

Session 15-16, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Stead at 6:30 p.m. on October 21, 2015 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, BRADLEY, ERICKSON, HIGHLAND, STEAD STROOZAS, VENUTI

STAFF: CITY PLANNER ABBODD
DEPUTY CITY CLERK JACOBSEN

Approval of Agenda

Chair Stead called for a motion to approve the agenda.

HIGHLAND/BRADLEY SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Public Comment

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

Reconsideration

Adoption of Consent Agenda

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

- A. Approval of Minutes of October 7, 2015
- B. Time Extension: Misty Mountain Preliminary Plat

Chair Stead called for a motion to approve the consent agenda.

BOS/HIGHLAND SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Presentations

Reports

A. Staff Report PL 15-72, City Planner's Report

City Planner Abboud reviewed his staff report.

Public Hearings

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

A. Staff Report PL 15-68, CUP 15-05 Conditional Use Permit at 315 Klondike Avenue to increase the building setback in the Town Center District

City Planner Abboud reviewed the staff report.

Sam Means, Kachemak Heritage Land Trust Board President and Mandy Bernard, Kachemak Heritage Land Trust Conservation Director addressed the commission.

Mr. Means commented that he worked with Kachemak Heritage Land Trust (KHLT) staff to prepare the application to help relieve some of the staff's workload.

Ms. Bernard commented that the information in the packet explains what they are hoping to do. She summarized the history of the property and the means by which KHLT came to own the land in 2002. They are currently using the original cabin as the KHLT office location. KHLT has worked with the Rivers, Trails, and Conservation Assistance Program (RTCA), a program under the National Park Service that helps their partners give their community something to last a lifetime. RTCA assists with strategic planning, project visioning, and things of that sort. They have been assisting KHLT with planning for a future public park, including an expanded office on the property. She reviewed some of the future improvements and things currently happening on the property. Ms. Bernard explained that KHLT is a growing non-profit organization and in the past 6 years has gone from one full time and three part time employees to four full time and one to two part time employees. The building proposed in the application will serve as interim office space for two staff members until a permanent office space can be built. There is an existing outbuilding on the property that will be torn down and the proposed structure will be put in its place. This is a small part of the bigger effort that they are working toward.

Chair Stead opened the public hearing.

Bob Shavelson, Executive Director of Cook Inletkeeper, commented that KHLT adds a lot to the community and appreciates their work with land owners to heighten the value of property in the area. He supports their project.

There were no further comments and the hearing was closed.

In response to questions from the Commission, Ms. Bernard reiterated they are seeing this building as a temporary space. She explained part of the work of RTCA is focusing on the public park but also acknowledging they intend to continue the KHLT office space there. There are architects who are helping them think through building to accommodate future needs. This proposed structure will be built on pilings and depending on future needs it could be sold or repurposed for another use. A new building for permanent office space wouldn't be built for another 5 to 10 years.

Mr. Means also responded to questions. He explained that he had a pre-application meeting with the Fire Marshall who walked him through the application. He found out today that they are just starting their formal review and doesn't anticipate any hitches. He further explained that the building will be handicap accessible and there isn't an issue with not having a toilet in the building.

City Planner Abboud confirmed KHLT is planning to place a 20' x 12' structure on the property. Mr. Means concurred that is correct.

Ms. Bernard reviewed some of the trail work and other improvements they are considering in their work with the RTCA.

Mr. Means confirmed they will be using a licensed electrical contractor, and will only work with licensed contractors as per their company policy.

VENUTI/HIGHLAND MOVED TO APPROVE STAFF REPORT PL 15-68 AND CUP 15-05 AT 315 KLONDIKE AVENUE TO INCREASE THE BUILDING SETBACK IN THE TOWN CENTER DISTRICT WITH FINDINGS 1 THROUGH 10 AND CONDITIONS 1 THROUGH 5.

Commissioner Highland acknowledged the Commissioners received Frank Griswold's comments and it looks like those things have been addressed by Mr. Abboud's response. She noted he had some interesting comments.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Staff Report PL 15-73 Amending the Bridge Creek Watershed Protection District standards for impervious coverage

City Planner Abboud reviewed the staff report.

Chair Stead opened the public hearing.

