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Homer
235-3608
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Homer City Council,
Homer Advisory Planning Commission

Dear Members of the City Council and the Planning Commission:

In the fall of 2018, I submitted a notice of appeal in response to the Homer Advisory Planning Commission's approval of CUP 18-09. CUP 18-09 was issued in September, 2018, for the construction of a 20,000 square foot medical center with parking space for 86 vehicles at 267 Cityview. The project required a conditional use permit for two reasons—the building exceeded the 8,000 square foot limit for buildings in areas zoned Residential Office, and it was for a purpose, a medical center, which also required a conditional use permit. Due to its size, its conflict with the residential character of the neighborhood and its potential for generating disruptive if not dangerous traffic on the residential streets adjacent to the project, I felt development of this sort was inappropriate in this primarily residential area where the development was proposed, so I appealed the granting of CUP 18-09.

The appeal process culminated in a hearing before Judge Christopher Kennedy of the Office of Administrative Hearings. Judge Kennedy ruled that the Planning Commission revisit their approval of CUP 18-09. In response to the hearing officer's remanding the application to the Planning Commission, a meeting of the Commission was scheduled for June 5, 2019, to reconsider this issue. The Planning Commission made some changes in their findings regarding CUP 18-09 and granted CUP 19-01, which allowed the project at 267 Cityview to proceed. I appealed CUP 19-01; the appeal was again assigned to the Office of Administrative Hearings for a hearing, and, ultimately, in October of 2019, the second appeal was denied. Currently the status of the project at 267 Cityview seems to be undecided.

A brief review of the recent history of development in the area around my home on Hohe Street is in order. Shortly before the hearing officer's decision on the appeal of CUP 19-01 was released, I noticed that contractors were clearing land on West Fairview Avenue. This project is for a clinic being built by Todd Boling after the Planning Commission had issued CUP 18-14. Also on May 6 of this year, I received a public hearing notice on CUP 19-05, which would allow the construction of 3200 square foot aquatic physical therapy building on the northeast corner of Hohe Street and West Fairview Avenue. These two projects, in addition to the one at 267 Cityview, are part of a pattern of development in the area surrounding South Peninsula Hospital that has substantial and far-reaching consequences not only for the immediate area, but also for the entire City of Homer.

In my oral arguments before the hearing officer, I brought up what I feel is a very significant issue concerning development in the residential office zone where I live and where the three developments I mentioned in the previous paragraph are located. That issue is a process of development characterized by a lack of formal definitions, guidance, explicit policies, public scrutiny and deliberation; it is a pervasive and continuing transformation of the neighborhood that I have identified as "rezoning by conditional use permit." Instead of facing this process of change by crafting informed decisions concerning its nature, limits, appropriate usages, boundaries and other characteristics that are inherent in thoughtful, effective zoning and planning decisions, the planning department and the Planning commission have allowed development to proceed with no apparent guidance or overall strategy. The result has been a gradual erosion of the residential character of the neighborhood in which the landscape has changed and non-residential development has encroached on and, in some areas, nearly obliterated the residential usage that prevailed in years past.

Nearly thirty years ago when my wife and I bought our home at 4178 Hohe St., the area was very different from what it is today. There were fewer buildings of any sort, residential or commercial. The two major medical developments, South Peninsula Hospital and Homer Medical Center (then Homer Medical Clinic), were much smaller than they are now. Kachemak Bay Professional building (i.e. Kachemak Bay Medical Clinic) didn't exist at the time; the project area at 267 Cityview was a healthy stand of spruce trees, habitat for birds and other wildlife and a calving area for moose. Large, mature spruce trees were common in the area, and many currently developed lots were covered by thriving forest. Over the years, lot by lot, change crept into the neighborhood: Trees were felled; lots were clear-cut; birds and wildlife became less common, and finally, they have nearly vanished. Much of the most dramatic change has been to the west of Hohe Street, where development has been focused on expanding existing medical facilities and building new ones, a process that has culminated in the proposed medical center at 267 Cityview. To the east of Hohe Street, most of the new construction has been residential, but in the spring of 2019, the two new projects for clinics, mentioned previously, have been approved in this primarily residential area, and a new clear-cut has taken a further toll on the area's remaining forest.

