

Session 19-11, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Venuti at 6:30 p.m. on June 5, 2019 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, SMITH, VENUTI, HIGHLAND, PETSKA-RUBACLAVA

ABSENT: COMMISSIONER BANKS, BENTZ (EXCUSED)

STAFF: CITY PLANNER ABBOD
DEPUTY CITY CLERK KRAUSE

The Commission conducted a worksession prior to the meeting with City Attorney Holly Wells on understanding the Quasi-Judicial role of the Commission; drafting good findings and looking beyond findings; Open Meetings Act and How it Applies to the Commission; and Ethics.

APPROVAL OF THE AGENDA

Chair Venuti called for a motion to approve the agenda.

BOS/HIGHLAND – MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENT

RECONSIDERATION

ADOPTION OF CONSENT AGENDA

- A. Approval of minutes of May 15, 2019
- B. Decisions and Findings Document for Conditional Use Permit 19-05, approving a physical therapy clinic at 210 W. Fairview Ave.
- C. Decisions and Findings Document for Conditional Use Permit 19-06, approving an assembly and fabrication building for boats and vinyl sign making at 3301 East End Road

Chair Venuti requested a motion to approve the Consent Agenda.

BOS/HIGHLAND – MOVED TO APPROVE THE CONSENT AGENDA.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS/PRESENTATIONS

REPORTS

A. Staff Report 19-47, **City Planner's Report**

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

City Planner Abboud reviewed Staff Report 19-47 for the Commission noting the Ordinance for amending the Building Height in Flood Areas was approved; the upcoming meeting on the 10th of June will have an ordinance rewriting the water and sewer regulations and the ordinance for adding lighting standards will be introduced.

City Planner Abboud reviewed the schedule for attendance at the City Council meetings as follows:

June 10th – Commissioner Smith

June 24th – Commissioner Bos

Commissioner Smith stated that he had a work conflict and would be unable to attend the Council meeting on Monday. Commissioner Petska-Rubalcava volunteered requesting some guidance on what she was to report to Council from Commissioner Smith.

Commissioner Smith would like to have a discussion on bee keeping in Homer at a future meeting.

Chair Venuti inquired as to the reason and concept of the topic of bees.

Commissioner Smith explained that he was approached by two residents who explained recent incidents of increased bee stings due to a neighbor having bee hives, has currently two hives and plans to increase the number to seven.

Chair Venuti suggested adding this topic to a worksession.

City Planner Abboud responded that a motion to add to the worklist will keep it clean.

Chair Venuti requested a motion.

SMITH/BOS MOVED TO ADD THE TOPIC OF BEES AND POSSIBLE REGULATIONS REGARDING THE KEEPING OF BEES IN CITY LIMITS TO THE COMMISSION WORKLIST.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC HEARINGS

A. Staff Report 19-48, Request for a vacation of a portion of the Greatland Street right-of-way near Ohlson Lane

Chair Venuti introduced the item by reading the title into the record.

City Planner Abboud reviewed Staff Report 19-48 for the vacation of a portion of Greatland Street noting the location in Old Town portion of the city. He spoke on the following points:

- Increased block link by eliminating the intersection
- Vehicular Access exists
- Utility easements are sufficient

There was no Applicant present to provide a presentation or speak to the application.

Chair Venuti opened the public hearing. Seeing no one in the audience coming forward to provide testimony he closed the public hearing and opened the floor to questions from the Commission.

Commissioner Bos inquired why this vacation was not completed when it first was approved.

City Planner Abboud responded that he did not have that information, it timed out and he noted that they are being more expeditious on these actions.

Commissioner Highland asked about adding the pedestrian easements to this.

City Planner Abboud responded that the pedestrian access is not part of the Greatland corridor, it goes East to West and is not on any plans for the city. He noted that there is another access from Main behind the Alaska USA which is in the Trails Plan.

BOS/HIGHLAND MOVED TO ADOPT STAFF REPORT 19-48 AND APPROVE THE REQUEST FOR A VACATION OF A PORTION OF GREATLAND STREET RIGHT OF WAY NEAR OHLSON LANE.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Staff Report 19-49, Remand of Conditional Use Permit 18-09 for a medical clinic at 267 Cityview Ave.

Chair Venuti introduced the item into the record by reading of the title and noted the laydown item submitted by Mr. Lund and requested a brief recess to allow the Commission to read the document at 6:46 p.m.

Chair Venuti called the meeting back to order at 6:51 p.m. and requested City planner Abboud to provide his report.

City Planner Abboud commented for the record the **general content of Mr. Lund's letter** then reviewed Staff Report 19-49 that noted the recommended actions from the Office of Administrative Hearings; the supplemental findings and conditions recommended by staff and reviewed the pictures of the existing conditions contained in the report.

