

Session 17-10, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Don Stead at 6:30 p.m. on August 2, 2017 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, STEAD, ABRAHAMSON, BANKS AND VENUTI

ABSENT: COMMISSIONER HIGHLAND

STAFF: CITY PLANNER ABBOD  
PLANNING TECHNICIAN BROWN  
DEPUTY CITY CLERK KRAUSE

The Commission met in a worksession prior to the regular meeting at 5:30 p.m. On the agenda was the proposed ordinance to allow one Recreational Vehicle as an Accessory Use in the Marine Commercial Zoning District. Members of the Port & Harbor Advisory Commission were invited to attend.

### **APPROVAL OF AGENDA**

Chair Stead called for a motion to approve the agenda.

BOS/ABRAHAMSON– SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **PUBLIC COMMENT**

### **RECONSIDERATION**

### **ADOPTION OF CONSENT AGENDA**

A. Approval of minutes of July 19, 2017 regular meeting

Chair Stead requested a motion to approve the consent agenda.

ABRAHAMSON/BOS – SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **PRESENTATIONS**

### **REPORTS**

A. Staff Report PL 17-66 City Planner's Report

City Planner Abboud reviewed his staff report commenting on the ordinance to sell a remnant lot and subsidized transportation services in Homer. He requested volunteers to attend upcoming Council meetings.

Commissioner Bos volunteered for the August 28<sup>th</sup> Council meeting and Chair Stead volunteered for the October 23<sup>rd</sup> Council meeting.

Commissioners Abrahamson commented that since she has been appointed to the Borough Planning Commission she would be unable to attend the council meetings.

City Planner Abboud extended information on the scheduled August 24<sup>th</sup> FEMA Resilience meeting and suggested that the commissioners may find it interesting and could attend the event.

### **PUBLIC HEARINGS**

A. Staff Report PL 17-67, Section Line Easement Vacation Request at 4160 West Hill Road Lot 1 of Ditton 2014 Replat T6S, R14W, SEC 13, S.M.

Chair Stead read the title into the record and requested to hear the staff report.

City Planner Abboud provided a summary review, referenced the map depicting the area and recommendations for the Commission.

The applicant had no presentation and was available for questions.

Chair Stead opened the Public Hearing for testimony, upon hearing no testimony the Public Hearing was closed. There were no questions from the commissioners.

Chair Stead requested a motion.

BOS/ABRAHAMSON - MOVED TO APPROVE STAFF REPORT PL 17-67, SECTION LINE EASEMENT VACATION REQUEST AT 1105 SEASCAPE DRIVE<sup>1</sup>, LOT 1 OF DITTON 2014 REPLAT T6S, R14W, SEC 13, S.M. WITH STAFF RECOMMENDATION GRANTING A 30 FOOT WIDE SEWER LINE EASEMENT TO THE CITY OF HOMER.

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<sup>1</sup> This address was listed incorrectly on agenda. Correct address is 1105 Seascapes Drive. Information in motion changed to reflect proper address.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. Staff Report PL 17-72, Conditional Use Permit 17-04 for Four Dwellings on a Lot at 3101 Kachemak Drive

Chair Stead read the title into the record and requested staff to present the report. Planning Technician Brown provided a summary report noting the following:

- This was postponed from the July 19, 2017 regular meeting
- Additional material has been provided by the applicant
  - o Scaled 1:20 Site Plan showing two eastern most dwellings have been combined into one duplex
  - o Additional parking for a total of 6 spaces
  - o Elevation Drawings of proposed buildings and existing buildings
  - o Updated narrative reflecting the changes
- Two single family homes and duplex on 2.37 acres
- Average slope of the lot limits development to 25% per city code and this development only uses 12.5% or 12,000 square feet.
  - o Provided clarification of the steep slope setback for the structures
- Reviewed the findings and recommended condition regarding downward lighting

Chair Stead called for the applicant to present to the commission.

Josh and Liz Garvey Applicant and Bill Hand, Contractor provided a brief presentation to the Commission and touched on their appreciation for the input and concerns received from their neighbors and the assistance from the Planning Department in navigating this process.