In his decision, Judge Kennedy identified this issue as "potentially a serious concern." "As one CUP after another is approved, the area gradually loses its mixed-use character and becomes a medical district, but the change occurs without the broader review and public process that would come with formal rezoning."[1] Judge Kennedy stated that he was unable to address this issue in his decision because I had not included the matter in my brief, and therefore it was not part of the

[1] This quote is taken from Judge Kennedy's Decision on Remand. The entire text of his remarks on this issue are:

> "In his oral argument, Mr. Lund articulated a more global concept of his appeal than the item-by-item approach he had taken in briefing. He suggested that the Planning Commission is engaging in de-facto rezoning –by-CUP. As one CUP after another is approved, the area gradually loses its mixed use character and becomes a hospital district, but the change occurs without the broader review and public process that would come with formal re-zoning.
>
> "This is a potentially serious concern. However Mr. Lund did not raise this as a formal point on appeal, and he did not brief it. This meant that other parties were not on notice that it would be argued. It therefore cannot be considered here."

record on appeal. I was guilty of this oversight because, in the rush and urgency of writing a cogent brief in the timeframe required by the appeal process, I failed to see the full implications of the changes taking place in this neighborhood. Thus, one of my primary goals in writing this letter is to raise this issue for your consideration and hopefully guide your thinking and decisions with input from a resident of the area who has watched it change for almost three decades.

Judge Kennedy's refusal to address the problem of rezoning by CUP was rather disappointing, but I was somewhat encouraged by rumors that the planning department and the Planning Commission are in fact considering the zoning status of the area around South Peninsula Hospital, an issue that is now being considered by the City Council. This is an issue that is mentioned in the current Comprehensive Plan and one that contemplates a change in the area that is necessary for Homer's growth and for thoughtful management of the community's health care needs. I fully endorse efforts to deal with the currently informally regulated expansion of health care facilities in the area surrounding the hospital, and in the following paragraphs, I would like to offer some suggestions on how the City of Homer might proceed.

To begin, I would like to urge the City to be completely transparent in its deliberation and to keep the public fully informed and fully involved in the planning and decision making process. This represents a bold and dramatic step in a new direction, one that will affect not only the local residents, but the entire town and many of the people who live on the Kenai Peninsula. Numerous consequences of a new zoning category and district come to mind, some of them beneficial to our community, some potentially harmful. For example: What will the impact be on South Peninsula Hospital? It is an excellent, award winning health care facility in which the people in its service area have invested considerable time, treasure and energy. It is a major employer in Homer (around 450 people work at SPH) and we depend on it for quality health care both at a technological level and as an attractor of a small army of outstanding health care professionals and specialists that were unheard when my wife and I moved into the area and were unimaginable when I was growing up in Kodiak in territorial days. South Peninsula Hospital is a priceless asset to the community—it should be protected and nurtured: We cannot afford to take it for granted.

Another aspect of creating a medical district is the potential unintended consequences of this change. Homer and the service area of South Peninsula Hospital are vitally dependent on the health care provided by SPH—any developments that would diminish the hospital's ability to function at its current level could be disastrous to the welfare of the community. Could something of the sort happen? It is in fact possible. It has happened elsewhere. It seems unlikely that it is possible to craft zoning regulations that would directly protect South Peninsula Hospital; however, I think it would serve the City and the community well to be conscious of the vulnerability of a small market (like health care in Homer, Alaska) to powerful, well financed interests from outside the community. Please refer to appendix IV for further elaboration.

Another trend that is apparent in the area around the hospital is the loss of natural vegetation and wildlife habitat as new development scalps the area one lot at a time. Despite the fact that there is no apparent requirement in the City Code that provides for the preservation of natural areas in Residential Office districts, the unintended consequences of the failure to make such provision diminish the appeal of this district and are probably contrary to the interests of the residents.

Furthermore it seems that these changes have an uneasy relationship with the Homer Comprehensive Plan. The current edition of the Plan (specifically the map on page A-10) identifies the area around South Peninsula Hospital as being a "medical district," without offering any specifics such as boundaries and defined zoning rules. Elsewhere the Plan also extolls the virtues and benefits of Homer's natural environment as well as affirming the friendly relationship between the City and its citizens and the plant and animal communities that share the area. In considering these parts of the Plan, a couple of questions arise: If the area around the hospital is indeed a medical district, why is it that the district is not formally declared as such, and new zoning for medical development not adopted? Presumably this would include clearly defining the types of development allowable in the new district, building standards, acceptable traffic volumes, boundaries for the new district and other issues, all of which will impact not just the neighborhood, not just the City but the entire area that South Peninsula Hospital serves. If we are to share our city with native plants and animals, why is the effect of current development so hostile to the dwindling stands of forest and to the animals who rely on that habitat for food and shelter? And finally, does development of this type contribute to the traditional ambience of Homer and to the sort of environment that much of the public likely prefers?