Chair Venuti invited the Applicant to present to the Commission.

Dr. Paul Raymond and Architect Lawrence Peek came forward and informed the commission that in the long term he has applied for a Special Assessment District for Road Improvements for Cityview and believes that there will be no disagreement from the affected property owners and theoretically it should go through and could be completed next summer according to the Public Works Department.

Mr. Peek stated that he had received initial approval from the Fire Marshal on the access via email.

City Planner Abboud responded that was not a requirement of the Conditional Use Permit process and Mr. Peek would still be required to submit the official Fire Marshal permit.

Chair Venuti opened the public hearing, seeing no one in the audience coming forward to provide testimony he closed the public hearing and opened the floor to the Commission for questions.

Commissioner Highland inquired if Mr. Raymond was okay with the Supplemental Condition.

Dr. Raymond responded that he was okay with the new requirements.

Hearing no further questions, Chair Venuti requested a motion.

SMITH HIGHLAND MOVED TO ADOPT STAFF REPORT 19-49 RETRACT FINDING #7 AND REPLACE WITH SUPPLEMENTAL FINDINGS 1 AND 2 AND SUPPLEMENTAL CONDITION 1.

There was a brief dialog on the **desire to comment on Mr. Lund's points raised in his letter**. It was noted that only if it was pertinent to the discussion. There was no further discussion or comment.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

C. Staff Report 19-50, An ordinance **of the Homer City Council to add "Medical Clinic" as a permitted use in the Central Business Zoning District**.

Chair Venuti introduced the item by reading of the title.

City Planner Abboud reviewed Staff Report 19-50 noting the error in the 2008 rewrite of the **Homer City Code regarding the definition of professional office excluded "medical clinics" in the Central Business Districts**.

Chair Venuti opened the Public Hearing.

Ken Castner, city resident, commented on the timing being appropriate for the Commission to explore deeper commenting on the issues that came up tangentially with Set Free and the comments received that if Set Free were going to have medically assisted procedures such as administering a shot then it was alleged that they should be in the area up near the hospital or **in the zone that doesn't exist**; and that could be addressed to a broader scope than just clinics, it could be applied to rehab facilities or long term care facilities or things like that. It is a bit broader than what the Planner has indicated because it also could have something to do with the ability to do medical assistance which could be tied to the hospital.

Chair Venuti closed the public hearing and opened the floor to questions from the Commission. Hearing no questions from the commission he requested a motion.

BOS/HIGHLAND MOVED TO ADOPT STAFF REPORT 19-50 AND FORWARD THE DRAFT ORDINANCE TO ADD MEDICAL CLINIC AS A PERMITTED USE IN THE CENTRAL BUSINESS DISTRICT TO CITY COUNCIL.

Brief comment was made on it being a good decision to get ahead of this issue.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PLAT CONSIDERATION

A. Staff Report 19-51, A. A. Mattox 2019 Preliminary Plat

Chair Venuti introduced the item by reading of the title into the record.

City Planner Abboud reviewed Staff Report 19-51 for the Commission and public present.

There was no applicant present.

Chair Venuti opened public comment.

Kim Seymour, property owner of adjacent Lot 22 expressed concerns regarding flooding and drainage that exist when it rains and noted that it can get up to three feet deep in some areas depending on the amount of rain. He explained the flooding in the previous 33 years that he has resided in his residence and added that while he supports development consideration should be afforded the neighboring properties.

Chair Venuti closed the public comment period seeing no one coming forward from the audience and opened the floor to questions from the Commission.

City Planner Abboud responding to questions regarding soil and water displacement from the Commission noted that a Master Stormwater Plan would address these issues, development will displace water and a plan will be needed to address that drainage and they will have to contact the Army Corps of Engineers regarding permits. He expressed concern with what may be proposed to develop there. He was surprised to learn that the drainage goes in that direction as it was assumed it flowed the other direction. This is a preliminary plat and the City is an advisory authority to the Borough and commenting on their codes. This is a development issue.

Commissioner Bos **commented on the “if” and “when”** of progress on development for this property.

Commissioner Petska-Rubalcava questioned if the Commission has the capacity to suggest or require a drainage easement. This may assist in the application to the Army Corps of Engineers.

City Planner Abboud responded that they could recommend that a drainage easement to facilitate better development.

A brief discussion on the issues of drainage in that area and the concerns with regards to development.

