

June 20, 2012
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. State Fire Marshal:
 - Building setback
 - Different types of occupancies/uses abutting one another
 - Boat storage/boat maintenance areas
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

**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 May 16, 2012 *Page 1*
- 6. Presentations**
- 7. Reports**
 - a. Staff Report PL 12-31, City Planner's Report *Page 7*
- 8. Public Hearings**

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.
- 9. Plat Consideration:**
 - A. Staff Report PL 12-25, Northern Enterprises No. 2 Preliminary Plat *Page 9*
 - B. Staff Report PL 12-26, W. R. Bell Subdivision Preliminary Plat *Page 17*
 - C. Staff Report PL 12-28, Cooper Subdivision Haaland Addition Preliminary Plat *Page 25*
- 10. Pending Business**
 - A. Staff Report PL 12-29, Flag lots *Page 35*
 - B. Staff Report PL 12-30, Amending HCC 21.28, Marine Commercial Zoning District *Page 37*
- 11. New Business**
- 12. Informational Materials**
 - A. City Manager's Report dated June 11, 2012 *Page 43*
 - B. Zoning Practice, June 2012 *Page 47*
- 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 July 18, 2012 at 6:30 pm.

Session 12-06, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 6:30 p.m. on May 16, 2012 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

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

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).

None

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 May 2, 2012 minutes
2. Time Extension Requests
3. Approval of City of Homer Projects under HCC 1.76.030g
4. KPB Coastal Management Program Reports

The consent agenda was approved by consensus of the Commission.

PRESENTATIONS

REPORTS

- A. Staff Report PL 12-23, City Planner's Report

City Planner Abboud reviewed the staff report.

- B. Transportation Advisory Committee Report

Commissioner Highland

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 12-21 Draft Ordinance 12-xx, Amending Homer City Code 21.60.060 Table 3, Permitted Sign Characteristics

Vanessa Fefelov, city resident, explained that the Paul Banks Elementary School PTA would like to put up a changeable copy sign near the schools entrance, similar to the one at the high school, where they could post their events, however changeable copy signs are not allowed in the zoning district. Many of her comments revolved around challenges they are encountering with size allowance and sign cost.

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

The Commission discussed whether there were ways to work with the applicant regarding the size allowance and were reminded that the item advertised on the agenda is a code amendment to allow changeable copy signs for institutional uses in the rural residential, urban residential, and rural office districts.

The Commission took a break at 7:30 p.m. and the meeting resumed at 7:34 p.m.

VENUTI/SONNEBORN MOVED TO APPROVE THE DRAFT ORDINANCE AMENDING HCC 21.60.060 TABLE 3 PERMITTED SIGN CHARACTERISTICS AND FORWARD IT TO CITY COUNCIL FOR ADOPTION.

There were comments in favor of supporting a changeable copy sign at the school and that it is a benefit for the good of the community. Question was raised if there is a way to allow the signs for schools. City Planner Abboud explained that it raises issue with teaching institutions other than public schools, such as churches with schools. The point was raised that it isn't simply for the school, changeable copy signs would be allowed for all institutional uses the rural residential, urban residential, and residential office districts.

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

Motion failed.

PLAT CONSIDERATION

PENDING BUSINESS

A. Staff Report PL 12-22, Flag Lots

The Commission discussed how to proceed. They reviewed information provided by Borough Platting Officer Voeller and noted that they are interested in getting feed back from the local surveyors, the Fire Chief, and the Public Works Director. They acknowledged concerns about subdivisions in relation assessment districts, and challenges in working with engineers as there is cost to have drawings confirming a flag lot is a workable situation in relation to slope and grade. They reviewed the proposed regulation included in the staff report. They agreed to give more consideration to the 150 length of a shared driveway as there are some instances where a longer driveway may be necessary. They addressed removing the option to allow private roads to serve a certain number of dwellings. They were in concurrence regarding the other recommendations.

The Commission agreed to continue discussion at a future worksession.

NEW BUSINESS

- A. Staff Report PL 12-24 Amending HCC 21.28 Marine Commercial Zoning District

City Planner Abboud reviewed the staff report. In response to questioning he briefly explained what a PUD is and the concept of zero lot lines on the spit. His plan is to put something together guided by the principles in the spit comp plan and when the Planning Commission is in agreement it can be presented to the Port and Harbor Commission for their comments.

INFORMATIONAL MATERIALS

- A. City Manager's Report dated May 14, 2012
B. Letter to property owners in or near a flood plain

COMMENTS OF THE AUDIENCE

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

There were no comments.

COMMENTS OF STAFF

There were no staff comments.

COMMENTS OF THE COMMISSION

Commissioner Venuti asked if Dr. Marley was sent a letter from planning. City Planner Abboud said no.

Commissioner Sonneborn said it was a complicated but good meeting and wished everyone a happy spring.

Commissioner Highland commented that it was difficult but that is how it goes and it's good to be reminded that this is city wide, even though we liked their concept.

Commissioners Dolma, Bos, and Erickson had no comments.

Chair Minsch commended the commissioners on their work, the questions they are asking, and the knowledge they are gaining.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 8:48 p.m. The next regular meeting is scheduled for June 20, 2012 at 6:30 p.m. in the City Hall Cowles Council Chambers.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____



NEW BUSINESS

- A. Staff Report PL 12-24 Amending HCC 21.28 Marine Commercial Zoning District

City Planner Abboud reviewed the staff report. In response to questioning he briefly explained what a PUD is and the concept of zero lot lines on the spit. His plan is to put something together guided by the principles in the spit comp plan and when the Planning Commission is in agreement it can be presented to the Port and Harbor Commission for their comments.

INFORMATIONAL MATERIALS

- A. City Manager's Report dated May 14, 2012
B. Letter to property owners in or near a flood plain

COMMENTS OF THE AUDIENCE

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

There were no comments.

COMMENTS OF STAFF

There were no staff comments.

COMMENTS OF THE COMMISSION

Commissioner Venuti asked if Dr. Marley was sent a letter from planning. City Planner Abboud said no.

Commissioner Sonneborn said it was a complicated but good meeting and wished everyone a happy spring.

Commissioner Highland commented that it was difficult but that is how it goes and it's good to be reminded that this is city wide, even though we liked their concept.

Commissioners Dolma, Bos, and Erickson had no comments.

Chair Minsch commended the commissioners on their work, the questions they are asking, and the knowledge they are gaining.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 8:48 p.m. The next regular meeting is scheduled for June 20, 2012 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

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 12-27

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: June 20, 2012
SUBJECT: Planning Director's Report

City Council Meeting 6/11

The council authorized the purchase of Lot 75, Bunnells Subdivision. This lot is located just to the west of the hospital offices on Pioneer near the Bartlett Street intersection. I believe that this is being considered as a location for downtown restrooms to be financed with head tax money from the cruise ships.

Save the Date: The Alaska Planning Chapter is happy to announce that organizing for the 2nd annual Alaska Planning Conference is well underway! The theme of this year's conference is, *Dream Big: Envisioning the Future of Planning in Alaska*. The conference officially kicks off on Monday, November 12th and runs through the 13th. Sunday, November 11th will feature an all-day mobile tour as well as Advanced Planning Commissioner training. Let us know if you are interested in attending so we can begin to budget for travel and hotel costs.

New HAPC applications are being accepted by the City Clerk's.

Sign Activity

Dotti has been devoting most of her time to providing education and working to get businesses compliant with the new sign rules. Businesses have been very creative on how best to comply. Some examples are: repaint a sign to replace the commercial message with 'art'; fold under banners to reduce their size; and eliminate excess banners. Dotti has also contacted former business owners to remove their old signs. You may see her out and about measuring the building's wall frontage, the signs and collecting the \$50 Sign Permit fee from 'in-town' and Spit business owners.

The newspaper coverage on the amended sign ordinance this past winter has more folks calling first, before ordering and installing new signs. In addition, letters have been sent to political candidates informing them of the maximum sign size of 16 square foot.

Info

The City's Public Works Department signed off on the Canyon Trails Subdivision Agreement so the KPB has recorded the plat. The property owner(s) have posted sales information and maps.

FEMA is proposing to visit Homer and hold a community meeting on the draft maps July 27th. So far we have not received a schedule for adoption of the maps yet. FEMA has responded to my initial concerns

including promises to address the errors in hazard determinations in and around Beluga Slough. This may slow the process a bit, but hopefully create more accurate product.



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.cityofhomer-ak.gov

STAFF REPORT PL 12-25

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: June 20, 2012
SUBJECT: Northern Enterprises No. 2 Preliminary Plat

Requested Action: Preliminary Plat approval for the consolidation of three smaller into one larger lot.

GENERAL INFORMATION

Applicants:	Ability Surveys Gary Nelson, PLS 152 Dehel Ave Homer, AK 99603	Kenneth & Dorothy Moore 5140 Kachemak Drive Homer, AK 99603
Location:	Kachemak Drive, boat yard	
Parcel ID:	174 203 15, 17, 19204	
Size of Existing Lot(s):	5.77, 5.03, 14.49 acres	
Size of Proposed Lots(s):	25.286 acres	
Zoning Designation:	East End Mixed Use	
Existing Land Use:	Boat Yard	
Surrounding Land Use:	North: Commercial/Industrial South: Residential/Vacant East: Residential/Commercial West: Commercial/Industrial	
Comprehensive Plan:	Goal 1 Objective A: Continue to accommodate and support commercial, residential and other land uses, consistent with the policies of this plan.	
Wetland Status:	The 2005 wetland mapping shows no wetland areas.	
Flood Plain Status:	Zone D, flood hazards undetermined.	
BCWPD:	Not within the Bridge Creek Watershed Protection District.	
Utilities:	City water and sewer are available.	
Public Notice:	Notice was sent to 28 property owners of 50 parcels as shown on the KPB tax assessor rolls.	

ANALYSIS:

This subdivision is within the East End Mixed Use District. There are three lots involved in the plat. The common lot lines will be vacated, creating one large lot. The lot is served by city water and sewer under the Kachemak Drive Phase II Local Improvement District.

Extension of Little Fire Weed Lane

The 2005 Homer Transportation Plan, adopted as part of the City of Homer Comprehensive plan, shows the extension of Little Fireweed Lane to Kachemak Drive. Due to the location of the metal building noted on the plat, the road would need to curve south to avoid creating a setback violation. Generally setback encroachments can't be created in the plat process. The property to the south has a public access easement along the northern boundary already; only the portion through the boat yard is not already dedicated in some form (easement or section line). Therefore, staff recommends the dedication of the extension of Little Fireweed Lane with Public Works comments.

The plan also shows a north south connection from East End Road, along the western property line. However, this area cannot be dedicated without creating numerous building setback problems. Therefore staff is not asking for a dedication.

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. There are no major drainages.

9. Approximate locations of areas subject to tidal inundation including the mean high water line.

Staff Response: The plat meets these requirements (not applicable to this area).

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. Lot will be served by city water and sewer.

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. No Rights of Way are to be dedicated by this action.

13. Identify and locate on the plat all areas in excess of 20% grade.

Staff Response: The plat meets these requirements. The ground is filled and level.

PUBLIC WORKS COMMENTS:

1. There should be a note dedicating the standard 15' utility easement parallel to the Kachemak Drive right-of-way.
2. The water/sewer easement that was dedicated for the Kachemak Drive Phase II water/sewer project should be depicted along Kachemak Drive.
3. There should be discussion about dedicating the 480 feet of Little Fireweed right-of-way (ROW) to tie into Kachemak Drive. If the ROW is dedicated, the alignment will need to shift to the south near the

Kachemak Drive intersection to avoid creating an encroachment by the existing steel building. If this ROW is dedicated, the standard radius return should be shown at the Kachemak Drive intersection.

