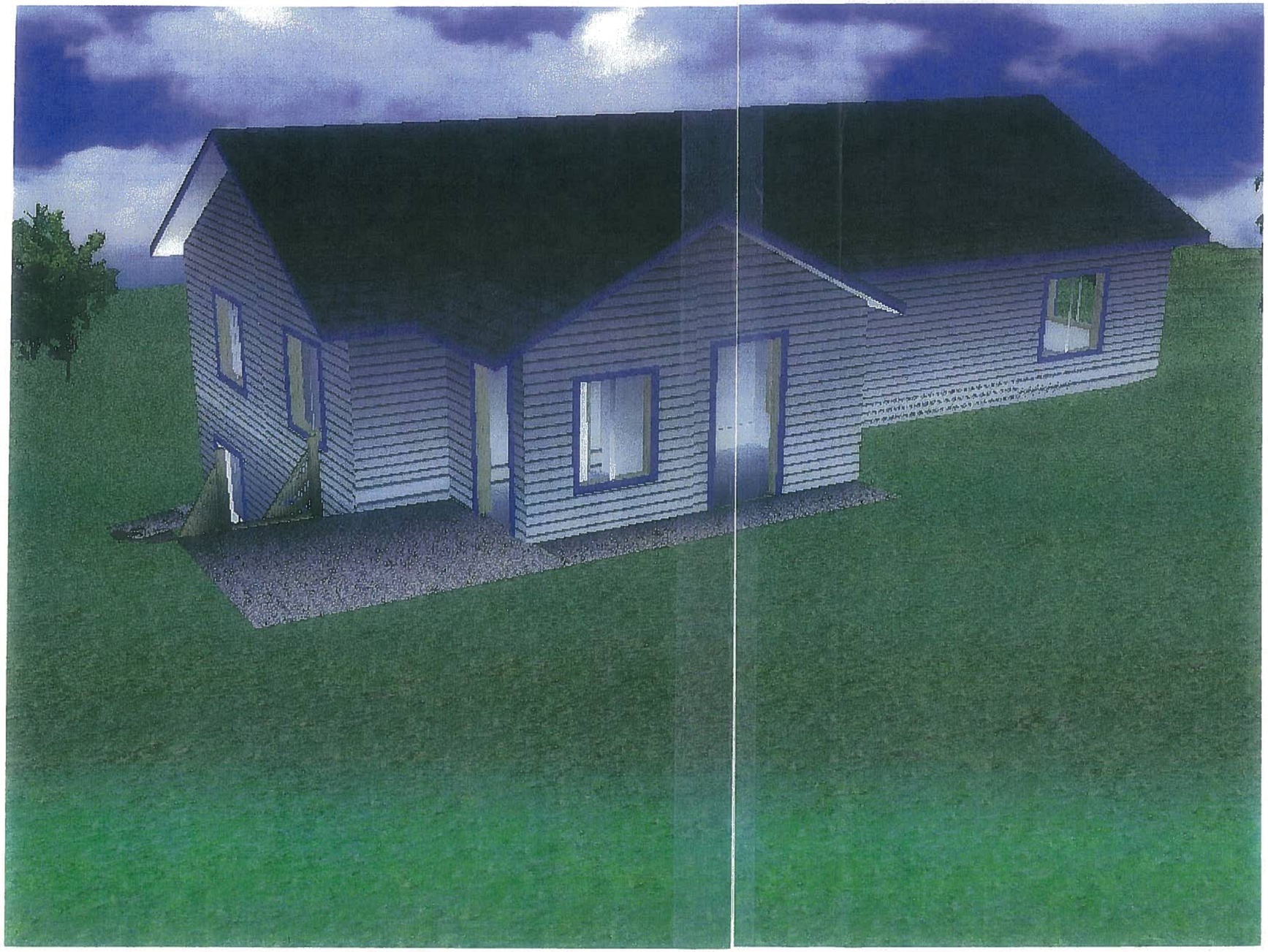
Include a site plan, drawn to a scale of not less than 1" = 20' which shows allow existing and proposed structures, clearing, fill, vegetation and drainage.

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

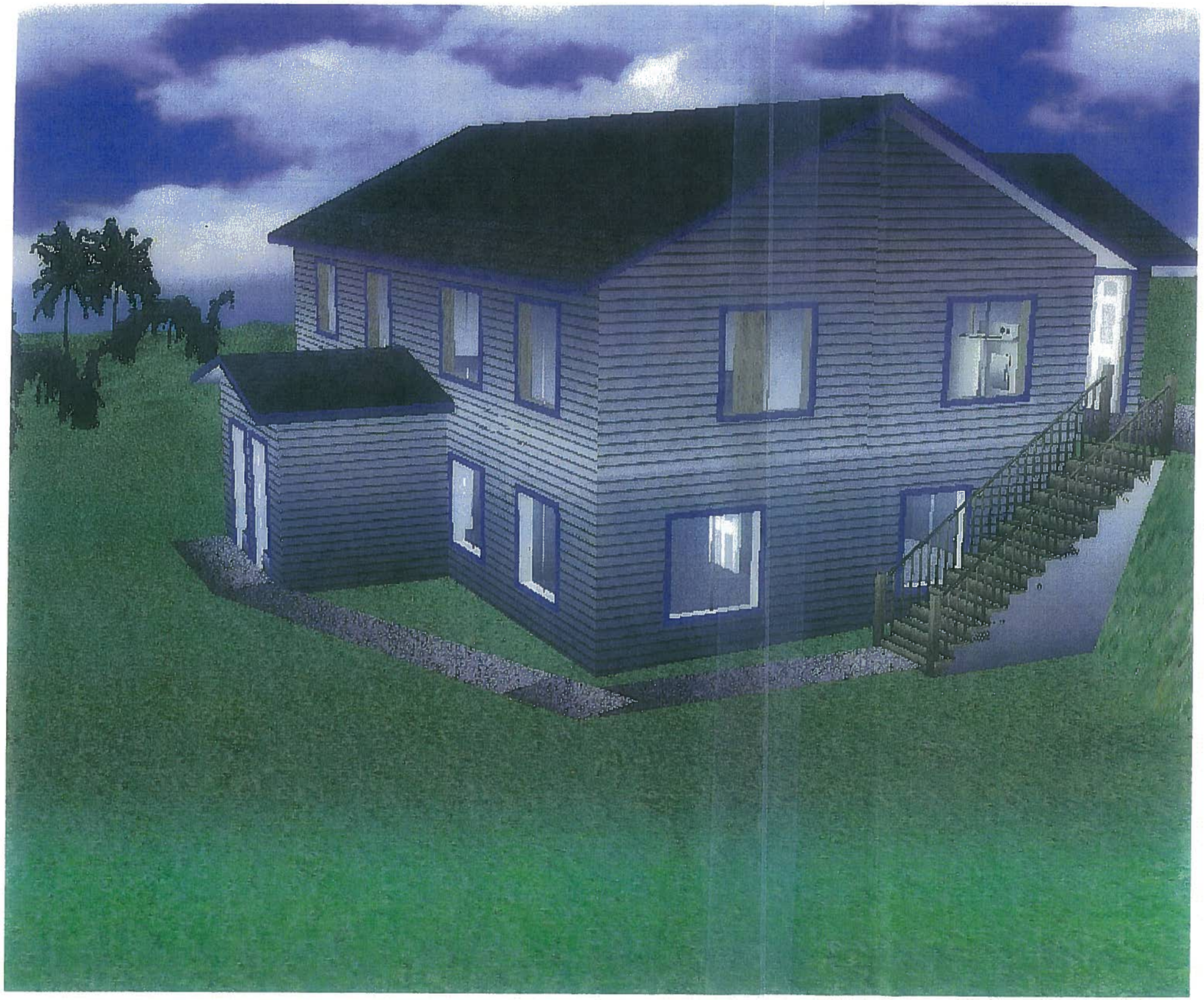
CIRCLE ONE: Owner of record Lessee Contract purchaser

Applicant signature: [signature] Date: 4/13/11
Pastor / Project Coordinator

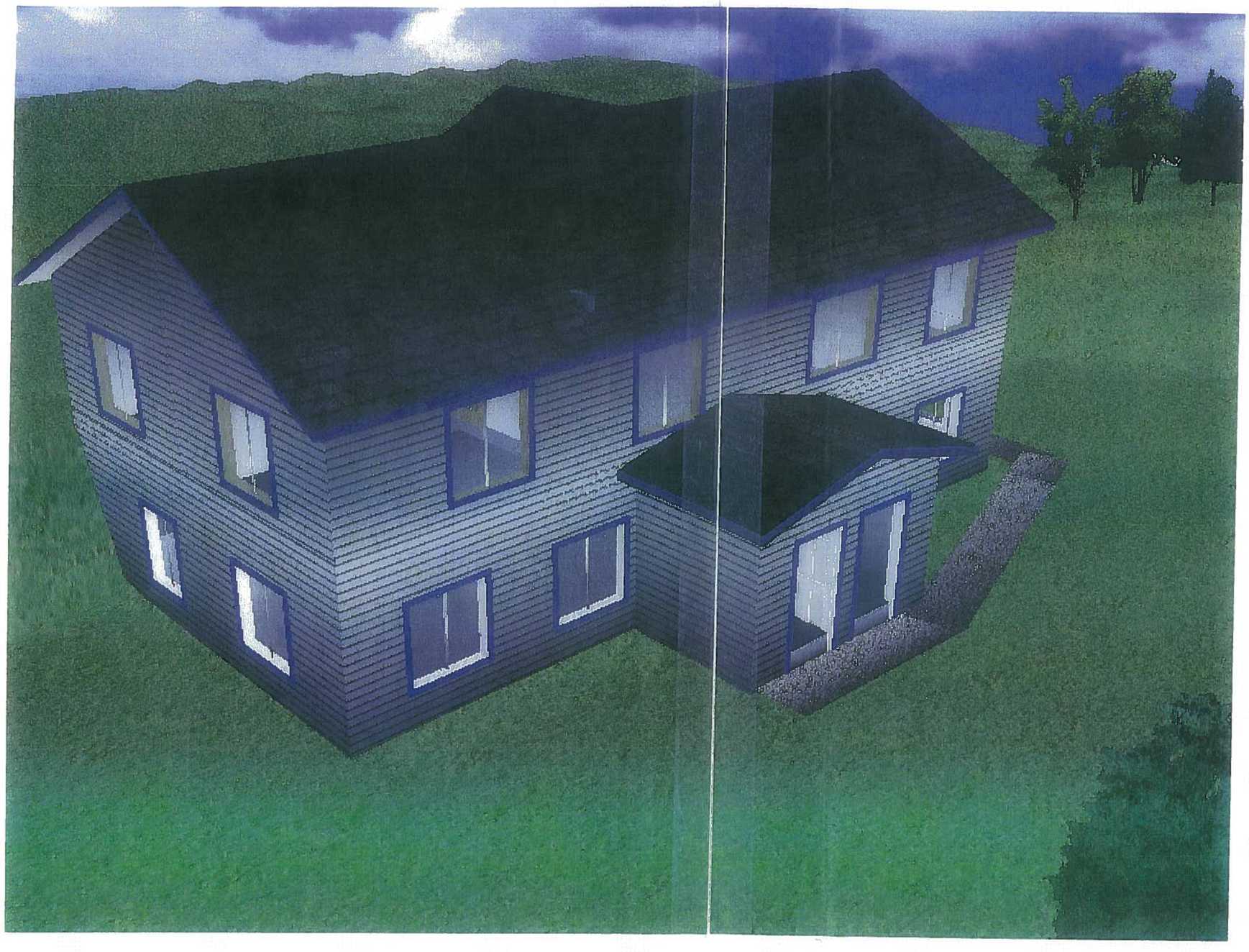
Property Owner's signature: _____ Date: 4/13/11



