

**HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING
MAY 1, 2019**

Session 19-09, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Vice Chair Banks at 6:30 p.m. on May 1, 2019 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BANKS, BENTZ, HIGHLAND, BOS, PETSKA-RUBACLAVA

ABSENT: COMMISSIONER VENUTI, SMITH (EXCUSED)

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

The Commission did not hold a worksession prior to this regular meeting.

APPROVAL OF THE AGENDA

Vice Chair Banks 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

RECONSIDERATION

ADOPTION OF CONSENT AGENDA

A. Approval of minutes of April 17, 2019

B. Decisions and Findings document for CUP 19-04 to allow a residential drug and alcohol treatment facility at 397 E. Pioneer Avenue

Vice Chair Banks requested a motion to approve the Consent Agenda.

HIGHLAND/BENTZ - SO MOVED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS/PRESENTATIONS

REPORTS

A. Staff Report 19-34, **City Planner's Report**

Vice Chair Banks introduced the item into the record by reading of the title and invited the City Planner to provide his report.

City Planner Abboud **reviewed the City Planner's report and highlighted the following** items:

- Approval of the vacation of a public easement
- Deadline to have the final decision from the Hearing Officer is May 6, 2019
- Notice has been received that FEMA would like to fund the Bluff Stability Project that is for next fiscal year, starting October 1, 2019. The Department of Geological and Geophysical Surveys (DGGS) will plan to be in Homer three times for project kickoff, progress and final meeting. The City will be completing a more detailed application.
- The Commission was provided a copy of the decision from the Supreme Court on the Appeal from Mr. Griswold with regards to the front porch that was constructed on the Pioneer frontage of the Windjammer Hotel.
- City Planner would like to clean up some issues in city code with regard to the term Medical Clinic which is only used in Residential Office District and this indicates that it is not permitted anywhere else which is not fact since they have Medical Clinics in the CBD. He would like to work on this right away and the Commission can determine what the term Medical Clinic refers to.
- The EDC has been working on some items resulting from a Business Retention & Expansion survey that was conducted and one of those issues brought forth was signage, Dr. Richardson a member on the Commission brought information on a concept regarding signage for a building with several tenants or fronting several rights of ways. He related that along with some information he learned at the recent conference he attended he would like to bring that forward for the consideration of the Commission.

Commissioner Highland will be attending the May 13th Council meeting and Commissioner Bos will attend the Tuesday, May 28th Council meeting.

Commissioner Bentz provided clarification that she attended a Climate Adaptation Conference and attended sessions specifically focused on smaller rural communities and options to increasing actions to respond and she just got back this weekend so would be happy to provide a report to the Commission at a later date.

City Planner Abboud reported that the memorandum related to the Commission request for direction on the Climate Action Plan update was in the Council packet at the last meeting under the Commission reports and the Council did not take it up so no action was taken by Council. City Planner Abboud was informed that they will require a sponsor or champion from within City Council to bring that forward in order to receive any direction from Council.

Commissioner Highland requested clarification on using the memorandum that was included in the packet.

City Planner Abboud responded to Vice Chair Banks on whether he meant going forward with creating a medical district or just defining a medical clinic and City Planner Abboud stated that he wanted the Commission to address the definition of Medical Clinic first and where it is allowed not the issue of a medical district.

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PUBLIC HEARINGS

PLAT CONSIDERATION

A. Staff Report 19-35, Lillian Walli Estate Right of Way Vacation Plat Preliminary Plat

Vice Chair Banks introduced the item into the record by reading of the title.

Commissioner Petska-Rubalcava declared that she had a conflict.

BOS/BENTZ – MOVED THAT COMMISSIONER PETSKA-RUBALCAVA HAS A CONFLICT OF INTEREST

There was a brief discussion on the declared conflict, Commissioner Petska-Rubalcava worked on the civil engineering for the septic and water line and there is a strong potential to work further for this client.

City Planner Abboud noted the association and economic gain as reasons for the conflict.

Vice Chair Banks inquired if there was any dissent to the motion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Petska-Rubalcava departed the room.

City Planner Abboud reviewed Staff Report PL 19-35 for the Commission.

Tom Latimer, Orion Surveys, stated that this is basically a technical plat to fulfill the platting obligation for the previously approved vacation noting that he was available for any questions.

Vice Chair Banks opened the public comment period, seeing no one in the audience coming forward to comment he closed the public comment period.

Vice Chair Banks opened the floor to questions from the Commission.

There were no questions for the Planner or the Applicant from the Commission on this action.

Vice Chair Banks requested a motion.