Bob Shavelson appreciates the additional consideration of this issue. He commented about the importance of maintaining the most valuable resource of the city's drinking water, particularly as we grow. He commends the planning staff for trying to add some specificity on what mitigation components look like. He still has questions about why there was a selection of a 10 year rain event for three hours and would like to understand the rationale for it. He thinks there is uncertainty about topography and sheet fall, he doesn't know what that means in the context of individual parcels or in

the context of the larger watershed. When looking at the watershed he would erase the property lines because nature doesn't recognize them. He recommends making sure the mitigation plans are engineered and we understand if there is going to be retention basins, catchment walls, or whatever is going to be used to ensure they will meet the capacity that is needed. He also recommends including a provision for a periodic review by the Planning Commission of the development in that area and make findings on the percent of impervious cover in the watershed so we can have this discussion regularly. He also asked that commissioners who own property in the watershed announce it and talk about possible recusal because he thinks there is a self-interest component there.

Joel Cooper, resident in the Bridge Creek Watershed Protection District, echoes Mr. Shavelson's comments and reiterated the need for engineering of the means for mitigating storm water runoff. He expressed his continued concern for the concentrated area of the Kelly Ranch Estates and the large area of imperviousness, even if the rest of the watershed isn't developed, it becomes the conduit for all the pollutants that could run into the drinking water system. He agrees they need to be diligent in checking to see what's going on in the area. He also questioned if someone from the Planning staff actually goes out and reviews the work during the process. He appreciates the efforts that are being put forward here. The watershed ordinance is a living document and we want to keep revisiting it and keep doing what we can to protect our drinking water source.

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

City Planner Abboud said he doesn't think it's reasonable to expect property owners to build catchment basins the size needed for a 100 year storm. He explained that the 10 year three hour event is the same one used throughout the city where the requirement is necessary. One of the reasons is that there is data on that event. It is measurable and will slow things down and allow runoff to percolate through the soil, and formulas can be created to plan for mitigating runoff. Mr. Abboud added that planning staff spends a lot more time inspecting mitigation plans throughout the development process in Bridge Creek than anywhere else. He thinks the Commission, and others, are trying to get a plan that will enhance the ability to retain runoff on a property without necessarily having to go to an engineer for it. The idea was to get a developer responsible for it. City Planner Abboud said if he has questions on a mitigation plan he will run it by the City Engineer for input on whether the plan will work and for help in inspecting them.

Question was raised whether the ordinance should specify that the City Engineer be involved in the plans. City Planner Abboud doesn't recommend doing that. He will consult with the City Engineer, but it isn't the City Engineers job to make the mitigation plan for a property. He referenced the last plan the Commission reviewed where the Commission acknowledged the driveway was impeding the flow and came up with the idea that the property owner needed to work to have catchment on both sides of the driveway.

Commissioner Erickson reiterated her suggestion from previous discussions that the City needs to buy pieces of property that are coming available to help alleviate the development of property up there. She questioned if the City is actively pursuing it. She also noted in doing this ordinance it will allow the Planning Department to deal with most of the property owners before it makes it to the

Commission and anything more than what's in code will have to come before the Commission for further consideration. She questioned how many 2.5 acre lots in the Kelly Ranch Estates.

City Planner Abboud said the City has purchased foreclosure property in the watershed that was affordable. There has been other market rate property that there isn't a budget to purchase. With the current budget constraints he doesn't see the City being in a place to purchase property right now. He thinks there is up to 90 lots in the subdivision, but they aren't all developable. There is quite a large area they wouldn't expect to develop.

Commissioner Stroozas commented that after approximately 18 months of discussion, he thinks they have struck a reasonable balance on this. The whole idea was to enable small lot owners the ability to utilize more of their property without negative effect to the watershed. He thinks this document does that. In response to Mr. Shavelson's comment about property owners in the district, Mr. Stroozas clarified that he has made it known that he lives in the area. He noted that if he got an engineered study, as his neighbor did, his lot would very likely be excluded from the district because of where it sits on the corner of Skyline and Don's Drive. His neighbor to the west of Skyline and Don's Drive was excluded by an engineer's study. He was the first to file a mitigation plan in 2007 and at that time driveways were considered 100% impervious. He thinks they have made great strides here. He is built out anyway, but if the Commission feels he should recuse himself from further conversation, they will need to make that determination.

Commissioner Highland noted she has always been uncomfortable with the fact there are at least 80 lots of 2.5 acres. She has been uncomfortable where we are going because we are guessing. She agrees with something in the ordinance about public works personnel or somehow that we check on these properties and mitigation plans because it is our water source. When talking about staffing issues it worries her more because it almost seems it would be worth looking at having engineered reports if staff doesn't have the time.

