

**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 October 19, 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 11-114, 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 11-112, A Request for a Variance of the building setback requirements at 860 Soundview Avenue, Lot 2, Block 3, Foothills Subdivision, Sunset View Estates *Page 13*
Addition No. 2, Phase One

9. Plat Consideration

10. Pending Business

11. New Business

- A. Staff Report PL 11-113, An Ordinance of the City Council of Homer, Alaska, enacting Homer City Code Chapter 21.27, East End Mixed Use District *Page 27*

12. Informational Materials

- A. City Manager's Budget Report submitted September 28, 2011; Introduced October 10, 2011 *Page 39*

13. Comments of The Audience

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

14. Comments of Staff

15. Comments of The Commission

16. Adjournment

Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission. The next regular meeting will be held on November 16, 2011 at 6:30p.m. There will be a work session at 5:30.

Session 11-14, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 6:32 p.m. on October 19, 2011 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, DOLMA, ERICKSON, HIGHLAND, MINSCH, SONNEBORN, VENUITI

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK JACOBSEN

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).

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 October 5, 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

REPORTS

- A. Staff Report PL11-111, City Planner's Report

City Planner Abboud reviewed his 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.

- A. Staff Report PL 11-108, Draft Sign Code Amendments

City Planner Abboud reviewed the staff report.

Chair Minsch opened the public hearing.

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Scott Fraley, city resident, said he didn't really feel the Commissioners heard anything anyone said at the last hearing. He referenced the editorial from the Homer news and said their article in the paper came off arrogant and rude. You have a bunch of business owners from the community come and talk about their concerns and frustrations with what this will do to their businesses. You dismiss their concerns with a statement in the paper "they're wrong". The article just came off as insulting and in the end it slammed every business owner in the community with the statement that "Yes, business can be hard, yes it can be tough, but if we are creative, offer a good product, work together without taking unfair advantages, we'll all succeed." That is basically telling the businesses that you need to realize you aren't making a creative or a good product. "Vegas will never happen in Homer" is a paranoid statement. For a lot of businesses, 90 days is their business period and to tell them they only get 14 days of advertisement is not realistic or appropriate. The statement that the reason people visit and settle in Homer is the beauty and natural settings of our town, is not completely true. A large percentage of people who live in this town grew up here, and the little quirks in the town aren't keeping tourists away. He thinks we need to be pro-business and the Commission hasn't given any reason why sandwich boards should be thrown out. There is no proof or evidence they cause safety problems. It is an opinion, and not a good reason to make a rule.

Dan Coe, non city resident and sign painter in town for 7 years, addressed the issue of sandwich boards and fairness. He said he understands the nature and necessity of sign ordinances and compliance and that one man's freedom may be his neighbor's offence. He researched on line that many municipalities in the US are dealing with the same issue and from it, constitutional concerns have come up. One resource says local governments are completely unaware of the constitutional ramifications of regulating signs and billboards, believing like residential and commercial buildings, that signs are subject to zoning and land use restrictions without limitation. But as explained by the US Supreme Court, signs and billboards possess both communicative and non communicative aspects. It means that a Planning Commission can make an ordinance based on size, positioning, and so forth, but what is protected by the 1st and 14th Amendments is the content. An issue cited is you can't allow one category as opposed to another, you need to allow all of them or none of them. Mr. Coe provided copies of his research to the Clerk.

Adrienne Sweeney, city resident and business owner, knows what a sign can mean to a business. She explained when she first purchased her business the previous owner had worked hard to get a DOT sign located along the Sterling Highway. A few years later Homer became considered Urban instead of Rural and the signs were taken away. After hers was removed in 2005 her business went from filling up daily with walk ins in the summer to zero walk ins. It hurt the business and she was not prepared for it. Being only a few years into the business it was a difficult time. She tried to be creative and put a sandwich board up by Fat Olives, Planning Staff would come pick it up, and Mrs. Sweeney would go get it and pay the fine. Now she puts her sandwich boards on her personal property and is very adamant that she should be able to do it. She opposes the sign ordinance with the exception of the 1 pro business point of allowing the multiple businesses on a lot to have more square footage. She did research as well, and found that the City of Redmond Washington lost a law suit based on the same subject that you can't allow one and not the other. There is no proof or documentation that the temporary signs are a safety hazard, or not works of art, and who is going to judge art? She proposes they de-regulate the A board signs language to allow display year round, with limited square footage and off the sidewalk two feet; promote free enterprise not impede it;

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consider becoming the most pro business city in Alaska; consider lowering water rates, and help businesses survive. Consider working with the States Way Finder Pilot Program they have in Fairbanks to help visitors find businesses off the beaten track. Consider working with the State to install a kiosk at the top of Homer hill with the State grant program. Finally, consider developing a comprehensive plan developing goals and policies that are designed to attract and retain business, build on our community strengths, and create jobs.

Nancy Deaver, city resident and owner of Sweet Berries Cafe, admitted that she hates her sandwich board, it's her nemesis. But the fact remains that it brings people through her door. She has built up her business from a three table café to nine tables. They have a good product but to this day, people can't find them because she can only have one small sign on the building and the owner of the building takes up the rest of the sign space. The sandwich board is the only thing she can have. She understands there is a problem with them, but she doesn't think the issue is with the year round businesses. She has paid attention since the last meeting and there aren't that many that are a problem in town. She proposed that the Commission change the ordinance to allow the sandwich boards for year round businesses. The summer businesses are only here 90 days and don't really care about the year round businesses. What scares her is that if they take the signs away, the permanent signs are expensive and a struggling business it is a lot of money. That is a situation where you need a little sign to build business up until a permanent sign can be afforded. She hopes there can be a way to figure out how the year round businesses aren't punished by having a cheaper sign and a different ordinance for summer businesses. She worries the year round businesses will go under if they can't have the smaller signs. It hurts Homer economically, it isn't a good plan.

Kimberly Hemphill, city resident, said she has had businesses in town since 1989. When the sign ordinance started originally it was all about not having billboards. She paid her fee, and did what she was supposed to do. She likes the sandwich boards and the flyers that hang off the poles. She likes that she can see who the benefits are for at Alice's and what Sweet Berries special is for the day and others around town. She does forget about them without their sandwich board. She doesn't think illuminated signs should be eliminated because even the open and closed signs are illuminated. They are needed when it is dark for sake of safety. This has all gone too far. This is a nice little town and we need to have freedoms, she doesn't find any of it offensive. There are some ugly signs, but it is a matter of opinion. What the ordinance was originally supposed to do and what it does now are two different things and she finds it very disappointing.

Steve Gibson, city resident, thanked the Commission for their work. He commented that he doesn't have a dog in this fight, but thinks sandwich boards should be permitted and understands that enforcement is difficult. He thinks the enforcement of the proposed ordinance is worse. Sandwich boards are a piece of the town he appreciates because of the information they provide. He thinks they should protect that right, not ban it. The setback requirements from the olden days were part of the problem as it resulted in parking in front of businesses, a pedestrian unfriendly environment, and an inadequate area for signs. The new code would enable business owners to make a garish car to park outside of a business every day yet ban the small sandwich boards. He doesn't think that is what the Commission planned. He hopes they aren't against the sandwich board because they don't like the way they look, he understands they can get out of hand, and part of the new sign code revision deals with enforcement questions and that will address problems raised by sandwich boards.

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Bob Carpenter, from Magic Touch Massage, commented that he is frustrated with the basics of this. He understands its purpose. They took the time to make sure their sign is tasteful, to take it out of the thoroughfare and parking area, and be easily seen along Pioneer. His business has easily doubled because of their sandwich board sign. They ask every new customer how they found out about the business and most say it was the sandwich board sign. Mr. Carpenter said their objective is to bring in customers and be a valid business to help Homer. He hopes they will consider what the businesses are coming up with. Word of mouth is great, once the clientele is established. Taste and safety was the forethought for their sign. The ordinance only allowing it to be out 5 days a month is skewed and he would like them to reconsider that. We want to bring business to Homer, because with out business it will become a dustbowl.

Steve Zimmerman, city resident, commented that he doesn't see an issue with sandwich boards as long as they aren't in the right-of-way. He recommended enforcing the existing rules and leaving the rest of them alone. Businesses need advertising and it doesn't hurt anyone anywhere. Regarding size allowance, Mr. Zimmerman asked why a business can't simply have signage on a percentage of their building. It would be fair and equitable that way. He also questioned the \$50 permit fee. As a tax payer he shouldn't have to pay to put a sign up, and as long as he complies with code he shouldn't even have to ask permission to put a sign up. It is just another cost of business that gets him nothing. The sandwich boards are lower than some of the landscaping that you have to pull out past to see. Maybe that should be dealt with before picking on the landscaping people.

Karen Carpenter, with Magic Touch Massage, said she likes signs because they help people find things. No one would agree that sandwich boards be allowed in the right-of-way and it should be required they be weighted so they won't blow down. She noted that the way some of the buildings are built in relation to the lay of the land makes for visibility problems and the businesses need to be seen.

There were no further comments and the public hearing was closed.

BOS/VENTURI MOVED TO DISCUSS ACCEPTING THE STAFF REPORT AND STAFF RECOMMENDATION.

No objection was expressed and discussion ensued.

Commissioner Highland commented to help clarify that sandwich boards became a topic of looking toward the future, they were not legal to start with, and then we started seeing more. If we allow some, we have to allow all of them and there are people concerned about that. She acknowledged the constitutional concerns that were raised and noted that the City Attorney has been involved in reviewing the ordinance and did not raise any concern about fairness. The original sign ordinance came out in an effort to not have the big arches when McDonalds came in and it was proactive. There has been a lot of information about what signs can mean to a community and fair ways of everyone finding the signage. She wonders about considering something for businesses off the main roads coming in to town.