4. Public Works has been working with the owner on this plat for months in regards to what is required with development of the on-site water and sewer services. And, there is a current design for those service lines in progress.

FIRE DEPARTMENT COMMENTS: Fire Chief Painter did not have any concerns.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission recommend approval of the preliminary plat with the following comments:

1. Update property owner address.
2. Dedicate and depict a 15 foot utility easement along Kachemak Drive.
3. The water/sewer easement that was dedicated for the Kachemak Drive Phase II water/sewer project should be depicted along Kachemak Drive.
4. Amend plat notes on the southern lot line to reflect utility easement changes related to this plat. The utility easements were vacated as part of a prior plat.
5. Dedicate Little Fire Weed Lane with Public Work's comments.
6. Add a plat note stating the lot is subject to City of Homer zoning regulations.

ATTACHMENTS

1. Preliminary Plat
2. Plate 1, 2005 Homer Transportation Plan
3. Public notice and vicinity map



SED ROAD
 MAP ARE
 NATURE AND
 D ALIGNMENTS
 ROUGH A
 WILL INCLUDE



0 5000
 GRAPHIC SCALE

LEGEND

- ARTERIAL
- COLLECTOR
- MODELED EXTENSION *
- LOCAL IMPROVEMENT

* ONLY BIDARKA EXTENSION AND SKYLINE
 EAST END ROAD EXTENSION IDENTIFIED ON
 PLATE 1. SEE PLATE 2 FOR OTHERS

EEN WIDENED
 Y. AND THEY
 IT OF WAY

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:

→ Northern Enterprises No. 2 Preliminary Plat

W. R. Bell Subdivision Preliminary Plat

Cooper Subdivision Haaland Addition 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, June 20, 2012 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska.

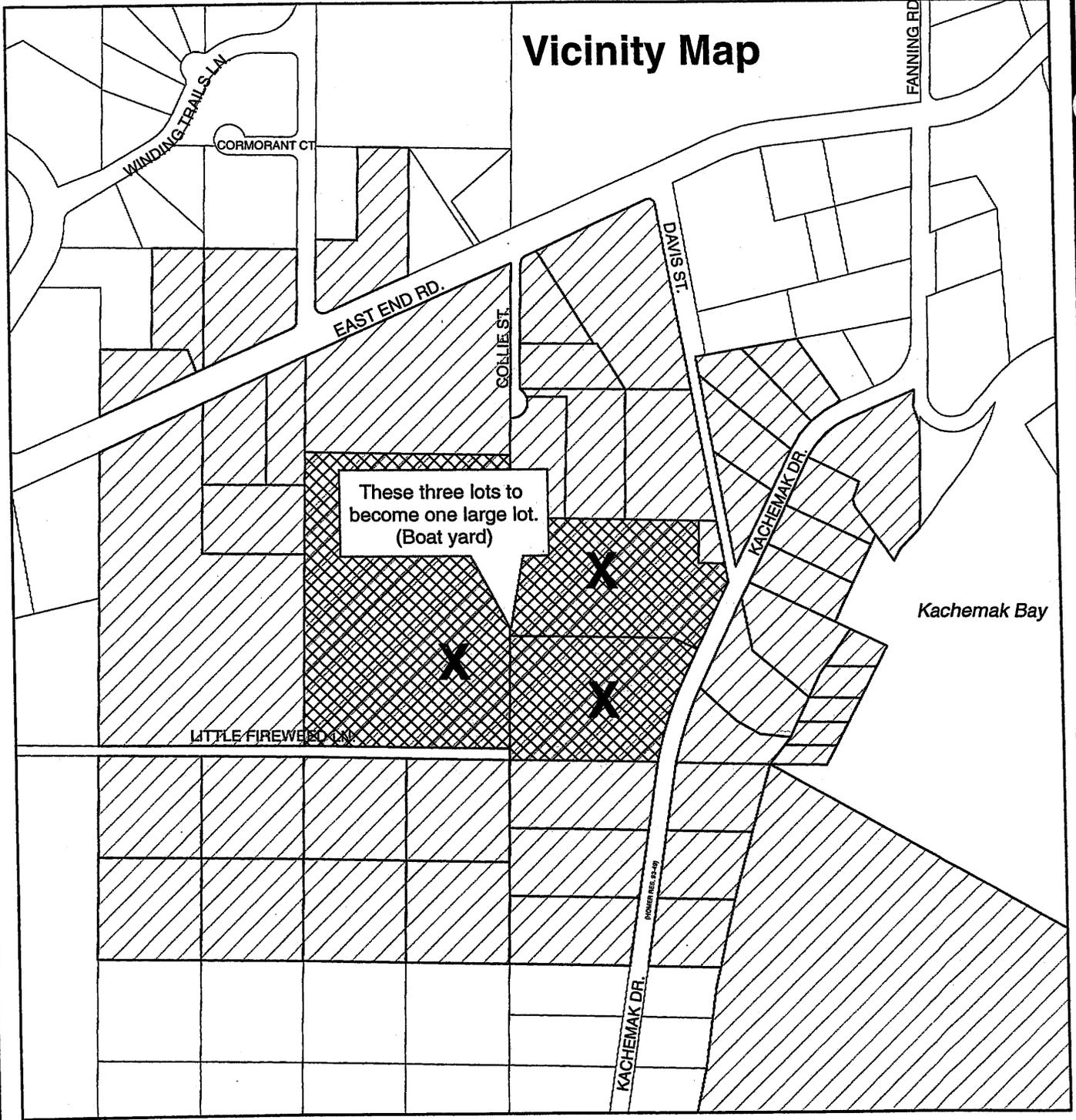
Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting. Written comments can be faxed to 907-235-3118.

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

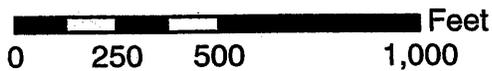
Vicinity Map



City of Homer
Planning and Zoning Department
 May 29, 2012

Northern Enterprises No. 2 Preliminary Plat

Marked lots are within 500 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.



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.cityofhomer-ak.gov

STAFF REPORT PL 12-26

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: June 20, 2012
SUBJECT: W. R. Bell Subdivision Rozak Replat Preliminary Plat

Requested Action: Preliminary Plat approval for the consolidation of three smaller lots down to two larger lots.

GENERAL INFORMATION

Applicants:	Johnson Surveying PO Box 27 Clam Gulch, AK 99568	Theodore W. Rozak 1201 Denali St #303 Anchorage, AK 99501	Theodore Rozak PO Box 1415 Homer, AK 99603
Location:	North side of Alpine Way, east of West Hill Road		
Parcel ID:	17523 18, 19, 20		
Size of Existing Lot(s):	0.37, 0.76 and 0.76 acres		
Size of Proposed Lots(s):	32,474 sq ft (0.74 acres) and 1.144 acres		
Zoning Designation:	Rural Residential District		
Existing Land Use:	Single family home and vacant		
Surrounding Land Use:	North: Residential/Vacant South: Residential/Vacant East: Residential/Vacant West: Residential/Vacant		
Comprehensive Plan:	Goal 1 Objective B: "Promote a pattern of growth characterized by a concentrated mixed use center, and a surrounding ring of moderate to high density residential and mixed use areas with lower densities in outlying areas."		
Wetland Status:	The 2005 wetland mapping shows no wetland areas.		
Flood Plain Status:	Zone D, flood hazards undetermined.		
BCWPD:	Not within the Bridge Creek Watershed Protection District.		
Utilities:	City water and sewer are not available.		
Public Notice:	Notice was sent to 27 property owners of 33 parcels as shown on the KPB tax assessor rolls.		

ANALYSIS:

This subdivision is within the Rural Residential District. There are three lots involved in the plat. The middle lot will have its lot lines vacated, and the area will be split between the two adjacent lots.

Lot 5A does not meet the dimensional requirements of the zoning district. The lot is less than 40,000 square feet. However the parent lot was about 16,000 square feet, and the area is increasing to 32,474 square feet. It has been the policy of the City to allow nonconforming lots to continue in the plat process, as long as they increase don't increase their nonconformity.

The applicant should be aware that lot 5A may only be used for a single family home under Homer City Code 21.61.020. All other development requires the lot meet the dimensional requirements of the district and be at least 40,000 square feet. Staff recommends the applicant consider making lot 5A larger to meet the minimum 40,000 square foot lot size requirement.

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. Major drainages are shown.

9. Approximate locations of areas subject to tidal inundation including the mean high water line.

Staff Response: The plat meets these requirements (not applicable to this area).

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 does not meet these requirements. Lots will be served by onsite septic and water. There is a spring located within lot 5A that serves the existing home.

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. No Rights of Way are to be dedicated by this action.

13. Identify and locate on the plat all areas in excess of 20% grade.

Staff Response: The plat meets these requirements. These lots may be close to 15% average slope. Lots over 15% average slope are subject to HCC 21.55 Steep Slopes.

PUBLIC WORKS COMMENTS: Dedicate a 15 foot utility easement along Alpine Way. An installation or subdivision development agreement will not be required.

FIRE DEPARTMENT COMMENTS: Fire Chief Painter did not provide any comments.

STAFF COMMENTS/RECOMMENDATIONS:

Planning Commission recommend approval of the preliminary plat with the following comments:

1. Include a plat note that lots are subject to the City of Homer zoning regulations.
2. Depict the 20 foot building setback.
3. Dedicate and depict a 15 foot utility easement along Alpine Way.

ATTACHMENTS

1. Preliminary Plat
2. Public Notice

W.R. Bell Subdivision Rozak Replat

Preliminary Plat

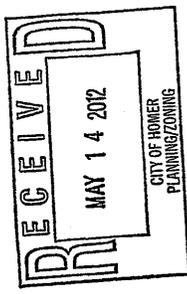
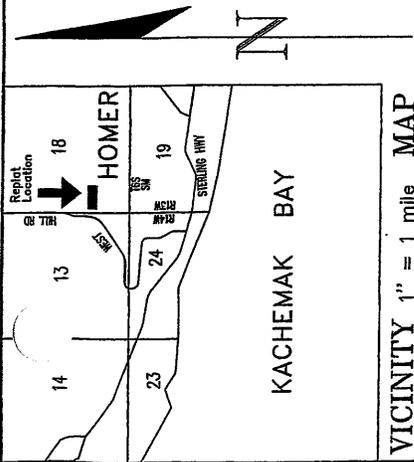
A replat of Lots 5, 6, & 7, Block 3, W. R. Bell Subdivision, HRD #70-402
 Located in the NE 1/4 SE 1/4 Section 18, T6S R13W, SM, City of Homer, Alaska
 Homer Recording District, Kenai Peninsula Borough