BENTZ/HIGHLAND MOVED TO ADOPT STAFF REPORT 19-35 AND RECOMMEND APPROVAL OF THE LILLIAN WALLI ESTATE RIGHT OF WAY VACATION PLAT PRELIMINARY PLAT WITH THE COMMENT INCLUDED AS NOTED IN THE PACKET.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

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B. Staff Report 19-36, Skyline Drive Subdivision 2019 Replat Preliminary Plat

Vice Chair Banks introduced the item into the record by reading of the title and then requested the Clerk to invite Commissioner Petska-Rubalcava back to the table.

City Planner Abboud reviewed his report for the Commission.

Commissioner Petska-Rubalcava declared that she has a conflict on this action for the reason stated on the previous action.

Vice Chair Banks requested a motion.

BOS/BENTZ MOVED THAT COMMISSIONER PETSKA-RUBALCAVA HAS A CONFLICT.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Petska-Rubalcava excused herself from the table.

Vice Chair Banks invited the applicant forward.

Mr. Latimer, Orion Surveys, **complimented the Planning staff's work on the report and then the Borough** will probably ask for the easement to be granted as a Public Access Easement.

Vice Chair Banks opened the public comment period, seeing no one in the audience coming forward to comment he closed the public comment period.

Vice Chair Banks opened the floor to questions from the Commission for Staff or the Applicant.

Commissioner Highland requested clarification on the total amount of square footage on the lot size and the designation of the 15 foot utility easement.

Mr. Latimer stated that the lot would be 40,000 square feet as required, he was unsure how it came up to 39,988 square feet. He confirmed there will be a 15 foot utility easement fronting the right of way along Claudia Street for Lot 6.

Vice Chair Banks requested clarification on the Finding under item b., "The existing lot was created in 1977, prior to modern Borough subdivision rules and Homer City Zoning Code adoption. The applicant did not build the home or create a roadway easement as a means to avoid dedicating a public right of way.

City Planner Abboud responded that it would have been the Lots 5 & 6, which you can see the Lot 3-C HM76-58 next to it which was approved approximately 1977, he believed it was all one platting action at the time.

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Mr. Latimer added that it has been replatted several times **it was originally in the 1970's and believed it was platted back in 1993.**

There was a brief discussion on the platting of the lot fronting Claudia Street.

Vice Chair Banks requested a motion.

HIGHLAND/BENTZ - MOVE TO ADOPT STAFF REPORT 19-36 AND RECOMMEND APPROVAL OF A PRELIMINARY PLAT TO SHIFT COMMON LOT LINE BETWEEN TWO PARCELS WITH THE FOLLOWING COMMENTS:

1. INCLUDE PLAT NOTE STATING PROPERTY OWNER SHOULD CONTACT ARMY CORPS OF 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.
2. SHOW AREAS OF SLOPE OVER TWENTY PERCENT (20 %) IN GRADE
3. VERIFY THAT LOT FIVE (5) MEETS THE MINIMUM LOT SIZE STANDARD OF FORTY THOUSAND (40,000) SQUARE FEET AS REQUIRED BY HOMER CITY CODE 21.12.040(A)(1)
4. PROVIDE A 15 FOOT UTILITY EASEMENT FRONTING THE ROW FOR LOT 6 ALONG CLAUDIA STREET AND LOT 5 ALONG WEST HILL ROAD

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Petska-Rubalcava returned to the table.

PENDING BUSINESS

A. Staff Report 19-37, Measuring Building Heights

Vice Chair Banks introduced the item into the record by reading of the title and invited City Planner Abboud to present the report to the Commission.

City Planner Abboud reviewed the report for the Commission.

There were no questions or comments from the Commission.

B. Staff Report 19-38, Zoning Permit Process and Building Location Verification

Vice Chair Banks introduced the item into the record by reading of the title.

Planning Technician Brown provided an introduction to Tom Latimer, surveyor and Pat McNary Project Manager stating they will be available for questions from the Commissioners tonight.

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Planning Technician Brown reviewed his report for the Commission recommending Option 1 as the most practical for encouraging new construction meets setback requirements.

Mr. Latimer was invited to comment on the topic by Vice Chair Banks since they had not heard from a **surveyor's point of view**.

Mr. Latimer stated that Option 1 would satisfy 95% of the concerns that the Commission has with regard to the meeting the setback requirement, requiring asbuilts means the problem has already happened so get it staked before construction. Option 2 would present a scheduling nightmare. He noted that they have all built houses and been arguing with our significant others on whether it was here or there on the lot. He believed that as long as the corners are staked and the line gets pulled off of that you are good to go. He cautioned that in Anchorage the use of asbuilts have become a problem since they are only meant for a specific point in time but in Anchorage they are used for building permits all the time and that is not what they were created for, asbuilts may not reflect all additions or decks, porches, etcetera that may have been constructed since that asbuilt had been done. Asbuilts do not have title searches, they do not show all easements for the property such as viewshed or waterline.

