

Session 20-12, a Regular Meeting of the Planning Commission was called to order by Chair Smith at 6:34 p.m. on September 2, 2020 at Cowles Council Chambers in City Hall located at 491 E. Pioneer Avenue, Homer, Alaska via Zoom Webinar.

PRESENT: COMMISSIONERS HIGHLAND, SMITH, DAVIS, VENUTI AND BENTZ

ABSENT: COMMISSIONERS PETSKA-RUBALCAVA AND BARNWELL (EXCUSED)

STAFF: CITY PLANNER ABBOUD  
DEPUTY CITY CLERK KRAUSE

### **APPROVAL OF THE AGENDA**

Chair Smith requested a motion to approve the agenda.

HIGHLAND/VENUTI – SO MOVED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **PUBLIC COMMENT ON ITEMS ALREADY ON THE AGENDA**

### **RECONSIDERATION**

### **ADOPTION OF CONSENT AGENDA**

- A. Minutes of the August 19, 2020 Planning Commission Regular Meeting
- B. Decisions and Findings for Conditional Use Permit 20-12 for four dwellings on a lot at 3972 Bartlett Street

Chair Smith 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 20-57, City Planner's Report**

City Planner Abboud commented he was in transition from the acting city manager position so there is not much in this report. He noted the Council passed action items mentioned in Staff Report 20-57.

## **PUBLIC HEARING(S)**

### **A. Staff Report 20-58, Conditional Use Permit 20-14 to allow a second mobile home at 541 Bonanza Avenue**

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

City Planner Abboud noted the late laydown from Mr. Griswold and confirmed that all commissioners were able to review this information before the meeting.

Commissioners verbally and visually confirmed that they had reviewed the information.

City Planner Abboud briefly reviewed the laydown for the Commission noting the concerns on access and mobile home park. He stated that there were some valid points brought forward by Mr. Griswold, but the majority did not apply. He further stated that Mr. Griswold brought forward his typical arguments but he has not prevailed on previous attempts.

City Planner Abboud then reviewed Staff Report 20-58 for the commission. He commented on the following:

- Comprehensive Plan Goals and Objectives
- One large lot that was previously two lots, this can be subdivided and no CUP would be required
- Single family connex home was placed on the property without a zoning permit and the options available to address the matter
- Mobile Home Park requirement review and considering the connex as a mobile home
  - o Access for Fire Department
- Compliance with the existing definition of mobile home
- Use of similar structure in other areas of the city
- Discussion needed on when a shipping container is no longer a shipping container
- Requested a correction by the commission to fix the double negative shown in Finding 9, line 4, Requested the Commission to amend the sentence to remove the word “not” before contrary

Scott and Stacy Lowry, applicant and owner, provided a verbal presentation on the proposed project explaining the planning and goals that they wanted to reach by placing the converted connex on the property. They noted that the lot was purchased and prior to them purchasing the lot, the lot line had been vacated to create one larger lot. There is an older mobile home on the property that is currently rented and that tenant has resided on the property prior to them purchasing the property. They intend to use the new structure as a vacation home as they come to Homer every summer since they have family here. They stated that they have photos of the interior and would be happy to share. The Applicant explained that they had future plans to replace the existing mobile home with a new structure. The applicant further explained that they have been working with the planning staff to meet all the requirements of the city.

Chair Smith opened the Public Hearing.

Bob Shavelson, representing his sister who owns the neighboring parcel, commented on being caught off guard with no notice, stated that a connex does not meet the definition of mobile home, commented on the nomenclature issue with the streets and defining this as a mobile home park since it is not one; he believed there would be difficulties in reestablishing the lot line. Mr. Shavelson then commented that the comp plan has some conflicting items as goal number three is to encourage high quality buildings and site development and he opined that a connex was not that. Mr. Shavelson stated he was not going to raise serious objections if the intent of the applicant is to improve the appearance of the lot.

Chair Smith confirmed with the Clerk there were no further members of the public to provide testimony and closed the Public Hearing and requested questions for the City Planner.

