HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
SEPTEMBER 15, 2010

Session 10-16, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 7:00 p.m. on September 15, 2010 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, DRUHOT, HIGHLAND, KRANICH, MINSCH, VENUTI

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK JACOBSEN

APPROVAL OF AGENDA

Commissioner Kranich requested that Borough Planning Commissioner Foster be added to Comment under Presentations.

The amended agenda was approved by consensus of the Commission.

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

There were no public comments.

RECONSIDERATION

There were no items scheduled for reconsideration.

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

1. Approval of the September 1, 2010 Minutes
2. Time Extension Requests
3. Approval of City of Homer Projects under HCC 1.76.030 g
4. KPB Coastal Management Program Reports
5. Draft Decisions and Findings for Conditional Use Permit 10-04 3685 Sterling Highway

The Consent Agenda was adopted by consensus of the Commission.

PRESENTATIONS

A. Borough Report from Borough Planning Commissioner Foster

Dr. Foster encouraged the Commission to be clear on their intent for items that go to the Borough Planning Commission for consideration. He explained that the HAPC took action regarding a subdivision in Old Town that involved an easement. An amendment was made that failed resulting in failing the approval of the plat. At the Borough level it wasn't clear what the Planning Commission wanted because they let it fail. They could look at what staff wanted and kind of see what the Commission wanted based on it failing. He recommended they make amendments to make it how they want it and pass it. In this case there was no statement made so it was not clear.

B. Staff Presentation on Draft Ordinances Regarding Site Development Standards and Steep Slopes by Planning Technician Engebretsen

Planning Technician Engebretsen said she gave this presentation earlier in the day at the Realtors luncheon. They invited over 40 contractor type business people and surveyors and only one came.

She went through the power point presentation with the Commission touching on steep slopes and bluff setbacks, grading and filling, and residential storm water plans.

REPORTS

A. Staff Report PL 10-83, City Planner's Report

City Planner Abboud reviewed his report that was included in the packet.

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 10-85, Ordinance 10-xx Amending 21.50 Site Development Standards to Require Storm Water Plans, Enacting 21.50.150 Fill Standards and Establishing Standards for Filling Land

City Planner Abboud said the presentation touched on this and he didn't have anything to add.

Chair Minsch opened the public hearing.

Beauregard Burgess, city resident, commented regarding the slope portion, that there is an overlap with other government agencies. When looking at working with a hydrologist or soil engineer you are looking at $8,000 to $10,000. He appreciates the intent of the slopes ordinance to allow people to develop larger aspects, where before they couldn't, but doesn't agree with mandating the use of an expensive third party to determine whether or not you can build on the steeper slopes. We should be wary of mandating this on a large scale without considering the bureaucratic strain it could put on city engineers, or an over worked planning department. You can't legislate for people to build intelligently, but you can provide guidelines. He just wonders if this is something that should be imposed on everyone due to costs and time lines associated.

Regarding fill, Mr. Burgess commented that he has a landscaping, dirt moving company and has concerns about limiting fill. If he can't take macro-woody debris that he is removing on one lot and place it on another lot than it ends up at the dump or puts a financial burden on customers and consumers in the city when lots need to be cleared. He wonders of there is a way to tone it back to larger projects or ocean side setbacks. He questioned if this is legislating ahead of our ability to effectively enforce or to have city resources for residents to turn to without giving them the flexibility that those of us without financial means could use.

Mr. Burgess responded to question regarding moving material from peoples lots. He explained that using non organic fill or construction debris is obviously undesirable. But if he has a customer who wants to clear a portion of their lot responsibility, to get the woody debris off the lot they can either bury it or burn it. He can take it to his lot process it, turn it to mulch for compost, use it for retaining walls, or other products he can sell. He has to take it to his own lot for processing, or he can take it to the dump, which costs money and in essence either becomes carbon in the atmosphere or turned into a land fill. You are putting a restriction on developers or smaller land owners on how they can use the material and process it effectively. He agrees with what they are trying to do with the ordinance to keep people from burying a lot of garbage but at the same time they want to allow for peoples rights to essentially assert their own aesthetic. A pile of logs or dirt one person may not like, may be able to be a valuable product to someone else and he doesn't think that should be mandated. We need to allow for those unanticipated situations.