Commissioner Erickson expressed her appreciation for people coming with some ideas to consider and would like to take time to consider the year round businesses and the fairness issue.

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Commissioner Bos said the Commission really hasn't changed the rules on sandwich boards, and they haven't changed many rules, other than sizes. This is something that has been in place for a long period of time. It isn't as though we are against new or old businesses. The sandwich board is status quo and you are either following the rules or your not. He hopes he is as pro business as anyone.

VENUTI/BOS MOVED TO FORWARD THE DRAFT SIGN ORDINANCE TO CITY COUNCIL.

Question was raised about consideration for businesses off the main roads. City Planner Abbound responded that when making a regulation it is important to make sure to treat all classes of individual equally for whichever district you may find them in. If you do it geographically and start crossing zoning districts it raises issues with treating everyone equitable.

Commissioner Venuti expressed that this was underway when he joined the Commission and when he first looked through it he was concerned it was anti business. He was concerned that they weren't getting any input as they worked through it. After the two public hearings he understands the overwhelming feeling about sandwich boards. He understands the rules in the ordinance as early in the summer they were in the corners of intersections blocking lines of sight, and on the spit in the roadway. Initially the issue was safety. The Commission values the public's input and in light of what they have heard, he encouraged the public to express their concerns to the City Council at their hearing.

Commissioner Sonneborn suggested that unless there is another way to prevent the proliferation of sandwich signs then it should be sent on to Council.

Commissioner Bos added that a reason the Commission discussed this for so long was to try to make sure it equal for everyone. A lot of testimony has expressed that it isn't equal for everyone. He suggested that if he had a sandwich board, maybe he would get more business; but if you don't have a sandwich board it doesn't mean Homer is losing business, they may just be going somewhere else that day for the service.

Commissioner Erickson noted as it stands now there is an allowance for sandwich boards over a 90 day period, the proposed amendment is to do away with them completely, and she hears from testimony that they want what is currently law to go away. There hasn't seemed to be a happy medium and maybe we do need to look harder at year round businesses.

Lastly, Commissioner Highland expressed that it would only take one accident involving a sandwich board, a pedestrian, and a vehicle. It raises question if the City would be sued for allowing a dangerous situation. While it hasn't happened here yet, it could and public safety holds a lot of merit.

VOTE: YES: BOS, MINSCH, HIGHLAND, VENUTI, DOLMA
NO: SONNEBORN, ERICKSON

Motion carried.

The Commission took a break at 7:30 p.m. and the meeting resumed at 7:30 p.m.

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- B. Staff Report PL 11-109, Draft Ordinance allowing accessory dwelling units as a permitted use

City Planner Abboud reviewed the staff report.

Chair Minsch opened the public hearing. There were no comments and the hearing was closed.

VENTUTI/BOS MOVED TO DISCUSS AND MAKE RECOMMENDATIONS REGARDING THE DRAFT ORDINANCE ALLOWING DWELLING UNITS AS A PERMITTED USE.

There was no objection expressed and discussion ensued.

Commissioners commented in favor of the ordinance and the way it would streamline the process.

Question was raised about how the allowance will relate to lot coverage and building size. City Planner Abboud explained the way it is now the accessory structure is one that is not as prominent as the primary structure on the lot. If the property owner wants a bigger one, they will have to come in and ask. It is also dependant the services given to the lot as one without water and sewer will have a larger lot size requirement per dwelling. If he doesn't feel it will qualify for an accessory structure or the applicant feels it should be permitted they will come to the Commission through a CUP process.

There was brief discussion about water and sewer meters, rates, and that those are issues for Council.

There was also discussion about in-fill and what could be considered in-fill.

There was no more discussion and no objection to sending this draft ordinance to City Council for public hearing.

PLAT CONSIDERATION

No plats were scheduled for consideration.

PENDING BUSINESS

- A. Staff Report PL 11-110, Policies and Procedures

BOS/DOLMA MOVED TO DISCUSS STAFF REPORT PL 11-110.

There was brief discussion regarding the recommendation of the staff report.

BOS/SONNEBORN MOVED TO POSTPONE TO THE WORKSESSION AND REGULAR MEETING ON NOVEMBER 16.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

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Motion carried.

NEW BUSINESS

No new business items were scheduled.

INFORMATIONAL MATERIALS

A. City Manager's Report: Budget Message FY 2012 Operating Budget

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

City Planner Abboud commented that they are working on getting notices out for the East End Mixed Use district and scheduling for an open house before the public hearing.

COMMENTS OF THE COMMISSION

Commissioner Venuiti questioned what happens if Council sends the sign ordinance back. City Planner Abboud said if it gets sent back they will give the Commission direction on what they want. Mr. Venuiti said he sees fault with the process in that all the testimony came in at the end and it would have been easier if the input had come in earlier.

Commissioner Dolna expressed his agreement that having input earlier in the process would have been better. He doesn't know if it would have ended up any different, but it might have been a more pleasant situation at the end.

Commissioner Highland said she likes the idea of the open house for East End Mixed Use and thought it might have been a good idea with the sign code. It would be good to have more of a give and take conversation.

Commissioner Erickson wondered if there was a way when the sign code goes to council if there is a way to look at temporary signs separately, as it is the most controversial. She was glad to see people tonight bring ideas for solutions. It was a little late, but better than what they had before.

Commissioner Sonneborn hopes that something can be figured out to make the sign ordinance work for everyone, and hopes if it does come back that Council's directive is very clear.

Commissioner Bos said it was a good meeting. In looking at the complexity of the sign ordinance he thinks he only heard in one case someone address the amount of square footage of signage on a larger store, because they may have more to advertise. The other issue was sandwich boards. He commended the Commission on a job well done, and while he is disappointed at being called non-pro business, the Commission spent a lot of time on this, shared a lot of ideas, and came up with the best possible scenarios.

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Chair Minsch said everyone did a good job. It is worth talking about how to get the public interaction in the beginning, but you have to give them something to talk about, so that is the catch 22. The Commission has to get something that makes sense and then can have as many public hearings they want, open houses, and that kind of stuff. The people here tonight just need to get a permit and put their sandwich board on something to make it permanent. She doesn't know what Council will do, but she keeps trying to stay focused. There are 5000 people in town and this is a small group who don't follow the rules.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 8:07 p.m. The next regular meeting is scheduled for November 2, 2011 at 6:30 p.m. in the City Hall Cowles Council Chambers.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____



City of Homer

Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

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E-mail Planning@ci.homer.ak.us
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STAFF REPORT PL 11-114

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: November 2, 2011
SUBJECT: Planning Director's Report

October 24th City Council

Ordinance 11-43, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 14.08.037, Water Meters; Regarding the Number of Water Meters Required Per Lot. City Manager. Recommended dates: Introduction October 24, 2011, Public Hearing and Second Reading November 28, 2011. Memorandum 11-143 from City Manager as backup. ADOPTED without discussion.

MEMORANDUM 11-143

TO: Mayor Hornaday and Homer City Council
FROM: Walt Wrede
DATE: October 24, 2011
SUBJECT: Water Meters

Introduction

The City Council recently adopted Ordinance 11-26 entitled "AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, REPEALING SUBSECTION (C) OF HOMER CITY CODE 14.08.035, WATER CONNECTION AND EXTENSION PERMIT FEE; AND ENACTING HOMER CITY CODE 14.08.037, WATER METERS; REGARDING THE NUMBER OF WATERS METERS REQUIRED PER LOT." This ordinance was adopted upon the recommendation of the city administration when the Council was setting water and sewer rates this summer. The intent was to increase the customer base, increase revenues, provide equity among residential users, and reduce rates in multifamily dwellings from commercial to residential. While the intent behind this ordinance was good, some unintended and practical consequences were fully appreciated when we geared up to implement the ordinance. In hindsight, we could have thought this through a little better before bringing it to Council.

The Issues:

There are a number of cost related and practical implications for both the property owner and the City. Property owners of multifamily units would be required to install separate water lines to the street for each unit in the dwelling or install elaborate plumbing fixtures either in the building or at the street so that each unit could have a separate shutoff valve and water meter. Not only would this be expensive, but the

maintenance costs would increase as well over time.

The City would have to install and maintain 400 plus new shut-off valves and meters. The City wants these valves to be in the street because it does not want to enter buildings to do this, for a variety of reasons. It is important that the City has the ability to shut water off. This greatly increases the workload for Public Works staff; because there will be more maintenance and more shutoffs and turn-ons due to payment delinquency, changes in renters, people leaving in the winter, etc. In addition, the added administrative burden on the Finance Department will be significant. Anytime you have 400 plus new customers, the workload increases.

What Does This Ordinance Do?

This ordinance eliminates the need for each unit in a multifamily dwelling to have a separate meter. However, it keeps the same concept. Each unit will be charged the same customer charge as any other residential building. However, this charge will be levied administratively through the fee schedule. So, instead of the City interacting with individual renters, it will continue to interact with the property owner, as it does now. The property owner is ultimately responsible. Residential rates will apply. Finance will conduct another analysis when Regina returns, but we believe this raises enough money to balance the budget, similar to the ordinance passed this summer.

RECOMMENDATION: Approve Ordinance 11-43.

