

Session 17-11, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Don Stead at 6:30 p.m. on August 16, 2017 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, STEAD, BENTZ, HIGHLAND AND VENUTI

ABSENT: COMMISSIONER BANKS

STAFF: CITY PLANNER ABBOD  
DEPUTY CITY CLERK KRAUSE

### **APPROVAL OF AGENDA**

Chair Stead called for a motion to approve the agenda.

HIGHLAND/BENTZ – SO MOVED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **PUBLIC COMMENT**

Catherine Ulmer, resident, a member of the Port and Harbor Advisory Commission, commented on the work that that commission has been doing to clean up the spit and as such they have been putting requirements into the leases, they govern the hours that businesses are open so that no one is out on the Spit late at night. There are rules about motorhomes on the spit and they do not want motorhomes used as caretaker residences. She did not support using motorhomes as caretaker residences on the spit. Ms. Ulmer recommended using the RV parks that is already established. She suggested instituting charging rates for those that want to be there beyond the regular season, suggesting \$75-\$100 per night, saying she would prefer seeing a connex attached to the building. Ms. Ulmer requested the support of the Planning Commission in maintaining the Port & Harbor's goals.

Ms. Ulmer affirmed for Commissioner Highland that she is representing the Port & Harbor Commission and the people who live in Homer.

Marcia Pierce, resident of Soldotna, owner of Sportsman Supply, has had her motor home next to the business on the spit for 18 years. Nothing bad about it very clean, she stated she maintains a home in Soldotna and she noted they reside in the motorhome from February to September every year. Ms. Pierce stated that she has her office in her motorhome and everything else she requires to run the business. The previous comment regarding one

motorhome on the spit is incorrect, Ms. Pierce noted that there are about 10 sites that had motorhomes on the spit. She did have a RV Park but this year it was taken away from her because she did not have 40,000 square feet. Ms. Pierce stated that her motorhome is fully functional and can be moved in case of fire or other hazard. She noted that it would okay to build a home down there but not a motorhome. She has had her motorhome there for 18 years and just renewed her lease for 20 years and would like to keep it there for her use.

## **RECONSIDERATION**

### **ADOPTION OF CONSENT AGENDA**

A. Approval of minutes of August 2, 2017 regular meeting

Chair Stead requested a motion to approve the consent agenda.

BOS/BENTZ – SO MOVED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **PRESENTATIONS**

### **REPORTS**

A. Staff Report PL 17-73 City Planner's Report

City Planner Abboud apologized for the confusion regarding the report in the packet and the correct one has been provided as a laydown. He reviewed his report and noted that the Council discussed budget priorities at the council meeting on Monday, August 14, 2017 he provided a memo on Cold Weather shelters which is included in the packet.

- extended invitation to the Commissioners to attend the FEMA Resilience meeting regarding natural hazards and mitigation of infrastructure is scheduled on August 24, 2017 in Council Chambers , 9:00-Noon

- Planning staff attended a Smart Growth seminar held by the Kachemak Bay Realtors spoke on funding available for small projects such as parks and gathering places and use of drones

- Requested volunteers to attend the Council meetings on September 11<sup>th</sup>, there was none forthcoming.

Commissioner Bentz requested the dates of the Council meeting to be noticed when the email stating the packet is ready to pick up would be good then commissioners can check their calendars and be prepared for the meeting.

Chair Stead inquired about the invitation to attend the Resilience meeting by FEMA and asked if this was about city infrastructure, Chair Stead inquired about sending notice to HEA, Enstar, GCI, etc.

City Planner Abboud requested contact information and he would be happy to send them a notice of the meeting.

Commissioner Highland commented that City Council did not appear to be aware of the meeting when she mentioned it. City Planner Abboud responded that he has one Council member on it.