Prepared for _____ Prepared by _____

Theodore W. Rozak
 Living Trust
 1201 Denali St. #303
 Anchorage, AK 99501

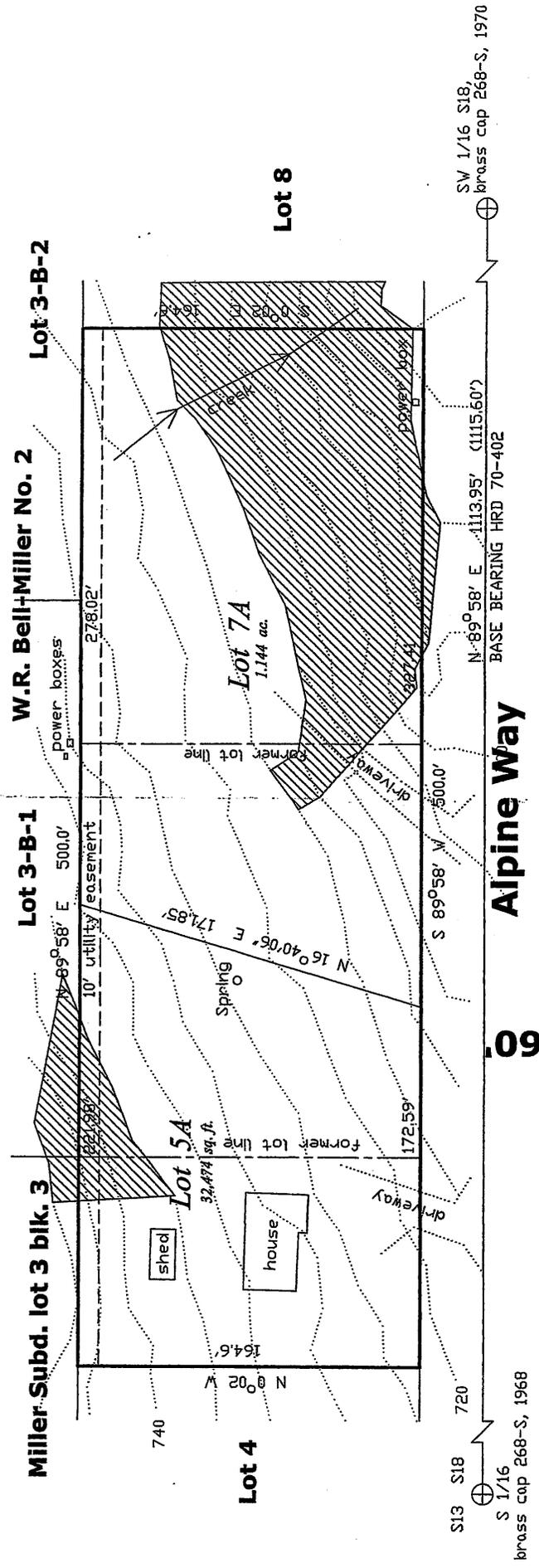
Johnson Surveying
 Box 27
 Clam Gulch, Ak 99568

SCALE 1" = 50' 1.889 Acres 2 April, 2012



NOTES

1. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
2. Contour interval $\frac{1}{8}$ " No swamp located on the property.
3. Hatched areas () indicate a grade of 20% or greater.



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:

Northern Enterprises No. 2 Preliminary Plat

 **W. R. Bell Subdivision Preliminary Plat**

Cooper Subdivision Haaland Addition 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, June 20, 2012 at 6:30 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

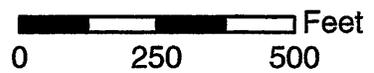
Vicinity Map



City of Homer
 Planning and Zoning Department
 May 29, 2012

W. R. Bell Subdivision Rozak Replat Preliminary Plat

Subject Lots are w/in 500 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.



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.cityofhomer-ak.gov

STAFF REPORT PL 12-28

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: June 20, 2012
SUBJECT: Cooper Subdivision Haaland Preliminary Plat

Requested Action: Preliminary Plat approval to divide one larger lot into two smaller lots.

GENERAL INFORMATION

Applicants:	Roger Imhoff, RLS PO Box 2588 Homer, AK 99603	Alex Haaland PO Box 2371 Homer, AK 99603
Location:	Corner of Spruce Lane and Alder Lane	
Parcel ID:	17930012	
Size of Existing Lot(s):	0.962 acres, or 41,900 square feet	
Size of Proposed Lots(s):	20,100 and 21,805 sq ft (half acre lots)	
Zoning Designation:	Rural Residential District	
Existing Land Use:	Residential	
Surrounding Land Use:	North: Residential/Vacant South: Residential/Vacant East: Mixed use/vacant West: Residential	
Comprehensive Plan:	Goal: Goal 1 Objective B: "Promote a pattern of growth characterized by a concentrated mixed use center, and a surrounding ring of moderate to high density residential and mixed use areas with lower densities in outlying areas." The plan calls for this area to become urban residential in the future.	
Wetland Status:	The 2005 wetland mapping shows no wetland areas.	
Flood Plain Status:	Zone D, flood hazards undetermined.	
BCWPD:	Not within the Bridge Creek Watershed Protection District.	
Utilities:	City sewer is available. City water serves proposed lot 7-A through another lot.	
Public Notice:	Notice was sent to 27 property owners of 30 parcels as shown on the KPB tax assessor rolls.	

ANALYSIS:

This subdivision is within the Rural Residential District. This plat a one acre lot into two half acre lots. The lot configuration is due to the City requirement that water and sewer service lines may not cross lot lines. The applicant has water via a line through another parcel; this is called a spaghetti line, and is generally not permissible. However, in the past the city was lenient on the issue. This is not a platting issue and does not affect the applicant's ability to subdivide in this case. The applicant has access to sewer and meets the minimum lot size requirements.

There is a shed along Alder Lane that encroaches into the twenty foot building setback. The required 15 foot utility easement has also been jogged to avoid the shed. Staff researched the zoning permit records for this lot and found a zoning permit had been issued for the garage and the shed in 2011. However, the shed was not placed in the location shown on the permit. Changing the permit to place the shed in a different location is permissible, but placement of the shed in the twenty foot building setback is a zoning violation. It is also unacceptable to dedicate less than a 15 foot utility easement along Alder Lane due to this zoning violation. The shed should be moved so the full utility easement required by HCC Title 22 will be granted.

22.10.051 Easements and rights-of-way. a. The subdivider shall dedicate in each lot of a new subdivision a fifteen (15) foot wide utility easement immediately adjacent to the entire length of the boundary between the lot and each existing or proposed street right-of-way.

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.

9. Approximate locations of areas subject to tidal inundation including the mean high water line.

Staff Response: The plat meets these requirements (not applicable to this area).

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 by city sewer. Lot 7-A is served by a spaghetti line through another parcel.

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. No Rights of Way are to be dedicated by this action.

13. Identify and locate on the plat all areas in excess of 20% grade.

Staff Response: The plat meets these requirements. The lot is fairly level.

PUBLIC WORKS COMMENTS: Public works has been working with the surveyor and property owner.

FIRE DEPARTMENT COMMENTS: Fire Chief Painter did not have any comments.

STAFF COMMENTS/RECOMMENDATIONS:

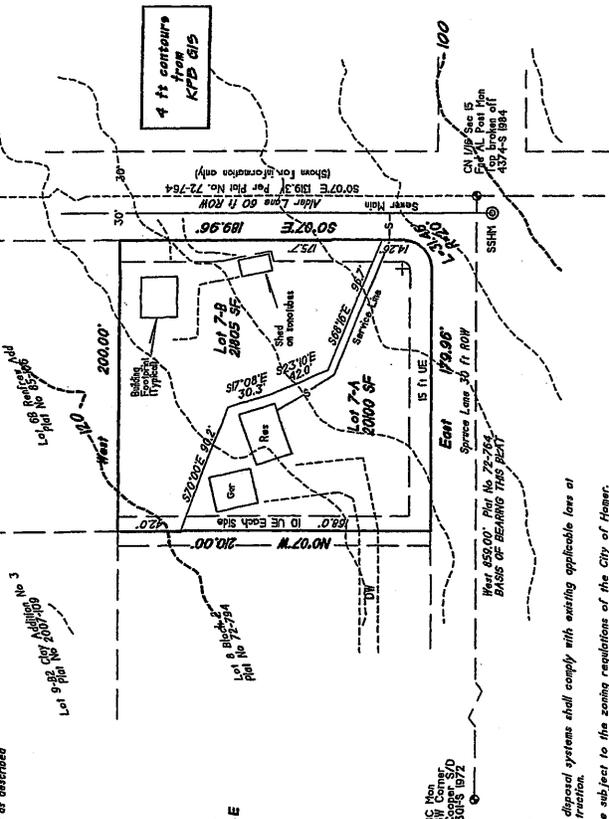
Planning Commission recommend approval of the preliminary plat with the following comments:

1. The shed is encroaching in the 20 foot building setback and the required 15 foot utility dedication. The shed should be moved to meet zoning setback requirements and the full 15 foot utility easement dedicated.

ATTACHMENTS

1. Preliminary Plat
2. Surveyor letter
3. 2011 zoning permit site plan

Legend
 Found Property Monument
 of Record as described



Notes

- All wastewater disposal systems shall comply with existing applicable laws at the time of construction.
- These lots are subject to the zoning regulations of the City of Homer. Owners should contact the City of Homer Planning Dept. prior to any development activities.
- Utility easements are graphically shown. No permanent structures shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
- Set Blue PVC Cap on 5/8" diameter steel rebar at all lot corners and ROW points of curvature for this survey, unless otherwise noted.
- These lots may or may not require setback. The Owner should contact the Corps of Engineers for wetlands information prior to any clearing or filling of these lots.
- Easements affecting the subject lot and adjoining Lot 8 Block 2 recorded Serial Nos. 1886-2537, 1894-1158, and 1894-868, HRB.

Plat Approval
 This plat was approved by the Ketchikan Borough Planning Commission at the meeting of
 KETCHIKAN BOROUGH
 By: _____
 Authorized Official

Wastewater Disposal

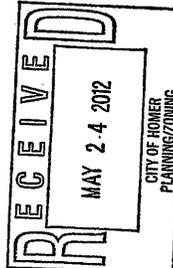
Plans for, or easements that meet regulatory requirements are on file at the State of Alaska Department of Environmental Conservation.

Surveyor: _____ License No. _____ Date _____

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 instruments shown were carefully checked or described and that the dimensions and other details are correct to the best of my knowledge.

Roger W. Inhoff LS 5780 Date _____



REDUCED SCALE

Ownership Certificate

I hereby certify that I am the owner of the real property shown and described hereon and that I hereby agree that this plan is subject to the zoning regulations of the City of Homer and 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 any provision which would prohibit this subdivision or require a signature and approval of the beneficiary.