Section 1. Homer City Code 14.08.037, Water meters, is amended to read as follows:

- 14.08.037 Water meters. a. All water shall be metered. The one time meter lease fee shall be the actual cost of the water meter installed plus fifteen percent as determined by the Public Works Director.
- b. Except for the following, Only one meter shall be issued to each lot, except that :
1. A multi-family building that contains more than one dwelling unit shall have a separate water meter for each dwelling unit. This requirement applies to all new construction on and after the effective date of this section. Units in multi-family buildings subject to and in compliance with this subsection shall be billed at residential rates for both water and sewer.
 2. Existing multi-family buildings:
 - a) Have the option to have individual meters installed for each dwelling unit. By doing so, each unit will be subject to "Single Family Dwelling Unit" Rates as defined under the Rate Schedule, and be billed at residential rates for both water and sewer, or
 - b) Continue business utilizing the single meter. These businesses will be required to pay the customer charge per unit for water and sewer as defined by the Rate Schedule and will remain on the higher rate schedule listed as "Other", or "Commercial" as listed in the rate schedule until such a time as they have individual meters installed as defined by 2.a.
 - c) Multiple meters may be issued for lots on the Spit.

Then next City Council Meeting is not until November 28th, I expect that the "More than one" ordinance will be introduced.

Activities:

Communications with FEMA has resulted in a schedule for adopting the proposed draft Floodplain maps 2 follows,

Activity	Actual or Projected Date
DFIRM Preliminary Date	August 19, 2011
Flood Study Review Meeting	December 15, 2011*
90-day Appeal Period Start Date	January 17, 2012*
90-day Appeal Period End Date	April 16, 2012 *
Issue Letter of Final Determination	July 16, 2012*
DFIRM Effective Date	October 16, 2012*

**All projected dates are subject to revision as the project progresses.*

Staff has begun working on a conservation district rezone, to meet the goals of the comprehensive plan. The zoning ordinance text has already been amended; the next step is to change the zoning map. The conservation code requires land owner permission for private lands to be zoned conservation. Staff is working with two private land owners; the Kachemak Heritage Land Trust, and Kachemak Moose Inc, to see if they would like their lands included in the rezone.

Training:

Franco, James and I are planning to attend the training offered in Fairbanks next week.

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ANALYSIS

The applicant built a single family home and detached garage at 860 Soundview Ave. The house and garage are attached by a breezeway. The parcel is a corner lot, with a steep embankment on the southern property line along Cabana Court. The oversize two car garage encroaches into the twenty foot building setback area along Cabana Court. The encroachment is just over four feet, as shown on the attached as-built survey.

The applicant states that Dan Gardner, Public Works Inspector, visited the site during construction and commented that the garage may have been in the setback. It is up to each property owner and building in the City of Homer to comply with building setback regulations by knowing where the property lines and building setback areas are. The applicant in this case was given warning that a problem may exist, but chose not to investigate the matter until the building was completed.

FINDINGS OF FACT

Pursuant to HCC 21.72.010, a variance may be granted to provide relief when a literal enforcement of Homer City Code Title 21, Planning and Zoning, would deprive a property owner of the reasonable use of his real property.

21.72.020 Conditions precedent to granting variance.

A. All of the following conditions shall exist before a variance may be granted:

1. A literal interpretation of the provisions of the Homer Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district.

Finding 1: *The literal interpretation of the provisions Homer Zoning Code does not deprive the applicant of rights commonly enjoyed by other properties in the rural residential district. There is ample developable area on the lot for a single family home and garage.*

2. Special conditions and circumstances exist that are peculiar to the land or structures involved and are not applicable to other lands and structures in the same district.

Finding 2: *There is a steep embankment within the 20 foot building setback along Cabana Court. As a result, the applicant built the home with the driveway on Soundview Ave. The lot can be reasonably developed without encouragement into the setback.*

3. The special conditions and circumstances have not been caused by the actions of the applicant.

Finding 3: *The applicant built the garage too close to the property line. If the garage were smaller, i.e. a standard two car garage, or attached to the house, there would be no encroachment.*

B. Financial hardship or inconvenience shall not be the sole reason for granting a variance.

Finding 4: *The applicant states the granting of the variance would allow reasonable access and egress to the garage and driveway. Driveways are permissible within the building setback and no variance is needed. No compelling evidence has been presented that demonstrates the need for the garage to be placed within the building setback.*

Finding 5: *The variance is sought solely for financial hardship or inconvenience. It will be difficult to finance this home with a bank loan because it does not meet the city zoning requirements. Remedying encroaching corner will be a significant inconvenience.*

C. Other nonconforming land use or structures within the district shall not be considered grounds for granting a variance.

Finding 6: *The applicant is not seeking a variance because of other nonconforming land uses or structures within the district.*

D. A variance shall be the minimum variance necessary to permit the reasonable use of the land or structure.

Finding 7: *The applicant has applied for a variance of 52" x 60" at the south corner of the garage, and 6 inches along the remaining southwestern wall.*

E. A variance shall not be granted which will permit a land use in a district in which that use is otherwise prohibited.

Finding 8: *The building is used as a garage and is permitted within the district.*

STAFF RECOMMENDATION

Staff recommends the Planning Commission deny the variance with findings 1-5.

ATTACHMENTS

1. Zoning Variance Application
2. Site Plan
3. Vicinity Map

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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

(907) 235-6584

ZONING VARIANCE APPLICATION

Today's Date: October 13, 2011

APPLICANT INFORMATION

Name: Roderick J. Engle Phone: 907-440-1245

Address: 195 Mountain View Drive, Homer, AK 99603-7157

also submitted

Property Owner (if different than applicant):

Name: Stardor Homes, Inc. Phone: 907-235-6584
(ENGLE Family)

Address: 195 Mountain View Drive, Homer, AK 99603-7157

PROPERTY INFORMATION

Lot size: 120.60' x 179.90' x 137.00' x 60.00' Acres: .32 Square Feet: 14148

Legal Description of Property (include tax parcel number): Tb SR13 W SEC 19 Seward

Meridian H112007031 Faithills Sub Sunset View Estates Alpha No 2 Phase One
Lot 2 Block 3

City water service? Y N City sewer service? Y N Electric service? Y N

Is there an existing structure on the property? Y N
If yes, what kind? single family house and double garage
What is the existing use of the property? residential
What is the proposed use of the property? residential

What structures or land uses exist on the neighboring property, i.e. residence, commercial, vacant, etc.:
Describe existing zoning:

North: vacant East: vacant
South: residence West: vacant

ZONING VARIANCE INFORMATION (Please use an additional sheet, if necessary)

1. Give the exact sentence, paragraph and section of the zoning ordinance from which you are requesting a variance: Buildings shall be set back 20 feet from all dedicated rights of way. 21.14.040(2)1-21.14.05(d)1b.
C:\Documents and Settings\Owner\Local Settings\Temporary Internet Files\Content.IE5\BK1757P6\Variance



Application doc Where the Land Ends and the Sea Begins

21.62.020 Conditions precedent to granting variance.

A. All of the following conditions shall exist before a variance may be granted:

1. What regulations do you feel you are deprived of, or prevent you from enjoying your property as others in the same district? Existing set-back to create for safe egress and access to existing garage and driveway.
2. What special conditions and circumstances exist which are peculiar to the land or structures involved and which are not applicable to other lands and structures in the same district? Steep embankment varying 75 percent on the west side of lot; east side of Cabana Court.
3. How or by whom were these special conditions and circumstances caused? Embankment was the result of topography and necessary for the construction and drainage of Cabana Court.

B. Financial hardship or inconvenience shall not be reason for granting a variance.

1. Without this variance, what would the costs and/or inconvenience be to you? The house is for sale and existing set-back encroachment may dis courage potential new home buyer.

C. Other nonconforming land use or structures within the district shall not be considered grounds for granting a variance.

D. A variance shall be the minimum variance necessary to permit the reasonable use of the land or structure.

1. What is the minimum variance needed? Approximately 52 x 60" of the Southwest corner of garage and 6" along remaining west side.

E. A variance shall not be granted which will permit a land use in a district in which that use is otherwise prohibited.

1. If granted the variance, how will you utilize this variance? Is this allowed in your zoning district? If granted would allow reasonable access/ egress of existing garage. (see attached p. 5)

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: owner of record; lessee; contract purchaser; duly authorized to act for a person who has the following legal interest: Stander Homes, Inc. (single family) and that the owner of record is knowledgeable of this application if I am not the owner. I also understand that this item will be scheduled for the Planning Commission agenda only if all application materials are submitted by _____.

Applicant's Signature: Rodrick J. Engle (d) Date: October 13th 2011
Property Owner's Signature: Rodrick J. Engle & Doree B. Engle Date: October 13, 2011

Fee: \$250.00 (X) Paid Received by: [Signature]

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Application.doc



Where the Land Ends and the Sea Begins

Planning Commission Meeting Date: _____
Planning Commission Public Hearing Date: _____

As shown on the as-built, the southwest corner of the deck/porch makes entrance and particularly existing the garage too close to the steep west embankment for reasonably safe negotiation of a vehicle.

The house and garage is built on a steep grade. The garage is free standing with its own foundation, allowing proper drainage/run-off from the bluff north of the property.

During construction ~~the~~ the two roof overhangs of the house and garage were so close it was decided to connect the separate structures with a common roof creating a breezeway.