### **PUBLIC HEARINGS**

- A. Staff Report PL 17-74, CUP 17-05 to Build a Structure for the Fabrication and Assembly of Boats at 3301 East End Road

City Planner Abboud provided a summary review, referenced a map depicting the area and noted the following:

- Lot is not currently served by Water and Sewer
- The proposed building will bring the coverage of the parcel from 12,900 sf to 22,000 sf
- Noticed that impervious coverage of the lot was expanded sometime between 2008 and 2016 resulting in an increase from 50% to 60% and required a Stormwater Plan
- Recommended a Stormwater Plan be prepared and required
- Fire Marshall approval is required
- Recommended Approval with Findings and Conditions

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.

BOS/VENUTI - MOVE TO APPROVE STAFF REPORT PL17-74, CUP 17-05 TO BUILD A STRUCTURE FOR THE FABRICATION AND ASSEMBLY OF BOATS AT 3301 EAST END ROAD WITH FINDINGS ONE THROUGH ELEVEN AND CONDITIONS THAT THE APPLICANT SHALL PREPARE AND INSTALL A STORM WATER PLAN IN ACCORDANCE WITH HOMER CITY CODE 21.75 AND FURTHER MOVE THAT THE STORMWATER PLAN BE SUBMITTED TO THE CITY BY FEBRUARY 28, 2018 AND INSTALLED BY AUGUST 1, 2018.

There was a brief discussion on the conditions.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Staff Report PL 17-75, Variance 2017-01 for a reduced building setback from the Sterling Highway at 3965 Sterling Highway

City Planner Abboud reviewed the Staff Report noting that they do not have this type of action before the commission very often. He noted the following:

- 1 acre lot with most having an 80% slope, narrow band of land generally 25 feet wide with a wider portion located on the easterly portion of the strip of land
- Roadway is 60 feet from property line
- Homer City Code requires 20 foot setback and property owner is requesting a 5 foot setback which still keeps the proposed building approximately 65 feet from the roadway, this action would be granting a 15 foot variance
- Proposed structure will be 420 square feet, with a rooftop deck and front porch/deck area

Findings:

1. Literal interpretations of Homer City Code would prevent the applicant from constructing a single family home on this property which is a land use commonly enjoyed by many other properties in the Rural Residential District
2. Special conditions exist on this property as it is located along a steep bluff and there is limited land suited to structures and parking. Steep slopes and bluffs are not uncommon in this district, but most lots contain suitable land area for a single family home without the need for a variance.
3. The steep slopes and bluff on this property are naturally occurring and not caused by the applicant.
4. The variance is not sought solely for financial hardship or inconvenience. The applicant must build within the 20 foot setback area if this lot is to be developed.
5. The applicant is not seeking a variance because of other nonconforming land use or structures within the district.
6. The applicant has applied for a 15 foot variance so that the structure can be as far as possible from the adjacent bluff and steep slope.
7. The applicant intends to build a single family dwelling which is a permitted use under HCC 21.12.020(a)

The Fire Department and Public Works had no comments.

Staff recommends approval of the variance with findings 1-7.

Mr. Bouman, applicant and his engineer, John Bishop were present for any questions that the commission may have or provide any clarification they may need on the project.

Chair Stead opened the public hearing for testimony, hearing none the public hearing was closed.

Chair Stead opened the floor to questions from the commission.

Commissioner Highland requested clarification on the location of the property, noting the erosion amount since 1958 averaged less than a foot per year and commenting on the future intent of the State to relocate the highway since this was an area of great concern due to the extent of future erosion.

Chair Stead commented on the proposed home and future owner's knowledge of the life expectancy of a structure on this parcel was approximately 18 years.

Commissioner Bos questioned if there were plans to lose the structure by the owner and if there would be any potential liability on the city if that were to happen. City Planner Abboud responded that he did not believe there to be any liability issues.

Commissioner Bentz asked if there were any detrimental impacts to the roadway by the project.