City Planner Abboud commented about the liability and cost to having the City Engineer develop plans for property owners. He explained they do go up there several times throughout development in that area to monitor what is going on. The weak link is the long range of the development as these may require maintenance that property owners are responsible for. He thinks it will be important to keep reviewing this every five years is important. He doesn't think this is anymore detrimental that what we have in place now. He thinks the best thing is to leave this for now, and have greater protection the closer you get to the water and creek itself and have a community thought system. He thinks some of the biggest runoff in that area is from the roads, and who is mitigating that? We can put these additional things like monitoring and future review of the area and ordinance on their worklist to talk about.

Commissioner Highland raised the question about whether they need to address Mr. Stroozas participating in the discussions.

Deputy City Clerk Jacobsen reminded the Commission that they addressed Mr. Stroozas interest months ago when they began discussion. City Planner Abboud added that Mr. Stroozas is one of many in the area and this is not exclusive to his benefit.

Commissioner Erickson recalled they addressed it in the beginning and she felt the input of someone who has lived within the confines of the law would be an important part of their discussion. She personally has appreciated it. She also suggested on line 51 of the draft ordinance adding or an engineer's plan whichever is appropriate to the situation. It would give planning staff the flexibility to do what needs to be done.

City Planner Abboud responded that someone coming up with more than 50% either has a very unique piece of property or may be asking for a huge driveway. He doesn't want to say that someone can engineer their way out of something that might be considered excess. He thinks it should be something the Commission should consider.

Commissioner Bos said we've talked about this for a long time. He thinks they have addressed how minimally this is changing what was originally in the ordinance. He shares the concern with protecting the water and we have discussed things the City could have done to have made things better out there. For the amount of impact in the area and that the planning staff can give a person a number to target, we need to leave it to them to work with.

Commissioner Stroozas noted the objective was to save the applicant's time and provide clear and consistent expectations when developing in the watershed. We have to ask ourselves if the change in the ordinance achieves those objectives.

Chair Stead commented that was the reason the Commission reviewed this, but it is always their goal to keep the water clean.

Commissioner Erickson said ultimately for her, it needs to go back to where its one big piece of land. There has to be a way for people to work together to buy pieces of property, through the land trust or some way. It takes a lot of the risk out.

BRADLEY/BOS MOVED TO APPROVE THE DRAFT ORDINANCE AMENDING HCC 21.40.070 REQUIREMENTS, REGARDING STANDARDS FOR IMPERVIOUS COVERAGE IN THE BRIDGE CREEK WATERSHED PROTECTION DISTRICT AND FORWARD IT TO CITY COUNCIL FOR PUBLIC HEARING AND ADOPTION.

Commissioner Bradley commented about something brought up last meeting that could relate to zoning for marijuana. They had talked about chemicals and output related to cultivating in the district and how it could impact the runoff to the water source.

Commissioner Venuti commented that he still doesn't see the science to justify this change.

Commissioner Highland commented this started because a realtor came in and wanted them to lessen the requirements for development. On one side she feels they need stronger regulations to protect the water source, but they sent it to council, who sent it back. She questioned what happens if they decide they don't want to make any changes.

City Planner Abboud explained the Commission can make a recommendation, but regardless it will go back to City Council at their next meeting. He can't predict what will happen there. He thinks this is

clearer and changes anything other than making it easier for someone to get a permit. After being asked how many permits have been issued in the last three years, Mr. Abboud said there have only been a dozen since the district was initiated, so one or two a year.

Discussion ensued regarding cultivation and it was noted that this action relates to the draft ordinance on impervious coverage standards and cultivation can come up as another agenda item.

VOTE: YES: BOS, ERICKSON, STROOZAS, BRADLEY
NO: STEAD, HIGHLAND, VENUTI

Motion carried.

Chair Stead called for a recess at 7:56 p.m. and the meeting re-convened at 7:59 p.m.

Plat Consideration

Pending Business

A. Staff Report PL 15-74, Zoning for Marijuana

City Planner Abboud reviewed the staff report.

Commissioner Erickson feels that the 200 foot buffer around the parks should be increased at Jack Gist Park and at Hornaday Park. There are narrow roads and people walking around. She expressed her concern about drug use and parties. There are already problems in both parks and she suggested they be considered drug free zones.

Commissioner Bos expressed his concern with allowing any of the activity in rural residential. He thinks it would be detrimental to the value of neighboring properties. He recognizes it's just a building and a business, but suggested they consider lot size in the rural residential areas.