Commissioner Highland requested clarification from the City Planner that Option 1 would be a requirement when that factor of within 20 feet of setback is in place.

City Planner Abboud confirmed that when someone submitted the site plan for their project and it indicated they were close to that distance it would be required.

Planning Technician Brown added that is somewhat arbitrary as the range of distance was 5-15 feet in other communities that did not have a building code. He chose a number from his experience and opined it was reasonable distance.

City Planner Abboud further explained that when a site plan is submitted it is supposed to be a scale drawing and should reflect the structures distances from various points such as other structures or property lines.

Commissioner Bos questioned if Planning Staff using available technology confirms the related easements and engineering that has been done on the parcel.

City Planner Abboud stated that they do not perform a title search but they do know what is available to the Planning Department. He then noted that most of these will apply to narrow lots.

Commissioner Bos stated that there is really not a lot of accountability, they do not have a particular worry with licensed contractors, but more of the home owner builder, but did not want to make it too onerous on the homeowner. He requested Mr. Latimer to provide the Commission his opinion on the subject.

Mr. Latimer agreed not wanting to make it onerous, this would not be producing documentation but only stakes in the field, you can go a step further to request a statement from the Surveyor on placement of stakes and pictures with an additional cost but those stakes will be gone with the construction. He agreed that a survey is invaluable to the property owner, he further stated that depending on the level of survey that the owner would like. It can be performed from just setting stakes to performing an ALTA Survey which is typically used for a high value commercial property that includes a title search. He further added that he would not purchase a property without a survey.

Commissioner Bentz appreciated the point expressed on the expiration and utility of asbuilts and that the value of requiring **Option 3 in her mind from the commission's previous discussions is it reduce the time** and capacity for staff to go out in the field and check the buildings location upon project completion so an asbuilt would be the client bringing proof that the building is located where it is supposed to be; and going forward on Option 1 is that just a verbal statement from the property owner or a written report that was provided to the Planning Department.

City Planner Abboud requested the Commission to provide exactly what conditions did they want to require an Asbuilt and what purpose that serves.

Vice Chair Banks commented that he believed from the comments of the Contractors that Option 3 would be the most useful, since the argument is that the property owner will be more aware of where the structure is placed knowing that they will be required to submit an asbuilt at the completion of the project. If you are out of place with your structure there will be consequences. As to what projects that would be applied to, that was a good question. He believed this discussion transitioned from the discussion on Conditional Use Permits and not knowing where they put the structure and that they did not encroach on the setbacks. Mr. Banks continued that any project within 20 feet of any setback would require an asbuilt. He requested feedback from Mr. Latimer.

Mr. Latimer agreed that it would certainly motivate the property owner and as with most surveyors he offers a discount if he has already staked the lines but noted what the City Planner commented on that once it is completed there is no options available. The property owner is going to ask forgiveness or not. He believed the property should be staked prior to the start of the property and then asbuilts upon completion would ensure that it complied.

Commissioner Bentz stated that there are different level of asbuilts with regard to commercial and residential as well as cost and going forward that the Commission could see the level of asbuilts that would be reasonable and definition of that would be good to see in the future.

Planning Technician Brown responded that they could perform that research and in response to a previous question on Option 1 what would it look like as verification they could develop a simple form to be completed by the surveyor. He will provide that information at a later meeting.

Vice Chair Banks requested confirmation that the Commission was not interested in Option 2. There was no dissent to his statement.

Vice Chair Banks requested confirmation from the Commission, that Option 1, with possibly Option 3, come back to them in more detail.

City Planner Abboud requested further clarification from the Commission on the conditions that they would exclude or not exclude, the Commission previously mentioned Conditional Use Permits which is a good start, a lot with no structure or shed over 200 sf. Is there any consensus now or they could go over it in a staff report.

Vice Chair Banks responded that maybe a permanent foundation, or an addition to the structure? It has been stated that having the asbuilt is potentially useful in determining what was there in the future.

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Commissioner Bos requested clarification on an application for a Conditional Use Permit or any permit.

City Planner Abboud responded that they are all zoning permits to him. He was not speaking specifically on CUP.

Commissioner Bos continued by questioning if they should accept less than an asbuilt on a Conditional Use Permit. Also they currently put standard requirements on Preliminary Plats, lighting, etc. and how do we know they have done those requirements.

City Planner Abboud responded that they check the plats and the data on wetland mapping for their permits.

Planning Technician reviewed the Commissioners requests for additional information at the next meeting.

City Planner Abboud brought forward that they reduced the cost for porch permit, so was requesting clarification on the cutoff point, such as within 20 feet of setback, so a minor addition of a couple of feet extending from an existing structure would not require an asbuilt.