Only a couple of years ago in the area around my home there were healthy stands of spruce and alder that provided homes for birds and other creatures, shelter from winter winds, calving areas for moose and healthy topsoil and plant communities that controlled surface water and snow melt. Now those places compose a noticeably smaller portion of the area, and the satisfaction that many of the residents experience from living in harmony with the plants and animals that share our environment is a poignant loss. It is evident that contractors are often over-zealous in their efforts to clear a lot for subsequent construction activities, and in the process of removing trees that interfere with the planned building, they also remove vegetation that would not obstruct the builder's work. Frequently this style of site preparation involves removing trees that are protecting steep slopes, serving as windbreaks, visual screens and performing other useful functions. It seems likely that the criteria for granting building and conditional use permits should also include a review and acceptance or rejection of a plan for the preservation, removal and/or restoration of existing vegetation.

Indiscriminately clearcutting a new development simplifies the work and lowers the costs faced by developers and contractors, but that approach is not in the best interests of residents and the environment. The Comprehensive Plan stresses development that preserves the natural areas in Homer and supports the City's status as a home for native plants and animals as well as humans and the commercial activities that they establish.[2] It behooves planners to keep developers and contractors on a short leash, which would include due respect for native vegetation, birds and other animals and require them to provide for ample green areas as well as encouraging the retention of as much of the original vegetation as is practical. What this means is that the preservation natural areas should be included in new zoning and provision to replace vegetation lost in existing zoning should be required.

After completing and submitting my brief, I finally understood the pattern of change that is taking place in our neighborhood: The area *is* being rezoned, but the process is not being

[2] Please refer to Appendix II for specific references to the Homer Comprehensive Plan.

conducted by formal action and declared intentions. It is not available for public review and discussion, and in fact it is hardly apparent to the public at large. The only members of the public who are officially notified of these gradual changes are those who live in close proximity (300 feet) to a new development, despite the fact that the process of development, i.e. the continuing impact of numerous developments, affects the entire neighborhood and, ultimately, the entire city. This process of rezoning by conditional use permit seems to violate the spirit, if not the letter, of the Homer Comprehensive Plan and of the residential-office zoning of the neighborhood, and it is fundamentally undemocratic and disingenuous. It needs to stop, and instead of the current informal policy of rezoning by CUP, the City, the Planning Commission and the people of Homer should confront the process with carefully reasoned zoning rules, boundaries and public input. If a new zoning district for a medical district be required and accepted by the majority, then it should be recognized in the City Code and the Plan, and both the current and the new zoning districts be respected by appropriate development.

Thus I would like to offer some suggestions for the future of the area. First, I urge the Commission and the Planning Department to declare a moratorium on conditional use permits for non-residential development in the area until the issue of new zoning for medical development be addressed formally and publicly.

Second, notification for new developments requiring conditional use permits should be sent to all the residents of the district, not just the ones owning property within 300 feet of the project.

Third, I urge the Commission and Planning Department to reconsider the preservation of green areas and wildlife habitat in the area—if the current process continues unchecked, the neighborhood will be denuded of virtually all natural vegetation and wildlife habitat, an outcome that most residents probably oppose.

Fourth, building permits should be issued or denied on whether or not they conform to high standards for the preservation and/or restoration of existing vegetation.

Fifth, if a new medical zoning district be defined, I urge the Commission and the Planning Department to establish the west side of Hohe Street as the eastern boundary of the new district.

Sixth, if a new medical district is defined, I urge the City to rezone the Residential Office area to the east of Hohe Street as Urban Residential, thus protecting this predominately residential area from further encroachment by medical centers and other commercial development.

Seventh, increased traffic from the new medical district has the potential to severely impact the neighboring residential areas. The streets to the east of Hohe Street are heavily used by pedestrians, joggers, children at play, loose pets, people walking their dogs, cyclists and others using residential streets as extensions of their homes and transportation corridors to other areas. West Danview Avenue is a salient example of the way some of the residential streets are used by children, pedestrians and others. Currently the speed limit on West Danview is 25 mph. Given the number of children that use this street for recreation, this is too fast—the speed limit on West Danview between Hohe Street and Main Street should be reduced to 15 mph. These residential streets are typically without sidewalks, painted crosswalks identified by standard signs, signage

warning motorists of children and pedestrians, and adequate street lighting. This is probably OK if traffic continues to be light, serving only the residential areas. If the traffic impacts increase due to developments like the one proposed at 267 Cityview, innocent people, especially children, and pets will be put in substantial jeopardy.