Commissioner Venuti commented he doesn't think legal pot in Homer is going to suddenly increase the number of users. People are already using it now and anyone can get it as it is right now. He thinks there is a bigger danger of drinking and driving in our community.

Commissioner Highland asked what this might look like. City Planner Abboud reviewed some of the regulations and restrictions involved in having business related to marijuana including lighting, video monitoring, security measures, disposal plans, etc. He anticipates minimal traffic from the activities in rural residential areas. On larger lots, a small scale cultivation operation probably won't be noticeable.

Concern was raised throughout the discussion regarding limiting the number of operations that can be licensed within the city. City Planner Abboud commented they could address it but it will probably be a requirement in a different section of code. They also talked briefly about taxation and how much interest they have heard at the CAC about people wanting to start businesses.

ERICKSON/HIGHLAND MOVED THAT CULTIVATION, MANUFACTURING AND TESTING ARE ONLY ALLOWED IN INDUSTRIAL ZONES AND MANUFACTURING WOULD HAVE TO HAVE A CONDITIONAL USE PERMIT.

City Planner Abboud clarified that the industrial zones are East End Mixed Use or General Commercial 2 and not in commercial districts like CBD, Town Center, GC1, or residential the gateway district or Bridge Creek.

There were opposing comments that the motion is overly restrictive and different activities should be allowed in the other districts. The legislation is clear and restrictive enough on how these activities can occur.

Supporting comments included we don't have to be like Palmer and ban it completely, but it is an intoxicating substance and it would be better starting with tighter restrictions that can be reviewed and relaxed if needed as time goes on. It would be better than starting with looser restrictions and have to deal with nonconforming uses if they need to tighten things up.

VOTE: YES: HIGHLAND, ERICKSON, STROOZAS
NO: STEAD, VENUTI, BRADLEY, BOS

Motion failed.

The Commission considered the options presented for rural residential limited cultivation standards:

Option A: No small scale growing allowed, only personal use as allowed under the law.

Option B: Conditional Use Permit Standards

- Activity would be allowed outright on 40,000 sq ft lots
- Minimum lot size is 20,000 sq ft, and a CUP required on lots 20,000 sq ft -39,999 sq ft
- New structures built for cultivation should be at least 20 feet from the nearest lot line. The goal would be separation between the grow and neighboring property. Grows may include exterior lighting, security cameras and occasional smell – theoretically there won't be any odor.

Comments included

- 40,000 sq ft lot eliminates a lot of in town lots, maybe it should be larger, but this is a good start
- A limited amount of cultivation operations allowed in rural residential, not four in the city

VENUTI/STROOZAS MOVED THAT WE ADOPT OPTION B FOR RURAL RESIDENTIAL.

City Planner Abboud commented that he isn't sure of the best way to address permits for an existing structure. It might insinuate that an existing structure would be allowed to be closer than 20 feet. It is something they will need to talk about.

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After brief discussion City Planner Abboud suggested it may be best to deal with existing structures through the CUP process.

It was suggested that increasing the 40,000 sq ft would offer more of a buffer from neighbors. Point was raised that an acre is a lot of room and it will ultimately depend on placement of the grow structure.

VOTE: YES: STEAD, BRADLEY, STROOZAS, BOS, VENUTI
NO: ERICKSON, HIGHLAND

Motion carried.

ERICKSON/BOS MOVED THAT THE PARKS BUFFER BE THE SAME AS A SCHOOL, SPECIFICALLY AT JACK GIST AND HORNADAY PARK OF 1000 FEET.

It was expressed that this is overly restrictive and a majority of the people who use Jack Gist are adults who play on the ball fields and Frisbee Park. Hornaday has the playground, but also a nice campground. If the goal is to limit the number of intoxicated people at the facilities, limiting the buffer zone doesn't do that.

City Planner Abboud noted that Hornaday Park is in residential office, and you can't do anything there anyway.

VOTE: YES: BOS, ERICKSON
NO: BRADLEY, STEAD, STROOZAS, VENUTI, HIGHLAND

Motion failed.

VENUTI/HIGHLAND MOVED TO ONLY ALLOW CULTIVATION IN THE COMMERCIAL AREAS WITH A CONDITIONAL USE PERMIT.

Chair Stead clarified that includes central business district, GC1 and town center district.

Question was raised why they would allow growing in the middle of town square. It has been suggested in the past that area would be more for stores, parks, entertainment and the arts, things like that. It can be hard to deny a CUP if it fits all the criteria.

BOS/HIGHLAND MOVED TO AMEND AND REMOVE THE TOWN CENTER DISTRICT.