Dr. Nancy Livingston, property owner in the city, asked the Commission to recall a photo from the presentation of two houses next to each other and between them a drainage and dirt fill issue in regard to that. It referred to a high field being built after a home was already built on one lot. Her lot is at 825 Soundview in Daybreeze Park Subdivision. The lot was previously owned; they are the third owners and were not participants in the development or placement of dirt or gravel. They purchased the home last August and remained in the home for five weeks. When she returned to the home in June she saw a similar situation to the one in the photo with the exception that the water wasn't there at that time because in June to late July there were substantial volumes of rain. In recalling the photo you see the five foot setback and the slope coming down to the common property line which runs approximately 123 feet from Soundview down to the acknowledged drainage. Their gravel, driveway, and walkway were destroyed by a 10 blade cat that came down, which they did not hire and knew nothing about. She thinks it is necessary to adopt this ordinance. Having to take legal action as she will have to do to redress her damages should not be a necessity for people of good will to purchase property and have a reasonable expectation that massive damage that can be guided by law and doesn't affect the development of this community. Dr. Livingston urged the Commission to support this ordinance so these circumstances do not continue to occur.

Kevin Walker, Kachemak City resident, commented regarding the storm water portion that small culverts often freeze and he worries about flooding with new development going on up hill from him. Three of the small culverts in the subdivision have frozen over the last two winters and that's what protects his home from the water coming down the hill. The back slopes are too steep at the 1.5 to 1 which is legal if it is engineered. But they put them everywhere and several failed including one on the uphill side of the street from him. When it failed all the dirt and grass seed went into the ditch. Now they have wonderful grass in the culvert, but not much room for water. It has glaciated the last two winters, closing the subdivision until city crews can open it up. He explained that he lives just below the entrance of the Canyon Trails Subdivision on Golden Plover and borders city of Homer property.

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

KRANICH/VENUTI MOVED TO TAKE NO ACTION UNTIL AFTER THE NEXT PUBLIC HEARING.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Staff Report PL 10-84, Ordinance 10-xx Amending Draft Steep Slope Ordinance

City Planner Abboud said the presentation touched on this and he noted one technical issue on line 100-106 he believes the Commission intended to require setbacks from steep slopes also. If that was the intent it can be added to lines 103 and 106.

Question was raised on line 99 if it should state the property owner should have an engineered site plan with approval of City Engineer. City Planner Abboud noted it is in the section for site plans requirements. It could be redundant to put it in the section that requires an engineered plan. He will check the formatting.

It was suggested on line 154 where it references requirements for slope development, that it should say steep slope development. City Planner Abboud said no because the ordinance references graduated degrees of slope.

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

KRANICH/HIGHLAND MOVED TO TAKE NO ACTION UNTIL AFTER THE NEXT PUBLIC HEARING.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

C. Staff Report PL 10-81, CUP 10-08, 5655 Scenic Place/Bed and Breakfast

City Planner Abboud reviewed the staff report.

There was no applicant or representative present and Chair Minsch opened the public hearing. There were no public comments and the public hearing was closed.

BOS/HIGHLAND MOVED TO BRING STAFF REPORT PL 10-81 TO THE FLOOR FOR DISCUSSION.

There was no objection and discussion ensued.

Commissioner Kranich argued that if the residences are currently being used or have been used then item e in the staff report is incorrect since the buildings have already been occupied.

The Commission also discussed the access to the cabin off Skyline Drive and access to the residence off Scenic Place.

The Commission took a break at 7:58 so the City Planner could get an aerial map. The meeting resumed at 8:10.

City Planner Abboud reviewed the aerial photo and continued discussion of access. It was noted that the frontage on Skyline will have to be handled through DOT as it is a state right-of-way.

BOS/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 10-81 CUP 10-08 5655 SCENIC PLACE/BED AND BREAKFAST WITH STAFF RECOMMENDATIONS.

There was further discussion that the access and encroachment for the cabin will be addressed when the cabin is moved, and that the residence driveway was adjusted to rectify the encroachment of the access to Scenic Place.

MINSCH/KRANICH MOVED TO AMEND ON PAGE 34 TO READ: "PLANNING COMMISSION APPROVE CUP 10-08 WITH THE FOLLOWING CONDITIONS." AND DELETE THE REST OF THE SENTENCE.

There was brief discussion.

VOTE: (Amendment) NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

BOS/KRANICH MOVED TO ADD RECOMMENDATION 3 THAT THERE BE PROOF OF LEGAL ACCESS TO THE NORTH DRIVE OF SKYLINE DRIVE, INCLUDING A DRIVEWAY PERMIT.

Comment was made that it is helpful when an applicant or representative is present to answer questions.

VOTE: (Amendment) NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was further discussion for more appropriate language for the finding.