During early construction there was the foundation and walls in place; Dan Gardner was on the work-site with Rod Engle to inspect the driveway. At this time Mr. Gardner commented the garage appeared to be too close to Cabana Court, therefore he and Mr. Engle measured from survey marker # 5180.5
33
pt
Raw
2007 ~~to~~ the southwest garage foundation corner; and detected a 6" set-back encroachment. Over one year later with construction completed the as-built showed (see p. 4)

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Application.doc

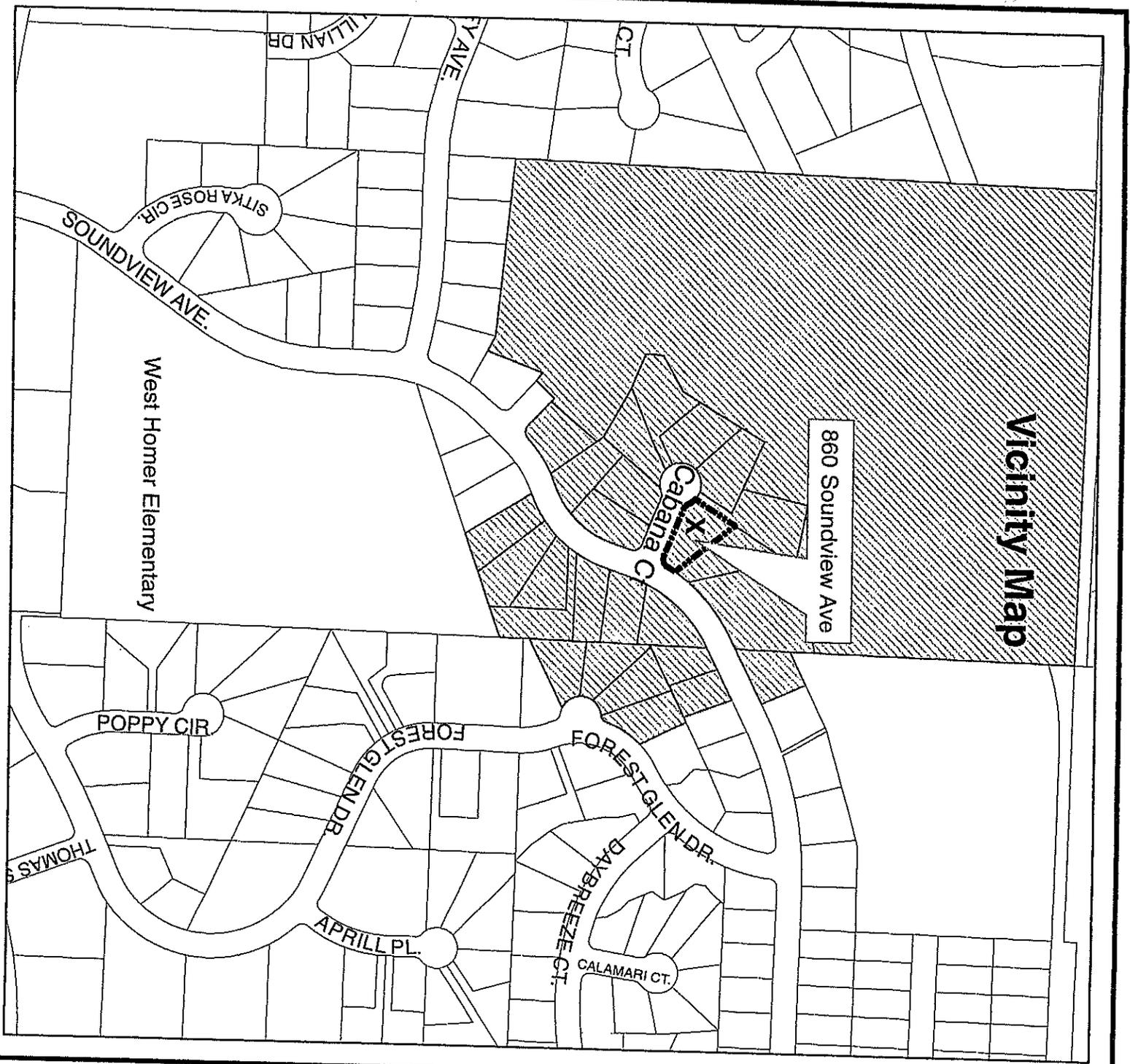


Where the Land Ends and the Sea Begins

a 52" encroachment. This 52" encroachment differs from the original determined 6" encroachment,

This set-back encroachment would not hinder snow removal ~~or~~ or expansion of Cabana Court. The natural water run-off from the north bluff is not obstructed.

The set-back encroachment does not negatively effect present or future homeowners.



Vicinity Map

860 Soundview Ave

Cabana Ct

West Homer Elementary

SOUNDVIEW AVE.
SITKA ROSE CIR.

FOREST GLEND DR.

FOREST GLEND DR.

DAK BREEZE CT.

CALAMARI CT.

APRILL PL.

POPPY CIR.

THOMAS ST.



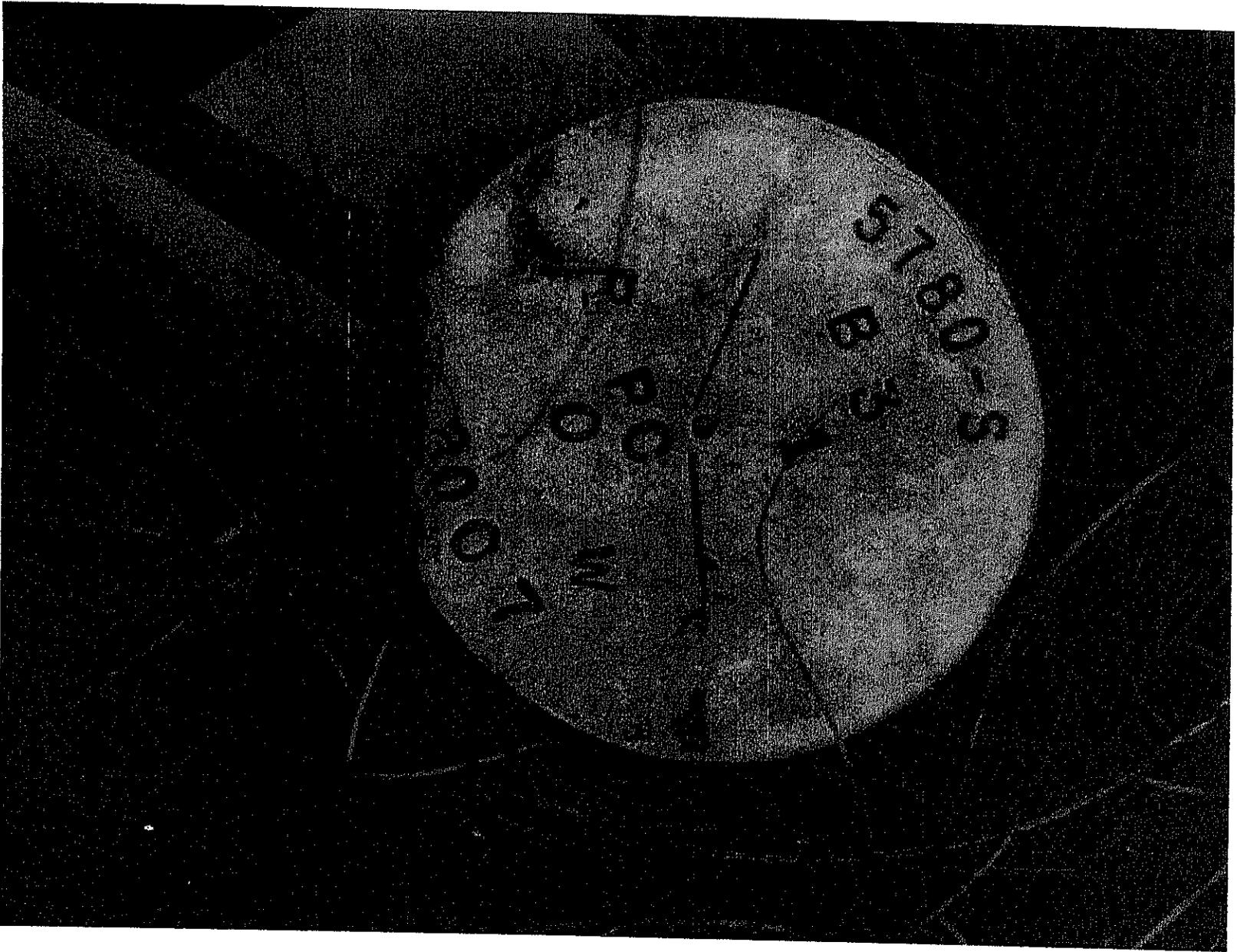
City of Homer
Planning and Zoning Department
October 20, 2011