Alex B. Hasland
 PO Box 2377
 Homer AK 99603
 DATE _____

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

for Alex B. Hasland
 Notary Public for Alaska
 My Commission Expires _____

Neighboring Property
 765. R2WK SHY
 Ketchikan City
 746. R2WK SHY
 Ketchikan City
 747. R2WK SHY
 Ketchikan City
 748. R2WK SHY
 Ketchikan City
 749. R2WK SHY
 Ketchikan City
 750. R2WK SHY
 Ketchikan City
 751. R2WK SHY
 Ketchikan City
 752. R2WK SHY
 Ketchikan City
 753. R2WK SHY
 Ketchikan City
 754. R2WK SHY
 Ketchikan City
 755. R2WK SHY
 Ketchikan City
 756. R2WK SHY
 Ketchikan City
 757. R2WK SHY
 Ketchikan City
 758. R2WK SHY
 Ketchikan City
 759. R2WK SHY
 Ketchikan City
 760. R2WK SHY
 Ketchikan City
 761. R2WK SHY
 Ketchikan City
 762. R2WK SHY
 Ketchikan City
 763. R2WK SHY
 Ketchikan City
 764. R2WK SHY
 Ketchikan City
 765. R2WK SHY
 Ketchikan City
 766. R2WK SHY
 Ketchikan City
 767. R2WK SHY
 Ketchikan City
 768. R2WK SHY
 Ketchikan City
 769. R2WK SHY
 Ketchikan City
 770. R2WK SHY
 Ketchikan City
 771. R2WK SHY
 Ketchikan City
 772. R2WK SHY
 Ketchikan City
 773. R2WK SHY
 Ketchikan City
 774. R2WK SHY
 Ketchikan City
 775. R2WK SHY
 Ketchikan City
 776. R2WK SHY
 Ketchikan City
 777. R2WK SHY
 Ketchikan City
 778. R2WK SHY
 Ketchikan City
 779. R2WK SHY
 Ketchikan City
 780. R2WK SHY
 Ketchikan City
 781. R2WK SHY
 Ketchikan City
 782. R2WK SHY
 Ketchikan City
 783. R2WK SHY
 Ketchikan City
 784. R2WK SHY
 Ketchikan City
 785. R2WK SHY
 Ketchikan City
 786. R2WK SHY
 Ketchikan City
 787. R2WK SHY
 Ketchikan City
 788. R2WK SHY
 Ketchikan City
 789. R2WK SHY
 Ketchikan City
 790. R2WK SHY
 Ketchikan City
 791. R2WK SHY
 Ketchikan City
 792. R2WK SHY
 Ketchikan City
 793. R2WK SHY
 Ketchikan City
 794. R2WK SHY
 Ketchikan City
 795. R2WK SHY
 Ketchikan City
 796. R2WK SHY
 Ketchikan City
 797. R2WK SHY
 Ketchikan City
 798. R2WK SHY
 Ketchikan City
 799. R2WK SHY
 Ketchikan City
 800. R2WK SHY
 Ketchikan City

PRELIMINARY PLAT

Cooper Subdivision Hasland Addition
 Being a subdivision of Lot 7 Block 2 Cooper Subdivision
 as shown on Plat No. 72-764
 Homer Recording District

Located in the R2WK SHY
 NW 1/4 Section 15, T6S, R13W, S4
 within the City of Homer - Ketchikan Borough
 Third Judicial District, Alaska
 Contains 0.992 Acres, more or less

Client:
 Alex Hasland
 PO Box 2377
 Homer AK 99603

Surveyor:
 Roger W. Inhoff, RLS
 PO Box 2377
 Homer AK 99603

Drawn: RWI Date: May, 2012 Scale: 1" = 50 ft
 File: cooperHasland0202rev

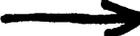
NOTICE OF SUBDIVISION

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:

Northern Enterprises No. 2 Preliminary Plat

W. R. Bell Subdivision Preliminary Plat

 **Cooper Subdivision Haaland Addition 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, June 20, 2012 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska.

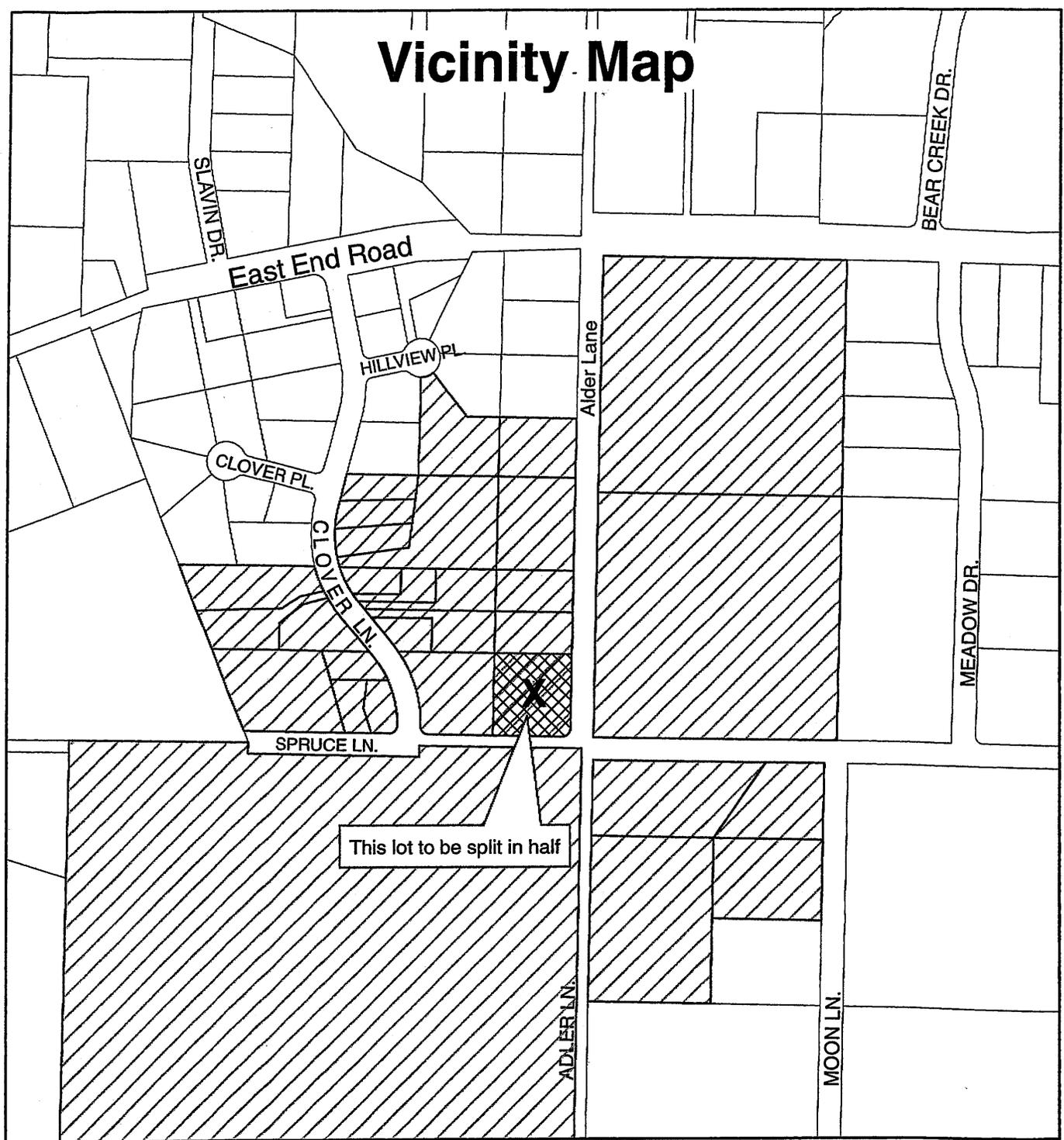
Anyone wishing to present testimony concerning this matter may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting. Written comments can be faxed to 907-235-3118.

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

Vicinity Map



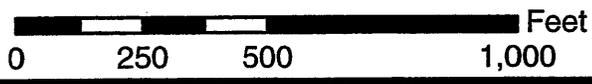
This lot to be split in half



City of Homer
 Planning and Zoning Department
 May 29, 2012

Cooper Subdivision Haaland Addn Preliminary Plat

Subject Lots are w/in 500 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.

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

5-24-2012

Julie Engebretsen
COH Planning Dept
Homer Ak 99603

RE: Preliminary Plat - Cooper Subdivision Haaland Addition

This plat is a lot split.

Lot 7A is served by connections to city water and sewer. City Water is via a spaghetti line from Clover Lane through Adjoining Lot 8.

Lot 7B will be served by City Sewer and onsite water - either a cistern or well.

The Owner has met with Public Works Dan Gardner and I believe he is aware of improvement obligations.

I am not aware of any required exceptions to KPB Code Requirements needed to approve the plat.

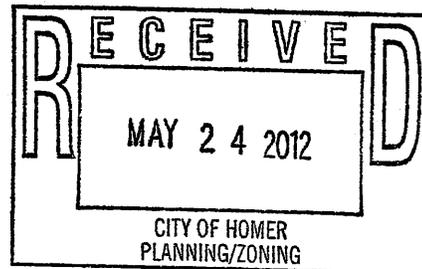
There do not appear to be any wetlands or topographic issues. No new road dedication is proposed.

There is a deed of trust effecting the property and the Beneficiary will need to either sign off on the plat or voice "non-objection."

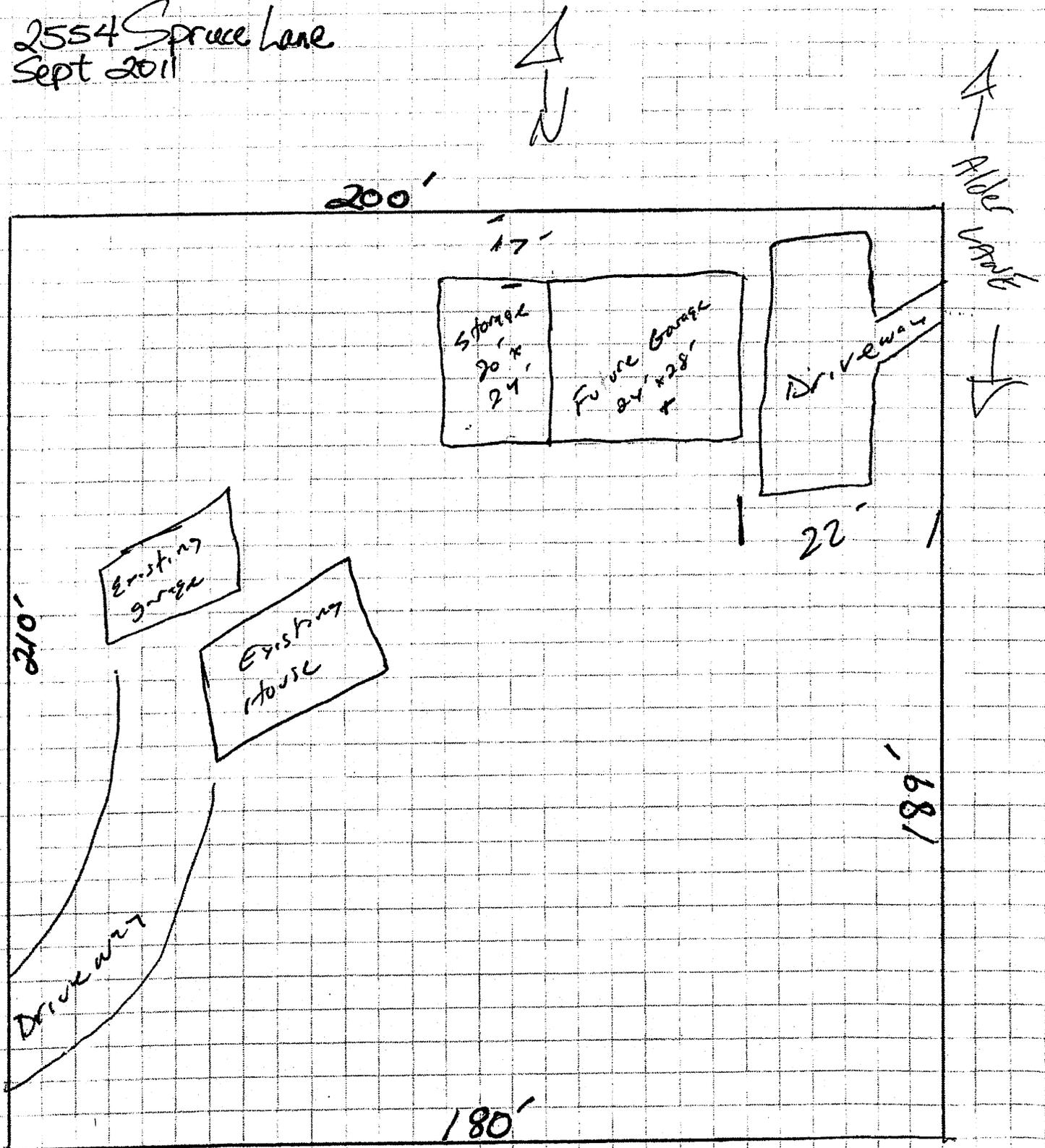
If you or Staff have any questions or concerns, please advise me prior to the meeting date.