The applicant provided the following:

- Historical ownership information on the property and reasons for developing the property
- Development is necessary due to the high costs of assessments for utilities
- Their development plan is conscious of the Comprehensive Plan and compliant with all regulations.
- Previous conditional use permits that have been issued on property in the same area
- The proposed development provides needed housing options for the community
- Preserving the bluff is of great concern and consideration

Bill Hand commented on the development plan and concerns related to the following:

- Rebutted that compaction and hydrologic impacts as presented in the packet have no impact on this project
- Footprint of the two dwellings will be on pilings

- Physical measurements were taken on the location of the Artist Studio in relation to the bluff

Chair Stead opened the Public Hearing for testimony.

Troy Jones, resident of 60 plus years, commented he has performed construction and erosion repairs on the bluff and this property is located further along and in his opinion the area is not an extreme erosion with the strata is sloping away from the bluff taking water away. He recommended approval, citing the intent to clean up the lot and offering a place where people can stay for a long period of time. He believed that the city needed to encourage development like this; he believed the applicant was addressing all the issues and concerns. Mr. Jones added his experience building.

Mike Yourkowski, owns the property on the west side of the applicant, commented on wanting to see more analysis on bluff erosion and water issues, but he recalled an incident from 15 years ago on his efforts to subdivide his property and the results of an opinion on the rate of erosion versus the area under roof. When he moved to the property 25 years ago he has lost only about 1.5 feet, he has noticed more alder at the tow of bluff, he has built since first moving there two high tunnels and a shop and hasn't seen any increase in erosion and recommended the commission approves the request.

Chair Stead reminded that this was a continuation of a public hearing and requested any additional testimony at this time. There was no additional testimony and the Chair closed the Public Hearing.

Planning Technician Brown responded to hydrology reports were included in the packet since they are not experts on the matter, he further noted that page 92 in the packet, a letter to State of Alaska Department of Transportation dated November 11, 2003, Geoff Coble reported on hydrology impacting the bluff, this report was included to show the impacts.

Mrs. Garvey, applicant, responded that they reviewed the study and opined that it focused mostly on the road and that humans were the biggest impact to erosion and that they would be looking at various materials and plants to assist in preventing erosion along with placement of a rain garden and plants that require more water and would help preserve the land.

Mr. Garvey, applicant, again acknowledged and appreciated the concerns and input from their neighbors and noted that their neighbor on the east had requested additional and larger parking places and they have accommodated her request noting that they share a driveway. He went on to state that only two neighbors have voiced concerns and opposition and while they appreciate their neighbor's concerns no factual information has been provided regarding their proposed development and this development is no more so than their neighbors. They are intending to protect their investment for the future and future generation.

Chair Stead inquired if the rain gardens, vegetation and retaining walls were included in the submitted plan? Mr. Garvey responded that they were not in the submitted documents.

Commissioner Venuti questioned the artist's studio was not permitted and his understanding that the property was in the family and how that came about? Mr. Garvey responded that his brother in law was the previous tenant and built the structure. They were unaware that it was not a permitted structure.

Mr. Hand confirmed for Commissioner Venuti that the proposed structures were being built on pilings and were over one story. Commissioner Venuti stated that according to code they needed to be an engineered design. Mr. Hand was unaware of that requirement.

Commissioner Abrahamson inquired if the applicant had considered the stated erosion prevention methods transferring risk to adjacent properties from those additional seawalls and hardened surfaces. Mr. Garvey responded that they had not since they were in the beginning stages and at this time speaking with the property owners adjacent to his property. Commissioner Abrahamson opined that they are surrounded by great experts and would be more than happy to offer suggestions. Mr. Garvey added that Mr. McCarthy has offered several helpful suggestions.

Commissioner Abrahamson then addressed the tipped strata and expressed a concern regarding the redistribution of surface water along the utility corridor so that any impervious surface the project has may impact Kachemak Drive, in accordance with testimony, statements from the applicant and included reports; she recommended to the applicant to look into the stated strategies of rain gardens and such and the impact those strategies would have on that redistribution of near surface water.

Mr. Garvey agreed and stated that he was under the impression that the neighbors wanted it to run away from the bluff to avoid running off the bluff, stating that the study had been that the pressure on the bluff had been pushing it (water) to the south and where you can see the water pushing through the bluff, eroding it further in the winter; they have designed the drainage plan to move the water away from the bluff; Mr. Garvey noted the installation by the state of Alaska cross section drainage which allows the water back through the road to the other side as well.