A particularly egregious example of a street that is apparently in violation of the City street design standards is Main Street north of Pioneer. Fifteen years ago, Main was identified in the STIP as needing substantial upgrade—since then, nothing has changed[3]. Main is a major collector, a primary transportation corridor linking the residential areas north of Pioneer to the business district along Pioneer and to the south. A primary collector is required to have shoulders on both sides of the street, which Main Street lacks. It has no sidewalks, and there are few street lights. However, substantial numbers of people walk along both sides of Main travelling to and from the main parts of town. Most people wear dark clothing, frequently they walk with their backs to the traffic, often while talking on cell phones. The narrow shoulders, lack of sidewalks and snow and ice berms force them to walk in the traffic lanes…. Main Street is almost certainly the scene of a serious accident waiting to happen. It is not hard to imagine that that accident would be accompanied by a lawsuit that the City would very much prefer to avoid.

Finally, several individuals have presented cogent arguments related to CUP 18-09 concerning the impact of some types of medical development on our existing health care facilities. Certain medical uses, surgical centers, for example, could jeopardize the financial health of South Peninsula Hospital. Requirements for certificates of need are supposed to protect crucial health care facilities from unhealthy competition, but according to knowledgeable parties, it is easy to circumvent these requirements and threaten the welfare of institutions upon which the community depends. Therefore, I urge the City to carefully consider the unintended consequences of its decisions and ensure that South Peninsula Hospital and other key health care facilities enjoy unimpeded revenue streams and can continue to provide the community with the excellent service that we currently rely on.

[3] Please refer to Appendix III for details about Main Street as noted in the *Homer Non Motorized Transportation and Trails Plan*, 2004.

Appendix I
Summary of Recommendations

- 1. MORATORIUM: Conditional use permits for non-residential development in the Residential Office zone around South Peninsula Hospital should not be granted until the issue of new zoning for medical development be addressed formally and publicly.

- 2. NOTIFICATION OF PROPERTY OWNERS: When a CUP is issued, all property owners in the district should be notified, not just those within 300 feet of the project.

- 3. PRESERVATION OF GREEN AREAS AND WILDLIFE HABITAT**:** Existing natural vegetation should be preserved wherever possible in future developments, and efforts should be made to restore vegetation that was lost in past developments.

- 4. BUILDING PERMITS: Building permits should be granted only if they include a plan that conforms to the highest standards for the preservation and/or restoration of natural vegetation at the building site.

- 5. REZONING—MEDICAL DISTRICT BOUNDARY: If the area around South Peninsula Hospital is rezoned as a medical district, the west side of Hohe Street should be established as the eastern boundary of the new district.

- 6. REZONING—RO DISTRICT EAST OF HOHE STREET: If a new medical district is defined, the City should rezone the Residential Office area to the east of Hohe Street as Urban Residential, thus protecting this predominately residential area from further encroachment by medical centers and other commercial development.

- 7. POTENTIAL FUTURE TRAFFIC IMPACTS: Main Street and adjacent residential streets need warning signage, sidewalks, speed limit changes and other features to protect non-motorized users of the streets from traffic hazards.

- 8. PRESERVATION OF THE VIABILITY OF SOUTH PENINSULA HOSPITAL: South Peninsula Hospital is a vital health care facility whose viability and standards of excellence should not be jeopardized by future developments in the area.

Appendix II
References to the Homer Comprehensive Plan

Development in Homer should conform to the Homer City Code and to the Homer Comprehensive Plan. Immediately following, in italics, are two passages from the Comprehensive Plan. The first is from Chapter 4, Land Use, p. 4-4 and p. 4-5; the second is from Chapter 5, Transportation, p. 5-7 and p. 5-8.

Chapter 4, Land Use:

Goals & Objectives for Land Use

Goal 1: Guide Homer's growth with a focus on increasing the supply and diversity of housing, protect community character, encouraging infill, and helping minimize global impacts including limiting greenhouse gas emissions.