View from the North



View from
the SE



View from
the SW

Improvements

Property Info
Parcel
Tax Record NEW! ⇨
Improvements
Print View
Assessment History

Searches
Parcel Number
Owner
Address

Functions
Welcome Page
Property Search
Contact Us
Help
Return to KPB Home
Login / Logout

2011 NOTICE VALUES ARE NOT CERTIFIED AND ARE SUBJECT TO APPEAL.
CERTIFIED VALUES FOR 2011 WILL NOT BE AVAILABLE UNTIL JUNE 1, 2011

Parcel Number	Tax Account	Parcel Address	2011 Total Value	Data as of	Assess Year
17403029		1295 MISSION RD, HOMER	$598,700	2/28/2011	2010

Improvements

View	Use Code	Building #	ID #	Constructed Yr.	Grade	Square Ft.	2 Va
	SWL	C01	01	3000	Avg	1	$18,5
	SHEDGP	C01	02	2002	Avg	224	$1,6
View Details / Print View	CLASSC	C01	C	1982	Low+	7,032	$424,9
View Details / Print View	EQUIPBLD	C02	C	1995	Avg	2,400	$47,8

Improvement Abbreviations & Descriptions

Disclaimer / Privacy

Powered by MANATRON

Kenai Peninsula Borough, Alaska S
Assessing Department

Improvements

Property Info
Parcel
Tax Record NEW! ⇨
Improvements
Print View
Assessment History

Searches
Parcel Number
Owner
Address

Functions
Welcome Page
Property Search
Contact Us
Help
Return to KPB Home
Login / Logout

2011 NOTICE VALUES ARE NOT CERTIFIED AND ARE SUBJECT TO APPE
CERTIFIED VALUES FOR 2011 WILL NOT BE AVAILABLE UNTIL JUNE 1, 2011

Parcel Number	Tax Account	Parcel Address	2011 Total Value	Data as of	Assess Year
17402104		1231 MISSION RD, HOMER	$1,101,900	2/28/2011	2010

Improvements

View	Use Code	Building #	ID #	Constructed Yr.	Grade	Square Ft.	2 Va
	SWL	C01	01	3000	Avg	3	$38,(
View Details / Print View	SCHDORM	C01	C	1975	Low	7,918	$471,:
View Details / Print View	APARTRES	C02	C	1976	Avg	1,107	$47,(
View Details / Print View	APARTRES	C03	C	1978	Avg	1,568	$120,:
View Details / Print View	APARTRES	C04	C	1976	Avg	704	$39,(
View Details / Print View	APARTRES	C05	C	1976	Avg	832	$3:
View Details / Print View	APARTRES	C06	C	1976	Avg	864	$4(
View Details / Print View	APARTRES	C07	C	1990	Avg-	1,440	$159,:
View Details / Print View	EQUIPBLD	C08	C	1985	Avg	1,176	$23,(

Improvement Abbreviations & Descriptions

Disclaimer / Privacy

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City of Homer
Planning & Zoning
491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone *(907) 235-3106*
Fax *(907) 235-3118*
E-mail *Planning@ci.homer.ak.us*
Web Site *www.ci.homer.ak.us*

STAFF REPORT PL 11-51

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: May 4, 2011
SUBJECT: Bollenbach Subdivision Preliminary Plat

Requested Action: Preliminary Plat approval for the creation of two lots from the original parcels.

GENERAL INFORMATION

Applicants:	Amy Bollenbach PO Box 3468 Homer, AK 99603	Roger Imhoff, RLS PO Box 2588 Homer, AK 99603
Location:	Kachemak Drive, about 1.4 miles east of Homer Spit Road	
Parcel ID:	17936009, 10, 11	
Size of Existing Lot(s):	0.3, 1.6 and 3.54 acres	
Size of Proposed Lots(s):	1.78 and 3.31 acres	
Zoning Designation:	Rural Residential District	
Existing Land Use:	Residential, and vacant	
Surrounding Land Use:	North: Vacant, General Commercial 2 South: Kachemak Bay East: Residential West: Residential	
Comprehensive Plan:	Goal 5 Object C: "Promote infill development in all housing districts…" (4-19)	
Wetland Status:	The 2005 wetland mapping does not show any wetlands.	
Flood Plain Status:	Zone X, Outside the 500 year floodplain. Beach portion: Zone VE coastal high hazard, elevation 20 feet	
BCWPD:	Not within the Bridge Creek Watershed Protection District.	
Utilities:	Cistern water, onsite septic.	
Public Notice:	Notice was sent to 27 property owners of 20 parcels as shown on the KPB tax assessor rolls.	

ANALYSIS:
This subdivision is within the Rural Residential District. The lots meet the dimensional size requirements of the district. This plat reconfigures the original three parcels into two new lots, and dedicates a half right of way and a utility easement along Kachemak Drive.

Preliminary Approval, per KPB code 20.12.0060 Form and Contents Required. The commission will consider a plat for preliminary approval if it contains the following information at the time it is presented and is drawn to a scale of sufficient size to be clearly legible.

1. Within the title block:
   a. Names of the subdivision which shall not be the same as an existing city, town, tract or subdivision of land in the borough, of which a map or plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
   b. Legal description, location, date, and total area in acres of the proposed subdivision;
   c. Name and address of owner and registered land surveyor;
   d. Scale.

Staff Response: The plat meets these requirements.

2. North point;

Staff Response: The plat meets these requirements.

3. The location, width and name of existing or platted streets and public ways, railroad rights-of-way and other important features such as section lines, political subdivision or municipal corporation boundaries abutting the subdivision.

Staff Response: The plat meets these requirements.

4. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries and prominent natural and manmade features, such as shorelines or streams.

Staff Response: The plat meets these requirements.

5. All parcels of land including those intended for private ownership and those to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision together with the purposes, conditions or limitation of such reservations.

Staff Response: Private parcels are shown. No public use areas other than Rights of Way are noted.

6. The names and widths of public streets and alleys and easements including drainage easements existing and proposed, within the subdivision. [Additional City of Homer HAPC policy: Drainage easements are normally thirty feet in width centered on the drainage. Final width of the easement will depend on the ability to access the drainage with heavy equipment. An alphabetical list of street names is available from City Hall.]

Staff Response: The plat meets these requirements.

7. The names of adjacent subdivisions or an indication that the adjacent land is not subdivided.
Staff Response: The plat meets these requirements.

8. Approximate location of areas subject to inundation, flooding or storm water overflow. Indicate if a recognized flood plain is present. Identify and locate the major drainage systems.
Staff Response: The plat meets these requirements. Plat note 9 denotes the floodplain.

9. Approximate locations of areas subject to tidal inundation including the mean high water line.
Staff Response: The plat meets these requirements. Mean high water line is depicted.

10. Block and lot numbering per Section 20.16.110 of the borough subdivision code.
Staff Response: The plat meets these requirements.

11. The general location of existing water and sewer utilities, and the intent and methods of the subdivision to utilize and access such utilities.
Staff Response: The plat meets these requirements. Lots will be served onsite sewer. The existing home has a cistern, and the new lot will have a well.

12. Provide a contour map of the subdivision and road profiles if road grades exceed 6% on arterial and 10% on other streets.
Staff Response: The plat meets these requirements. Part of Kachemak Drive is dedicated by this plat.

13. Identify and locate on the plat all areas in excess of 20% grade.
Staff Response: The plat meets these requirements. The bluff area is shown.

No comments were received in time for packet printing from Public Works or the Fire Department.

STAFF COMMENTS/RECOMMENDATIONS:
Planning Commission recommend approval of the preliminary plat.