City Planner Abboud responded to Commissioner Abrahamson regarding the addition to impervious surfaces, slow erosion and bluff collapse and the effects to neighboring properties but that is not part of this conditional use permit or it would have to be addressed.

Planning Technician Brown confirmed that the planned development would not trigger a storm water plan since it was well below the 25,000 square feet.

Commissioner Banks questioned the drainage through the parking area and if the applicant consulted an engineer on the size of culverts to be used.

Mr. Hand responded that one culvert has been planned for in the development and no engineer has been spoken to with the exception of the size required to handle the weight of a large vehicle the size of a fire truck. This culvert is planned for the new driveway.

Planning Technician Brown provided clarification on the application of HCC 21.44.020 and 21.44.050 in relation to development of the lot since the reported slope was 22% for Commissioner Banks. He then requested a moment to further review the code.

City Planner Abboud stated his understanding, since they are not digging into the slope, and creating an erosive situation, but they are on a plateau and not changing the vegetation.

Commissioner Venuti inquired the same, and if it requires a site plan. City Planner Abboud answered that this does not since it does not exceed 25% and they are not developing a steep slope, the development is not impacting the slope such as driving vehicles on the slope, etc. If the applicant was creating a slope or introducing abundant fill or taking away, then it would, the applicant is only constructing a driveway.

Planning Technician Brown reported, reading from Homer City Code, 21.44.030 (b) Area of Development

1. Except where the City Engineer approves a site plan under HCC 21.44.050 that provides for a larger area of development, the area of development on a lot with an average slope:

a. of 15 to 30 percent shall not exceed 25 percent of the total lot area.

So if the Applicant was proposing to develop more than 25% of the lot then the Steep Slope requirements would be applied including items that would require approval by the City Engineer.

Commissioner Bos reiterated that there is a 22% slope, which gives the applicant 25% to build on and the dwellings are less than 10,000 square feet, and the Artist's Studio complies with the established setback. Staff concurred.

Chair Stead requested a motion.

BOS/BANKS - MOVE TO ACCEPT STAFF REPORT PL 17-61, CONDITIONAL USE PERMIT 17-04 FOR FOUR DWELLINGS ON A LOT AT 3101 KACHEMAK DRIVE WITH FINDINGS 1-11 AND THE FOLLOWING CONDITIONS: OUTDOOR LIGHTING MUST BE DOWNWARD DIRECTIONAL AND MUST NOT PRODUCE LIGHT TRESPASS OR GLARE PER THE COMMUNITY DESIGN MANUAL AND HOMER CITY CODE 21.59.030

Chair Stead requested a second to the motion.

Commissioner Banks questioned if they had to make a decision at this meeting. Chair Stead stated that the commission can move it to deliberation and that there is a motion on the floor that deserves a second. City Planner Abboud commented on process for Commissioner Banks.

Discussion ensued on the facts of the conditional use permit application and proposed development versus historical and current conditions regarding bluff erosion, water hydrology, effects on property and road in the area and Homer City Code requirements. Additional points were made on the historical erosion was great during certain periods of time in the 1960's and 1970's but since then has been minimal and may have reached its natural angle of repose, there is no reports or hard evidence to state that it has, personal choices aside, this development meets established city code, there is no significant life safety or density impact.

City Planner Abboud provided direction on procedural avenues that the commission could take regarding the application reminding the commission that the need to make a finding on the convincing evidence and how that applies and approve the CUP or the commission must apply a condition that may be adequate to address the goals that commission believes need to be addressed. The commission would have to come up with defensible findings based on evidence that was heard.

VENUTI/ABRAHAMSON – MOVED TO AMEND THE MOTION TO INCLUDE SUBJECT TO A SITE PLAN BY A QUALIFIED GEOTECHNICAL ENGINEER TO INCLUDE LOCATION OF WATER COURSES, WETLANDS, EXISTING AND PROPOSED STRUCTURES, SITE TYPOGRAPHY WITH VERTICAL INTERVAL OF FIVE FEET, LOCATION OF ALL EXISTING BUILDINGS, DRIVEWAYS AND STREETS, LOCATION OF EXISTING VEGETATION TYPES, SPECIFIC METHODS TO CONTROL SOIL EROSION, SEDIMENTATION AND EXCESSIVE STORMWATER RUNOFF.

