



## City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

### Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

### HOMER ADVISORY PLANNING COMMISSION

**Approved CUP 20-03 at the Meeting of January 15, 2020**

**RE:** Conditional Use Permit (CUP) 20-03  
**Address:** 436 & 450 Soundview Avenue

#### **Legal Description(s):**

T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0594561 HOMER ENTERPRISES INC SUB LOT 10 BLK 2

T 6S R 13W SEC 19 SEWARD MERIDIAN HM 0594561 HOMER ENTERPRISES INC SUB LOT 9 BLK 2

### **DECISION**

#### **Introduction**

Jason Weisser (the “Applicant”) applied to the Homer Advisory Planning Commission (the “Commission”) for a conditional use permit (CUP) under Homer City Code (HCC) 21.14.030(b) which allows townhouse development in the Urban Residential District with an approved CUP.

The applicant proposed building two duplex-style (two-unit) townhouses on two existing lots.

The application was scheduled for a public hearing as required by Homer City Code 21.94 before the Commission on January 15, 2020. Notice of the public hearing was published in the local newspaper and sent to 56 property owners of 45 parcels.

At the November 6, 2019 meeting of the Commission, the Commission voted to approve the request with four Commissioners participating. The Commission approved CUP 20-03 with unanimous consent.

#### **Procedural**

Prior to the hearing it was determined that Chair Venuti and Commissioner Petska-Rubalcava had conflicts of interests, citing that Chair Venuti has personal and businesses relationships with the applicant and Commissioner Petska-Rubalcava has the appearance of a conflict due to possibilities of

performing as a subcontractor on projects of the applicant. Both the Chair and Commissioner left the room prior to the hearing.

### **Evidence Presented**

City Planner Abboud reviewed the staff report. The applicant was present and available for questions from the Commission.

There were two who commented. Ken Castner suggested that the division required for townhouse development was a deviation from city code and Scott Adams had concerns of the density of the project. The City Planner read a portion of Homer City Code 21.53.010 that makes a specific allowance for townhouse development including dimensional requirements included in standards a-q, which are all address in staff report 20-08. It was also recognized that the structures could have been developed as duplexes without a CUP.

### **Findings of Fact**

After careful review of the record, the Commission approves Condition Use Permit 19-08 to build two duplexes with one-bedroom units.

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

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

**Finding 1:** Townhouse developments may be authorized with an approved conditional use permit in the Urban Residential District.

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

**Finding 2:** The proposal is compatible with the purpose of the district by meeting density requirements while providing residential development.

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

**Finding 3:** The value of adjoining property will not be negatively affected greater than other permitted or conditionally permitted uses.

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

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

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

**Finding 5:** Existing public, water, sewer, and fire services are adequate to serve the proposed development.

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

**Finding 6:** Considering harmony in scale, bulk, coverage and density, generation of traffic, the nature and intensity of the proposed use, and other relevant effects, the proposal will not cause undue harmful effect upon desirable neighborhood character.

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

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

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

**Finding 8:** The proposal will comply with applicable regulations.

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

**Finding 9:** The proposal does not appear to contradict any applicable land use goals and objectives of the Comprehensive Plan. The proposal aligns Goal 1 and no evidence has been found that it is contrary to the applicable land use goals and objects of the Comprehensive Plan.

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

**Finding 10:** Condition 1 will assure that the proposal complies with level one lighting standards and the Community Design Manual.

**Condition 1:** Outdoor lighting must be downward directional and must not produce light trespass per the CDM and HCC 21.59.030.

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

- 1. Special yards and spaces:** No specific conditions deemed necessary
- 2. Fences and walls:** No specific conditions deemed necessary.
- 3. Surfacing of parking areas:** No specific conditions deemed necessary.
- 4. Street and road dedications and improvements:** No specific conditions deemed necessary.
- 5. Control of points of vehicular ingress and egress:** No specific conditions deemed necessary.
- 6. Special provisions on signs:** No specific conditions deemed necessary.
- 7. Landscaping:** No specific conditions deemed necessary.
- 8. Maintenance of the grounds, building, or structures:** No specific conditions deemed necessary.
- 9. Control of noise, vibration, odors or other similar nuisances:** No specific conditions deemed necessary.
- 10. Limitation of time for certain activities:** No specific conditions deemed necessary.
- 11. A time period within which the proposed use shall be developed:** No specific conditions deemed necessary.
- 12. A limit on total duration of use:** No specific conditions deemed necessary.
- 13. More stringent dimensional requirements,** such as lot area or dimensions, setbacks, and building height limitations. Dimensional requirements may be made more lenient by conditional use permit only when such relaxation is authorized by other provisions of the zoning code. Dimensional requirements may not be altered by conditional use permit when and to the extent other provisions of the zoning code expressly prohibit such alterations by conditional use permit.
- 14. Other conditions necessary** to protect the interests of the community and surrounding area, or to protect the health, safety, or welfare of persons residing or working in the vicinity of the subject lot.

**Conclusion:** Based on the foregoing findings of fact and law, Conditional Use Permit 2020-03 is hereby approved, with Findings 1-10 and Condition 1.

**Condition 1:** Outdoor lighting must be downward directional and must not produce light trespass per the CDM and HCC 21.59.030.

---

Date

---

Chair, Franco Venuti

---

Date

---

City Planner, Rick Abboud AICP

#### NOTICE OF APPEAL RIGHTS

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

#### CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to the below listed recipients on \_\_\_\_\_, 2020. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk on the same date.

---

Date

---

Travis Brown, Planning Technician

Jason Weisser  
P.O. Box 2913  
Homer, AK 99603

Michael Gatti  
Jermain, Dunnagan & Owens  
3000 A Street, Suite 300  
Anchorage, AK 99503

Katie Koester, City Manager  
491 E Pioneer Avenue  
Homer, AK 99603