Objective B: Develop clear and well-defined land use regulations and update the zoning map in support of the desired pattern of growth. The Comprehensive Plan Land Use Recommendations Map establishes the location and intent of proposed land use districts, but does not address the standards needed to guide development. Implementation Strategies

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

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

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

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

Chapter 5, Transportation:

Goals and Objectives for Transportation

GOAL 3:

Homer's transportation system and services should be developed in a manner that supports community land use, design and social goals. Homer has expressed a consistent opinion as to how the city should grow and the "look and feel" that residents want for the community. Key desires include a more focused and walkable downtown, a more walkable and bike-able community, and the development of an attractive community that mirrors the natural beauty of Homer's setting. The community roadway system is an important component of Homer's development and plays an important role in whether the community's goals will be realized. In general, all of the pedestrian improvements noted in other adopted plans and included in this plan will benefit children, the elderly, and citizens with disabilities. Homer remains a desirable location for retirement living. As the population over 65 years of age continues to grow, consideration of the transportation needs of the aging population continues to be important. Without linked sidewalks, trails, crosswalks, and pedestrian ways, it is often difficult for seniors to navigate on foot and often impossible for those with disabilities that require a wheel chair. Additionally, there is a need for community transit type services to serve less mobile populations, such as seniors and residents with disabilities.

Objective A:

The trail and sidewalk network should provide an alternative to driving, enhanced recreational opportunities, and support auto-free transportation throughout the community. The 2004 Homer Non-Motorized Transportation and Trail Plan provides a comprehensive examination of walkability and bike-ability in Homer. The plan reveals a limited number of comfortable pedestrian routes and public concern over the lack of safe places to walk. A combination of increasing traffic on through-routes, limited sidewalks, and unconnected, low-traffic-volume streets has contributed to the shortage of comfortable pedestrian routes. In a small community, it is reasonable to expect substantial non-motorized travel if the trails and sidewalks are in place to support walkers and bikers. The plan suggests a number of improvements to make Homer more walkable and bike friendly.

Implementation Strategies

- *Encourage alternate transportation*

Objective B:

City street design standards and cross sections should be bicycle and pedestrian friendly, and include provisions for the elderly, citizens with disabilities, and safe walking routes for children.

As quoted above on page 2 "…it is necessary examine the direction and nature of these changes, specifically how do they conform (or fail to conform) to the principles outlined in the Homer Comprehensive Plan?" With reference to the passages from the Homer Comprehensive Plan, quoted above, Goal 1:

> "*Guide Homer's growth with a focus on increasing the supply and diversity of housing, protect community character, encouraging infill...."*

It is plain that the continuing process of rezoning by conditional use permit is decreasing the supply and diversity of housing as it buys and re-purposes existing residential buildings or uses undeveloped land for clinical uses rather than residential. Examples of the former are found in several formerly residential buildings on Bartlett that are now used for clinical purposes. Examples of the latter are the project at 267 Cityview and a medical clinic on West Fairview that is currently in the process of construction. Explaining how this creeping transformation of the neighborhood is failing to protect community character is hardly necessary—that is no less than its very nature. The development at 267 Cityview—this substantial portion of a city block—is the proposed home for a single medical center and a huge, 86 vehicle parking area. Absent is any of the original forest and animal habitat. If it had been developed for residential use, the same area could have contained at least five residential lots with perhaps as many as fifteen or twenty family units while retaining at least some of the original vegetation.

Objective B under Goal 1 begins with the following sentence:

> "*Develop clear and well-defined land use regulations and update the zoning map in support of the desired pattern of growth."*

This seems to be an unambiguous statement in opposition to the rezoning by CUP that currently prevails there. Development in the neighborhood of South Peninsula Hospital hardly seems to be in keeping with the principles expressed in Objective B.

It is appropriate to refer to two of the implementation strategies listed under Objective B, namely:

> *"•Revise zoning map*
> *•Encourage preservation of natural system infrastructures"*

Revision of the zoning map, versus what has occurred here, is an often repeated theme in the Comprehensive Plan. Also, the encouragement of natural system infrastructures was certainly not in evidence when the work at 267 Cityview removed all of the natural vegetation and topsoil, which had previously served as a buffer for rainfall and snow melt, and replaced it with several feet of compacted gravel, which is a pattern followed in most similar developments.

Objective C under Goal 1 states:

> "*Maintain high quality residential neighborhoods; promote housing choice by supporting a variety of dwelling options."*

Again, the process of development in the area being discussed is characterized by the disappearance of a high quality residential neighborhood in favor of medical uses and diminishing housing choices and a more limited variety of dwelling options. None of this follows the implementation strategy that calls for supporting options for affordable housing.