Thanks,


cc: Alex Haaland



2554 Spruce Lane
Sept 2011



Driveway that accesses the house is off Spruce Lane.
Proposed shop is accessed from Alder Lane.



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.cityofhomer-ak.gov

STAFF REPORT PL 12-29

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: June 20th, 2012
SUBJECT: Flag Lots

So far, the discussion of flag lot regulation has largely centered on health and safety issues. Staff has arranged for two speakers to address the Commission.

A representative from the State Fire Marshal office will be at the work session, and can address questions about fire access for commercial and multifamily developments.

Staff will invite Chief Painter to attend the July work session. He can speak with the Commission about the equipment Homer has available, and long range access concerns for our community.

As the Commission and staff learn more about these safety considerations, we can identify the problems with flag lots, and possible solutions.





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.cityofhomer-ak.gov

STAFF REPORT PL 12-30

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: June 20th, 2012
SUBJECT: Draft Ordinance 12-xx Amending HCC 21.28 Marine Commercial Zoning District

Introduction

The Homer Spit Comprehensive Plan is the blueprint for future development on the Spit. Zoning is an important component in shaping future land uses. Map 5, Future Lane Use Concept, shows areas reserved for marine industrial development, and those for commercial activities. Generally speaking, along Homer Spit Road, land along the harbor is commercial, and land beyond Fish Dock Road is industrial. A future zoning map amendment ordinance could change the current zoning boundaries, to those shown in the comprehensive plan.

Analysis

This staff report and draft ordinance are only addressing the text of the zoning district, not future boundaries. The big picture question is what land uses do the citizens want along the harbor, and in marine commercial areas? This question is answered in the comprehensive plan. Citizens generally liked the mix of land uses, and were concerned about residential uses. The current zoning code does not really allow for the mix of uses as they exist on the Spit. It's the job of staff and the Commission to transform the overall goals of the plan into specific zoning regulations.

Land use and community design goals: (*Spit Plan page 22*)

- 1.1 Maintain the variety of land uses that establish the unique "Spit" character and mix of land uses.
- 1.2 Improve permanence and character of new commercial development.
- 1.3 Provide public facilities that attract residents and visitors to the Spit for recreational purposes.
- 1.4 All development should recognize, value, and complement the unique natural resources on the Homer Spit.
- 1.5 Respond to seasonal land use demand fluctuations.
- 1.6 Protect public access to and enjoyment of the Spit's unique natural resources.

Permitted and Conditional Uses

In the draft ordinance, staff has recommended some changes to permitted and conditional uses. It may help the Commission to envision a fictitious scenario. Pretend there is a new boardwalk proposed next to the harbor. What kinds of new businesses could go there? What fits the character of the Spit? Meet community goals? For example, does a t-shirt shop or coffee hut fit with the vision of the Spit in the

Comprehensive Plan? What about a bank? Tanning salon? If they do, then these uses could be permitted uses.

Going a step further, what land uses might be OK, but should have a higher level of review – IE a conditional use permit? A conditional use is one that may be allowed, but due to its size, bulk, scale, density or other features causes the land use to have more impact on adjacent land owners. For example, perhaps the new boardwalk triggers a conditional use permit. Not necessarily because of the mix of uses, restaurant vs. t shirt shop, but because it will create 9,000 square feet of new retail/mix use space. The size of the development will draw many tourists and impact the neighborhood. Traffic flow and pedestrian connections will be important considerations, no matter who the tenants are.

Please review the suggested changes for permitted and conditional uses. Below is a short list of items staff recommends be conditional uses. As staff and Commission learn more from the Fire Marshal about fire separation distances (i.e., setbacks) and occupancy types, this list can be further refined.

Staff recommended CUP triggers:

- Overnight accommodations in any number, not just hotel/motel
 - There Spit Plan p. 25 discusses community concerns with lodging, nightly rentals, and residential uses. These are land uses that concern the community and merit closer scrutiny.
- Caretaker residence or employee housing
 - (see above) The community expressed concern over residential uses on the Spit.
- Setback exceptions...(allowing boardwalk into the setback)
 - If boardwalks, stairs and decks are going to be allowed in a setback, this should be part of the code.
- Lot coverage over 70% (not 30%)
 - Commercial lots on the Spit are generally pretty small and development is dense. 30% coverage all by itself should not trigger a CUP. If the development meets all other requirements and no activities require a CUP, it is very onerous to go to the Commission just for 30% lot coverage.
- Other triggers??

Staff Recommendation

Planning Commission review the permitted and conditional uses and provide comments. Once there is consensus, staff will move on to the next section of code – dimensional requirements.

Attachments

1. Draft Ordinance- May 9th draft

1 **May 9, 2012 Draft**

2 **Chapter 21.28 MC Marine Commercial District**

3 Sections:

- 4
5 21.28.010 Purpose.
6 21.28.020 Permitted uses and structures.
7 21.28.030 Conditional uses and structures.
8 21.28.040 Dimensional requirements.
9 21.28.050 Site and access plan.
10 21.28.060 Traffic requirements.
11 21.28.070 Site development requirements.
12 21.28.080 Nuisance standards.
13 21.28.090 Lighting standards.

14
15 21.28.010 Purpose. The purpose of the Marine Commercial District is primarily for water-related
16 and water-dependent uses and the business and commercial uses that serve and support them,
17 including but not limited to fishing, marine transportation, off-shore energy development,
18 recreation and tourism. It is recognized that unique natural features of Homer's marine
19 environment contribute significantly to the economic and social environments, therefore
20 performance standards are required to minimize the impact of development on the natural
21 features on which they depend. (Ord. 08-29, 2008).

22
23 21.28.020 Permitted uses and structures. The following uses are permitted outright in the Marine
24 Commercial District, except when such use requires a conditional use permit by reason of size,
25 traffic volumes, or other reasons set forth in this chapter:

- 26 ~~a. Boat charter offices;~~ Tourism related charter offices such as fishing, flightseeing, day
27 excursions and boat charters
28 b. Marine equipment and parts sales and services;
29 c. Retail stores ~~limited to the sale of seafood products, sporting goods, curios, and arts and crafts;~~
30 d. Business offices for water-dependent and water related activities such as fish brokers, off-
31 shore oil and gas service companies, and stevedores;
32 e. Customary accessory uses that are clearly subordinate to the main use of the lot or building
33 such as piers or wharves, provided that separate permits shall not be issued for the construction
34 of an accessory structure prior to that of the main structure;
35 f. Mobile food services;
36 g. Itinerant merchants, provided all activities shall be limited to uses permitted outright under
37 this zoning district;
38 h. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54.
39 i. As an accessory use, one small wind energy system per lot.(Ord. 09-34(A) §18 (part), 2009;
40 Ord. 08-29, 2008).

41
42 21.28.030 Conditional uses and structures. The following uses may be permitted in the Marine
43 Commercial District when authorized by conditional use permit issued in accordance with HCC
44 Chapter 21.71:

- 45 a. Restaurants and drinking establishments; Allow outright
46 b. Cold-storage facilities; Allow outright
47 c. Public utility facilities and structures;
48 ~~d. Dredge and fill when required for construction or maintenance of a structure devoted to one or~~
49 ~~more uses that are permitted or conditionally permitted in this district; (How is this used? Never~~
50 ~~had a cup for this)~~
51 e. ~~Wholesale outlets for marine products;~~
52 f. ~~Pipelines and railroads;~~
53 g. ~~Heliports;~~
54 h. Hotels and motels;
55 i. More than one building containing a permitted principal use on a lot. Allow outright
56 j. Planned unit developments, limited to water-dependent and water-related uses; No dwelling
57 units other than caretakers
58 k. Indoor recreational facilities;
59 l. Outdoor recreational facilities;
60 m. Campgrounds; Allow outright
61 n. Manufacturing, processing, cooking, and packing of seafood products. Allow outright
62 o. Other similar uses, if approved after a public hearing by the Planning Commission, including
63 but not limited to those uses authorized in the Marine Industrial district under HCC §§ 21.30.020
64 and 21.30.030, provided the commission finds the use meets the following standards and
65 requirements:
66 1. The proposed use is compatible with the purpose of the Marine Commercial District,
67 2. The proposed use is compatible with the land use development plan for the Homer Spit and
68 the Comprehensive Plan,
69 3. Public facilities and services are adequate to serve the proposed use, and,
70 ~~4. If City owned land, the Port and Harbor Commission, after a public hearing, has made a~~
71 ~~written recommendation to the Planning Commission concerning the proposed use, including~~
72 ~~specifically whether conditions (1) through (3) of this subsection are or may, with appropriate~~
73 ~~conditions, be met by the proposed use. (Ord. 08-29, 2008). It is not appropriate to require a~~
74 ~~different level of review of property due to land ownership, in the zoning code. The city can~~
75 ~~review proposals of its own land via the lease committee. The zoning code should apply equally~~
76 ~~to everyone and not create a separate class of land owner with different rules.~~

- 77
78 21.28.040 Dimensional Requirements. The following dimensional requirements shall apply to all
79 structures and uses in the marine commercial district:
80 a. The minimum lot size is 20,000 square feet, except for lots lawfully platted before December
81 12, 2006. The minimum lot width is 150 feet, except for lots lawfully platted before December
82 12, 2006.
83 b. Buildings shall be setback 20 feet from all dedicated rights-of-way and five feet from all other
84 lot boundary lines. Alleys are not subject to a 20 foot setback requirement.
85 c. The maximum building height is 35 feet.
86 d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor
87 shall any lot contain building area in excess of 30 percent of the lot area without an approved
88 conditional use permit.

89 Building Area and Dimensions - Retail and Wholesale.
90 1. The floor area of retail and wholesale business uses within a single building shall not exceed
91 25,000 square feet.
92 2. In no event may a conditional use permit, Planned Unit Development, or variance be granted
93 that would allow a building to exceed the limits of subparagraph (e)(1) and no nonconforming
94 use or structure may be expanded in any manner that would increase its nonconformance with
95 the limits of subparagraph (e)(1). (Ord. 08-29, 2008).

96 21.28.050 Site and Access Plan. a. A zoning permit for any use or structure within the Marine
97 Commercial District shall not be issued by the City without a level one site plan approved by the
98 City under HCC Chapter 21.73.
99 b. A zoning permit for any use or structure shall not be issued without a level one right-of-way
100 access plan approved by the City under HCC Chapter 21.73. (Ord. 08-29, 2008).

101
102 21.28.060 Traffic Requirements. A conditional use permit is required for all uses that are
103 estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060.
104 (Ord. 08-29, 2008).

105
106 21.28.070 Site Development Requirements. All development shall conform to the Site
107 Development Requirements contained in HCC § 21.50.030 and the following:
108 a. Development shall not impair or unnecessarily impede use by the public of adjacent publicly-
109 owned tidelands.
110 b. The location of buildings and roads shall be planned to minimize alteration to the natural
111 terrain.
112 c. Grading and filling shall not alter the storm berm except as necessary to correct unsafe
113 conditions.
114 d. Point source discharges to a waterway shall be in conformance with the Alaska Department of
115 Environmental Conservation regulations. (Ord. 08-29, 2008).

116
117 21.28.080 Nuisance Standards. All development and structures shall conform to the Nuisance
118 Standards contained in HCC § 21.24.080. (Ord. 08-29, 2008).

119 21.28.090 Lighting Standards. All uses and development shall conform to the Lighting Standards
120 contained in HCC § 21.59.030. (Ord. 08-29, 2008).