The applicant responded that he believed there were none. It was noted by the applicant that a planned 1500 sf total of surface will be made impervious and this is a net loss since there is a pre-existing impervious area already there. The driveway will allow for a three point turn so that vehicles will not be required to back out onto the roadway.

City Planner Abboud noted a State Driveway Permit was required.

The applicant assured Commissioner Highland that flooding was not the concern, slope is towards Diamond Creek, freeze-thaw was a main concern.

The applicant responded to Commissioner Bentz that he has not seen the report mentioned by Commissioner Bentz on concerns regarding bluff collapse report by a local geologist.

BOS/BENTZ – MOVED TO APPROVE STAFF REPORT PL 17-75 VARIANCE 2017-01 FOR A REDUCED BUILDING SETBACK FROM THE STERLING HIGHWAY AT 3965 STERLING HIGHWAY WITH FINDINGS ONE THROUGH SEVEN AND CONDITION ONE.

There was a brief discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

C. Staff Report PL 17-76, CUP 17-06 to Build a Dwelling within the Steep Slope setback at 3965 Sterling Highway

City Planner Abboud reviewed the staff report noting the following points:

- Project consists of a one acre lot most of which has a 80% slope
- To build on a steep slope the applicant must have a conditional use permit
- Neighboring property owner has expressed concern on the potential impact to their parcel by ground disturbance and removal of existing vegetation and has requested a requirement that the applicant be restrained from removing the vegetation from the ground but trimming to ground level to obtain the viewshed would be acceptable.
- The applicant wishes to build within 30 feet of the bluff and there is a 40 foot requirement in code.
- The home will be built with the ability to be removed on relatively short notice.
- The original plan submitted included a biocycle septic system with a drain field but based on the Public Works Director's review with Planning, the applicant has revised the site plan to reduce the area of disturbance and will use a holding tank.
- The applicant has discussed with Planning the life of the structure versus the rate of erosion and since the proposed structure will outlive the rate of erosion the applicant has offered to comply to following conditions:
  - The landowner shall provide a slope evaluation and site inspection in 10 years
  - The landowner shall provide a slope evaluation and site inspection if the bluff recedes to within 10 feet of the piling closest to the bluff.
  - Site ground disturbance shall be limited to the area encompassing the building, parking area and holding tank.
  - Do not alter ground vegetation outside of the construction area by mowing or creating a lawn area. Tree removal or trimming down to the ground level is permissible.
  - Project site development work must be completed by December 31, 2019. If it is not complete by that date then a new engineering report and steep slope plan must be approved by the Public Works Director prior to any additional ground disturbance.
  - The developer shall record a document stating that a CUP is on file with the Homer Planning Department. The purpose of this condition is to notify future property owners of the CUP and its conditions.

The recommendation from staff is to approve the CUP 17-06 with the Findings 1-7, 8A, 9 thru 12 and Conditions 1-6. Further if the Commission decided to deny CUP 17-06 they can use the Findings provided and any additional findings that they discuss.

Chair Stead inquired if the applicant had a presentation, there was none and opened the Public Hearing. Seeing no one coming forward to offer testimony the public hearing was closed.

The commission posed the following questions to the applicant:

1. How will the water runoff from the roof be handled since it appears to be a flat roof?

Answer from Applicant: The roof is a standard gable roof but will have a roof top deck over it so the runoff will be the same; they can install gutters to direct the runoff to a specific area. The applicant related that he has been building on the bluff of Baycrest for the last 18 years and takes remedial actions to assure the least impacts to the bluff.

2. Installation of the pilings for the structure, how will this affect the strength of the bluff?

Clarification from Applicant: The pilings will be 40 feet from the tip of the sloped surface so they will be a depth of 18 feet, these pilings will be drilled or screwed in and are load displacement piles used in situations such as is presented on this parcel. No vibrations result in placement since there is no hammering.

3. Are you as close to the bluff on the other projects that were constructed?

Response from Applicant: At Alaskan Suites, the structures were placed 14 feet from the edge of the bluff, this was prior to annexation, and there has been no loss of the bluff.