Chapter 5 of the Comprehensive Plan addresses transportation issues; it has quite a bit to say about pedestrians, children, cyclists and other non motorized uses of the streets and sidewalks. Goal 3, Chapter 5, expresses this very well:

> *"Homer has expressed a consistent opinion… that residents [desire]… a more walkable and bike-able community, and the development of an attractive community that mirrors the natural beauty of Homer's setting."*

The residential areas east of Hohe certainly represent the attainment of this goal; however, if one shifts one's attention to the recent development that has taken place on Bartlett north of West Fairview, one sees that the land use is telling a different story. That story is one of former residential areas and patches of natural vegetation that have been replaced by clinics and supporting businesses, parking lots, expanses of asphalt and compacted gravel. This is the land use that is already migrating across Hohe, the land use that is endorsed by the City's granting of conditional use permits.

Goal 3, Chapter 5, goes on to remark:

> *"In general, all of the pedestrian improvements noted in other adopted plans and included in this plan will benefit children, the elderly, and citizens with disabilities."*

This is exactly the situation that currently prevails on West Danview and many other residential streets in the neighborhood, and it is exactly the situation that this appeal and this brief are attempting to protect.

The following passage from Objective A under Goal 3, Chapter 5, indicates an ongoing problem, one that has been recognized for fifteen years and is being exacerbated by current development trends:

> *"The 2004 Homer Non-Motorized Transportation and Trail Plan provides a comprehensive examination of walkability and bike-ability in Homer. The plan reveals a limited number of comfortable pedestrian routes and public concern over the lack of safe places to walk. A combination of increasing traffic on through-routes, limited sidewalks, and unconnected, low-traffic-volume streets has contributed to the shortage of comfortable pedestrian routes."*

Finally Objective B points toward the desired direction for development. It is particularly germane in the context of Main Street, but it speaks to all areas of Homer, not the least of which is that part of the city in the vicinity of South Peninsula Hospital.

> *"City street design standards and cross sections should be bicycle and pedestrian friendly, and include provisions for the elderly, citizens with disabilities, and safe walking routes for children."*

The text of the Comprehensive Plan documents Homer's aspiration to greatness. The reality of development and the neglect of streets like Main street demonstrate how difficult it is to attain. Fortunately greatness is within reach, but it requires effort, courage and commitment to achieve it. Catering to expediency or unwillingness to do the hard work are unworthy of the City and its residents. The residents are entitled to expect that the goals of Homer Comprehensive Plan will be respected, and the important issues of streets and pedestrian friendly areas will not be ignored.

Appendix III
Recommendations for Main Street,
Homer Non Motorized Transportation and Trails Plan, 2004

Main Street north of Pioneer is a problem area. Being a collector of traffic from the residential areas, particularly to the north and east, Main Street already has a fairly large volume of traffic. Furthermore, Main is not well equipped to handle even the existing traffic—it is very poorly served with street lights; pedestrian/bicycle paths are very narrow, and ice and snow berms in the winter restrict the meager walkways and increase pedestrian hazards while simultaneously forcing pedestrians and bikes out into the traffic lanes. In short, Main Street is also an accident waiting to happen, and this situation can only get worse if commercial traffic from a medical district the west is directed to Main.

Main Street is identified as a major collector as is Pioneer. In the Alaska Department of Transportation's document, State of Alaska Road and Trail STIP Needs for Homer, Main was identified as having annual average daily traffic of 2,770 vehicles; Pioneer was identified as having daily traffic of 7,300 vehicles. Bartlett, a minor collector, had 1,270 vehicles (from table 1-8, State of Alaska Road and Trail STIP Needs for Homer). Predicted increases for the summer of 2021 are given in table 1-9 (*ibid.*) only for Pioneer and Bartlett; they are, respectively, 13,428 and 3,683. This indicates a 184% increase for the major collector, and a 290% increase for the minor collector. Extrapolating to Main Street, it can be expected to see the traffic to increase by a large amount; this increase could range between 5,097 and 8,033 vehicles.

Main Street is singled out in the *Homer Non Motorized Transportation and Trails Plan.* On page 15, Main Street is included in a list of streets identified by the following title: "Sidewalks should be added to the following streets:" Accompanying the list is a photograph of Main Street between Pioneer Avenue and the Sterling Highway (the view is looking south). Until this summer when construction began on the intersection of Main and the Highway, nothing had changed. The plan was written in 2004, fifteen years before the date of this writing.

Appendix IV

When the Homer Advisory Planning Commission met to consider CUP 18-09 on September 5, 2018, several individuals submitted letters and comments on the potential for negative financial impacts on South Peninsula Hospital and questioned the need for additional, large scale medical developments in the area. In this appendix I would like to further consider the significance of these concerns.