Request for a Variance
from the 20 ft building setback
860 Soundview Ave

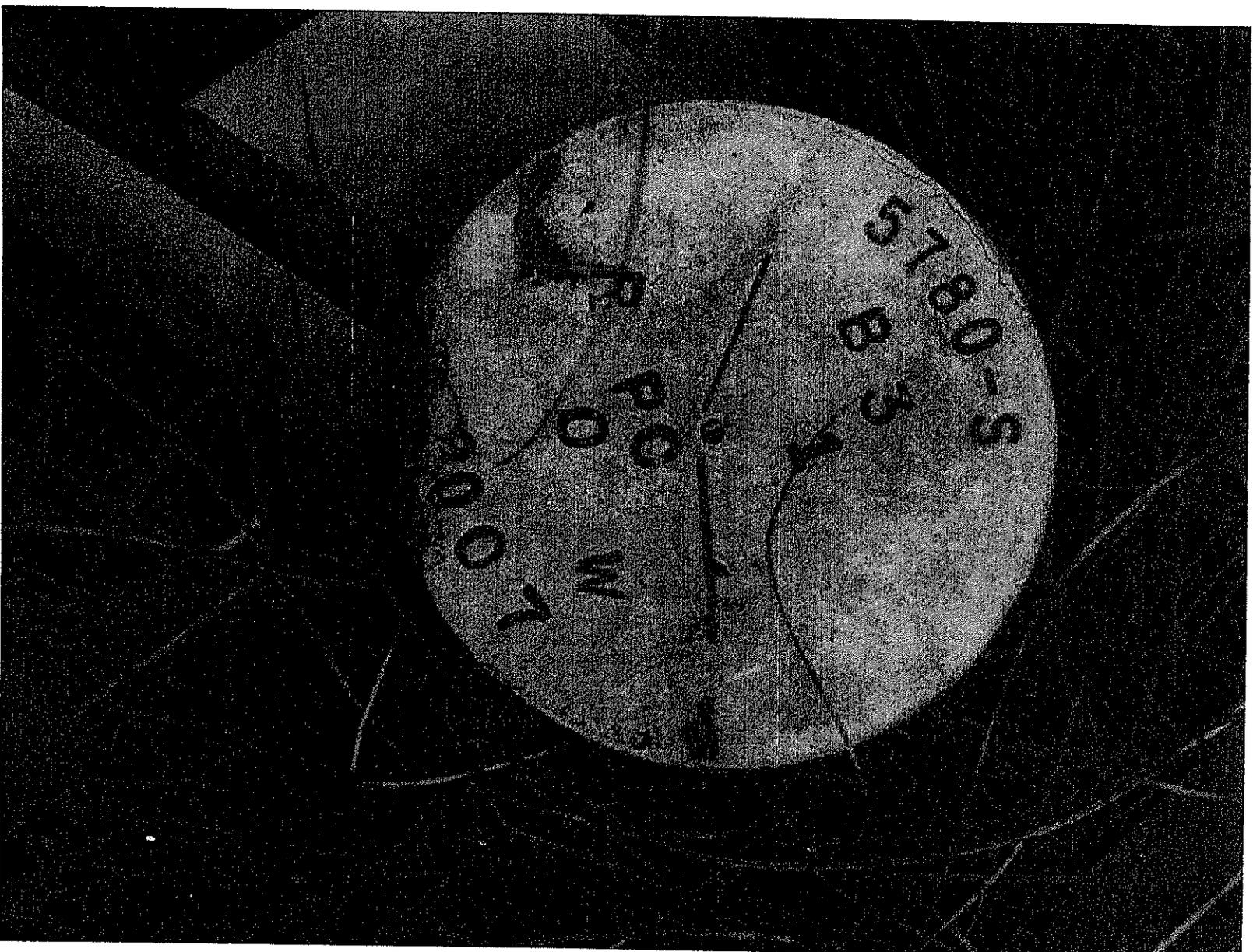
Shaded lots are w/in 300 feet
and property owners notified.



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



① MARKER
(see: As Built Survey)

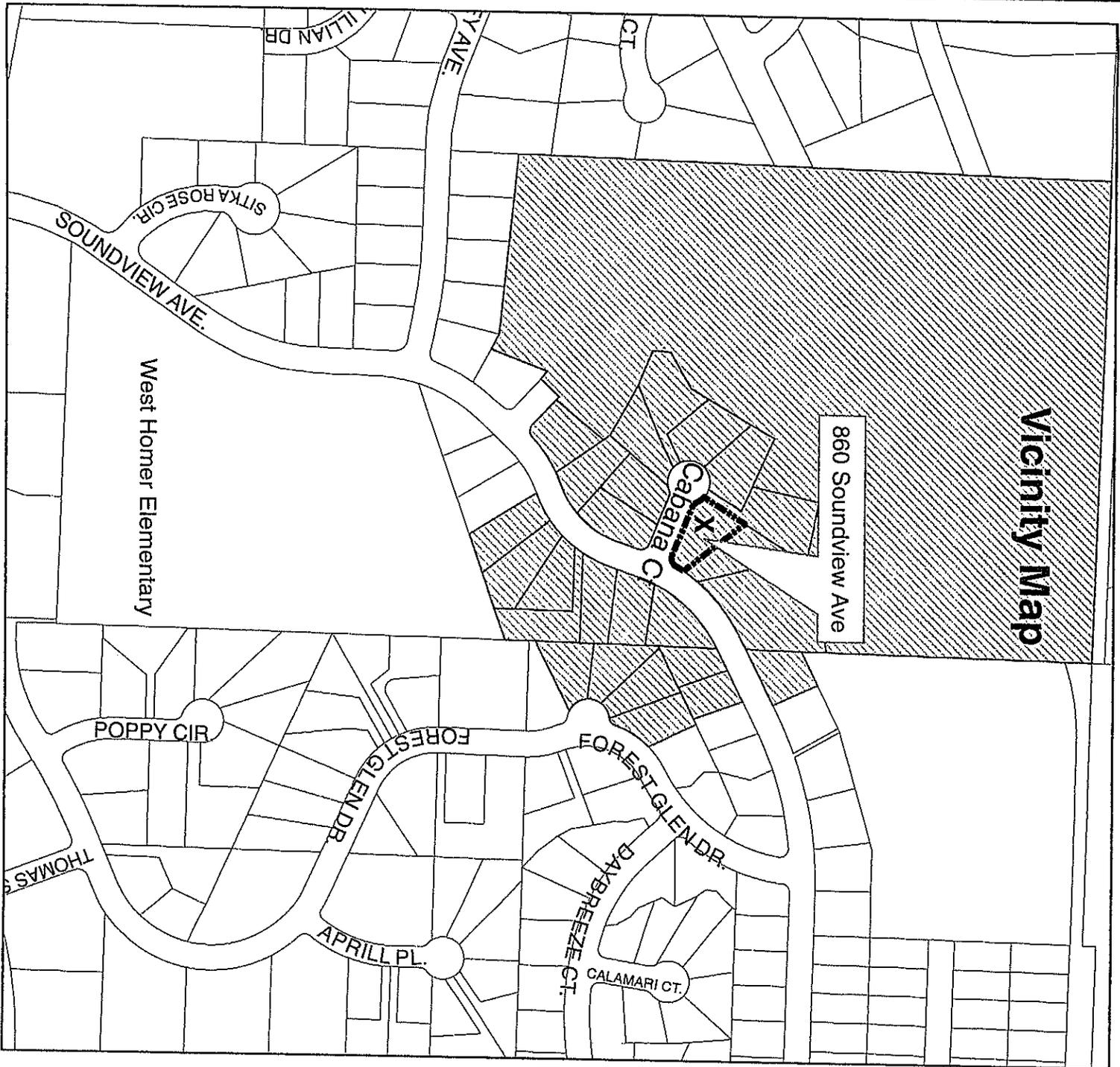


① Marker
(see: As Built Survey)

(

)

)



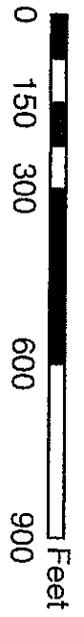
Vicinity Map

860 Soundview Ave

West Homer Elementary

**Request for a Variance
from the 20 ft building setback
860 Soundview Ave**

Shaded lots are w/in 300 feet
and property owners notified.



*City of Homer
Planning and Zoning Department
October 20, 2011*



*Disclaimer:
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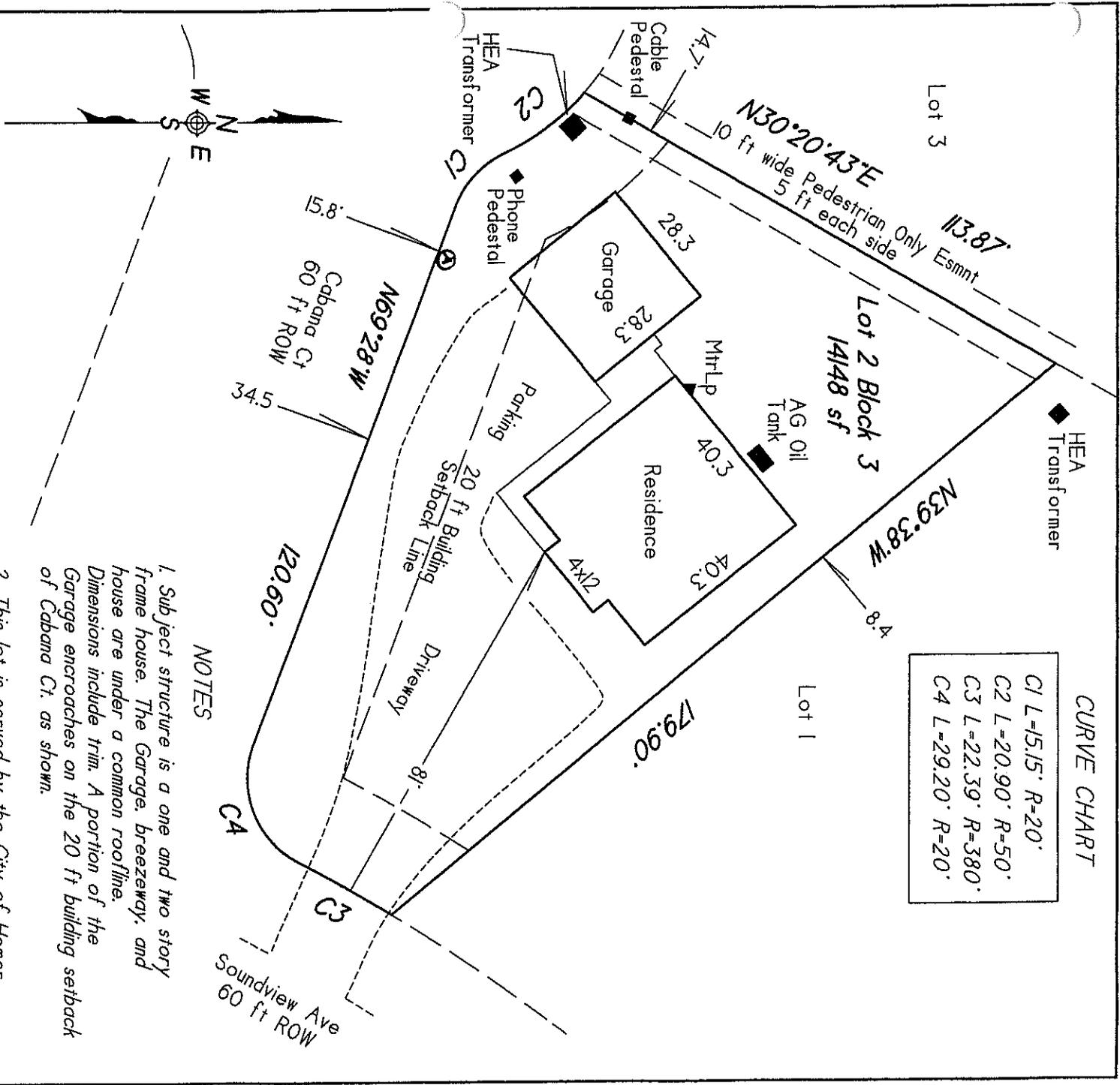
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CURVE CHART

C1 L=15.15' R=20'
C2 L=20.90' R=50'
C3 L=22.39' R=380'
C4 L=29.20' R=20'



NOTES

1. Subject structure is a one and two story frame house. The Garage, breezeway, and house are under a common roofline. Dimensions include trim. A portion of the Garage encroaches on the 20 ft building setback of Cabana Ct. as shown.
2. This lot is served by the City of Homer public water and sewer systems.
3. This survey is valid for above ground improvements only and is based on the record plat.
4. The front 10 ft and the entire building setback within 5 ft of any side lot line is also a utility easement.
5. This document may not be recorded or copies sold without the written permission of the Surveyor. This Survey is to be used only for the purposes intended and is valid for 120 days from the date of original survey after which it must be recertified.