Mr. Bouman responding to Condition #4, requested an amendment to the condition in that they do not plan to dig up any trees but do want to remove the hummocks or root mat of the tall grass and then reseed via hydroseeding. This would result in a net loss of vegetation coverage.

Commissioner Bentz inquired what the impacts would be to reseed with grass instead of the native vegetation as far as root stabilization for the slope.

Mr. Bishop responded that the area in question slopes toward the highway and to the east and the function of the roots are different whereas if they were on the steep slope where the alders and other grasses are growing. This is where you would want the stabilization. The area in question does not move but the concern would be the infiltration that would eventually make its way towards the bluff and their revegetation plan does create any change. There would be no additional irrigation required with that either.

Commissioner Bentz then inquired that the conditions would be adhered to by the new property owner and the applicant responded that they would be required.

BOS/HIGHLAND - MOVED TO APPROVE STAFF REPORT PL 17-76 CUP 2017-06 TO BUILD A DWELLING WITHIN THE STEEP SLOPE SETBACK AT 3965 STERLING HIGHWAY WITH FINDINGS 1-7, 8A, 9-12, AND CONDITIONS 1-6.

Discussion ensued on the engineering backup provided, the risk of failure, the quality of the structure outliving the location, there is no liability to the city by allowing the project, the method of construction will not save the structure if the bluff fails in a natural disaster, the objective of the Commission is to protect the City interests and nearby property owners not the intents of the individual property owners; the owner and future owner are fully aware of the future possibility of loss and have implemented the use of innovative constructive methods; there is no other location on the property to build.

HIGHLAND/BOS – MOVED TO AMEND CONDITION FOUR TO ALLOW APPLICANT TO CREATE A LAWN AREA.

Discussion on the request made by the neighboring property owner and knowing the type of grass the property owner intends to remove and some possible benefits those root systems would offer to stabilizing the ground area, recognition that the area to be made into a lawn slopes away from the bluff; the value added to having a “lawn area”; limiting the lawn area to a specific square footage or location, difficulties in enforcement, tree removal versus tree trimming, and that this topic would need to be addressed separately.

VOTE. (Amendment). NO. VENUTI, STEAD, BOS, BENTZ, HIGHLAND

Motion failed.

HIGHLAND/BENTZ – MOVED TO AMEND CONDITION FOUR TO ALLOW A LAWN AREA OF 200 SQUARE FEET STAYING TEN FEET FROM THE EDGE OF THE BLUFF REMOVE THE WORD “REMOVAL”

Commissioner Bentz noted that the amendment does not address the clarification of tree removal versus tree trimming. She then asked if she could offer a motion that reflects commissioner Highland intent. Chair Stead allowed this action.

BENTZ/BOS – MOVED TO AMEND CONDITION FOUR TO READ, DO NOT ALTER GROUND VEGETATION OUTSIDE THE CONSTRUCTION AREA BY MOWING OR CREATING A LAWN EXCEPT AN AREA OF 200 SQUARE FEET, STAYING 10 FEET FROM BLUFF. TREE TRIMMING DOWN TO GROUND LEVEL IS PERMISSABLE.

Discussion ensued on the intent of the property owner for the lawn area so the square footage is arbitrary.

VOTE. (Amendment)YES. HIGHLAND.

VOTE. NO. BENTZ, BOS, STEAD, VENUTI.

Motion failed.



Commissioner Bos called for the vote.

Commissioner Bentz reminded the commission of the action at the last meeting regarding a project and steep slopes and that they were uncomfortable. She wanted to remind them where they have been and where they are going with these types of variances and setting precedence.

Commissioner Highland referenced Finding 8B and Chair Stead noted they are voting on Finding 8A so does not apply.

VOTE. YES. BOS, STEAD, VENUTI, HIGHLAND

VOTE. NO. BENTZ.