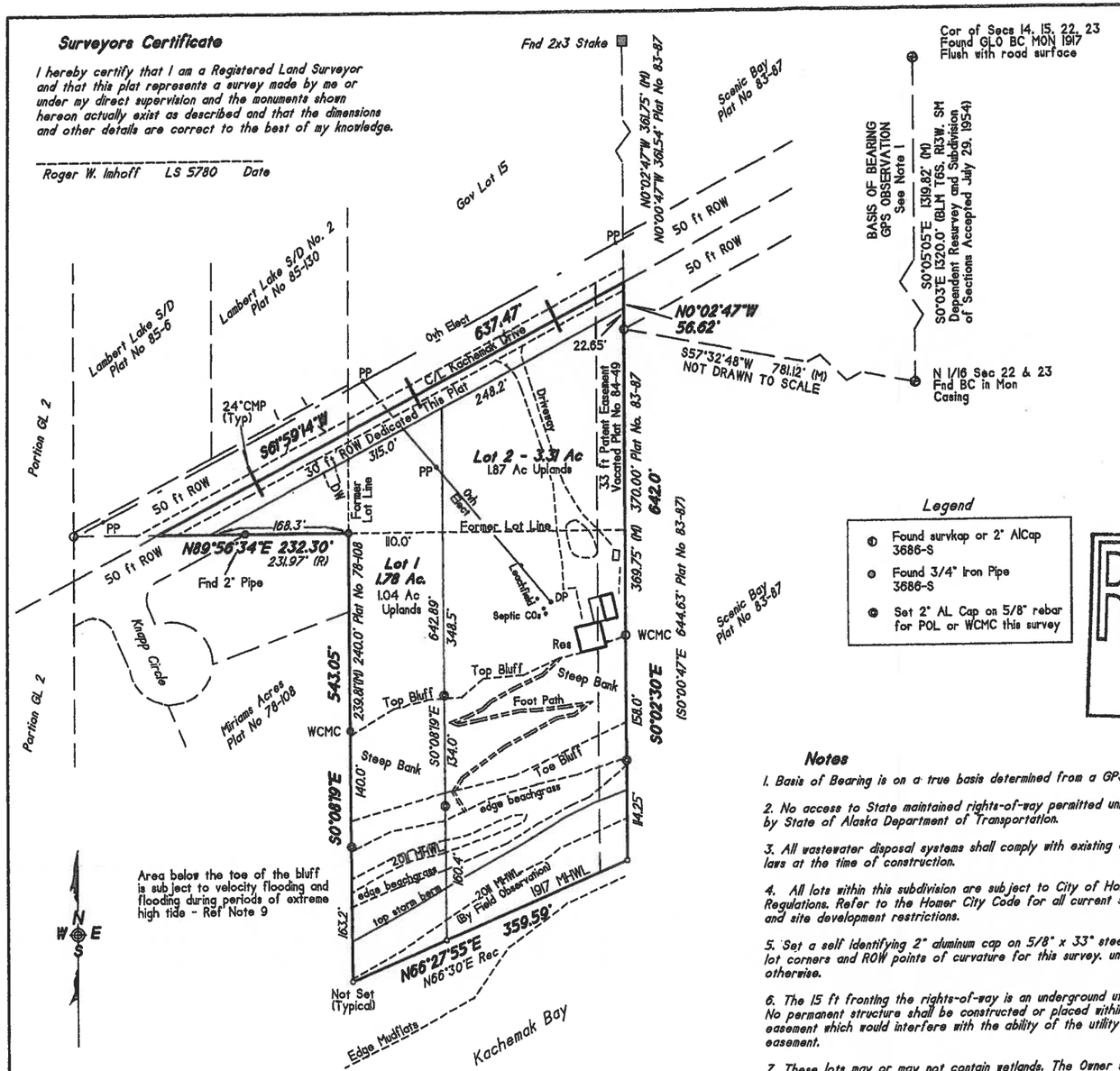
ATTACHMENTS

1. Preliminary Plat
2. Letter from surveyor
3. Public Notice

Surveyors Certificate

I hereby certify that I am a Registered Land Surveyor and that this plat represents a survey made by me or under my direct supervision and the monuments shown hereon actually exist as described and that the dimensions and other details are correct to the best of my knowledge.

_____
Roger W. Imhoff LS 5780 Date



Ownership Certificate

I hereby certify that I am the owner of the real property shown and described hereon and that I hereby adopt this plan of subdivision and by my free consent dedicate all rights-of-way to public use and grant all easements to the use shown.

I further certify that the Deed of Trust affecting this property does not contain restrictions which would prohibit this subdivision: or require signature and approval of the beneficiary.

_____
Amy Bollenbach aka Amy K. Bollenbach DATE
PO Box 3468
Homer AK 99603

Notary's Acknowledgement
Subscribed and sworn to before me this _____ day of _____, 20____

for Amy Bollenbach

_____
Notary Public for Alaska

My Commission Expires_____

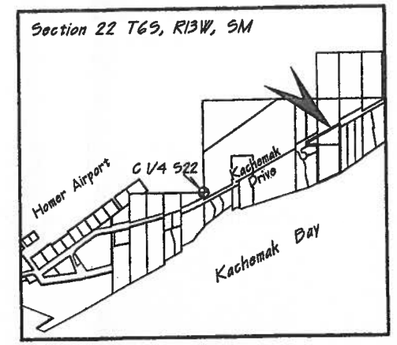
Legend

- Found survkap or 2" AlCap 3686-S
- Found 3/4" Iron Pipe 3686-S
- Set 2" AL Cap on 5/8" rebar for POL or WCMC this survey

RECEIVED
APR 15 2011
CITY OF HOMER
PLANNING/ZONING

PRELIMINARY
-REDUCED SCALE-

Vicinity Map 1" = 1/4 Mile



Notes

1. Basis of Bearing is on a true basis determined from a GPS observation.
2. No access to State maintained rights-of-way permitted unless approved by State of Alaska Department of Transportation.
3. All wastewater disposal systems shall comply with existing applicable laws at the time of construction.
4. 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.
5. Set a self identifying 2" aluminum cap on 5/8" x 33" steel rebar at all lot corners and ROW points of curvature for this survey. unless shown otherwise.
6. The 15 ft fronting the rights-of-way is an underground utility easement. No permanent structure shall be constructed or placed within the utility easement which would interfere with the ability of the utility to use the easement.
7. These lots may or may not contain wetlands. The Owner should contact the Corps of Engineers for wetlands information prior to any ditching or filling of these lots.
8. The area between the current MHWL and the 1917 MHWL may be subject to private and public riparian rights based on the location of the 1964 pre-earthquake MHWL, which was not determined by this survey. The 1917 meander line was used for area computation.
9. A portion of this subdivision is within the FEMA Mapped VE Floodplain, elevation 20 feet.
10. Kachemak Drive may be subject to a highway reservation 50 ft either side of centerline per Public Land Orders (PLOs) 601, 757, 1613 and Dept Order 2665 issued by the Secretary of the Interior USA.

Plat Approval

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of

_____

KENAI PENINSULA BOROUGH

By:_____
Authorized Official

Wastewater Disposal

per KPB Chapter 14 Wastewater Disposal: the appropriate note(s) will be shown on the final plat

File Miriams.cgo

Bollenbach (N/C)

Being a subdivision of that portion of Gov. Lot 15 lying south of Kachemak Drive AND that portion of Gov. Lot 16 lying south of Kachemak Drive AND all of Gov. Lot 18

Located within
NE 1/4 Sec. 22, T6S, R13W, SM.
in the City of Homer - Kenai Peninsula Borough
Third Judicial District, Alaska

Contains 5.506 Acres, more or less

Client: Amy Bollenbach, PO Box 3468, Homer AK 99603		Surveyor: Roger W. Imhoff, RLS, PO Box 2588, Homer Ak 99603
Drawn: RWI	FB 2011-1	Date: April 7, 2011
Scale 1" = 100 ft	File Bollenbach2011.vcd	KPB File No. 2011-

Roger W. Imhoff, RLS
*PO Box 2588 * Homer Ak 99603*
(907)235-7279 fax (907)235-5254
rogerimhoff@alaska.net

RECEIVED
APR 15 2011
CITY OF HOMER
PLANNING/ZONING

4-8-2011

Julie Engebretsen
COH Planning Dept
Homer Ak 99603

RE: Preliminary Plat -
Bollenbach (Preliminary Name only - name to be changed on final plat)

This property is located on the south side of Kachemak Drive between the platted subdivisions of Miriams Acres and Scenic Bay.

We propose to vacate the common lot lines of the 3 Government Lots (portions of GL 15 & 16 and all of GL 18) and dedicate 30 ft of ROW on Kachemak Drive.

2 lots will be created. Both lots have existing access to Kachemak Drive.

A Soils Investigation and Report for both lots will be conducted by a licensed PE.

Lot 1 contains 1.78 Acres total with 1.04 Acres being the uplands area. Lot 1 is proposed to have both onsite water supply and wastewater disposal systems.

We will be requesting an exception to KPB 20.20.180A (3:1 Length - Width Ratio) for Lot 1. The uplands area is 330 ft x 110 ft and meets the requirement. The remaining portion of the lot is not developable. This exception is commonly granted for these types of properties.

Lot 2 contains the existing residence of the owner and is proposed to be 3.31 Acres total with 1.87 Acres being in uplands. Lot 2 has an existing wastewater disposal system and cistern water supply (hauled city water).

There are no encroachments being created by the proposed subdivision.

The uplands portions slope towards Kachemak Drive with about an average 4 ft drop in elevation. The "Bluff" portion slopes 70 ft in elevation to the beach area (approximately 60% slope). The bluff is vegetated and does not show any signs of erosion or instability. Both of these lots may be subject to City Ordinace regarding steep slopes. If Staff wishes to reference specific City Code on the plat, please advise.

A built up storm berm protects the toe of the bluff from wave action. Some of the area behind the storm berm does flood on the higher tides but the area is vegetated with beach and other types of grasses (from the MHWL on up). The 2011 Mean High Water Line is shown for information only. The public may have riparian rights below the current MHWL reference Plat Note 8.

If you or Staff have any questions, comments, or suggestions prior to PC meeting, please advise.

Sincerely,

cc: Amy Bollenbach

NOTICE OF SUBDIVISION

Public notice is hereby given that a preliminary plat has been received proposing to subdivide or replat property. You are being sent this because you are an affected property owner within 500 feet of a proposed subdivision and are invited to comment.

Proposed subdivisions under consideration are described as follows:

Bollenbach (N/C) Preliminary Plat

The location of the proposed(s) subdivision is provided on the attached map(s). A preliminary plat showing the proposed subdivision may be viewed at the Planning Department. Subdivision reviews are conducted in accordance with the City of Homer Subdivision Ordinance and the KPB Subdivision Ordinance. A copy of the Ordinance is available from the Planning Department. **Comments should be guided by the requirements of those Ordinances.**