I hereby Certify that I have surveyed the following property and that no visible encroachments exist except as shown:

Lot 2 Block 3 Foothills Subdivision
 Sunset View Estates Addition No. 2
 Phase One - Plat No. 2007-31 HRD

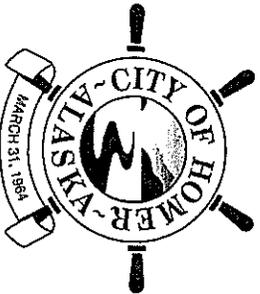
Exclusion Note: It is the responsibility of the Owner(s) to determine the existence of any easements, covenants, or restrictions which do not appear on the recorded subdivision plat. Under no circumstances should any data hereon be used for construction or for the establishment of fence or boundary lines.



Clients: Roderick Engle 195 Mountain View Dr Homer AK 99603	Surveyed By: Roger W. Imhoff, RLS PO Box 2588 Homer AK 99603
Date of Survey 9-12-11	L2B3foothillsCabana.vcd
Drawn RWI FB2011-4	Scale 1" = 30 ft

ASBUILT SURVEY

Lot 2 Block 3 Foothills Subdivision
 Sunset View Estates Addition No. 2
 Phase One As shown on Plat No. 2007-31
 Homer Recording District
 Located in the NW 1/4
 Section 19, T6S, R13W, 5M
 within the City of Homer
 Third Judicial District, Alaska
 KPB Tax Parcel No. 17510240



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 11-113

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebreisen, Planning Technician
MEETING: November 2, 2011
SUBJECT: East End Mixed Use District

GENERAL INFORMATION

Prior to the regular Planning Commission meeting, there will be a neighborhood open house for the East End Mixed Use District. Staff mailed invitations to land owners in the district, and within 300 feet of the proposed boundary.

Citizens will have the opportunity to comment directly to the Commission on the proposed ordinance under Public Comment on the regular meeting agenda.

The Commission has several options on what to do next. Eventually, there will be a public hearing, and the Commission will make a recommendation to the City Council. There is no timeline for this ordinance; the Commission and the public can take as much or as little time as desired to review the ordinance.

Options:

1. Respond to public comments, and amend the ordinance.
2. Move it to work session/future meeting for more work.
3. Forward the ordinance to public hearing. (Staff will send it through the attorney first)
4. ??

Recommendation:

Planning Commission listen to public comments. Either postpone to a work session/next meeting for more work, or forward to public hearing. (Public hearing would be scheduled AFTER the attorney has reviewed the ordinance, so the public hearing may not be at the next meeting).

ATTACHMENTS

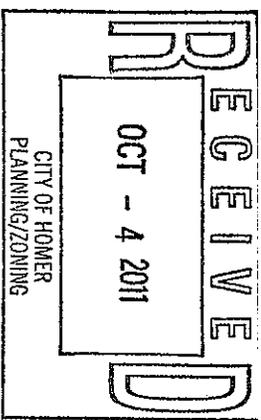
1. Request to be included in district from Vikki Simpson (lot south of boat yard, zoned RR)
2. Land owner invitation
3. Draft ordinance

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()

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October 4, 2011



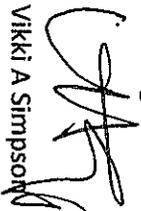
Homer Planning Department.

It has come to my attention that the Planning Commission is working on a new zoning district called East End Mixed Use.

I own the property at 5057 Kachemak Drive, 179-080-08 which is adjacent to the Northern Enterprise boat yard.

I am writing to ask to be included in the boundary for the new zone. I work on boats and other equipment on my property as well as have my home there. The new Mixed Used zone makes more sense for my property both now and in the future. I understand that my home will be allowed to remain and can be rebuilt or expanded under the new designation.

Please let me know if there is anything further needed from me regarding this request. I am currently working in Cordova so mail is going to my mom's in Ninilchik.


Vikki A Simpson

P O Box 39003

Ninilchik, Ak 99639-003

509-540-4634

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(



City of Homer

Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-3106

Fax (907) 235-3143

E-mail Planning@ci.homer.ak.us

Web Site: www.cityofhomer-ak.gov/planning

You're invited!

City of Homer Planning and Zoning Department Invites You

What: Neighborhood Open House

When: Wednesday, November 2nd, 5:30 pm to 6:30 pm. Planning Commission meeting following after.

Where: City Hall Cowles Council Chambers

Why: Learn about new proposed zoning for your area, talk with planners and neighbors.

<http://www.cityofhomer-ak.gov/planning> For maps and more information

Introduction

The 2008 Homer Comprehensive Plan, the city's long range land use plan, promotes industrial and commercial activities in the East End area. The Homer Advisory Planning Commission has been working on new zoning regulations for this area, called the East End Mixed Use District, or EEMU for short.

Where is this new district?

South of East End Road, between Alder Lane, Kachemak Drive and the Airport Critical Habitat Area.

How will the new rules affect General Commercial One lands?

Most general commercial one AND general commercial two land uses will be allowed. All current residences can expand and continue. But, no new homes may be built on vacant land. A business must be established on the property before a home can be built. The goal is for the area to be a business district, not an area for purely residential neighborhoods.

How do I know how the changes will affect my property/business/home?

Planning staff are always available to answer your questions, give us a call, or stop by. We're temporarily located in the old middle school, by the vet clinic.

How can I get involved?

There will be an open house on November 2nd, 2011 between 5:30 pm and 6:30 pm, at City Hall in the Cowles Council Chambers. Immediately after the open house, the Planning Commission meets at 6:30. You can comment directly to the Commission, or provide written comments. Depending on public feedback, the Commission may schedule a future public hearing, or spend more time working on ordinance.

Who decides and what's the process?

The Homer Advisory Planning Commission will hold a public hearing at a future meeting, and make a recommendation to the City Council. The Council makes the final decision.

The Planning Commission meets November 2, 16th, and December 7th (first and third Wednesdays). If there is consensus that the new district is acceptable, a public hearing could be scheduled for the 16th or the 7th. You can testify in person, or in writing.

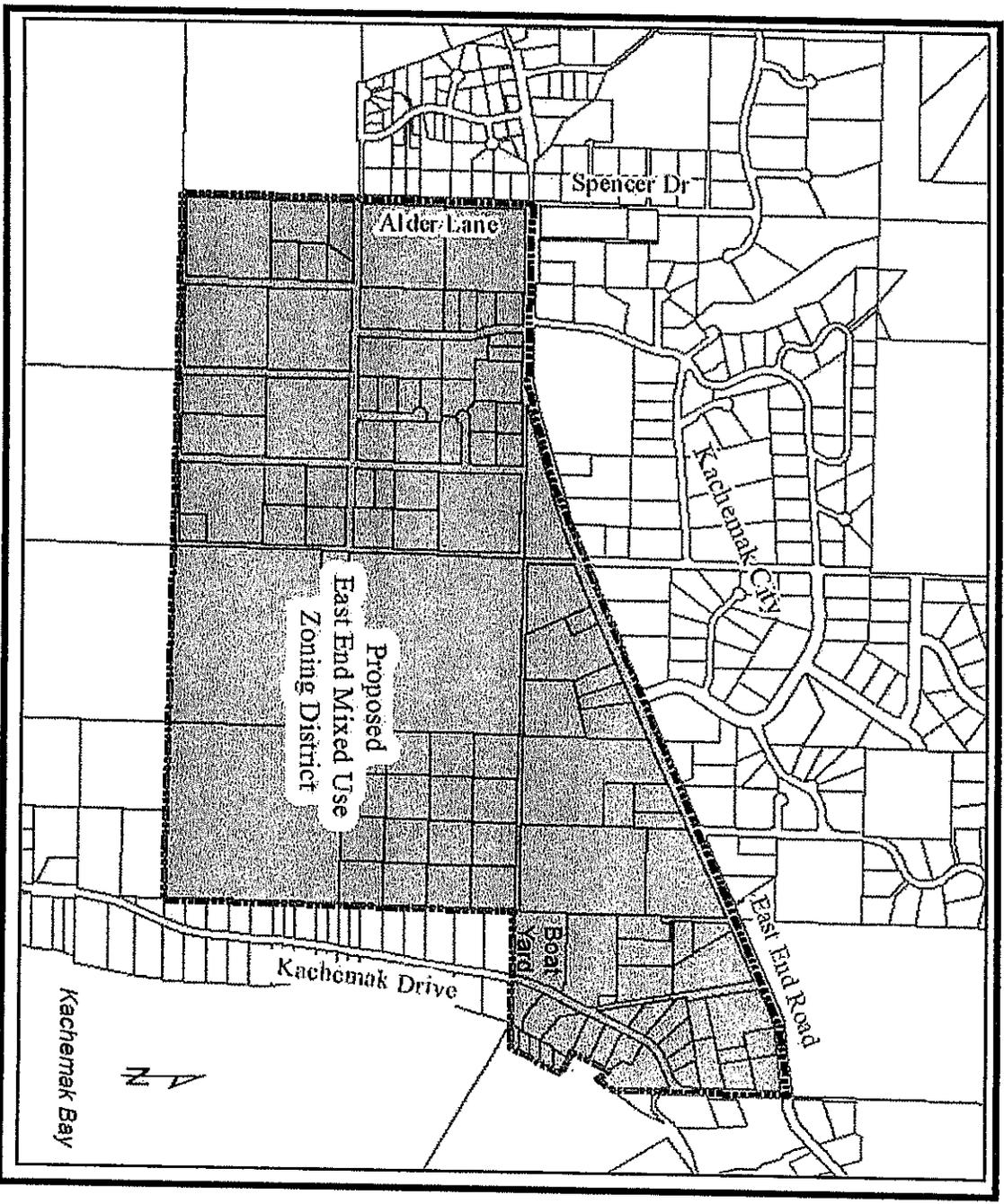
How soon will the change take place?