121

MANAGERS REPORT

June 11, 2012

TO: MAYOR HORNADAY / HOMER CITY COUNCIL

FROM: WALT WREDE

UPDATES / FOLLOW-UP

1. Load and Launch Ramp: You will recall that ADF&G has access to funding to completely rebuild and refurbish the Load and Launch Ramp at the harbor. The City will apply for funding through the Municipal Harbor Matching Grant Program to cover the 25% match required for construction. ADF&G has secured the funds to do engineering and design and the Council recently approved an MOU with authorizing the agency to take the lead on that work. This week I received a call from ADF&G informing me that they will wait until this fall to issue an RFP for engineering and design services. They cited two reasons for doing that. First, it is summer and most contractors are busy and do not have time to respond to RFP's. Second, all of the construction funding is not yet secured. So, a slight delay is not a problem. Construction was not likely to happen until 2014 anyway.
2. R&S Floats: You will recall that Bryan brought to your attention the serious condition of some of the piles on R and S floats. Three were especially bad and dangerous. Council passed an emergency appropriation to fix the problem but we were not able to execute the plan as presented. Some of the piles were so damaged that the Port and Harbor Director condemned and closed R float for safety reasons. I am very happy to be able to report that the harbor staff came up with an innovative and cost effective short term fix that should solve the problem for now and alleviate the safety concerns. The short version is that heavy 10" diameter pipes were purchased from a scrap dealer and inserted into the piles as sleeves. The pipes and sleeves were then welded together. The staff hired a local fishing boat with a crane and that, along with the harbor tug and skill were sufficient to do the job.
3. Deep Water Dock: The design for the new fendering system is essentially complete. (funded by the Cruise Ship Head Tax legislative grant). A pre-bidders meeting was held this past week. October and December is the construction window. This resolution contains a resolution authorizing us to purchase some of the fender elements directly because of the long lead time for delivery. ADOT/PF informed us this week that we can expect to see an MOU for engineering and design of the dock expansion in the next week (\$3 Million in federal and state legislative grants).
4. Cruise Ship Grant Project: The City's term contract engineers have begun engineering and design work on some of the projects elements contained in the

project description (6 Million legislative grant). Work has begun on the trails and bathrooms.

5. Dredged Materials: This week Carey and Bryan were scheduled to meet with representatives from the Corps of Engineers to discuss long term plans for the beneficial use of dredged materials. Beach replenishment and creation of new uplands are on the agenda.
6. Harbor Projects: The Council has approved the recommendations of the Port and Harbor Commission and the Port and Harbor Improvement Committee. The next step is to submit the City's grant application for project funding under the Municipal Harbors Matching Grant Program. When that funding is approved, the City will prepare for a bond sale. Katie is working on the application.
7. Security Facilities Audit: The Port and Harbor staff participated in a security facilities audit this week conducted by the Coast Guard. The City has a port security plan and there are various requirements under the law for security at the Pioneer and Deep Water Dock. I am sure Bryan would be happy to elaborate if you are interested in knowing more. This is important and it requires probably more training, planning, and collaboration with other state and federal agencies and with the private sector companies operating at the port than you might imagine.
8. Gas Line Distribution System: We are continuing to gather information about financing options and about LID boundary options in preparation for the workshop prior to this meeting. We are also working with the State and with Enstar to make sure the administration of the \$8.15 Million grant for construction of the transfer line goes smoothly.
9. Employee Committee: The Employee Committee has been meeting periodically to discuss a possible wellness program for employees. We anticipate that the Committee will be prepared to make a recommendation to the Council in the near future.
10. Budget Amendments: We anticipate bringing you a mid-year budget amendment ordinance sometime soon. There will be several adjustments requested but the primary reason for doing this is to take care of transfers to the Revolving Energy Fund.
11. CIP List: Believe it or not, it is time to start talking about the CIP List again. There is a resolution establishing the review and approval schedule on this agenda.
12. 2013 Budget: Believe it or not, work will begin shortly on the 2013 operating budget. I know you are thrilled to hear that! So are we.
13. Police Department: Things have really picked up the Police Department as we move into summer. Activity at the jail has been especially brisk. Part of the reason for that is stepped up drunk driving enforcement by the State Troopers. The department is currently plagued by turnover and open positions in dispatch which directly affects the public safety and response function.
14. Planning Department: In the recent past, the activities of the Planning Department have been confined largely to land use planning, code enforcement, and providing support for the Planning Commission. We are working to expand that role, as time and resources allow, into areas such as economic development and capital

project development. The goal is to make better and more efficient use of the staff resources we have city-wide and to take advantage of the skills, training, and experience of the current planning staff.

15. Clerk's Office: The move from the HERC building to the renovated City Hall is now complete. This week, Public Works staff and the High School football team moved the archives from the old school into the new storage areas in this building. These are the files and documents that must be retained under the records retention code. The Clerk's are sorting and organizing the files so that they will be even more organized and easy to access for historians and others who need access to preserved records.
16. Records Retention: As a follow-up to the Council workshop on e-mail retention, I wanted to report that Nick has conducted some research on tablets for the Council and you will see a memorandum to that effect on this agenda. Holly is busy working on proposed amendments to the records retention code and the Council Operating Manual.

ATTACHMENTS

1. City Clerk's Trip / Training Report



ZONING PRACTICE

JUNE 2012



AMERICAN PLANNING ASSOCIATION

➔ ISSUE NUMBER 6

PRACTICE VARIANCES

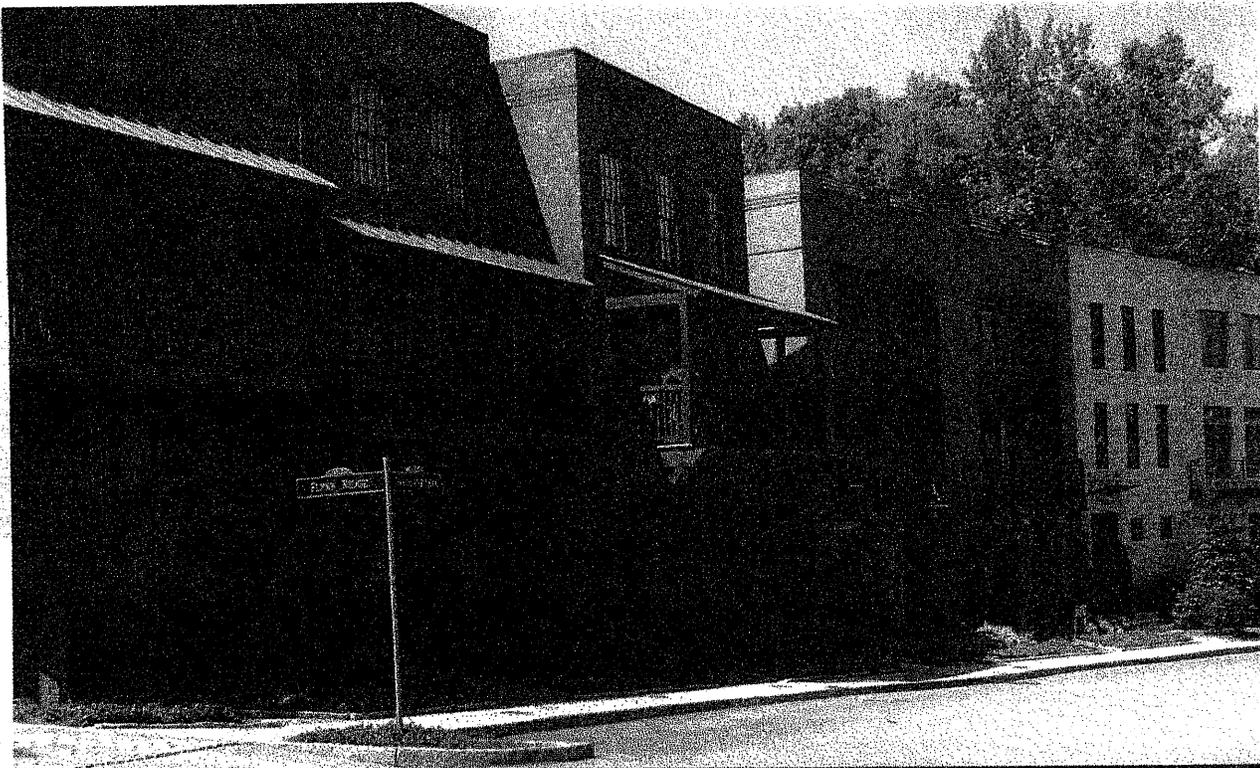


Avoiding Idiotic Variances

By Lane Kendig

The drafters of the first zoning ordinances felt it was legally essential to provide a variance procedure to deal with unique circumstances that render a lot unbuildable.

All photos and diagrams by Lane Kendig



⊕ Because these town houses have a variety of unit configurations, many communities would require variances before approving the project.

For example, an existing lot might have a small ravine on it, making it impossible to locate a home within the required setbacks. The ravine was a unique condition that differed from the conditions on neighboring lots and a variance could allow for a relaxation of the setbacks to make the lot buildable.

All state enabling laws delegate the power to grant variances to a zoning board or board of appeals (comprised either of elected or appointed officials). These state laws generally include criteria that should

be met in granting a variance. Some common ones are:

- There is a special condition on the site not present on other properties in the district.
- A literal enforcement of the provisions will result in unnecessary hardship.
- The condition is not self created.
- A strict interpretation would prevent the owner from enjoying the same rights as others in the district.

- A variance would not create a special privilege for the land owner.

The variance was an excellent tool for big cities where streets and blocks were often platted in advance of development and before the adoption of zoning. The initial intent of the variance was to grant relief to an existing lot that was rendered unbuildable, but planning and zoning objectives have expanded greatly since the first zoning codes. Consequently, there is now a second class of variances that develop-

ASK THE AUTHOR JOIN US ONLINE!

Go online during the month of June to participate in our "Ask the Author" forum, an interactive feature of *Zoning Practice*. Lane Kendig will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The author will reply, and *Zoning Practice* will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of *Zoning Practice* at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA *Zoning Practice* web pages.

About the Author

Lane Kendig is the founder and former president of Kendig Keast Collaborative. He has been practicing and writing about the relationship between community design planning and regulatory tools for more than 40 years. In addition to the recent books *Community Character* and its companion, *A Guide to Planning with Community Character*, Kendig is the author of *Performance Zoning* and the PAS reports *Too Big, Boring, or Ugly*; *Traffic Sheds*; *Rural Highway Capacity*; and *Growth Management*; and *Performance Standards for Non-Residential Uses*.

ers seek because standards in the code do not permit a creative solution to laying out the development or result in the loss of lots or increased costs. A third class of variance applies to a whole series of controls in the zoning—none of which render a site unbuildable—that simply frustrate a developer's attempt to build a different type of community. For example, in some communities developers might have to obtain more than a dozen variances to build a cluster subdivision, planned unit development (PUD), or a rural hamlet. Yet another class of variances is attributable to code amendments that create a host of nonconforming uses. These last three classes are foolish, or idiotic, variances because good planning is frustrated by the ordinance.

Unfortunately, the administration of variance requests in many communities can also be described as idiotic. It is not unusual for communities to grant 70 to 95 percent of all variance requests. When nearly every variance for a larger sign, enclosed porch, or reduced setback is granted, then it is foolish to force owners to go through the variance process. This means zoning boards are either ignorant of or not following the local zoning code and variance criteria established by state statute.

Leaving aside the possibility that zoning board members are incompetent, why is this happening? One reason is that zoning boards see themselves as problem solvers for the residents. In small communities this may be a "help your neighbor" attitude. In other cases zoning board members may not understand the role of their quasi-judicial body. In older cities it may simply

be a desire not to impede reinvestment. Too few communities use a hearing officer to create a truly quasi-judicial process, and there is rarely a review of the zoning board's performance.