A brief discussion between Commissioner Venuti and City Planner Abboud ensued.

Deputy City Clerk Krause stated that there was a motion on the floor that needed a second for discussion.

Commissioner Abrahamson seconded the motion.

Discussion continued on the concern for site stability and examples were provided using Ocean Drive Loop seawall and the bottom of West Hill and if this development would not create another liability.

VOTE. (Amendment) NO. BANKS, VENUTI, STEAD, BOS, ABRAHAMSON

Motion failed.

VOTE. (Main) YES. ABRAHAMSON, BOS, STEAD, BANKS  
NO. VENUTI.

Motion carried.

Chair Stead called for a recess at 8:00 p.m. The meeting was called back to order at 8:07 p.m.

**PLAT CONSIDERATION**

A. Staff Report PL 17-62, Mariner Village 2017 Preliminary Plat

Commissioner Venuti declared a conflict of interest that the applicant is a valued client and a good friend. Deputy City Clerk Krause clarified the level of remuneration for the Chair.

ABRAHAMSON/BOS – MOVED THAT THERE WAS A CONFLICT OF INTEREST.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Stead requested to hear Staff Report PL 17-62, Mariner Village 2017 Preliminary Plat

City Planner Abboud reviewed the staff report stating that this action shifts a common lot line between lots by seven feet as a new residence was built too close to the lot line and this action solves the encroachment.

City Planner Abboud further noted that the Plat meets all requirements however Public Works is requesting a 15 foot utility easement fronting the right of way and staff recommendation includes property owner contacting the Corps of Army Engineers prior to any onsite development or construction activity to obtain the most current wetland designation (if any.) Property owners are responsible for obtaining all required local, state and federal permits.

There was no applicant present.

Chair Stead opened the public testimony, with no public present he closed the public comment period.

ABRAHAMSON/ BOS – MOVED TO APPROVE STAFF REPORT PL 17-62, MARINER VILLAGE PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS ONE AND TWO.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.



Commissioner Venuti returned to the table.

B. Staff Report PL 17-69, Commercial Park Unit 1 Preliminary Plat

Chair Stead read the title into the record. Commissioner Banks declared that he has a business within the 300 feet distance and confirmed that he received a notice of the action.

City Planner Abboud clarified that normally the commissioner will be questioned and if it was a Conditional Use Permit he would be excused from the action but he will let the Commission proceed from here.

Chair Stead inquired a series of questions as follows of Commissioner Banks with this resulting responses:

1. Is there a financial interest of gain in this property? No
2. Do you know the applicants? No.
3. Do you live close to the property and received notice? No, his place of business is within the distance, providing the address.
4. Will there be any issue making a fair and honest judgement? No, he believes he can make a fair and honest judgement, the property in question has no access to his property but he is willing to recuse himself if the commission determines it best he do so.

BOS/ABRAHAMSON – MOVED THAT COMMISSIONER BANKS HAS NO CONFLICT.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Stead requested City Planner Abboud to review his report.

City Planner Abboud stated that a correction was required for the acreage reported which should reflect 40 acres total. He noted the following in his review:

- East End Mix Use District.
- This revised plat creates 8 additional lots
- Extending Water & Sewer so there are no individual septic systems, the infrastructure is not in service so has not been accepted for city maintenance.
- This was before the commission last year and approval was recommended however the phasing has changed. Platting Phase 1 allows the developer to begin selling those lots.
- Phase 2 contains wetlands and developer is working with the Army Corps of Engineers on permitting and mitigation

- Applicant is dedicating Ternview Place and Little Fireweed Lane as multipurpose trail routes in the Homer Non-motorized Trail and Transportation Plan. The Plan does not include proposals for bike lanes or pedestrian trails in this area. Staff does not recommend additional easements for multipurpose trail within the subdivision.
- Recommends requesting an exception to Kenai Peninsula Borough Code 20.30.030, to allow phasing without through street dedication until such a time as the developer can dedicate and construct street to city specifications. The rights of way around the parent tract will be dedicated in Phase 1, and Kilokak Lane will be dedicated and constructed in Phase 2.
- Public Works requires a development or construction agreement.
- Fire Department noted the benefit of fire hydrants to potential businesses
- Staff recommends the Property owner contact Army corps of Engineers prior to onsite development or construction activity to obtain the most current wetland designation (if any.) Property owners are responsible for obtaining all required local, state and federal permits.