KRANICH/HIGHLAND SO MOVED TO AMEND THE FINDING UNDER E AS FOLLOWS: THE WELL AND SEPTIC ON THE NORTHERLY STRUCTURE SHALL MEET STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (AKDEC) STANDARD PER HCC 21.12.040 RURAL RESIDENTIAL DIMENSIONAL REQUIREMENTS PRIOR TO FURTHER OCCUPANCY.

There was brief discussion.

VOTE: (Amendment) NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was no further discussion of the main motion as amended.

VOTE: (Amended Main Motion) NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PLAT CONSIDERATION

A. Staff Report PL 10-82, Bouman's Bluff Lost 2 Preliminary Plat

City Planner Abboud reviewed the staff report.

John Bouman, applicant had no comments but was available for questions.

There were no public comments.

BOS/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 10-82, BOUMAN'S BLUFF LOT 2 PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was brief comment about lot size and driveway conditions that were addressed as requirements when the CUP was approved previously.

Mr. Bouman responded to Commission question explaining that they will get a driveway permit and also that they will be closing on the adjacent property to the west that already has a driveway on it and intend to resolve access problem by using that if necessary.

KRANICH/HIGHLAND MOVED TO AMEND STAFF COMMENT 4 TO STATE THAT PLAT NOTE TWO WILL BE AMENDED TO COMPLY WITH THE RECOMMENDATION.

There was no discussion.

VOTE: (Amendment) NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the main motion as amended.

VOTE: (Main motion as Amended) NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PENDING BUSINESS

A. Staff Report PL 10-87, Draft Spit Comprehensive Plan

Planning Technician Engebretsen and the Commission reviewed and discussed the revised Draft Spit Comprehensive Plan provided by the consultant, and considered options to get it out to the public and have an open house on October 13.

The Commission took a short break so staff could get copies of the changes from the consultant at 8:57 p.m. and resumed at 9:10 p.m.

Commissioners expressed concern regarding the consultant's changes regarding the comments of the leases, and questioned what else she may have changed.

The Commission agreed they would read through the plan and get comments to staff by the end of the week so they can go ahead and get the plan out for review and public comment.

MINSCH/KRANICH MOVED TO MOVE THE HOMER SPIT COMPREHENSIVE PLAN ON TO THE NEXT STAGE OF PUBLIC INPUT.

There was discussion reiterating that the Commission needs to review and get comments they may have to staff as soon as possible.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 10-90, Draft Rezone Ordinance

City Planner Abboud reviewed the staff report.

BOS/KRANICH MOVED TO BRING TO THE FLOOR FOR DISCUSSION THEN SCHEDULE THIS FOR PUBLIC HEARING.

There was discussion about item c and the way the ordinance ties in with the Comprehensive Plan.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

There were no new business items scheduled.

INFORMATIONAL MATERIALS

A. Ordinance 10-41(A), An Ordinance Amending Sections of Planning Administrative Appeals

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

Beauregard Burgess, city resident, commented about the steep slope ordinance. He realizes the benefit of the proposed ordinance is to get better controls and address important issues for the community at large. Legislating solution and the process to resolve the problems limits the process and recourse the public has to work within the system. He noted an example of different ways of dealing with waste fill. Mr. Burgess suggested ideas of minimum lot sizes, not having a mandate for specific professionals prepare drawings, as that is costly and can be time consuming, and just adds another layer of bureaucratic process. He also suggested a time line for City Engineer review of a proposal so people can plan their process with a certain amount of guarantee of what to expect. Regarding fill issues he can understand not

wanting certain kinds of debris to be used, but certain type of organic material that is ground down or certain kinds of concrete can serve well for a base and not pose a threat or problems for surrounding home owners or future homeowners of the property being filled. He thanked the Commission for their time.

COMMENTS OF STAFF

City Planner Abboud wanted to acknowledge and pat his staff on the back. They have been working hard and getting a lot of stuff done.

COMMENTS OF THE COMMISSION

Commissioners Druhot, Kranich, and Venuti had no comment.

Commissioner Highland commented in the Journal she saw an article about new ways to weigh the economy and the environment. She thanked everyone.

Commissioner Bos thanked the staff for all their hard work, and Rick, and our Clerk. Most of the times it makes their jobs easier and just a few occasions where it is more difficult.

Chair Minch said the Commission continues to do great work and she appreciates them more than they know.

ADJOURN
There being no further business to come before the Commission, the meeting adjourned at 9:45 p.m. The next regular meeting is scheduled for September 15, 2010 at 7:00 p.m. in the City Hall Cowles Council Chambers. There is a worksession at 5:30 p.m. prior to the meeting.

Melissa Jacobsen
MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: October 6, 2010