Planners often share the blame. For example, some planners fail to strongly recommend denial in staff reports when an application fails to meet the criteria. There are many communities where staff never makes recommendations. In the absence of strong recommendations it is easy for zoning boards to grant variances. Furthermore, many variances are the result of poorly written or obsolete codes. Citizens are left to muddle through the zoning board instead of planners proposing code amendments to fix the code and eliminate the need for a variance. If there are many approved variances to a specific provision, it is irresponsible not to amend the code.

The last reason for the idiotic variance is rigidity. The first zoning codes used a minimum lot size combined with setbacks from front, side, and rear property boundaries to control character. Over the last nearly 100 years, designers developed more creative approaches to development: cluster, PUD, mixed use, and traditional neighborhood design. Unfortunately, zoning has not kept up and Euclidean provisions remain the dominant form of ordinance.

In an attempt to provide flexibility, communities introduced conditional approval processes instead of writing flexible standards. In many codes there is a specific enumeration of variances required for cluster or planned development options. The problem with this approach is that it is pro-

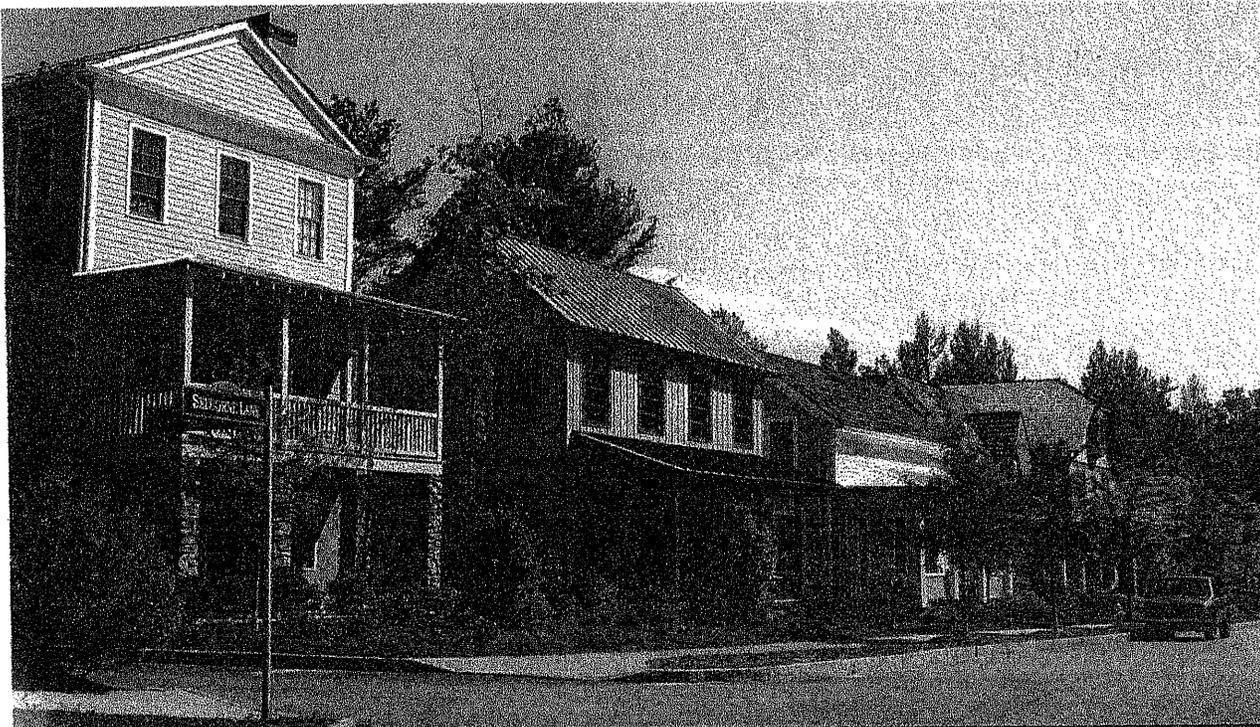
cedural and does not address the underlying inflexibility and rigidity. Worse, the approval process quickly became a battleground between developers seeking flexibility and NIMBYists who would prefer no development. While new urbanists decry the failure of Euclidean zoning to permit mixed use and traditional designs, form-based codes are rigid too in their street design, setbacks, requirements for porches and fences, and architectural detailing.

THE SOLUTION

The tongue-in-cheek solution is to permit "idiot variances" when the code is foolish as applied or if it stifles creativity. The reality is this would exacerbate the problem. It is unconscionable for a community to force its citizens to seek a variance (at considerable time, effort, and expense) when relief is nearly always granted. The solution is to reduce the need for variances to a few unique conditions. The discussion in the following sections details various approaches that eliminate the need for a variance to be requested.

Annual Review

One simple procedural means of eliminating improper variance approvals is an annual review. At the end of the year all approved variances would be submitted to the elected officials for review. The staff would prepare a report as to whether the approvals conformed to the required standards. In the case of the municipality that approved numerous sign-size variations, the elected officials could indicate to the zoning board that their actions were either improper—



Ⓢ This mix of single- and two-family homes in Serenbe Hamlet (Chattahoochee Hill Country, Georgia) shows how flexible standards can encourage high-quality design.

directing them not to approve similar requests, or proper—directing staff to change the maximum sign size. Either of the actions should eliminate the need for variances.

Neighborhood Conservation Districts

In cities and counties with a long development history, many subdivisions are nonconforming. Often the problem arose because areas were platted before zoning or because the zoning was changed. The problem of nonconforming residential lots is best addressed by creating a neighborhood conservation (NC) district that matches existing conditions. The NC district is applied to existing developed areas that were built to different standards than current districts, and no unplatted land may be zoned NC.

An example of the problem was a community that 20 years previously had changed the frontage requirement for their 5,000-square-foot lots from 50 to 60 feet. The result was that nearly half the homes in the zone were nonconforming, requiring many home owners to seek variances. This was corrected by creating two neighborhood conservation districts, an NC5n (narrow) and an NC5w (wide). The zoning map was revised to place all 5,000-square-foot lots in the proper class. The result was that

the existing 5,000-square-foot district was eliminated and the map revised so that all the nonconforming narrow lots became conforming. Since these are residential districts, all single-family NC districts can be treated as one with a single-use table entry and lot requirements in tabular form for each district.

to 25-, 26 to 30-, 31 to 35-, 36 to 40-, and 41 to 49-foot lot widths. The result of these two approaches is that all, or nearly all, existing lots become conforming, eliminating the need for a variance. Where setbacks of existing homes are not uniform, the community can use setback averaging to eliminate the need to request a variance.

The problem of nonconforming residential lots is best addressed by creating a neighborhood conservation (NC) district that matches existing conditions.

The NC district works very well when the nonconforming areas are entire developments or blocks, and in most municipalities or counties this will be the case. Occasionally single-family lot size may vary within the block or development, which would require parcel-by-parcel mapping that would be tremendously costly and prone to error. A different approach can be used for these types of areas. All such areas would be NC single family with a table showing ranges of lot sizes, with a setback related to each range. Thus, the table might show 20

Limited Uses

Limited uses are uses permitted by right, provided they meet specific performance criteria. The performance criteria could be location, history, design, or other factors. For example, in many older cities sizeable areas were developed in the 1920s through 1950s with single-family homes, even though the zoning permitted duplexes or multifamily buildings. Decades later, developers saw opportunities to replace single-family homes in these aging neighborhoods with permitted duplexes or

apartments. Predictably, residents often objected that the redevelopment was inconsistent with the character of their neighborhood. While downzoning is a logical response, all existing higher-intensity uses would then become nonconforming. This was a problem for about 25 percent of such areas. However, if the downzoned district permits duplexes or apartments as limited uses, provided they existed on the date of the downzoning all existing units remain conforming uses and can be remodeled or rebuilt. This approach increases the likelihood that residents will accept the existing units, while preventing teardowns that change neighborhood character.

A similar approach can be used to address corner stores, restaurants, or even bars that existed prior to the zoning and have continued as nonconforming uses. Despite the convenience these uses provide to residents, their value has depreciated because of the nonconforming status. Corner stores are a particular problem because it is difficult to convert the ground floor to residential use. As a consequence, they sit vacant, or the lower floor is abandoned, creating an eyesore. All of these uses could be made limited uses in the district, with conditions that the buildings not only had to be built prior to a specific date, but that they also had to have been built for commercial use. For some uses such as restaurants or bars, additional criteria could be added to prevent a neighborhood-serving use from becoming a regional use involving late-night music or street activity. In this strategy the neighborhood is protected from the introduction of high-intensity commercial uses or nuisances while still permitting local commercial services. If formerly nonconforming uses can invest in improvements, it enhances the value of the neighborhood.

Mitigation

In theory nonconforming uses are supposed to disappear. In fact, nonconformities may continue for decades. When this happens, the nonconforming use often declines in value and appearance because the owner is unable to obtain financing for improvements. For this reason, communities should allow for conditional approvals to provide a means of mitigating nonconforming uses. A landowner can apply for mitigation via a conditional use. This requires a hearing to be held to examine the current effects of the use and to recommend improvements to make the use a better neighbor.

Converting a nonconforming use to a conditional use can remove the cloud that discourages investment and maintenance while protecting the neighbors. An example of this is a tire store on an arterial highway in a residentially zoned neighborhood. It has been nonconforming for decades and remains a viable business. For most residents, who have lived with it for years, the store is only a minor nuisance. The conditional use process would allow the owner to propose expansion of the use while providing things like screening walls or landscaping, facade renovation, or ensuring that tire work occurs indoors. Subject to a hearing that allows the neighborhood to review the proposal and suggest mitigation measures that improve the neighborhood, a conditional use permit can be issued.

ADDING FLEXIBILITY

Why are codes so rigid? First, mandating specific lot area, frontage, use, and other standards is easy to write or illustrate in drawings. No thought needs to be given to a problem with a particular property or to conflicting goals. One-dimensional thinking is easier than systemic thinking. As soon as one identifies a series of objectives that zoning is supposed to address, one needs to understand how all elements of design interact. Secondly, there is complexity associated with flexibility. If something is a problem, it is easier to throw the baby out with the bathwater than to write a section that identifies exceptions to a prohibition and rules governing permitting the design to be used. There are two basic approaches to dealing with rigidity: providing targeted flexibility and providing general flexibility.

Targeted Flexibility Using Modulation

As an alternate to variances or conditional uses, modulation is a tool that can address most flexibility issues. A great many regulations are written to eliminate a specific problem, by prohibiting the use of a design element or setting a limit. Unfortunately, this may mean prohibiting something that, while generally undesirable, can be a valuable tool in specific conditions. Providing flexibility requires looking beyond a specific problem and determining where or when the tool might be useful. Modulation provides staff with rules that permit modulation of the standards without having to appear before the zoning board.