Motion carried.

Commissioner Bos departed the meeting at 8:15 p.m. Chair Stead called for a recess at the request of the commission. The meeting was called back to order at 8:20 p.m.

## **PLAT CONSIDERATION**

### **PENDING BUSINESS**

A. Staff Report 17-77, Recreational Vehicle (RV) as Employee Dwelling Units

Chair Stead read the title into the record. City Planner Abboud commented on the discussion the commission had during the worksession at the previous meeting and noted the following:

- Current regulations allow RV's up to 90 days, but not allowed to hook up to city water and sewer
- There are a total of 22 lots in Marine Commercial and Marine Industrial
- The language proposed is conceptual the city attorney will draft the actual ordinance
- The Port and Harbor Advisory Commission voted six to one in favor of further exploration of the idea
- Some items to determine or clarify were:
  - o Allowable number of RV's per lot
  - o Allow hook up to city water and sewer
  - o Length of time - Permanent? 4 months? April 1- October 1?
  - o Should the RV be registered? Operable? The only other place that Title 21 addresses registered vehicles is in the definition of junk.

Commissioner Highland noted that a short report of what was discussed at the worksession would have been very helpful in the minutes since she was unable to attend the last meeting. She was unaware how this could be accomplished but it would be a value added to the minutes. She asked if a memo was received from the Port & Harbor Commission.

City Planner Abboud explained that there was a discussion with the Port and Harbor Advisory Commission and they voted six to one in favor of further exploration of the idea and the information in the packet represents what came from the prior meeting and worksession. He further noted that nothing was set in stone and there was still plenty of time to discuss and change things. The questions and concerns were listed and the definition of RV is for temporary use. The Planning Commission would work on it and have public hearings and they could adopt the code and see how it goes and make changes as necessary.

Discussion ensued on the following:

- concept to allow the RV's to encourage business
- the community value; there is an allowance to bring in a structure in the code, differs in residential areas
- improvements to lots
- the prevalence of RV's currently on the Spit
- the cost of an RV which is a self-contained living space
- defining it as an accessory dwelling unit would cause conflict within in the city code
- keeping it consistent in the code to just allow it for 90 days is really stringent and not necessary
- intent or purpose of the need of an RV for an employee, caretaker or business owner
- the number in non-compliance is unknown currently
- preference not to allow more than one RV per lot whether Marine Industrial or Marine Commercial
- allowing hookup to city water and sewer
- imposing a time frame with consideration of the ability to hook up to water and sewer was considered
- 

Commissioner Highland questioned the member in the audience regarding usage of water and sewer and her response revealed that before city water and sewer was activated they use the city public facilities across the street and then they had their own water and sewer hookup for the season, it was determined that no time frame be implemented. The commission expressed concerns regarding the vehicles being road worthy including road legal and noted that motor homes do not detract from Spit.

Further discussion covered the following:

- Sending a memo to the Port and Harbor Advisory Commission on the proposed regulations
- Enforcing the regulations and current staffing limitations will make it very difficult for the Planning Department to enforce these new regulations
- Preference to make an annual inspection and or renewal of a permit and since that would only apply to 22 lots this should not prove to be too onerous on staff
- Regulations that require 40,000 sf for a RV park were reviewed briefly and the situation on why the one was not allowed or renewed.

Commissioner Bentz stated that how it was worded in the packet would suffice and could be included in the annual permit requirement on hooking up to city services.

City Planner Abboud will bring the Commission's recommendations to the Port and Harbor Advisory Commission for review and comment.

**B. Staff Report 17-78, comprehensive Plan Update – Chapter 6 Public Services and Facilities**

City Planner Abboud commented that they were almost down to the final stretch. He stated that this represents the formatting changes, includes staffing levels desired, equipment priorities, increasing volunteers, providing ample public safety. These are the first two objectives and there are still several more to work on.