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.

BOS/VENUTI MOVED TO LEAVE THE INDUSTRIAL AS IS ON THE CHART (Small and large scale primary permitted use) AND TAKE LARGE CULTIVATION OUT OF THE BRIDGE CREEK AREA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

BOS/BRADLEY MOVED THAT MANUFACTURING BE ALLOWED BY CUP IN GC1, BY CUP IN GC2, AND PERMITTED IN EAST END MIXED USE.

Comment was raised that east end mixed use includes residential.

HIGHLAND/BOS MOVED TO AMEND TO INCLUDE A CUP FOR MANUFACTURING IN EAST END MIXED USE.

It was noted for clarification that with the amendment all allowed manufacturing will be in commercial and industrial and will be subject to a CUP.

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.

HIGHLAND/BRADLEY MOVED THAT TESTING BE ALLOWED AS THE CHART SHOWS.

Chair Stead clarified that with this motion testing would be allowed in commercial and industrial as an allowed activity.

BOS/ERICKSON MOVED TO AMEND THE MOTION TO INCLUDE THE SAME VALUES THAT THE MANUFACTURING HAS. GC1 IN COMMERCIAL, AND EAST END MIXED USE AND GC2 IN INDUSTRIAL ALL AS CUP.

It was clarified that the manufacturing and testing are completely separate operations, and also that testing could be done on product that comes in from all over the state. Point was raised that local cultivators could also send it out of town for testing and that it could be onerous to have a CUP.

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It was suggested this is a good place to start, and they will have the opportunity to add CBD later if it seems reasonable.

VOTE (Amendment): YES: BOS, ERICKSON, HIGHLAND
NO: VENUTI, BRADLEY, STEAD, STROOZAS

Motion failed.

Commissioner Erickson feels there are people who will be very offended by these activities.

VOTE (Main motion): YES: STROOZAS, VENUTI, BRADLEY, STEAD
NO: ERICKSON, BOS, HIGHLAND

Motion carried.

HIGHLAND/STROOZAS MOVED TO ALLOW RETAIL IN COMMERCIAL AND INDUSTRIAL WITH A CUP.

There was brief discussion.

HIGHLAND/BOS MOVED TO EXTEND THE MEETING ADJOURNMENT 15 MINUTES UNTIL 9:45 P.M.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

BOS/HIGHLAND MOVED TO AMEND TO INCLUDE MARINE COMMERCIAL AS CUP.

There was brief discussion recognizing that it will be important to get public input for these activities. It was noted that they recommended testing be allowed outright with the understanding that it will be a laboratory environment.

VOTE (Amendment): NON OBJECTION: UNANIMOUS CONSENT

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

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

City Planner Abboud expressed his frustration with having to take these recommendations to the Cannabis Advisory Commission.

Commissioner Bos reiterated that this is a good place to start and there may be some changes here and there after they get public testimony.

New Business

Informational Materials

- A. City Manager's Report October 12, 2015
- B. 2015 Commissioner Attendance at City Council Meetings

Commissioner Bradley confirmed she will plan to report at the November 23rd City Council meeting instead of November 9th.

Comments of the Audience

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

Comments of Staff

City Planner Abboud thanked them for their work on the marijuana zoning. There is a diverse group of views and it will hopes they will get more public members providing feedback on this.

Comments of the Commission

Commissioner Stroozas echoed that this is a good place to start. They did good work.

Commissioner Venuti said it was a good meeting. He commented that the Borough provided iPads to the Borough Planning Commissioners. He thinks it would be a good idea for the City to follow suit as it will save time and money in preparing and producing meeting packets. He recognized that some aren't computer savvy and could still receive a paper packet.

Commissioner Bos said it was a good meeting and it is nice that they can talk amongst each other at the meeting on these topics. He knows they don't have it all right, but it will get figured out. He will be absent until mid-December.

Commissioner Erickson said it's been an awful week and wished everyone a great week.

Commissioner Bradley said it was a great meeting and thanked everyone.

Commissioner Highland had no comment.

Chair Stead agreed it was a good meeting. He appreciates their comments and concerns. They are coming to an abrupt cliff and at some point will have to step off and see what happens. He thinks they made some good steps tonight toward getting there.

Adjourn

There being no further business to come before the Commission, the meeting adjourned at 9:42 p.m. The next regular meeting is scheduled for October 21, 2015 at 6:30 p.m. in the City Hall Cowles Council Chambers. A worksession will be held at 5:30 p.m.

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MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____