HIGHLAND/BOS MOVE TO ADOPT STAFF REPORT 19-51 AND RECOMMEND APPROVAL OF A.A. MATTOX 2019 PRELIMINARY PLAT WITH THE FOLLOWING COMMENTS:

1. **INCLUDE A PLAT NOTE STATING “PROPERTY OWNER SHOULD 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 OWNERS ARE RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE AND FEDERAL PERMITS.”**
2. DEDICATE THE 9.85 FEET OF RIGHT-OF-WAY ALONG LOTS 25A THROUGH 25D.
3. DEDICATE THE 15 FOOT UTILITY EASEMENT FRONTING THE RIGHT-OF-WAY.
4. THE PROPERTY OWNER WILL NEED TO WORK WITH PUBLIC WORKS ON THE REQUIRED WATER MAIN EXTENSION AND PROVIDE WATER AND SEWER SERVICES TO THE LOTS.

PETSKA-RUBALCAVA/SMITH MOVED TO AMEND THE MOTION TO INCLUDE A RECOMMENDATION TO RECOMMEND ADDING A DRAINAGE EASEMENT CONSIDERATION TO THE PLAT.

Further discussion ensued on the enforcement and assurance of the Corps of Engineers permit; construction methods in wetlands for residences and driveways; the plat note to contact is a standard that they add to all plats and how this assists the Planning Department when a property comes in to get a permit; there is no follow-up on issues by the Planning staff; possible solutions in making sure that property owners have the necessary permits; and additional points were made on how a property owner can build responsibly and follow the provisions outlined in city code; the functionality of a drainage easement.

Commissioner Highland called for the vote.

VOTE. (Amendment). NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

There was no further discussion.

VOTE. (Main). YES. BOS, HIGHLAND, VENUTI, PETSKA-RUBALCAVA.

VOTE. (Main). NO. SMITH.

Motion carried.

B. Staff Report 19-52, Northern Enterprises No. 3 Preliminary Plat

Chair Venuti introduced the item by reading of the title.

City Planner Abboud referenced the map located on the wall behind him and proceeded to review Staff Report 19-52.

There was no applicant present.

Chair Venuti opened the public comment period seeing no one coming forward to provide comment he closed the comment period and opened the floor to questions and comments from the Commission.

Commissioner Smith noted a typographical error in the staff report, the number reflected 18-52 and it should read 19-52 on page 91 of the packet.

BOS/HIGHLAND - MOVE TO ADOPT STAFF REPORT 19-52 AND RECOMMEND APPROVAL OF NORTHERN ENTERPRISES NO. 3 PRELIMINARY PLAT WITH THE FOLLOWING COMMENT

1. ADD A PLAT NOTE ABOUT THE FLOOD PLAIN: "KACHEMAK BAY IS SUBJECT TO A 1-PERCENT-ANNUAL-CHANCE FLOODPLAIN AS IDENTIFIED BY THE FEMA FLOOD INSURANCE STUDY DATED OCTOBER 20, 2016, 02122CV001B. PROPERTY OWNER SHOULD CONTACT THE CITY OF HOMER PRIOR TO ANY DEVELOPMENT ACTIVITY."

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS

A. Staff Report 19-53, Building Height in the East End Mixed Use District

Chair Venuti introduced the item into the record by reading of the title.

City Planner Abboud reviewed the staff report 19-53 and requested the Commission to review the discussion held at the worksession on May 15, 2019.

Commissioner Smith reported on how this issue came before the Commission and related following discussions with interested property owners and those property owners/business owners lending input on how the increased building height will benefit the community overall by providing economic development and bringing additional year round skilled employment to the area.

Further discussion included the points of fire suppression and any building over the current 35 feet and the requirement to be sprinklered; not allowing residential in such buildings. Questioning if this should be limited to marine industry; what other additional other businesses that could be accommodated such as possibly a factory are unknown; no hotels could be built in the district; the ability to move vessels without the requirement to dismantle technology, antennas, etc; storage garages for large vessels, buses, RV's; stackable recreational storage facilities; improvements to the economy of the marine industry to bring real paying jobs to Homer; Fire Marshal approval would be a requirement; Conditional Use Permit is preferred for buildings over 35 feet, non-residential structural.

City planner Abboud provided clarification on the effect of negative impact is to the residential qualities over business would not stand so much in the East End Mixed Use District. He cited examples of areas in the Lower 48 where one sees an industrial area and then one lone single residential property.

There was no further discussion.

B. Staff Report 19-54, Permitting requirements – asbuilts

Chair Venuti introduced the item by reading of the title.

City Planner Abboud reviewed Staff Report 19-54 and noted the following:

- Applies to the CUP process only
- If included in the permitting process overall then what would they exclude if anything
- Implementing a steep fine if done wrong
- Enforcement issues
- No Construction/Building Department

Discussion ensued on the following by the Commission and City Planner:

- Application for a Conditional Use Permit the applicant should provide a survey or an asbuilt and then they should provide a confirmation from the surveyor at completion.
- Not all CUP applications are the same, the owner/builder should not have to go through a public process which can be trying not to mention those requirements can cause undo expense
- Having a survey on the property will provide value to the property
- Depending on the type of survey they do not show all easements, boundary monumentation, only improvements if any, so a question would be if everything is not shown on the plat who would be liable.
- Any changes would have to be recordable to be found and while ALTA surveys would be best this process is the best until the City adopts building codes.
- The Commission only sees the Conditional Use Permit applications and does not review and see all the Building Permits.