A zoning change could greatly improve the fortunes of SPH, increasing its income and prestige, expanding its facilities and attracting even more accomplished health care professionals to serve the community's needs. On the other hand, these changes could jeopardize the hospital's patient base and income and result in reduced employment, fewer and less advanced services and diminished access to quality health care. This is an important and somewhat obscure issue that deserves further elaboration. Part of the requirements spelled out in SPH's charter are that it accept indigent, medicaid and medicare patients. Since the hospital receives relatively modest reimbursement for these patients, this means that a substantial portion of the hospital's income derives from patients with good, private health insurance who can compensate for losses incurred by accepting financially insecure individuals. This puts SPH at a competitive disadvantage: If another health care facility that is not obligated to accept the financially insecure patient population were to enter the local market, it could charge lower rates and thereby siphon off many of the well insured patients upon whom SPH depends for solvency. The consequences for health care in the community could be severe. In a small market area like Homer, competition among evenly matched businesses can keep goods and services efficient and affordable; however, if the competitors are unevenly matched, the consequences can be devastating, and the result can be diminished services and higher costs.

Thus related issues ask for consideration before any final decision is made. For example: If new zoning facilitates were to enhance the development of additional medical facilities, will that attract large investments by non-local financial resources that would result in unhealthy competition and jeopardize the high level of health care that exists in Homer today? One approach to limiting unhealthy competition is by requiring certificates of need for new facilities. Unfortunately, certificates of need can be circumvented, and they do not reliably perform the way they are supposed to. So, can a new zoning district come with stricter requirements for certificates of need and other measures that can protect the community from damaging competition? These are issues that need to be approached carefully and thoughtfully—routinely granting conditional use permits is a policy that is likely to cause problems in the future.

Ultimately the question is: Is this all speculation, or does it have a real world meaning for Homer and the future of health care in the community? No one can foresee future events, but it is easy to examine the recent past and learn about the related problems that Central Peninsula Hospital in Soldotna had to deal with. The story is best told in an article published in the Peninsula Clarion, June 11, 2017.

Surgery Center of Kenai plans new operating room | Peninsula Clarion

Ben Boettger
8-10 minutes

Editor's note: This story has been changed to correct a reference to the 91 percent drop in Central Peninsula Hospital's net income, orginally referred to incorrectly as a drop in revenue.

The Surgery Center of Kenai plans to add a second operating room to its facility in Kenai, potentially increasing the competition for outpatient surgery procedures between the independently-owned surgery center and Central Peninsula Hospital.

State regulators will allow the surgery center — which specializes in outpatient surgeries, also known as ambulatory surgeries, that don't require an overnight hospital stay — to add its second operating room and two observation rooms after making a May 30 decision that the clinic will not need to get a Certificate of Need before building its expansion.

President Joseph Hurley of Alaska Medical Group Management, which manages the Surgery Center and other Alaskan medical facilities, said that having a single operating room "caused a big clog in our scheduling."

"This unclogs it, to have two ORs," Hurley said. "It helps round out some of the things we're already doing a little bit, and it helps us expand a little bit as far as some of the things we can do with the surgeons who are there and the operations they can do with their patients."

Central Peninsula Hospital in Soldotna — operated by the nonprofit Central Peninsula General Hospital, Inc. under lease from the Kenai Peninsula Borough, which owns the physical building and assets — has four operating rooms, the most recent added in 2012, which do both outpatient surgeries and inpatient surgeries which require longer hospital stays. In the past, CPH officials have said independent surgery providers take patients from CPH's outpatient surgery, lessening its ability to remain financially self-supporting.

CPH External and Government Affairs Manager Bruce Richards wrote in an email that the surgery center's new planned operating room and observation rooms "will cause major financial damage to CPH" by creating competition for surgeries.

"All outpatient surgeries completed in the surgery center since its inception are surgeries that would have been performed here at Central Peninsula Hospital," Richards wrote. "This has had a significant impact on the financial health of our community-owned hospital."

In 2014, CPH opposed the then-nascient Surgery Center of Kenai by declining a transfer agreement — an agreement required by the national Centers for Medicare and Medicaid Services for one medical facility to send patients to another in case of an emergency — with the surgery center, limiting the surgery center's potential customer base by making them unable to take Medicaid or Medicare payments. The denial led to the surgery center "being blocked from half of our patients by Central Peninsula's unwillingness to give us a transfer agreement," said the surgery center's vice president of outpatient surgery Harold Gear in a July 2014 Clarion story.