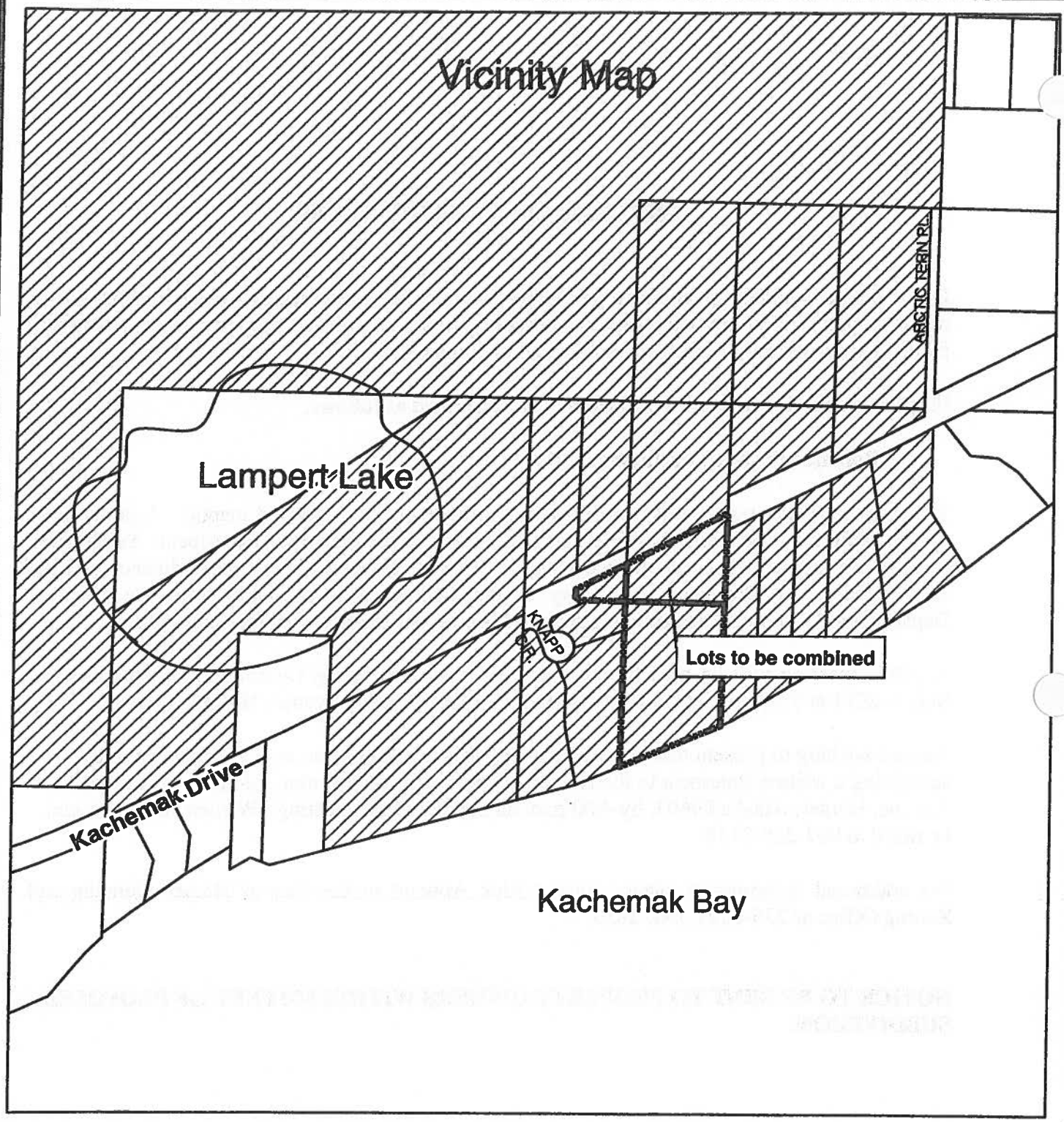
A public meeting will be held by the Homer Advisory Planning Commission on Wednesday, May 4, 2011 at 7:00 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska.

Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting. Written comments can be faxed to 907-235-3118.

For additional information, please contact Rick Abboud in the City of Homer Planning and Zoning Office at 235-8121, ext. 2236.

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

VICINITY MAP ON REVERSE



City of Homer
Planning and Zoning Department
4.19.11

Bollenbach Subdivision

Shaded area is w/i
500 ft. notice

500 250 0 500 Feet

N

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
Planning & Zoning
491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone *(907) 235-8121*
Fax *(907) 235-3118*
E-mail *Planning@ci.homer.ak.us*
Web Site *www.ci.homer.ak.us*

STAFF REPORT PL 11-52

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: May 4, 2011
SUBJECT: Draft East End Mixed Use Ordinance

GENERAL INFORMATION
The Commission reviewed the ordinance at the April 20th regular meeting. The Commission identified three areas for further work: uses to revisit, residential uses, and district boundaries.

ANALYSIS:

Uses to Revisit:

Permitted uses:

- Production, processing, assembly and packaging of fish, shellfish and seafood products: The Commission wanted to revisit this use due to concerns over odors and waste that might be generated by a cannery or similar operation. Examples of these uses are canneries, smaller custom packing like a Fisherman's Resort, smoking operations, or the packaging and shipping of oysters or preprocessed fish. ***Staff comment***: the city dock and fish grinder facilities are on the Spit; hopefully they would attract a large processor. Smaller facilities that do not need direct access to salt water or to unload commercial fishing vessels could be located anywhere (with proper DEC approvals). This can clearly be seen in Anchor Point, Ninilchik, Kasilof and other coastal communities. It is staff's opinion, that processing should be allowed in other locations than the Spit, possibly as a conditional use, and possibly with a square footage limit. **Staff Recommendation:** Allow this use, and decide whether it should be permitted outright, or conditional.
- Public stables and private stables; The Commission eliminated stables, but the ordinance still allows for the raising of livestock (line 37). Horses are livestock according to staff's research. Stables simply regulate the occupancy type of the horse – are horses boarded or for sale in the facility, or not. The elimination of stables means someone can raise horses in a field, but cannot have a building to keep the horses. Horses for sale in a building are defined as a public stable; horses not for sale or boarding in a barn are a private stable. Please refer to zoning code definitions of "agricultural activity," "stable public"and"stable private." **Staff Recommends** allowing public and private stables.

Conditional Uses:

- Bulk petroleum product storage above ground; and Underground bulk petroleum storage. Staff research: a new gas station might have bulk petroleum storage of 20,000 gallons in the Homer market. A tank farm and home delivery fuel company would have more on the order of 40,000 gallons or more. Only two districts in Homer allow for bulk petroleum storage: GC2, and Marine Commercial. Staff received public comment that the Spit is a poor location for a bulk fuel facility (flood zone/earthquake/tsunami hazards); it would be a good idea to allow this activity in another part of the City. Staff also comments that if the 2008 Comprehensive Plan land use map is followed, there will be relatively little GC2 property available for this use. East End Mixed Use will be the main mixed use/industrial zone. IE, if only GC2 land is really viable for a new tank farm, that may not be a large enough area or suitable for this type of facility. **Staff Recommends** that bulk petroleum storage (above or below ground) be a conditional use in the EEMU.
- Impound yards; This activity is allowed only in GC2 under current code. **Staff recommends** it be allowed as a conditional use, as are junk yards, in the EEMU district.
- Day care facilities; provided, however, that outdoor play areas must be fenced. Staff comment: day care facilities (not in home daycare, but a standalone business) are allowed pretty much city wide as a conditional use (from rural residential to GC2). Staff does not have an opinion on if they should be included in the EEMU district.

Residential Uses

Previous discussion: Do not want to see expansion of single family housing as a primary use in this district. This is a mixed use and industrial area.

Question: (NEW CONSTRUCTION) Is a detached structure/home acceptable if there is a primary business activity on the lot? Example: A storage unit, automotive business, or contractor establishment, with a detached home. The home could be employee housing, owner housing or a rental. Staff does not want to regulate who is living in the structure at any given time; it could not be realistically enforced, and nowhere else in code do we regulate occupancy in this way.

- **At Minimum, Staff recommends** allowing the rebuilding of existing lawful non-conforming homes within 1 year of damage. Staff contends the existing housing is not going to 'go away' very quickly. IE people are not tearing them down to build businesses very often. Homes along Kachemak Drive and those associated with commercial businesses have been in place for many years and will continue indefinitely.

- **Staff further recommends** allowing detached dwelling units as an accessory use on a lot with a primary commercial use. Staff and the Commission can further work on defining exactly what 'accessory use' would look like, if the Commission agrees with this idea.

Conditional residential uses, up for discussion (Staff note: generally describes the **structure**)

a. Multiple-family dwelling, only if the structure conforms to HCC § 21.14.040(a)(2)
b. Single family and duplex dwellings, including mobile homes (not including mobile home parks)

c. Townhouses; (these are an architectural and ownership arrangement; if multifamily is allowed, then keep townhouses).
d. Shelter for the homeless, provided any lot used for such shelter does not abut an urban, rural or office residential zoning district;
e. Group care homes and assisted living homes.

Staff Recommends allowing all these uses and structures.

Permitted outright (Staff note: these are generally USES – this does not describe the STRUCTURE that the activity occurs in)

Items 1 and 2 below mean, IF a CUP was granted for the new residential structure, then the occupants could use the home for these business uses, generally without more permitting.

1. Day care homes; all outdoor play areas must be fenced and provided that a conditional use permit was obtained for the dwelling, if required by HCC § 21.27.030
2. Rooming house and bed and breakfast, provided that a conditional use permit was obtained for the dwelling, if required by HCC § 21.27.030
3. Dormitory
4. Caretaker or dormitory residence (GC2 permitted accessory use, allows for a standalone housing structure)

Staff Recommends allowing all these uses.

District Boundaries

Discussion: The triangle area that was annexed is already fairly densely developed. One of the reasons the boundaries of the EEMU is so large in the comp plan is to better use the area available for a future commercial/mixed use hub for the community, particularly for those businesses that don't need high visibility locations like Ocean Drive. If the new district only encompasses the existing annexed area, that will only address the current zoning issues. We need forward thinking about future growth and development over the next 20 years as outlined in the comp plan. **Staff Recommends** using the district boundaries as shown in the 2008 Comprehensive Plan.

Next steps for staff:

- Send ordinance to attorney for review; then
- Post to city website and mail notice to property owners
- Public outreach over the summer
- Plan for fall neighborhood meetings

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission

1. Determine if "Production, processing, assembly and packaging of fish, shellfish and seafood products" should be allowed outright, or conditionally;
2. Allow Bulk petroleum storage (above or below ground) as a conditional use;
3. Allow Impound yards as a conditional use;
4. Allow public and private stables as a permitted use;
5. Allow detached dwelling units as an accessory use on a lot with a primary commercial use. Staff and the Commission can further work on defining exactly what 'accessory use' would look like, if the Commission agrees with this idea.
6. Allow all the permitted and conditional uses and structures in the draft ordinance.
7. Use the district boundaries as shown in the 2008 Comprehensive Plan.

ATTACHMENTS

1. May 4, 2011 Draft Ordinance

May 4, 2011 DRAFT

Chapter 21.27

EEMU East End Mixed Use District

21.27.010 Purpose. The East End Mixed Use (EEMU) District is primarily intended to provide sites for businesses that require direct motor vehicle access and may require larger land area. The district is meant to accommodate a mixture of residential and non-residential uses with conflicts being resolved in favor of non-residential uses.