For example, developers used flag lots in the past to avoid building a street. In extreme cases there may be two rows of lots

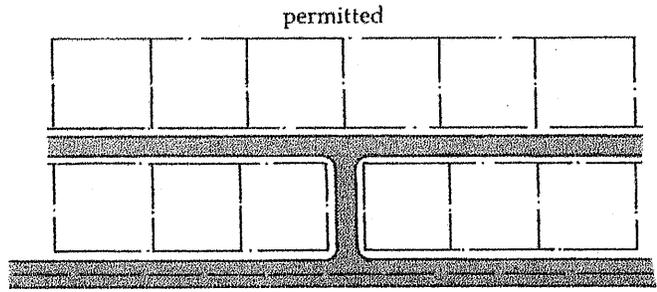
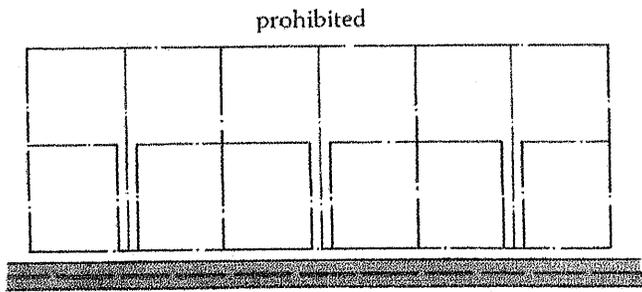
taking access off a street, resulting in numerous additional curb cuts and potential hazards. Consequently, most ordinances prohibit them. However, there are several situations where flag lots actually could result in better planning. As noted above, it is cumbersome and complex to write a series of exceptions to the prohibition. A better solution is a modulation article containing the conditions where the rules can specifically be relaxed, eliminating the need for a variance. Two exceptions illustrate the point. A flag lot that eliminated access on a collector road would be desirable. Another case would be using a shorter cul-de-sac with flag lots accessing several lots to reduce the disturbance of a wooded area created by a longer cul-de-sac.

A modulation chapter allows for simple base regulations while providing more complex rules in another article that is only used by those needing them. Rigid limits on block, cul-de-sac, or town house group length, or prohibitions on trapezoidal lots, are examples of regulations where flexibility is desirable. The key is providing staff with specific rules for the granting or denying of the modulation. Thus the areas of flexibility are pre-identified as are the rules for granting the flexibility.

Targeted Flexibility Using Pattern Books

Because poor design may make a unit undesirable, a means of permitting good design while avoiding the undesirable is important. For example, to avoid the monotony of row houses, communities often require facade offsets. Unfortunately, the same pattern of setbacks repeated on 100 or more units is equally monotonous. The uniformity of front setbacks makes great sense in cities where blocks are platted and uniformity is desirable. However, for hamlet, village, small traditional neighborhood, or estate developments this can be a severe design restriction. A pattern book includes the site plan but also all the essential design elements, building types, lot standards, setback, facades, and all the design details. It is akin to a final planned development approval in that it locks the developer into building what has been shown in the pattern book submission.

The conditional approval process used by most local governments includes review criteria that have nothing to do with design. Worse, they introduce nondesign issues into the approval process, most of which can be used to deny the approval, lower density, or otherwise frustrate a good design. The



⊕ Without carefully written standards, developers may use flag lots to avoid building new roads.

approval of the pattern book addresses the value of the modulation in achieving a superior design. While a single front yard setback makes sense in a large urban area, in a small hamlet or a traditional mixed use neighborhood decreasing setbacks as lots approach the center is one design technique to emphasize the pedestrian-oriented nature of the center. The modulation article should provide for approval of the pattern book-controlled modulation where it creates a desirable design, and the approval criteria should be limited to design considerations. When the regulations prohibit modulation to modify density, land use, and height, many common concerns of citizens at conditional use hearings are taken off the table. Also, limiting modulation to interior lots ameliorates the concerns of citizens worried about impacts on the character of adjoining development.

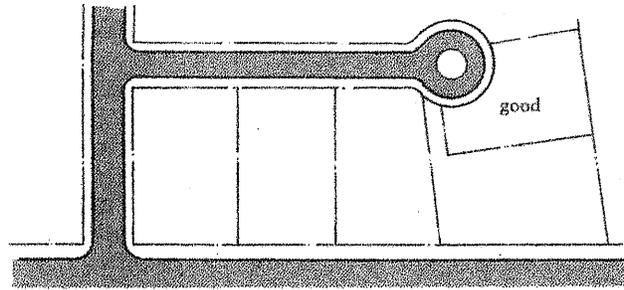
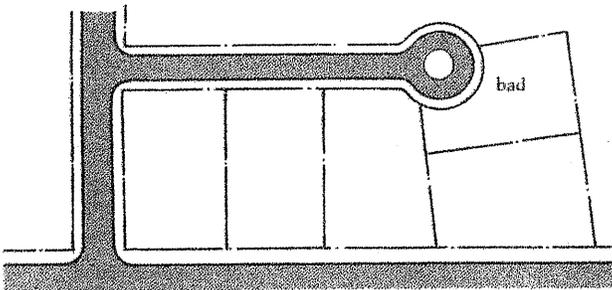
General Flexibility Permitting All Development Forms

Euclidian zoning is very inflexible. Other approaches like clustering, planned developments, traditional neighborhood development, and mixed uses have all been found to be more desirable forms of development. In some states this finding is included in the statutes. Despite this, alternative development patterns are often forced to seek conditional approvals. In the 1960s, when clustering and planned

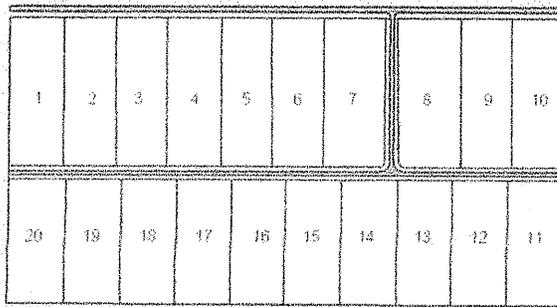
The modulation article should provide for approval of the pattern book-controlled modulation where it creates a desirable design, and the approval criteria should be limited to design considerations.

developments were new and planners had no experience with them, the conditional approval made sense. But now it makes no sense for a better design form to have to go through a lengthy, costly, and uncertain process.

Communities can provide general flexibility by adopting ordinances that are designed to allow a developer multiple ways of meeting the standards of a district. For residential areas, all dwelling unit types should be permitted in the district subject to meeting density, open space, or design standards to protect the character of the district and to encourage traditional neighborhood, planned, and cluster developments. Permitting all dwelling units eliminates the exclusionary nature of many zoning districts. Development forms such as clustering, planned and traditional neighborhood, and mixed use should be permitted as a matter of right. The zoning standards would still regulate district intensity through density, open space, use mix, scale, average and maximum height, and form requirements. These basic controls are essential to ensure the design intent or character is met. Street width can be varied with general rules that address traffic volumes on the street, unit frontage, and parking needs. Quality should be addressed by sign and other controls that address quality of design by setting high standards that should not be modulated. Landscape can be addressed

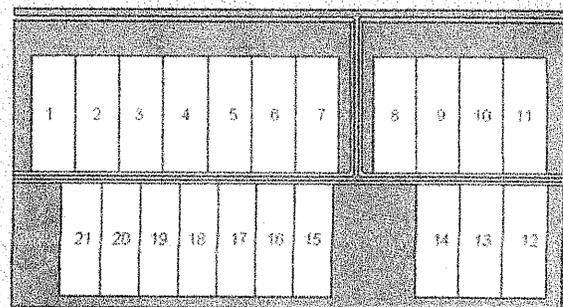


⊕ With targeted flexibility, communities can permit flag lots only in special cases, such as when a flag lot would eliminate lot access from a collector road.



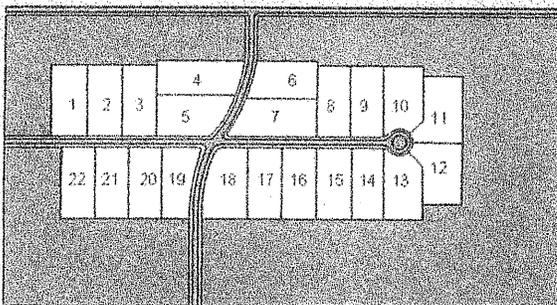
Single Family (20 du's)

OSR 0.00



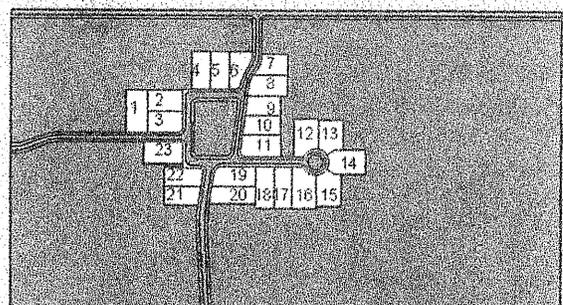
Cluster (21 du's)

OSR 0.30



Conservation (22 du's)

OSR 0.50



Preservation (23 du's)

OSR 0.80

➔ Communities can use general flexibility to encourage residential clustering by offering increasing density with increasing levels of clustering.

with flexible tools that describe the degree of opacity of the vegetation that is to be required, allowing the landscape architect flexibility in choosing the plant material to achieve the desired result.

Design Rules for Special Cases

There are relatively unique development forms like hamlets, villages, transit-oriented development, or new (very large) new communities where specific design standards are needed over and above density and other controls. For example, a hamlet or village needs a center where commercial and the highest intensities are located, perhaps an employment area for industrial uses, interior open space, provisions for a rural buffer, and setbacks from other developments. These design rules should be included in a modulation or a design article. The rules should be highly generalized, using ranges and illustrations so as not to force a rigid template. Pattern book approval allows a designer freedom to work site constraints and the forms of development in a design review.

CONCLUSION

The excessive use of variances, in conflict with state enabling legislation or through poor planning and zoning, is very costly. The

general solution is to eliminate the need for variations. This can be accomplished by providing a legal path for transitioning existing nonconforming uses to conditional uses and by adopting zoning standards that acknowledge historic development patterns and permit both targeted and general flexibility. All of the tools above can be used in

combination to virtually eliminate the need for a variance. In small communities it should be rare to even have variance request. In larger cities and counties a combination of these rules should also make legitimate variances rare. When variances are necessary, a professional hearing examiner should hold a quasi-judicial hearing for each request.

Cover image: ©iStockphoto.com/DNY59

VOL. 29, NO. 6

Zoning Practice is a monthly publication of the American Planning Association. Subscriptions are available for \$95 (U.S.) and \$120 (foreign). W. Paul Farmer, FAICP, Chief Executive Officer; William R. Klein, AICP, Director of Research

Zoning Practice (ISSN 1548-0135) is produced at APA. Jim Schwab, AICP, and David Morley, AICP, Editors; Julie Von Bergen, Assistant Editor; Lisa Barton, Design and Production.

Missing and damaged print issues: Contact Customer Service, American Planning Association, 205 N. Michigan Ave., Suite 1200, Chicago, IL 60601 (312-431-9100 or customerservice@planning.org) within 90 days of the publication date. Include the name of the publication, year, volume and issue number or month, and your name, mailing address, and membership number if applicable.

Copyright ©2012 by American Planning Association, 205 N. Michigan Ave., Suite 1200, Chicago, IL 60601-5927. The American Planning Association also has offices at 1030 15th St., NW, Suite 750 West, Washington, DC 20005-1503; www.planning.org.

All rights reserved. No part of this publication may be reproduced or utilized in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without permission in writing from the American Planning Association.

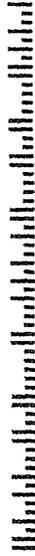
Printed on recycled paper, including 50-70% recycled fiber and 10% postconsumer waste.

ZONING PRACTICE
AMERICAN PLANNING ASSOCIATION

205 N. Michigan Ave.
Suite 1200
Chicago, IL 60601-5927

1030 15th Street, NW
Suite 750 West
Washington, DC 20005-1503

NON-PROFIT ORG.
U.S. POSTAGE
PAID
CHICAGO, IL
PERMIT# 4342



S2 P37 *****AUTO**ALL FOR ADC 99
Z41-D June
167234
Richard Abboud
PO Box 2463
Homer AK 99603-2463



DOES YOUR COMMUNITY
HAVE A VARIANCE PROBLEM?

6