It will take several months, if not longer. The Planning Commission will hold a public hearing.

Depending on testimony received, the Commission may work more on the new district and hold another public hearing. Or if the public has few concerns, they may pass the ordinance on to the City Council. It typically takes three City Council meetings to pass an ordinance, or about 6 weeks.

Who can I call for more information?

Planning and Zoning can be reached at 235-3106



**CITY OF HOMER
HOMER, ALASKA**

Planning

ORDINANCE 11-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
ENACTING HOMER CITY CODE CHAPTER 21.27, EAST END MIXED USE
DISTRICT.

THE CITY OF HOMER ORDAINS:

Section 1. HCC Chapter 21.27, East End Mixed Use District, is adopted to read as follows:

Chapter 21.27

EAST END MIXED USE DISTRICT

Sections:

- 21.27.010 Purpose
- 21.27.020 Permitted uses and Structures
- 21.27.030 Conditional Uses and Structures
- 21.27.040 Dimensional requirements
- 21.27.050 Site and Access Plans
- 21.27.060 Traffic Requirements.
- 21.27.070 Site Development Requirements
- 21.27.080 Nuisance standards
- 21.27.090 Lighting Standards

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 existing and accessory residential with non-residential uses. When a conflict exists between residential and nonresidential uses conflicts shall be 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. Drive-in car washes;
- c. Building supply and equipment sales and rentals;
- d. Garden supplies and greenhouses;

- 46 e. Boat and marine equipment sales, rentals, manufacturing, storage yard, service
- 47 and repair;
- 48 f. Welding and mechanical repair;
- 49 g. Restaurants, including drive-in restaurants, clubs and drinking establishments;
- 50 h. Religious, cultural, and fraternal assembly;
- 51 i. Studios;
- 52 j. Personal services;
- 53 k. Agricultural activities, including general farming, truck farming, nurseries, tree
- 54 farms and greenhouses;
- 55 l. Private stables;
- 56 m. Storage of heavy equipment, vehicles or boats;
- 57 n. Plumbing, heating and appliance service shops;
- 58 o. Home occupations on a lot whose principal permitted use is residential, provided
- 59 they conform to the requirements of HCC § 21.51.010;
- 60 p. Mortuaries and crematoriums;
- 61 q. Open air businesses;
- 62 r. Parking lots and parking garages, in accordance with HCC Chapter 21.55;
- 63 s. Manufacturing, fabrication and assembly;
- 64 t. Retail businesses;
- 65 u. Trade, skilled or industrial schools;
- 66 v. Wholesale businesses, including storage and distribution services incidental to the
- 67 products to be sold;
- 68 w. Parks and open space;
- 69 x. Warehousing, commercial storage and mini-storage;
- 70 y. Recreational vehicles, subject to the standards in HCC § 21.54.320(a), (b) and (c);
- 71 z. Dry cleaning, laundry, and self-service laundries;
- 72 aa. Mobile food services;
- 73 bb. As an accessory use, one small wind energy system per lot;
- 74 cc. Production, processing, assembly and packaging of fish, shellfish and seafood
- 75 products;
- 76 dd. Research and development laboratories;
- 77 ee. Storage and distribution services and facilities, including truck terminals,
- 78 warehouses and storage buildings and yards, contractors' establishments,
- 79 lumberyards and sales, or similar uses;
- 80 ff. Cold storage facilities;
- 81 gg. Mobile, commercial structures;
- 82 hh. Single family and duplex dwellings, only as an accessory use incidental to a
- 83 permitted principal use, provided that no permit shall be issued for the
- 84 construction of an accessory dwelling prior to the establishment of the principal
- 85 use;
- 86 ii. The repair, reconstruction or expansion of a single family or duplex dwelling that
- 87 existed lawfully before its inclusion in the GC1, GC2 or EEMU zoning districts,
- 88 notwithstanding any provision of HCC Chapter 21.61 to the contrary;
- 89 jj. Customary accessory uses to any of the uses permitted in the EEMU district that
- 90 are clearly subordinate to the main use of the lot or building, including without
- 91 limitation wharves, docks, storage facilities, restaurant or cafeteria facilities for

92 employees; or caretaker or employee dormitory residence if situated on a portion
93 of the same lot as the principal use, provided that no permit shall be issued for the
94 construction of any type of accessory building prior to the construction of the
95 building that houses the principal use;
96 kk. Taxi operation;
97 ll. Itinerant merchants, provided all activities shall be limited to uses permitted
98 outright under this zoning district;
99 mm. More than one building containing a permitted principal use on a lot;
100 nn. The outdoor harboring or keeping of dogs, small animals and fowl as an accessory
101 use to a residential use in a manner consistent with the requirements of all other
102 provisions of the Homer City Code and as long as such animals are pets of the
103 residents of the dwelling and their numbers are such as not to unreasonably annoy
104 or disturb occupants of neighboring property.
105

106 21.27.030 Conditional uses and structures. The following conditional uses may be
107 permitted in the East End Mixed Use District when authorized by conditional use permit issued
108 in accordance with HCC Chapter 21.71:
109 a. Construction camps;
110 b. Extractive enterprises, including crushing of gravel, sand and other earth products
111 and batch plants for asphalt or concrete;
112 c. Auto fueling stations;
113 d. Bulk petroleum product storage;
114 e. Planned unit developments;
115 f. Junk yard;
116 g. Kennels;
117 h. Public utility facilities and structures;
118 i. Impound yards;
119 j. Indoor recreational facilities;
120 k. Outdoor recreational facilities;
121 l. Other uses approved pursuant to HCC § 21.04.020.
122

123 21.27.040 Dimensional requirements. The following dimensional requirements shall
124 apply to all structures and uses in the East End Mixed Use District:

- 125 a. Lot Size.
126 1. The minimum area of a lot that is not served by public sewer or water
127 shall be 40,000 square feet.
128 2. The minimum area of a lot that is served by either a public water supply
129 approved by the State Department of Environmental Conservation, or a public or community
130 sewer approved by the State Department of Environmental Conservation, shall be 20,000 square
131 feet.
132 3. The minimum area of a lot that is served by both a public water supply
133 approved by the State Department of Environmental Conservation, and a public or community
134 sewer approved by the State Department of Environmental Conservation, shall be 10,000 square
135 feet.

136 b. Building Setbacks.
137 1. All buildings shall be set back 20 feet from all dedicated rights-of-way
138 other than alleys, except that adjacent to rights-of-way that lead to Kachemak Bay and have been
139 determined to be unsuitable for road construction by resolution of the City Council, all buildings
140 shall be set back from the boundary of the right-of-way according to the number of stories as
141 follows:

142	Number of Stories	Setback (in feet)
143	1	5
144	1½	6
145	2	7
146	2½	8

147
148
149 2. The setback requirements from any lot line abutting an alley will be
150 determined by the dimensional requirements of subparagraphs (b)(3) and (4);

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

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

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

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

160 e. Building Area and Dimensions - Retail and Wholesale. The total floor area of
161 retail and wholesale business uses within a single building shall not exceed 75,000 square feet.

162 No conditional use permit, Planned Unit Development, or variance may be granted that would
163 allow a building to exceed the limits of this subparagraph, and no nonconforming use or structure
164 may be expanded in any manner that would increase its nonconformity with the limits of this
165 subparagraph.

166 f. Screening.

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

173 2. Outside storage of materials, equipment and trash/dumpsters adjacent to
174 East End Road and Kachemak Drive shall be screened. Screening may consist of walls,
175 fences, landscaped berms, evergreen plantings, or any combination thereof.

176
177 21.27.050 Site and Access Plans. a. A zoning permit for any use or structure within the
178 East End Mixed Use District shall not be issued by the City without a level two site plan
179 approved by the City under HCC Chapter 21.73.