21.27.020 Permitted uses and structures. The following uses are permitted outright in the East End Mixed Use District, except when such use requires a conditional use permit by reason of size, traffic volumes, or other reasons set forth in this chapter.

a. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals, service and repair,
b. Auto fueling stations and drive-in car washes;
c. Building supply and equipment sales and rentals;
d. Lumberyards;
e. Garden supplies and greenhouses;
f. Boat and marine equipment sales, rentals, manufacturing, storage yard, service and repair;
g. Welding and mechanical repair;
h. Restaurants, including drive-in restaurants, clubs and drinking establishments;
i. Religious, cultural, and fraternal assembly;
j. Studios
k. Personal services
l. Agricultural activities, including general farming, truck farming, livestock farming, nurseries, tree farms and greenhouses provided that:

    Other than normal household pets, no poultry or livestock may be housed and no fenced runs may be located within one hundred feet of any residence other than the dwelling on the same lot,

m. Storage of heavy equipment, vehicles or boats
n. Plumbing, heating and appliance service shops,
o. Home occupations, provided they conform to the requirements of HCC § 21.51.010

p. Mortuaries and Crematoriums;
q. Open air businesses;
r. Parking lots and parking garages, in accordance with HCC Chapter 7.12.
s. Manufacturing, fabrication and assembly
t. Retail businesses;
u. Trade, skilled or industrial schools;
v. Wholesale businesses, including storage and distribution services incidental to the products to be sold;
w. Parks and open space;
x. Warehousing, commercial storage and mini-storage;
y. Recreational vehicles, subject to the standards set out in HCC § 21.54.320.(a),(b),(c) (allows storage of an RV as accessory to a dwelling, and for a guest to stay on site up to 90 days a year)
z. Dry cleaning, laundry, and self-service laundries;
aa. Mobile food services;
bb. As an accessory use, one small wind energy system per lot
cc. Production, processing, assembly and packaging of fish, shellfish and seafood products; **(REVISIT)**
dd. Construction, assembly and storage of boats and boat equipment;
ee. Research and development laboratories;
ff. Storage and distribution services and facilities, including truck terminals, warehouses and storage buildings and yards, contractors' establishments, lumberyards and sales, or similar uses;
gg. Cold storage facilities;
hh. Mobile commercial structures;
ii. Dwelling units located in buildings primarily devoted to business uses; (Commission already agreed to this, during discussion of SR 11-22, February)
jj. *Update HERE for final district* uses....*this is a placeholder for now!* Customary accessory uses...(Include residential uses like too!)Accessory uses to the uses permitted in the EEMU district that are clearly subordinate to the main use of the lot or building, such as wharves, docks, restaurant or cafeteria facilities for employees; or caretaker or dormitory residence if situated on a portion of the principal lot: provided that separate permits shall not be issued for the construction of any type of accessory building prior to that of the main building.(other code examples: k. Customary accessory uses to any of the permitted uses listed in the X district, provided that no separate permit shall be issued for the construction of any detached accessory building prior to that of the main building. Needs tweaking for open air land uses..ie a tool or storage shed on a lot used for equipment storage)
kk. Taxi operation;
ll. Itinerant merchants, provided all activities shall be limited to uses permitted outright under this zoning district;
~~mm. Public and private stables;~~
nn. More than one building containing a permitted principal use on a lot.
oo. 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;

Residential uses, permitted outright, up for discussion

1. Day care homes; all outdoor play areas must be fenced and provided that a conditional use permit was obtained for the dwelling, if required by HCC § 21.27.030
2. Rooming house and bed and breakfast, provided that a conditional use permit was obtained for the dwelling, if required by HCC § 21.27.030
3. Dormitory
4. Caretaker or dormitory residence (GC2 permitted accessory use)

Conditional residential uses, up for discussion

a. Multiple-family dwelling, only if the structure conforms to HCC § 21.14.040(a)(2)
b. Single family and duplex dwellings, **including mobile homes (not including mobile home parks)**
c. Townhouses;
d. Shelter for the homeless, provided any lot used for such shelter does not abut an urban, rural or office residential zoning district;
e. Group care homes and assisted living homes.

21.27.030 Conditional uses and structures. The following uses may be permitted in the East End Mixed Use District when authorized by conditional use permit issued in accordance with HCC Chapter 21.71:

f. Construction camps;
g. Extractive enterprises, including crushing of gravel, sand and other earth products and batch plants for asphalt or concrete; *(should better spell out noxious uses such as batch plants from more benign uses like sand pile storage for contractors who provide sanding services) (stockpile OK)(screen/landscape for new structures on EERoad)*
h. Bulk petroleum product storage above ground; Underground bulk petroleum storage; (**Revisit;** should a gas station trigger a CUP due to bulk storage, or only a larger facility/tank farm?)
i. Planned unit developments,
j. Junk yard;
k. Kennels;
l. Public utility facilities and structures;
m. Impound yards; (if the stuff is there more than 6 months its junk under code) **(REVISIT)**
n. More than one building containing a permitted principal use on a lot.
o. Day care facilities; provided, however, that outdoor play areas must be fenced **(REVISIT)**
p. Indoor recreational facilities;
q. Outdoor recreational facilities.
r. Other uses approved pursuant to HCC § 21.04.020.

21.27.040 Dimensional requirements. The following dimensional requirements shall apply to all structures and uses in the East End Mixed Use District:

a. Lot Size.

1. The minimum lot area shall be 40,000 square feet in areas not served by public sewer and water.

2. Each lot shall contain a minimum of 20,000 square feet if one of the following conditions exists:

i. The lot is served by public water supply approved by the State Department of Environmental conservation; or

ii. The lot is served by public or community sewer approved by the State Department of Environmental Conservation.

3. Each lot shall contain a minimum of 10,000 square feet if the lot is served by both public water and sewer that satisfies both conditions of subsection (a)(2).

b. Building Setbacks.

1. Buildings shall be set back 20 feet from all dedicated rights-of-way, except as allowed by subsection (b)(3);

2. Buildings shall be set back from all other lot boundary lines according to the number of stories as follows:

b. Building Setbacks.

1. All buildings shall be set back 20 feet from all dedicated rights-of-way. Alleys are not subject to a 20 foot setback requirement. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subparagraphs (2) and (3) below;

2. Buildings shall be set back five feet from all other lot boundary lot lines unless adequate firewalls are provided and adequate access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal;

3. Any attached or detached accessory building shall maintain the same yards and setbacks as the main building.

4. Adjacent to those rights-of-way that lead to Kachemak Bay and have been determined to be unsuitable for road construction by Resolution of the City Council, all buildings shall be set back from the boundary of the right-of-way according to the number of stories as provided in subsection (b)(2).

c. Building Height. The maximum building height shall be 35 feet.

d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area without an approved conditional use permit.

e. Building Area and Dimensions - Retail and Wholesale.

1. The total square feet of floor area of retail and wholesale business uses within a single building shall not shall not exceed 75,000 square feet.

2. No conditional use permit, Planned Unit Development, or variance may be granted that would allow a building to exceed the limits of these subparagraphs (e)(1), and (2) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraphs (e)(1), and (2).

f. Screening. When one or more side or rear lot lines abut land within an RO, RR, or UR district or when a side or rear yard area is to be used for parking, loading, unloading or servicing, then those side and rear yard areas shall be effectively screened by a wall, fence, or other sight-obscuring screening. Such screening shall be of a height adequate to screen activity on the lot from outside view by a person of average height standing at street level.

21.27.050 Site and Access Plans. a. A zoning permit for any use or structure within the East End Mixed Use District shall not be issued by the City without a level one site plan approved by the City under HCC Chapter 21.73.

b. No zoning permit may be granted for any use or structure without a level two right-of-way access plan approved by the City under HCC § 21.73.100.

21.27.060 Traffic Requirements. A conditional use permit is required for every use that is estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060.

21.27.070 Site Development Requirements. All development on lands in this district shall conform to the level two site development standards set forth in HCC § 21.50.030

21.27.080 Nuisance standards. The nuisance standards of HCC § 21.59.010**(a)through (g)(1)** apply to all development, uses, and structures in this zoning district. Open storage of materials and equipment is permitted, subject to these exceptions and conditions:

(a) If a lot abuts a residential zoning district any outdoor storage of materials and equipment on the lot must be screened from the residential district by a wall, fence, or other sight-obscuring material. The screen must be a minimum of eight feet in height.

21.27.090 Lighting Standards. The level one lighting standards of HCC § 21.59.030 apply to all development, uses, and structures in this zoning district.

Section 2. The official zoning map as drafted of the East End Mixed Use Zoning District dated _____ (attached exhibit A) shall consist of the originally proposed properties and adjoining properties which may by request be included. The City Clerk is authorized to sign the map and adhere to the requirements set forth in the Homer City Code, Section 21.10.030 (b).

City of Homer
Planning & Zoning
491 East Pioneer Avenue
Homer, Alaska 99603-7645

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STAFF REPORT PL 11-53

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Dotti Harness-Foster, Planning Technician
MEETING: May 4, 2011
SUBJECT: Internal illuminated signs

At the April 20, 2011 HAPC meeting there was a brief discussion about a moratorium on new internally illuminated signs. The purpose of this staff report is to provide a condensed summary of internally lit sign issues. Staff reviewed several articles published by the United States Sign Council and attached to this staff report is one cities sign standards for internal illuminated signs. Also available (by telephone) during the Commissions' work session is Doug Field from Kenai Neon Signs who has installed several internally illuminated signs in Homer. Staff has also prepared photos that illustrate the key concepts in this report. First, a recap on how Homer's Sign code addresses internally lit signs.

Existing code: HCC 21.60.060 Table 3 allows "Illumination Internal" signs in the commercial districts with one exception. "Illumination Internal" are not allowed in the Gateway Business District. Illuminated internal signs have the same size and height restrictions as other signs and can be mounted on a wall, freestanding, and/or changeable copy. Homer's sign code restricts flashing, blinking, rotating, and changeable messages except for time and temperature.