- The type of Building Permit applications received by the Planning Department can be as conceptual sketch on a napkin to engineered drawings.
- Homer is the exception with not having a Building Department for a municipality of its size.
- They could apply this requirement on all building permits to require a survey
- Current projects are being inspected and built according to Standard International and National Standards which is being driven by the Financing industry.

Chair Venuti called for a recess at 8:28 p.m. The meeting was called back at 8:32 pm

The Commission discussed their preferences in the Options provided and discussed and whether it applied only to CUP's or all Building Permits within the 20 foot setback or not and it could be relevant to building location and septic.

Chair Venuti called for a motion.

Commissioner Highland provided some direction to Commissioner Smith on how he could formulate the motion needed.

Commissioner Bos requested clarification on including the 20 foot setback specificity within the motion providing his recall of the input from the surveyors.

PETSKA-RUBALCAVA/BOS – MOVED TO REQUIRE PROPERTY LINES BE STAKED BY A LICENSED SURVEYOR PRIOR TO CONSTRUCTION FOR ALL IMPROVEMENTS AND FURTHER REQUIRE AN ASBUILT BE DONE UPON PROJECT COMPLETION.

City Planner Abboud explained that staff would bring something back at the next meeting for further review and possible discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

INFORMATIONAL MATERIALS

A. City Manager's Report for the May 28, 2019 Homer City Council meeting

COMMENTS OF THE AUDIENCE

Kim Seymour, city resident, stated that he decided to hang out to see what the Commission does and then commented in support of the idea of raising the building height testifying that

it would be an economic windfall for Homer and the skilled workers that are available to provide those services locally. But he would also suggest recommending that all power lines in Homer be buried since those provide some logistical issues with transporting the larger vessels from the Port to repair facilities. Keep up the good work.

Mayor Castner commented that he attended the meeting in his official capacity as a consulting member tonight and there were some things that were on his radar since he last spoke to the commission the 2005 Transportation Plan is sorely in need of attention and he understands that the Commission is very busy but the transportation plan is really important. The Council set aside some funding to allow hiring someone to help with that update and with the impending rollout of 5G service they can expect it within the next four years, due to the recent experience transitioning from 3G to 4G service in the past.

Mayor Castner continued stating he believes it will happen sooner than that due to the efforts of the FCC to federalize the whole thing which would eliminate any local control. There is already a lawsuit in the courts filed by several Mayors. He believed 5G would impact a transportation plan by allowing autonomous vehicles. He has been working with AKDOT on improved pedestrian safety on Pioneer Avenue. He stated that it is time to pick up on safety improvements for pedestrians at Homer's intersections as he realized how difficult it is to cross an intersection on two good legs, let alone if someone has some mobility issues.

Mayor Castner then noted that Homer is on the cusp of big changes but he never thought the changes would be so profound such as Homer becoming an agricultural hub, all the people wanting to live here; looking at the boats it is similar to the peonies.

As Mayor he is excited and it is his intent for the Commission to be the autoclave or percolator of these ideas and kick these things around. A lot of things they are dealing with are past problems and there is a need to be progressive and not spend so much time on these past problems. He commented on the court decision that was favorable for the city and sooner or later they will emerge from the shadow of what you can do and what you must do, not as an advisory body to the borough but as a decisive role and deciders on how to interpret our code and what reasonable person would do.

COMMENTS OF THE STAFF

Deputy City Clerk Krause commented that it was an interesting meeting as always.

City Planner Abboud commented that he received the news Tuesday afternoon (June 4, 2019) that they prevailed on all issues for CUP 13-13 to building a duplex and once they got past the standing issue they ran board with it. He will provide it for the next packet.

COMMENTS OF THE COMMISSION

Commissioner Highland commented it was an interesting meeting, they got through a few issues.

Commissioner Bos commented it was a good meeting and training. Good findings.

Commissioner Petska-Rubalcava echoed Commissioners Bos sentiments on a great meeting.

Commissioner Smith stated fantastic meeting, Thanked Rick for all the work that he does in making this commission work as well as it does. He appreciated the changes to allow the new building height and is looking forward to the improvements in the industry from those changes.

Chair Venuti commented that it was an interesting meeting they got through a lot.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 8:55 p.m. The next regular meeting is scheduled for Wednesday, June 19, 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: _____