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

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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 the requirement that when 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. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2011.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

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YES:
NO:
ABSTAIN:
ABSENT:

First Reading:
Public Hearing:
Second Reading:
Effective Date:

Reviewed and approved as to form:

228

229

230

231

232

233

234

Walt E. Wrede, City Manager

Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

BUDGET MESSAGE

FY 2012 OPERATING BUDGET

Submitted September 28; Introduced October 10, 2011

Introduction:

The Draft FY 2012 Operating Budget was delivered to the City Council on September 28, 2011. The draft budget was a result of many hours of hard work, number crunching, and program review by the department heads and their staff. I would like to especially thank Regina Mauras, the Finance Director, for her immeasurable contribution to this effort. I believe the budget document contains more information and is easier to read than ever before. This draft budget is often referred to as the "Manager's Budget" and it is scheduled to be introduced via a budget ordinance at the regular meeting on October 10, 2011. After the budget is introduced by ordinance, it becomes the Council's budget and it can be amended as Council sees appropriate at anytime right up to final adoption.

The draft budget contains new graphics and data regarding personnel costs that I think the Council and the public will find to be helpful. The budget incorporates a recalibration of how some expenditures on the Spit related to the visitor industry (garbage collection, restroom maintenance and custodial) are shared between the General Fund and the Port and Harbor Enterprise Fund. The budget also fully incorporates the transfer of the port maintenance function from the Public Works Department to the Port and Harbor Department.

In developing this budget, I did my best to adhere to the budget priorities identified by the Council and balance them against fiscal reality and what is needed to maintain core municipal services. For example, my priorities as City Manager were workforce morale, productivity, building reserves, filling some vacant positions, and maintaining a high level of service delivery. This budget achieves those objectives for the most part with the notable exceptions of COLA's and filling vacant positions. The budget addresses Council priorities including no new or increased taxes or fees, at least in the initial draft, a conservative budget that acknowledges continued economic and revenue uncertainty, and increased transfers to depreciation and fleet reserve accounts. One Council priority that the budget does not address at this time is refilling vacant positions in core programs.

A budget summary follows which provides a quick overview of the draft budget. This summary covers all three operating funds and highlights the "flashpoints" that many people zero in on and want to know first about the budget. A more detailed description of the contents of each fund follows in subsequent sections and we will go through the budget with you line item by line item at the Committee of the Whole on Monday.

Budget Summary:

- There are no new or increased taxes or fees
- All funds are balanced, meaning that revenues meet or exceed expenditures
- Transfers to depreciation and fleet reserves are included for the General Fund this year but they have been reduced slightly for the Port and Harbor Enterprise Fund and the Water and Sewer Utility Fund.
- Increases in real expenditures are limited to fixed costs, training, and basic operating supplies.
- Non-profits are funded at last year's level. That includes The Chamber of Commerce, the Homer Foundation, the Pratt Museum, and Haven House.
- There are no new positions or vacant positions that have been filled with the exception of a part time seasonal position with Parks.
- There are no changes to employee compensation from last year.

- The budget does not include a COLA.

The General Fund

The General Fund is balanced in the sense that revenues meet or exceed expenses. The total General Fund Budget is \$10,782,862. Total Revenues and Transfers are projected to increase by \$668,004. This is due largely to the fact that PERS relief payments are shown as revenue. Property tax is projected to remain essentially level and sales tax is projected to increase by almost \$200,000 over what was budgeted last year. Expenditures increase by \$622,756 over 2011 however, most of that is accounted for by transfers to depreciation and reserve accounts and PERS relief payments which also are included on the expenditures side. Projected revenues exceed projected expenditures by \$ 443,246 before transfers. Virtually all of those excess funds were transferred into reserve accounts. Of that amount, \$329,894 was transferred into depreciation and fleet reserve accounts.

Following are some budget highlights that I would call your attention to:

- The lobbying contract is included at the same level as last year, pending Council action. \$22,000 from the General Fund and \$22,000 from P&H Fund (page 55).
- The Attorney Contract and budget is included at last year's level, consistent with Council action. (page 55).
- The Animal Shelter contract is included at last year's level, pending Council action. (page 97).
- Non-Profits are included at last year's level (Pages 66, 92, and 114.)
- Fishing Hole Contribution included at last year's level (page 66).
- Contributions to depreciation and fleet reserves included for first time in two years, restored to 2009 levels but still far short of 2008 (page 47).
- Almost no major capital expenditures from reserve accounts proposed (page 201)
- No new positions or vacant positions filled with exception of restoration of vacant summer temporary Parks position. (page 228.)
- Funding restored for Council stipends (back to previous level) and for Council travel (for AML and Juneau) (page 55).
- Funding restored on limited basis for training (Clerk, Finance, Personnel, Police, Fire) and for basic operating supplies.
- Funding included for two elections (to provide for possible runoff or special elections) (page 60).
- Estimated "warm status" costs for HERC Building (Old School) (page 70)
- Estimated energy costs for expanded but more efficient City Hall (page 78)

Analysis / Comment

Overall, the general fund is in much better shape than it has been the previous couple of years. We can be thankful that at least this year, we are not talking about layoffs, eliminating entire programs, reducing the level of services, and deleting funding for services that might be considered "nice" but not essential. I am very pleased that we were able to include transfers to depreciation and fleet reserves for the first time since FY 2009.

However, we should not allow our collective relief over the fact that we can manage to produce what is essentially a status quo budget cloud our vision. There are still a number of concerns that must be addressed. Although the General Fund reserve is now close to the level recommended by the auditors, this budget does not "grow" the reserve at all. Second, although we are happy to be able to do something about depreciation this year, the amount transferred is far below what was transferred in the past and that recommended by the auditors and Council resolution. The economy and tax revenues continue to be very uncertain as we move forward. That is why I chose

to place all of the excess revenues this year into savings accounts rather than fill vacant positions. I was not confident that the positions we would fill would be sustainable. Finally, the number of vacant positions continues to be a problem. The most critical positions right now, in my opinion are the project manager, maintenance and custodial, dispatch, and the jail. I would be happy to talk with the Council about this in detail.

Port and Harbor Enterprise Fund:

The Port and Harbor Enterprise Fund is balanced in that projected total revenues (\$3,431,243) exceed projected total expenditures (\$3,174,725). The fund is operating in the black in terms of operating expenses however, when the recommended depreciation expenses are included as though they represented a real expenditure this year, it appears that the fund in operating in the red, and by a large margin. Projected revenues are down slightly from 2011. The budget includes expenditures that are up approximately \$100,000; a fact that can be attributed largely to PERS Relief, increases in operating supplies, and increased garbage collection costs. This budget transfers \$470,000 into depreciation and fleet reserves which is \$30,000 less than 2011. Budget highlights for the Port and Harbor Enterprise Fund include:

- No new fees or fee increases pending Council action (see below)
- Incorporation of the port and harbor maintenance function
- Moderate expenditures from reserves (page 201)
- No new personnel
- An essentially status quo operating budget

Analysis /Comment:

The Port and Harbor Enterprise Fund is solvent but it is essentially treading water. This is basically a maintenance budget. It covers day to day operating costs and that is about it. The City has deferred maintenance, repair, upgrades, and investment in this vital infrastructure for too long. There is room to generate more revenue that can be reinvested in the port and harbor however, deciding how to increase revenues and what to spend them on can be difficult. Political pressure to keep fees low has trumped good management. As a result, fees have not kept up with inflation and they do not generate enough revenue to address basic depreciation. Because the City has not raised fees as it should and has not kept up with maintenance, repair and investment, the decisions get harder and the necessary fee increases more drastic.

The Enterprise Fund does not have as much in its depreciation reserve account as it should given its assets and the value of its infrastructure. Instead of transferring \$500,000 a year, the City should be transferring three times that much. The Fund is also developing a problem with retained earnings and cash on hand. This is getting dangerously low and it means that the Fund does not have much margin for error if a large unforeseen expense occurs or revenues suddenly decline.

As noted above, there are legitimate opportunities to raise fees and the City should probably do so simply to grow the depreciation reserves and improve the Fund's retained earnings position. But, given the current state of the economy, care should be taken to not raise fees to the point of diminishing returns. As you know, the Special Port Revenue Bond Committee is looking at the possibility of selling revenue bonds to leverage other funds and finance improvements in the harbor. This would also require raising fees. This is where the decisions get tough. But, the City has a wonderful asset and economic engine here. We have exciting opportunities before us to improve and maintain the asset if we manage it carefully with an eye toward the future.

Water and Sewer Utility Fund

The Water and Sewer Utility Fund is balanced but the margin between revenues and expenditures is tight. Water revenue is projected to increase by about \$150,000 over the 2011 Budget to \$1,717,101 but sewer revenues are anticipated to decrease by \$300,000 to \$1,572,089. Total revenues are projected to decrease by \$129,852 to \$3,289,190. Expenditures are budgeted to increase by \$115,284 to \$3,107,571. This can be accounted for by PERS relief showing as an expense, and by increases in fixed costs and essential operating supplies. Only the minimum amount authorized by resolution, \$200,000, was placed in the depreciation reserves. That was necessary to balance the budget.

Highlights for the Water and Sewer Revenue Fund include:

- No increases in fees consistent with the fee schedule adopted in July
- No new staff positions
- Expense Increases limited to inflation and purchase of basic supplies
- Moderate capital expenses from reserves for basic infrastructure upgrades and repair (page 201)

Analysis / Comment:

The Water and Sewer Utility Fund remains vulnerable because of the basic structural flaws we have discussed in the past. We have a production and distribution infrastructure that is very expensive to operate and maintain and relatively few customers to pay for it. We have a reliable source of funds to build things and expand the infrastructure (dedicated sales tax) but inadequate funds to maintain it all (user fees). There is intense political pressure to keep fees down even though doing so may not always be in the best interest of the Fund. Our bonded indebtedness is significant and will limit opportunities to finance new projects or expansion of the distribution system for the next few years at a minimum. That is a problem if the Council's goal is to increase the number of customers. This year we have further uncertainty on the revenue side until we fully understand how the new "meter" ordinance will work in practice. We have already discovered some unanticipated flaws and will soon be discussing amendments with the Council.