Smart Growth suggests eliminating internal lit signs, "Because internally lit signs can be intrusive, consider prohibiting them or strictly *limiting their size and brightness.* Any lighting for signs should be shielded and focused to ensure that *glare doesn't impact surrounding* roads and properties." *Homer limits the size of all signs and requires that light shine only upon the sign. Brightness is discussed below.*

Aesthetics and economics: Signs contribute to a community's economic viability and can work in effective partnership with aesthetic goals. Where there is no benefit to the general community, other than forcing a biased viewpoint or particular aesthetic preference on the business community, the arguments for requiring just compensation are particularly strong.[i]

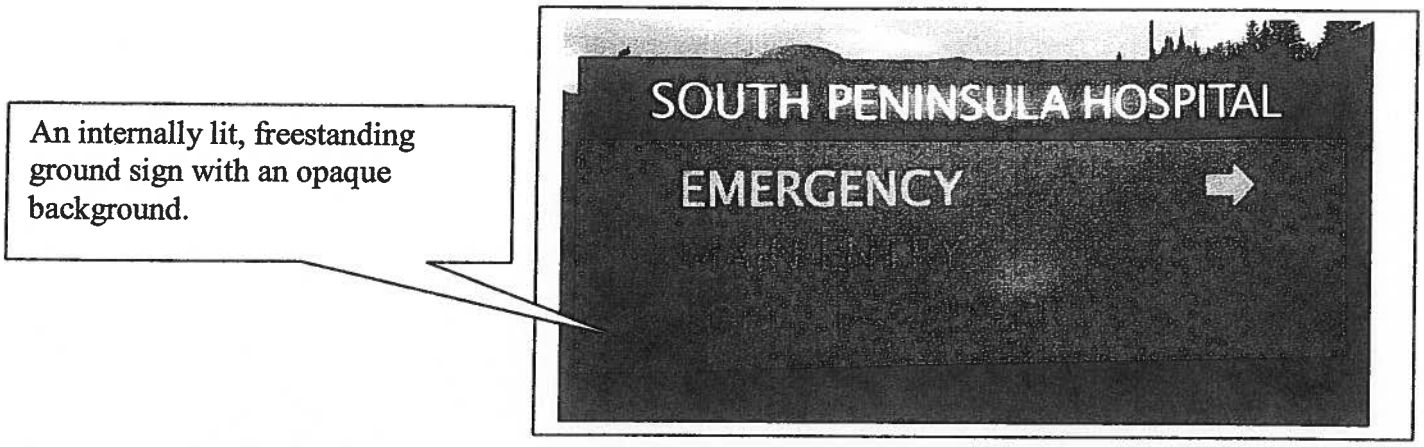
Readability research summary: Research indicates that when external and internal signs are compared, internally lit signs have approximately 40% improvement for readability. There are many variables that contribute to sign readability, but when studied and compared researchers go through great means to dissolve factors such as drivers age, gender, mph, right or left side of the road, font size, style and color, and sign background.

Sign Background: as in the contrast between letters and background. For example: light letters on a dark background reduces the luminance, or the amount of light that the sign emits. The City of Middletown, Connecticut requires a dark background by stating that "the sign background or field should be opaque and of a non-reflective material." The converse prohibits internally lit signs that allow the entire face to illuminate, as in a white background with dark lettering. In Homer, we usually issue sign permits based on the proof that the sign manufacture provide, so the sign's background color could be enforced at the time of permitting.

Light letters on a dark background reduces the luminance, or the amount of light that the sign emits.

Neon sign are not considered internally lit.

Internally lit, changeable copy wall sign. White background with black letters emits more light.



"Stencil-cut internal illuminated lettering" The City of Middletown, Connecticut restricts the illuminated portions of the sign to just the lettering or logo. See attached.

Brightness of a sign has several variables including bulb type, wattage, contrast between the signs background and the lettering, stencil-cut lit letters and color contrast. Light bulbs are interchangeable from neon tubes, LEDs, incandescent or halogen lamps. Testing or measuring brightness has variables such as: contrast between the background and lettering, number of 'active' bulbs, and meter calibration which makes brightness standards difficult to enforce.

Timers or dimmers: Timers and dimmers are feasible. For example: the City of Middletown, Connecticut requires that "illuminated signs should not be illuminated after 10pm or the close of business, whichever is later." Local sign makers have indicated that installing a timers and/or dimmers is feasible.

Information for this staff report was gathered from the United State Sign Council publications: *INTERNAL vs. EXTERNAL ON-PREMISE SIGN LIGHTING,* Visibility and Safety in the Real World, and *INTERNALLY ILLUMINATED SIGN LIGHTING*, Effects on Visibility and Traffic Safety.
If you would like the full articles contact the planning staff.

STAFF RECOMMENDATION: View the side presentation that illustrates the research and local examples of internally lit signs. Comment and/or direct staff to pursue or not.

Att: City of Middletown, Connecticut, Design Review and Preservation Board, pg 2-3

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[i] International Sign Association, Official Positions of the International Sign Association Adopted June 16, 2001

General Illumination Standards

Connecticut

1. Illumination should not interfere or distract from the message conveyed by the sign.
2. Lighting for signs shall not create a hazardous glare for pedestrians or vehicles either in a public street or on any private premises HCC 21.60.080
3. The light source, whether internal to the sign or external, shall be shielded from view. This requirement is not intended to preclude the use of creative exposed lighting.
4. Illumination should be appropriate for the location, use and character of the neighborhood.
5. Illumination should seem integrated into the building façade or property/neighborhood character.
6. Illuminated signs should not be illuminated after 10pm or the close of business, whichever is later.
7. Flashing, blinking, revolving, or rotating lights are not permitted. HCC 21.60.060
8. All exposed conduit and junction boxes should be concealed from public view.

Internal Illumination

Standards

1. Internally illuminated sign cabinets that allow the entire face to illuminate are prohibited.
2. The sign background or field should be opaque and of a non-reflective material.

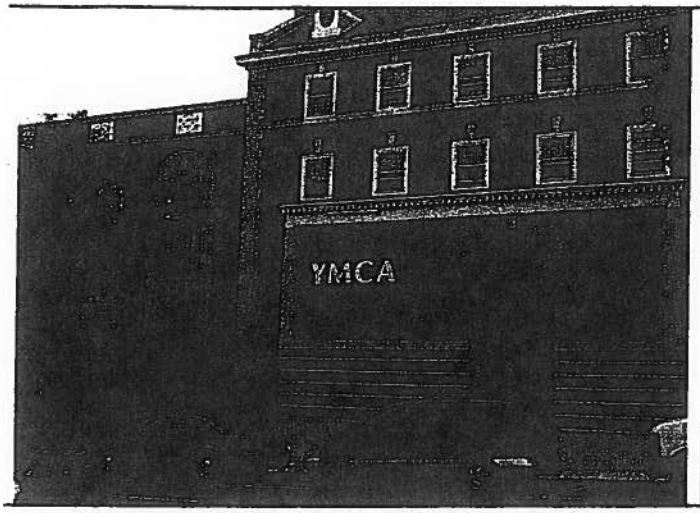
External Illumination

Standards

1. External lighting fixtures that project light on a sign from above or below are strongly encouraged. Light fixtures supported on the front of the building cast light on the sign and a portion of the façade immediately around the sign. The visual impact of this should be considered in lighting selection.
2. Light fixtures should be simple and unobtrusive in appearance and size.
3. Light fixtures should be positioned as to not obscure the sign's message and graphics.
4. Light sources should be shielded and such that the light source is directed away from passersby. Light sources should be directed against the sign such that it does not shine onto adjacent property or cause glare for motorists and pedestrians. Bare light bulbs should not be exposed.
5. Awnings with signage included should always be externally illuminated.

Preferred Internal Illumination Styles

1. Halo-Style Internal Illumination- This form of internal illumination directs light to the wall behind the sign that results in a halo of light around the opaque lettering or logo.



Correct:

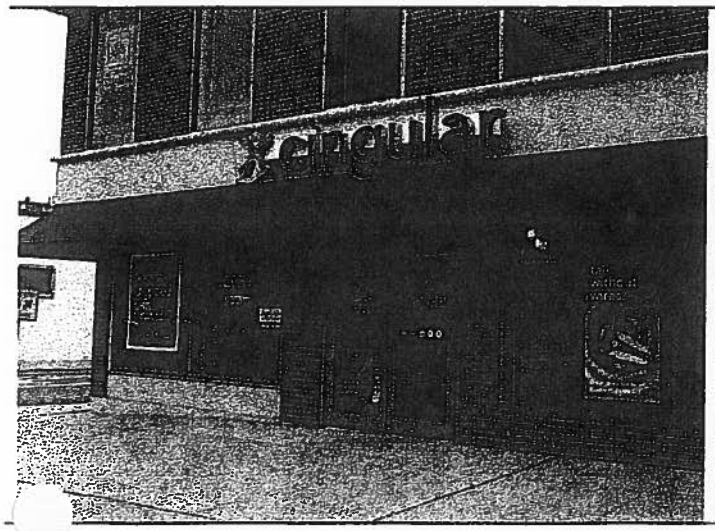
This style is frequently compatible with historic structures and simple signage.

2. Stencil-Cut Internal Illumination- This form restricts the illuminated portions of the sign to the lettering or logo. The remaining face of the sign is opaque.

Correct:

Stencil-Cut creates a sign that prevents the background of the sign from being illuminated. Only the logo and name of the brand would illuminate.

3. Channel-Letters Internal Illumination- This style of sign is comprised of individual letters and symbols, each with its own internal illumination.



Correct:

Channel Letters creates a sign that advertises only that which is important, in this case it is the logo and name of the brand.

4. Push-Through Graphics and Text- A mix between stencil-cut and channel-letters, where an opaque background like a stencil-cut, but has raised lettering or images that act similarly to channel-letters.

MANAGERS REPORT
April 11, 2011

TO: MAYOR HORNADAY / HOMER CITY COUNCIL

FROM: WALT WREDE

UPDATES / FOLLOW-UP

For this meeting, the Manager's Report consists entirely of the Parity Study recently completed by Personnel Director Sheri Hobbs. Please take the time to look it over. My hope is that we can discuss this a little at the Committee of the Whole. At that time we can give you an overview and answer questions. We will be looking for some direction as to how the Council may want to proceed from here. A workshop dedicated to this topic scheduled at a future meeting might be a good idea, to start with.

ATTACHMENTS

1. Letter from Mayor Carey re: KPB Health insurance Working Group
2. Letter from Mayor Carey re: FCC Narrow Band Mandate
3. February Statistical Report

CHAPTER

5

ETHICS

CAROL BARRETT
ROBERT JOICE

INTRODUCTION

Ethics is a set of principles or values that govern the actions of an individual or a group. The principles must be commonly accepted by the group, coherently expressed, and uniformly applied if the group wishes to act in an ethically responsible manner.

Over the past 10 years, ethics as a distinct topic has gained attention. In the field of planning, there has been a sharp increase in articles, training sessions, and animated debate over the issue of appropriate planning ethics. For those of you new to planning, ethical training may provide some surprising insights into values that underlay the entire field. You should know that no single, absolute set of rules has emerged to guide planning commission and zoning board members in dispatching their sometimes difficult duties.