Commissioner Petska-Rubalcava requested information on what is leading this discussion and possible changes to be implemented and adding additional costs to the property owners.

City Planner Abboud provided some feedback and previous experience and trying to manage this reasonably in the future since at almost every meeting they discussion on a building department comes up.

Mr. Latimer provided information on an ALTA Survey explaining it is a term that will come up during the research staff will be conducting.

NEW BUSINESS

A. Staff Report 19-39, Review of Police Station Landscaping Plan

Vice Chair Banks introduced the item by reading of the title.

City Planner Abboud reviewed the report by referencing the drawing that was provided for the benefit of the commission. He did note that this action comes before the commission as a requirement to the CUP application and it is only for the Commission to review before he approves the plan.

City Planner Abboud noted that the City contracted with Brenda Adams with Gardens by Design for the Landscape Plan and then proceeded to point out the various areas where the plantings will be done. He mentioned that placement of Public Art so no planting will be done in front of the vehicle shed along Heath Street.

Pat McNary, Project Manager, took the requirement seriously on bringing this plan back before the Commission and consideration for non-moose attracting plants, explaining that Ms. Adams had exerted great effort and diligence in providing plants that will be attractive, provide texture and color throughout most of the year plus make the site very aesthetically pleasing.

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Commissioner Petska-Rubalcava requested clarification on the road ownership and sight distance requirements with regard to the possible obstruction of the planned spruce trees in the upper corner.

Mr. McNary responded by providing details on the genus of spruce tree selected should not grow large enough to provide an obstruction.

Commissioner Bentz questioned the grant for Green Infrastructure is only applicable to the area indicated with the Rain Garden in Area C.

Ms. McNary responded that when a discussion was held with the agency that provided the funding was signage that will educate the public on what a Rain Garden is and how it will be beneficial, the purpose of a Bioswale and how this will clean the drainage before it hits the bay waters and how Green Infrastructure is important. He further added that he was in possession of the plants and the design for the rain garden that all plants are locally sourced and will be able to live in standing water in the unlikely aspect of an event.

Ms. McNary stated that there was more detailed plans and lists that the Commission does not have and he was sure that the Commissioners could requests to see these from Julie Engebretsen in Planning.

Commissioner Highland requested clarification and confirmation that the plants have all been used or planted in Homer or in the surrounding community. Then requested clarification on the decorative grasses that were planned.

Mr. McNary responded that Ms. Adams has been doing business in the area for over 20 years, he reassured the Commission that there was a lot of due diligence and hard work in making the selections of the plants. He further responded to the public concerns that were submitted on taking additional time to get more public input and comment would delay the project and the Commission put the requirement on the CUP to review the Landscaping plan before the Planner approved the permit.

Vice Chair Banks commented on the desire to get the CUP so that the project can get started and questioned if the future maintenance of the plantings were considered.

Mr. McNary responded that Matt Steffy was included in the discussion and planning as he will be the person responsible for the maintenance. He was satisfied with the choices made.

Commissioner Petska-Rubalcava commented on the areas in the Lower 48 using and implementing Green Infrastructure. She also reported on a big benefit of lowering costs.

Commissioner Bos appreciated the time and efforts and expressed hope that this will encourage the neighboring property owners to clean up and dispose of all the junk and cars, etc on their property.

Vice Chair Banks inquired if the proposed signage that will be placed in the rain garden and drainage **efforts have the verbiage of “Green Infrastructure” on them. This will help the public make the connection.** Mr. McNary responded that if the Commissioners would like to see that verbiage he will make sure the signage contains that verbiage. He believed that Homer was ready for this kind of thing and education is important and that this is relative all the way to the slough.

There was no further discussion or comments.

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INFORMATIONAL MATERIALS

- A. **City Manager's Report for the April 8, 2019 Homer City Council meeting**
- B. Kenai Peninsula Borough Notice of Decision for Commercial Park Unit 2 Preliminary Plat

COMMENTS OF THE AUDIENCE

Mr. McNary, city resident, commented that he has been building in Alaska for 42 years and having a requirement of a survey as a condition since we do not have inspectors or the codes, he thought it was a great idea, just a great idea.

COMMENTS OF THE STAFF

Deputy City Clerk Krause commented that it was an informative meeting.

COMMENTS OF THE COMMISSION

Commissioner Highland wished everyone a Happy May Day.

Commissioner Bos complimented Vice Chair Banks on running an efficient meeting.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 8:04 p.m. The next regular meeting is scheduled for Wednesday, May 15, 2019 at 6:30 p.m. in the City Hall Cowles Council Chambers. There is a worksession scheduled at 5:30 p.m. prior to the meeting.

RENEE KRAUSE, MMC, DEPUTY CITY CLERK

Approved: _____