Hurley said his business budgets for 120 surgical procedures a month in its single present operating room. For outpatient surgeries such as hernia repair, hysterectomy, ear, nose and throat procedures, Hurley said that more limited surgery centers such as his offer a better deal than hospitals.

“The hospitals are huge organizations that are very expensive, and they’re expensive because all these different pieces of it are running parts that cost money,” Hurley said. “Our Surgery Center of Kenai is not a ginormous beast. It’s a lot smaller, a lot scaled-back. That’s what helps save costs.”

Directly comparing surgery prices, Richards wrote, is difficult because of the many variables in surgical practice and billing. The surgery center’s precise impact on CPH’s finances is likewise difficult to quantify, Richards wrote.

“Health care is changing so rapidly on so many levels that it would be difficult to attribute revenue changes to one thing with any sort of accuracy due to the compression that is occurring from payers,” Richards wrote.

CPH has experienced a 91 percent drop in net income between the first three quarters of fiscal 2016 and fiscal 2017, due to factors including higher deductibles and co-pays in commercial insurance plans, flat Medicaid reimbursement rates for the past two years, a decrease in commercially-insured patients caused by job losses and a lower number of elective inpatient surgeries which have been a large revenue source for the hospital in the past. Outpatient surgeries lost to the surgery center may also contribute to the drop, Richards wrote.

Hurley said he is also seeing a rise in Medicaid patients, both from increased unemployment and the state’s 2015 decision to expand Medicaid eligibility, and that the change “has dropped our volume considerably.” Though the surgery center can’t accept Medicaid payments without the CPH transfer agreement, Hurley said they are nonetheless getting a sufficient volume of patients to need a new room.

Certificate of Need

Alaska’s Department of Health and Social Services attempts to control medical costs by limiting medical groups from spending more than $1.45 million on expanding their facilities unless DHSS judges the investment is necessary. The agency’s Office of Rate Review permits medical expansions by granting a certificate of necessity.

When the Surgery Center of Kenai began construction in January 2014, it spent roughly $1.13 million to install one operating room and one procedure room — for smaller surgeries that can be done with local, rather than general, anaesthesia — in the medical complex at 100 Trading Bay Road in Kenai. Because this cost was below the $1.45 million threshhold, the Surgery Center was allowed to progress without a certificate of necessity, the Office of Rate review announced in July 2013.

In its expansion, the surgery center is planning to add a second procedure room and two observation rooms as well as the new operating room. With the addition — expected to cost $678,376 — the surgery center’s total construction cost since opening will be $1.81 million. Though the total is more the threshold for the Certificate of Need, attorney Peter Deimer argued in a letter to DHSS on behalf of the surgery center that the two constructions are separate rather than two phases of one project. DHSS concurred in a May 30 response.

Failure to get a Certificate of Need has ended other local independent medical initiatives, including a previous attempt to open an independent surgery center in Kenai by Kahatnu Ventures, LLC, a group of eight local surgeons who in 2011 planned to make Kenai the location of a $9 million surgery center expected to perform 1,800 outpatient surgeries per year — more than the 1,700 annual outpatient procedures CPH performed at the time, according to previous Clarion reporting. The group failed to get a Certificate of Need in April 2012 and unsuccessfully appealed the denial the following month. A DHSS

analysis made during Kahatnu's Certificate of Need process estimated that, using different projections of population and surgery demand, the Kenai Peninsula Borough would need between 3-4 operating rooms through 2019.

With six operating rooms in the central peninsula, Richards wrote that DHSS — which considers all facilities within a service area in its methodology for issuing Certificates of Need — is unlikely to give certificates to any further operating rooms. More stringent hospital building requirements would not allow new operating rooms at CPH to be built below the expense threshold, Richards wrote.

23-hour observation rooms

The observation rooms the surgery center plans to build are described in its correspondence with DHSS as "23-hour observation rooms." Many commercial insurers define 24 hours under medical care as the dividing line between inpatient and outpatient procedures, which are billed and paid for differently. Richards wrote that with the observation rooms, the surgery center will "be able to do surgeries that would otherwise be considered inpatient surgeries, causing further harm to the hospital."

Hurley said the surgery center's focus on outpatient surgery complements CPH rather than competes with it. With additional facilities offering outpatient procedures, he said, the hospital would be able to devote more resources to speciality services, such as the catheterization lab CPH is planning to build.

"Everyone can be succeeding together, and nobody will have to be worried about, 'Is one going to succeed at the cost of another?'" Hurley said.

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