So how do you learn planning ethics? An orientation toward and understanding of such ethics emerges in discussion, analysis, and debate with your fellow board members, trainer, planning staff, and, perhaps, with APA representatives. This chapter is an introduction to ethical analysis. Some guidelines and resources are also listed for times when you are faced with issues that seem too difficult, murky, and complex to resolve comfortably in your own mind.

While no set of commandments has emerged in planning ethics, consensus has emerged on the purpose of planning—to serve the broad interests of the community in developing thoughtfully into the future.

For those of you looking for more guidance or wishing to probe more deeply, APA offers several sources beyond this chapter. The first is a 60-minute videotape and reading workbook package called *Ethical Dilemmas in Planning*. In the video, a panel of veteran planners analyzes a series of prepared scenarios. Through their spirited discussion and debate, viewers learn the purposes, scope, and values inherent in planning. The second source is an excellent bibliography, *Ethics in Planning: An Annotated Bibliography* by Marta Escuin-Rubio and Jerome Kaufman, AICP, published by the Council of Planning Librarians (CPL bibliography 290, 1993). Many of the articles listed in the bibliography will enhance your appreciation for ethical analysis when making governmental decisions. Both the bibliography and the video package are available from APA Planners Bookstore.

Many APA chapters hold ethics sessions at chapter conferences and as part of special training programs. Call APA for more information about chapter programs in your area. For more information on other resources and people available to help with ethics training, contact APA.

Ethics does have a role to play in the work of the planning commission or zoning board of appeals. Planning demands a high degree of public trust. Ethical standards must be applied to the decision-making process so that the well-being of the public is taken into account and balanced decisions are made.

The American Planning Association has always been concerned about the ethics of planning. In 1978, the American Institute of Certified Planners (an institute of APA) adopted the AICP Code of Ethics governing the ethical behavior of professional planners. In 1987, the APA Board of Directors adopted an APA Statement of Ethical Principles as a guide to all APA members. A subsequent unified code linking the two documents was adopted in May 1992. The AICP/APA Ethical Principles in Planning are attached as Appendix A to this chapter.

Why should you consider adopting ethical guidelines such as those of AICP/APA? Adoption of an ethical statement lets the larger community know that planning bodies have set standards to which they will adhere and which govern their interactions with the public. This advance notice provides a useful refuge for the commission or board from unwanted debate with those who might seek to encourage unethical behavior.

MODULE 21: WHY ETHICS IS IMPORTANT FOR PLANNING COMMISSIONERS

Serving as a planning commissioner or member of a zoning board of appeals requires treating the office as a public trust. Planning officials have been given public authority and must use that authority with integrity and honor. The job is not always easy because the public has become cynical about the integrity of government. Regaining the public's trust requires a concerted effort on your part.

One of the roots of planning, dating to the early 20th century, is the civic reform movement that brought new methods of thinking and fresh ways of involving citizens in community government. Distrust of political processes led to the creation of independent planning commissions that helped remove politics from decisions concerning the best way to use land in the community's long-range interest. Today, planning officials have a special role in the political process and want to know how to do the right thing in the context of that role. However, it is not always clear what the right thing is, and sometimes doing the right thing entails risk to one's position as a planning official.

Module 22: Groundwork for Ethical Planning Bodies

Appointments

Commissioners and board members should have open minds when listening to proposals. They should have a rational, critical view, an ability to find solutions—some requiring compromise and some requiring creativity—and integrity to be fair to all participants. The planning process should promote faith in the future and our ability to influence it.

A planning commissioner or zoning board member should not be earning a living in a field so directly related to planning that decisions might involve one's employer, close associates, or personal financial interests. Thus, land-use lawyers, design professionals involved in the local community, or employees of local development firms are questionable appointments to the planning commission or zoning board of appeals.

While planning commissioners and board members are often well-known in their communities, a member's open-minded way of viewing problems and opportunities is much more important than personal connections. Personal relationships with politicians, developers, and others who regularly appear before the commission or board will create problems for the ethical member. Much like a judge or jury, the independence, neutrality, and objectivity of planning officials is very important to the process and its credibility.

Ethical standards apply also to boards of adjustment, boards of appeal, design review committees, preservation committees, and other similar positions. They even apply to temporary planning committees.

Bylaws, Rules of Procedure, and the Decision-Making Process

Every commission and board should have bylaws and rules of procedure, including statements of ethical principles, by which the commission or board intends to operate. Such rules set the legal minimum that all participants have a right to expect: due process, fairness, and equity for all planning process participants.

Decisions made by planning commissions (and some zoning boards) can be classified as:

Administrative. There are two kinds of administrative decisions. One is discretionary, the other is not.

1. *Ministerial.* Ministerial decisions are non-discretionary and, therefore, clear cut. For example, does the proposal meet the specific requirements of the law? Does the subdivision plan conform to the requirements of the subdivision ordinance?

2. *Quasi-judicial.* Quasi-judicial decisions are discretionary. When making such decisions, a planning commissioner or board member must weigh the facts and determine whether a proposal is consistent with existing plans and requirements. This involves some degree of discretion. For example, is the zone change requested consistent with the criteria laid out for the granting of the zone change?

Legislative. Planning commissions and zoning boards of appeal recommend various kinds of legislative actions. These actions are decided and legislated by an elected body, such as a city council. In these decisions, the commission or board recommends the rules to be used for the planning process in the community. A legislation recommendation decision provides the commission and the board discretion, providing the ultimate legislation is legal. For example, what should be the criteria in a zoning ordinance for granting a variance?

When a planning commission or zoning board makes a decision, particularly a quasi-judicial decision, it is not just an issue of ethics and fairness, it is the law. Decisions of the planning commission and zoning board of appeals can be thrown out or overturned if the testimony doesn't properly support the findings and the decision.

A recent decision by a district court of appeals in Florida illustrates the concern. In the case of *Jennins v. Dade County*, an accusation was made that the planning commissioners were prejudiced in favor of an applicant because a paid lobbyist had discussed a proposed variance with the planning commissioners before the public hearing. The court agreed that the commission might have been prejudiced.

One judge, however, argued that prejudice should be *presumed* as a result of a meeting with a lobbyist. If that minority opinion were ever to become the majority opinion, private discussions with planning commissioners would become a thing of the past in Florida in quasi-judicial matters. In the extreme, commissioners would not be able to engage in any dialogue about specific projects or applications outside of the public hearing process.

Are there needs for public disclosure of information that a commission or board member found out on his or her own? What about a meeting at which the commission might be writing the text of a plan or revising the staff-recommended text? This kind of work also should be done in an open-meeting work session.

Final decisions, however, should be made in a formal environment. Ethically, commissioners should not decide as a group outside a meeting how to vote at the meeting.

Many commissions also make numerous administrative decisions, such as reviewing subdivision plats at public meetings. Often, however, much work has to go on outside of the meeting. In addition to staff activities, there may be a subdivision review committee of the full commission, including staff and commissioners, that helps limit the detail presented before the full commission. Even in these circumstances, work sessions should be open meetings and those in attendance should be given the opportunity to speak. Obviously, the planning commission and zoning board cannot always have formal meetings, for if a full public hearing were required for every item they review, the commission or board might never accomplish its larger mission.

It is essential, however, that boards understand state law on open meetings. In Illinois, for example, a public meeting is required if a majority of a quorum holds a meeting. Thus, on a nine-member board, a quorum is five members; a majority of that number is three. Consequently, a three-member subcommittee must meet in public meetings.

Ensuring Full, Open Consideration

The value of formal procedures in setting basic ground rules by which everyone must operate is necessary to good government. For example, filing a complete application means that the planning commission will receive relevant facts on a timely basis. Further, in order to have effective citizen participation in planning, the process must be organized so that citizens can find out what is going on, become involved, and make their points of view known.

Secondly, when a commission or board is reviewing requests such as a zone change, the relevant standards, procedures, and regulations that are used must be available to all involved. Thus, the comprehensive plan, ordinances, review guidelines, regulations, and other official documents must be available to everyone.

The meeting agenda should provide an orderly process for applicant presentations, staff recommendations (either before or during the public hearing), for public comment and

questions, and comments by board members. All these inputs should be summarized at the end of the hearing by the chair.

Formal procedures are important to maintaining ethical standards, thereby ensuring that all issues will be properly aired without appearances of undue influence or impropriety. Follow all the proper zoning and planning techniques and procedures to ensure the best possible outcome.

Adopting Ethical Guidelines

There are several sets of guidelines to assist planning commissions and zoning boards of appeal in developing an ethical framework for decision making. The first is the AICP/APA Ethical Principles in Planning as adopted May 1992 (Appendix A of this chapter).

Planning bodies are urged to first discuss, then adopt the APA principles. The value of discussion and debate among planning officials is enormous. Discussion will clarify points of differing interpretation. While it can generally be agreed that each person has the right and responsibility to decide the right course of action, basing all behavior on private values can cause problems. Some persons will demand that their ethical views be imposed upon others because of their status or role in the community.

A second set of guidelines is the Planning Commissioner's Creed, developed for adoption by the Center for Public Affairs and Administration of the University of Utah. The creed is included as an appendix.

Key Elements of the AICP/APA Ethical Principles in Planning

- Serve the public interest
- Recognize the rights of citizens to participate in the process
- Give full, clear, and accurate information
- Expand choice and opportunity
- Assist in the clarification of goals
- Make information available to the public
- Protect the integrity of the natural environment and the heritage of the built environment
- Pay attention to the interrelatedness of decisions
- Achieve high standards of proficiency and integrity
- Exercise independent judgment
- Disclose personal interest and define it broadly
- Abstain from participation when you have a personal interest
- Seek no gifts or favors
- Do not participate as an adviser, decision maker, or advocate on a policy decision in which you have previously been an advocate
- Do not use or disclose confidential information
- Do not misrepresent facts
- Do not participate unless you are prepared
- Respect the rights of all persons

MODULE 23: ROLE OF THE STAFF PLANNER

Working with the Planning Commission and the Community

In those communities where there is a permanent planning staff or a regular consulting planner, the commission or board and the staff or consultants must work together to establish an ethical framework. Citizens' first contact with the planning process will often be with the planner. Therefore, it is helpful for planning officials to understand the AICP Code of Ethics that governs the conduct of planning staffs.

Several components of the code are paramount in determining the nature of the relationship between planners, planning bodies, and the larger community:

- A planner must serve the public interest.
- A planner must provide full, clear, and accurate information.
- A planner must give citizens a meaningful opportunity to participate.
- A planner must exercise independent professional judgment.
- A planner must not use the power of office to seek a special advantage.