Commissioner Highland inquired if it was true on the number reflected in the statement on page 122 under Objective A, Current Status, fifth line, approximately 30 individuals support the department's staff.

City Planner Abboud responded that the Chief's reviewed this and provided the information.

Commissioner Highland then questioned, on page 123, Under Near-term Priorities, line 9, in 20XX?

City Planner Abboud responded that he will need to research what year that should reflect. He also noted that the Police Department is now fully staffed for officers.

Commissioner Bentz requested clarification on the agreement with Kachemak City and KESA, then noted the budgets referenced should reflect 2017 not 2016. She inquired when the expected publication of the revised document would be in 2018.

City Planner Abboud was unable to pinpoint a date for publication but was hoping to get it through the public outreach, public hearings and the Borough before the close of 2018. He additionally provided clarification on the percentage of crime shown on page 124 for Commissioner Bentz.

**NEW BUSINESS**

**INFORMATIONAL MATERIALS**

A. City Manager's Report for August 14, 2017 City Council Meeting

**COMMENTS OF THE AUDIENCE**

Sarah Vance, city resident and candidate for City Council, stated she came to learn what this commission does and now has a greater sense of respect for each of member who sits in that

position. The responsibility that they take, the decisions that are presented she is very impressed. It gives her assurance that the decisions coming forth to City Council are weighed very carefully. She has noticed some available seats and will encourage people to apply for them. She asked about using RV's as employee dwelling units, why the term employee instead of proprietor? Are they trying to fill needs for employment or the proprietor to take care of their business? Will this change code or zoning if the RV's are attached to the business/units or if the business owner wants to charge the employees rent for providing them a place to live in the RV?

City Planner Abboud responded that it is kind of a caretaker or third party that has a relationship with the business owner. As far as rent that would be beyond the Planning department and almost impossible to oversee, it would additionally be similar to an RV park and that is not what they want.

Ms. Vance noted that if rent is charged it would then make it accommodations, correct.

Commissioner Venuti asked if rent was charged what difference would it make. City Planner Abboud noted that it would not since there would be no way that they could control that.

#### **COMMENTS OF STAFF**

City Planner Abboud commented that they will keep working on things with the Comprehensive Plan, there are no public hearings scheduled and he is actually scheduled off for the first week in September.

Deputy City Clerk Krause had no comments.

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

Commissioner Highland stated that Ms. Vance brought forward a good point on why would it be labeled employee why not employee/owner? Just an idea.

Commissioner Bentz formally provided notification of her name change. She asked if there was nothing for CUP was there a possibility of the meeting being canceled.

City Planner Abboud responded that he was trying to allude to that possibility in his comments noting that the Port & Harbor will not have their recommendations for the ordinance, he has not received any applications for CUP's, plats, etc., so it will be up to the Chair to make a final decision.

Chair Stead noted that he will be absent for the September 20<sup>th</sup> and October 4<sup>th</sup> commission meetings and Commissioner Bentz commented that she also will be out for the September 20<sup>th</sup> meeting.

Commissioner Venuti commented that it was an interesting meeting, reiterated that it was nice to have the engineering on the Bouman property but even with the good engineers report he still felt that it was a very risky venture. Interesting meeting though.

Chair Stead commented on coming to the meeting with the motions preformatted like they get with their agenda, it would be nice to be more cogent in the presentation of motions or writing them out prior to speaking. They can always take a five minute recess to formulate a motion, and request assistance from the Clerk or even the Planner.

Commissioner Venuti added that it was nice to have the language for the finding in opposition even though they did not.

City Planner Abboud replied that the commission can always bring a finding back allowing the commission more time for consideration of the action before them.

### **ADJOURN**

There being no further business to come before the Commission, Chair Stead adjourned the meeting at 9:18 p.m. The next regular meeting is scheduled for WEDNESDAY, SEPTEMBER 6, 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.

---

Renee Krause, CMC, Deputy City Clerk I

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