There was no applicant present. Chair Stead opened the public comment period in view of no public in the audience, Chair Stead closed the public comment period.

Commissioner Abrahamson stated she was familiar with the preliminary plat and questioned permitting in the wetlands in Phase 2. City Planner Abboud responded that the developer will usually end up with a general permit. The developer will address the issues with the Corps since he would be unable to sell the lots.

Chair Stead requested a motion hearing not further questions from the commission.

BOS/ABRAHAMSON – MOVED TO APPROVE STAFF REPORT PL 17-69, COMMERCIAL PARK UNIT 1 PRELIMINARY PLAT WITH RECOMMENDATIONS ONE AND TWO:

1. PROPERTY OWNER CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLAND DESIGNATION (IF ANY). PROPERTY OWNER RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE AND FEDERAL PERMITS.
2. REQUEST AN EXCEPTION TO KENAI PENINSULA BOROUGH CODE 20.30.030, TO ALLOW FOR PHASING WITHOUT THROUGH STREET DEDICATION UNTIL SUCH A TIME AS THE DEVELOPER CAN DEDICATE AND CONSTRUCT THE STREET TO CITY SPECIFICATIONS.

There was a brief discussion on

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **PENDING BUSINESS**

- A. Staff Report 17-71, Proposed Draft Ordinance to allow one Recreational Vehicle (RV) as an Accessory Use in the Marine Commercial Zoning District

Chair Stead read the title into the record. City Planner Abboud noted the discussion held during the worksession and will bring back a Staff report addressing those recommendations and concerns for the next meeting.

The Commissioners continued discussions and recommendations to use to draft an ordinance using a RV as a dwelling unit for caretakers, employees or business owners on the Spit. The commission expressed allowing this use in the commercial and industrial areas going forth in drafting the ordinance – particular issue in both areas is people camping on the spit in the winter which was noted that they could allow temporary usage from April 15-Sept 15 in one area of the spit that would assist in not having derelict RV's all over on the spit. That would allow the lessee to come and earlier or later than those dates they can rent a camping spot for a few weeks.

There was no further discussion.

### **NEW BUSINESS**

#### **INFORMATIONAL MATERIALS**

- A. City Manager's Report for July 24, 2017 City Council Meeting  
B. KPB Notice of Decisions:
- Bay View Subdivision 2017 Replat Preliminary Plat
  - Foothills Subdivision Sunset View Estates Addition No. 3 Preliminary Plat
  - Sterling Highway & Main Street Intersection Improvements Right-of-Way Acquisition Plat

There were no comments or discussion on the materials provided.

### **COMMENTS OF THE AUDIENCE**

#### **COMMENTS OF STAFF**

Deputy City Clerk Krause commented that tonight was interesting and she is learning quite a bit.

#### **COMMENTS OF THE COMMISSION**

Commissioner Banks commented on a fun way to get started with the commission.

Commissioner Venuti welcomed Commissioner Banks.

Commissioner Bos welcomed Commissioner Banks and commented that he did a great job. He requested page numbers on the Chair's Agenda from the Clerk and commented on the decisions made tonight based on the rules, law and code tonight.

Commissioner Abrahamson welcomed Dale to the commission and reported that she was appointed to the Borough Planning Commission. She feels that they help property owners make decisions through education on best practices for shoreline stabilization and green infrastructure. NOAA has just published new green infrastructure database which is a new resource, and she has spoken to Julie about bringing a workshop to the commission; this is available online; she is looking forward to the Community Resilience workshop meeting through FEMA, she is interested in learning how to improve the utility of the community rating system and using the risk maps assessments in their endeavors to improve Stormwater management in the city.

Chair Stead welcomed Commissioner Bos and Commission Banks, he said they will enjoy this and it is nice to have comments and banter between them and appreciated the efforts to keep him on task.

#### **ADJOURN**

There being no further business to come before the Commission, Chair Stead adjourned the meeting at 8:39 p.m. The next regular meeting is scheduled for WEDNESDAY, AUGUST 16, 2017 at 6:30 p.m. in the City Hall Cowles Council Chambers. There is a worksession at 5:30 p.m. prior to the meeting.

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Renee Krause, CMC, Deputy City Clerk I

Approved: \_\_\_\_\_