Planning commissions should employ individuals who will provide them with objective analyses. Commissions help define the objectives and nature of planning work through adoption of plans, work programs, and studies. This does not mean, however, that commissioners and board members should defer to staff or minimize their own responsibility to plan. But planning officials should not steer the planning staff toward a single finding or reject conclusions that are out of sync with a common community value simply because they are unpopular.

The planner has a responsibility to serve the public interest, particularly in terms of the long-range consequences of present actions and the interrelatedness of decisions. Serving the public interest also means striving to expand choice and opportunity for everyone. The code requires planners to establish rules and procedures that guide the operation of the planning office. This means, in a practical way, that facts should not be adjusted to meet someone's political objectives, and rules cannot be changed according to the political or social status of applicants.

Module 24: Role of the Commissioner or Board Member

Serving the Community's Long-Range Interest

The long-range interest—this is the primary purpose toward which every planning commission and zoning board of appeal decision should be directed. Private property owner rights, equitable planning procedures, strong sentiments of nearby residents, and a wide variety of concerns may be raised at each and every meeting. However, a commission or board should remember the basic question: "What decision will best promote the entire community's best interests over the long range?" Or the related version: "Will a particular decision ultimately have negative consequences to the public that can be avoided by some alternative or a denial?"

The public interest is best promoted though adherence to the many items previously mentioned. Specifically, each planning official, like planners, must promote adequate citizen participation, involvement of all appropriate agencies and individuals, full research, and consideration of all information necessary for a wise decision. When appropriate, commissioners should call for more comprehensive studies.

For all types of public meetings, certain rules of fairness should apply. These include adequate notice, an opportunity to be heard, unbiased decisions, and clear rules. If questions cannot be answered adequately, a planning official should take a course of action that most protects or promotes the public interest. If an individual planning commissioner has not been able to prepare adequately for a particular decision, he or she must not participate in that decision.

Relationships with Others Involved in Planning

Planning commission and zoning board members work with, and independently of, a variety of groups and people. Key among them are the petitioner seeking action, the planning staff, other governmental staff or agencies, the local legislative body, official and unofficial citizen groups, individual citizens, and the courts.

The commission's relationship to the legislative body may be the most significant single reasons for strong planning ethics. The legislative body is political; ethically, it is often subject only to the few principles that have been turned into law. Legislative representatives are responsive to constituents' interests and subject to election campaigns that encourage attention to immediate concerns rather than to long-range problems.

Planning commissions and zoning boards of appeal exist independently to balance this tendency. They do so by emphasizing the long-range interests of the community. Much of the work of commissions and boards is making recommendations to the legislative body that makes the final decision. Of the two bodies, the commission should certainly be much more concerned with ethical activities and more independent of political influences.

While planning encourages full participation and equitable treatment, planning decisions are not simply the rule of the majority. In any voting situation, some views, such as those of minorities, are likely to receive inadequate consideration. Therefore, the commission or board must be cognizant of all views and expand opportunities for all persons.

Finally, the commission should recognize that the court system is available for ultimate appeals. Commissioners and board members may often find themselves weighing the rights of an individual against the broad interests of the community. Commissioners frequently will be told by their attorney about legal principles and precedent. As with staff recommendations,

these help clarify past interpretations of public interest. They should influence the commission's current interpretation of public interest to varying degrees, based again upon the type of decision being made.

The Lone Commissioner or Board Member

What happens when you are faced with an ethical dilemma and you are the only one to see it as an ethical issue? Any planning commissioner or zoning board member can request an item be placed on the agenda. The lone member who has concerns about the general tone and conduct of the work of the entire body should request that the AICP/APA Ethical Principles in Planning be placed on an agenda for consideration and adoption. A full discussion of the statement may serve as a tool of enlightenment without appearing to rain down judgment on any individual.

Module 25: What Happens When you Have Ethical Questions

Making Decisions

To answer an ethical problem, it may help to use the basic process described below:

1. Carefully define the problem. This sounds obvious, but it is crucial to think about the issue. Perhaps there is a personality conflict among commissioners that is being misrepresented as an ethical conflict. Or maybe the difficulty lies with administrative procedures that are provoking questionable responses. The discipline required to do this first step will greatly facilitate the next steps.

2. Clarify the board or commission's primary goal. Begin to look at the situation at hand by suggesting where or how you and the planning body might make a difference.

3. Collect all the facts. Who is involved? How do you know these to be the facts? Is there a consistent pattern?

4. Identify possible alternative actions you can take and their possible outcomes. Confront people individually, privately or in a public setting, have the commission or board chair address the matter, ask for a memo from the planning director on the topic, and so on. The alternatives should be evaluated in terms of their simplicity, effectiveness, and ability to solve the problem without disturbing working relationships.

5. Review and begin to apply appropriate guidance material. By virtue of having participated in ethics training, the planning commissioner or zoning board member will have some of the basic tools to confront and successfully resolve ethical dilemmas. Additionally, the commissioner should have at hand statutes, ordinances, regulations, and rules of procedure that help to govern conduct in the local jurisdiction.

6. Select the best alternative. The best alternative is the one that meets all of the ethical standards and with which you feel you can comfortably operate. Such an alternative will also build ethical bridges to the rest of the commission or board.

7. Resolve the ethical problem. Attempt, one step at a time, to implement the alternative you have selected. If it cannot be, then reexamine the alternatives and make a new selection.

Resolution of Problems

When you note a consistent pattern of unethical behavior and have exhausted simple and direct remedies, it may be time to consult with others. It may be possible to bring to bear the influence of a larger entity, such as the APA and the AICP.

Your peers among other planning officials, particularly someone from another jurisdiction, can be most helpful in sorting out the issues and alternatives. In some instances you may

not wish to consult with local APA chapter officers because of a need for the utmost confidentiality. Additionally, you may call APA and ask for a list of people who can help—professional planners, other commissioners, or board members.

When you attend training workshops, you will be able to identify others who can be helpful. Commissioners or board members who have made the effort to locate others with whom they can discuss their observations and concerns report that the process is invigorating. Learning that one is not alone increases your comfort in making difficult decisions.

Ultimately, however, each ethical commissioner must be prepared to consider whether the events are of such a serious nature that they require a resignation when repeated efforts to solve a problem have not been successful. The commissioner or board member may decide, upon reflection, to maintain a lonely outpost as an ethical beacon. Conversely, he or she may feel that his or her mere presence lends credibility to a fundamentally flawed situation. Personal values will provide guidance.

Scenario 3: When the Planning Director Wants Affordable Housing

You are the planning commissioner in a small but growing upper-income bedroom suburb of a major metropolitan area. As part of the approved work program for the department, the planning director is preparing a report about housing opportunities in the city. In fact, from your informal conversations, the director seems to be approaching this with missionary zeal. By analyzing the median income, work force, current housing availability, and future trends, the director has concluded that the amount of undeveloped land zoned for apartments should be doubled immediately. The director is not alone in this assessment. A team of planners from other city agencies has worked together on the analysis and the recommendations.

At the planning commission work session where the director shares the results of the team's efforts and begins to outline his recommendations, you see all sorts of red flags popping up. You know that many of the current residents will oppose additional rental units. The director's other recommendation—more quadraplexes and triplexes—won't be any more popular. Preliminary questions raised by commission members about community dissatisfaction over such a report have only provoked high-minded statements about the planner's responsibility to serve the public interest. It seems likely that even if the commission does not endorse the planner's recommendations, the issue will be raised with the city council. While there has not yet been a lot of public discourse on the topic, you know that many citizens will see such an initiative as bringing low-income people into the community.

So far the news media have not asked any questions, but you know from experience that you are likely to get a phone call before too long. How should you proceed?

1. Take action at the work session to tone down the report by removing the specific recommendation that increases the apartment zoning. Lay out for the director those portions of the report that the commission may be prepared to support at some time in the future as individual rezoning requests are submitted. Politely advise the director that it is inappropriate for the director to use his position to pursue what seems to be a political agenda absent the endorsement of the commission.

2. Retitle the report to add the words "preliminary, as a guide only" to the title and then adopt the report in concept. Expect that the more sensitive issues can be ironed out before there are any implementation initiatives before the commission.

3. Take a deep breath and move ahead. Debate the analysis and recommendations thoroughly to understand the issues and the potential areas of compromise between the commission and the staff. Schedule a public hearing knowing that it will be painful. Push for increased housing opportunity in your community as far as you believe the data support the need for such action.

4. Call for a public hearing and be prepared to vote in accordance with the wishes of those who are present and testify. Recognize that the director may push further and that it is not totally out of line for him to do so.

5. Other_____.

Commentary for Trainer

Several ethical issues are raised here, beginning with the subject matter of housing diversity. Planners and planning commissioners have a responsibility to broaden opportunities for a diverse range of housing consumers. Here the planning director has noted this responsibility in a report and the commission should refine it and follow through on it as strongly as reasonably possible. In pursuit of such an objective, one may consider methods that are politically more or less acceptable and look for workable methods or even compromises.

One may be tempted to handle such a matter quietly to keep the controversy and publicity to a minimum. Indeed, negative publicity and public reaction may make it harder to realize the basic goals of housing opportunity. Nevertheless, one also must respect and invite citizen participation into the planning process. Decisions or recommendations regarding major policies such as this should certainly be made with public input in a public meeting or hearing. Perhaps additional preparations must be made to make this hearing a constructive one.

A commission also must respect the ethical responsibilities of the professional staff. Ideally in a case such as this, the commission and the staff will agree on the basic direction and work out the most appropriate techniques.

When all is not resolved, however, the director may need to take further steps to distance himself from the commission. As this scenario implies, the director will certainly jeopardize his popularity with the community as well as the commission if he chooses to take further action. He should not do so lightly. However, the commission should back his right to do so; and in cases like this where the idealistic commissioners may find themselves in the minority, they may be thankful that the director will bear the brunt of further efforts. Over the long run, such efforts by the commission and/or the director may turn around public opinion to the point of acceptance.

While each alternative may have an element of ethical appeal, the third one is most respectful of citizen participation, with no disrespect to other principles involved. If you follow options like number 4 very frequently and you like the current planning director, you had better find appropriate ways to encourage him to stay around.

Principles:

- Planners and elected and appointed officials should strive to give citizens full, clear, and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs.
- Participants in the planning process should strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons.
- Both officials and planners should assist in the clarification of community goals, objectives, and policies in plan making.
- Practicing planers systematically and critically analyze ethical issues in the practice of planning.