Commissioners and City Planner Abboud discussed the following points:

- Review of the section of city code regarding the Central Business District (CBD) 20.18.020, Permitted uses and structures (ii.) One detached dwelling unit, excluding mobile homes, as an accessory building to a principal single-family dwelling on a lot; arguing that this could be used to define this project, to avoid the discussion of mobile homes
- Consideration of a connex as a nuisance
- City does not have a building code
- Confusion of the two mobile homes on one lot
- Bringing a connex into the CBD without permits, setting precedent that it is allowed, and the Commission's intent to limit or decrease the use of mobile homes in the city
- Conditional Use Permit would be after the fact but would bring the action into compliance
- Applicant has not been fined since they are actively working with the Planning Department to bringing the project into compliance.
- Defining this structure as a mobile home is incorrect since it is a connex.
- Staff would recommend or the applicants can consider the pulling the application and bringing it back under the additional dwelling, a CUP would not be required.
- Commissioner perspectives on the connex since that is what it is

- The trend to sustainable, affordable housing by using modular, pre-fab, manufactured homes and tiny homes

There were no further questions for the City Planner and Chair Smith requested questions from the Commission for the Applicant.

Commissioners and the Applicant discussed the following points:

- Basis and reasons for moving a connex into a developed neighborhood
- Sustainable housing, trend for tiny homes, a connex does present a modern appearance, placement on the far eastern edge, the foundation is permanent.
- Consideration that it is a modular home, not a connex, as it is tied into existing water and sewer and will have exterior improvements
- Can subdivide the property back again and keep the structure as a permanent dwelling
- Timeline for the improvements to be completed on the appearance of the connex
- Retrofitting a connex into a dwelling and electrical, plumbing standards since there are standards for mobile homes
- Additional questions could be presented in writing and the applicant would respond with photos and certifications to address those concerns of the Commission

Chair Smith called for additional questions for the applicant, there were none so he redirected the discussion back to the question on evaluating this as an Accessory Dwelling Unit (ADU) rather than for a CUP.

City Planner Abboud noted that it appeared there was agreement among the Commissioners that this structure is not a mobile home and as such it does not appear to be appropriate that the term mobile home park applies. He then reviewed the nuisance standard and noted that it is no longer a shipping container, there are no other standards to apply.

Further discussion ensued on the application of code, renovation of the connex so that it is no longer a shipping container, if they amend to reflect a permitted use then a CUP is not required, clarification on the number of structures on the property, the connex does not meet the definition of mobile home and where a challenge will come from the neighbor by appeal.

City Planner Abboud stated that it should be failed since they are not dealing with a mobile home or mobile home park as it did not meet the definition.

Commissioner Bentz then recognized the city code that addressed nuisance standards HCC 21.18.080 (c.) Commercial vehicles, trailers, shipping containers and other similar equipment used for transporting merchandise shall remain on the premises only as long as required for loading and unloading operations, and shall not be maintained on the premises for storage purposes unless screened from public view. She noted that in the packet there is a photo showing the interior of the connex and did not believe that it was capable of transporting merchandise and provided a description of the interior represented by the photo.

Commissioner Highland also noted that a shipping container is allowed if screened from public view as described in the same section of city code Commissioner Bentz referenced.

Commissioner Bentz additionally stated that a connex could fall under the designated permitted use of mini storage. She observed that the Commission could not show bias against a structure based on the materials used, noting the blue tarps being used on Bonanza Street as roofing materials and the applicants have undergone a level of scrutiny that the Commission does not talk about with people such as the renovated construction with fire alarms and electrical systems.

City Planner Abboud responding to the question of changing it from a mobile home, that since Homer does not have a building code, and until the city adopts building codes, a dwelling can be built out of any material. This is a dwelling and has all the features that is expected in a structure defined as such.

Chair Smith requested a motion.

*VENUTI/ HIGHLAND MOVE TO ADOPT STAFF REPORT 20-58 AND APPROVE CUP 20-14 WITH FINDINGS 1-10 AND CONDITIONS 1-7*

- 1. ALL DEVELOPMENT MUST BE COMPLETED BY AUGUST 1, 2021. THIS INCLUDES PAINTING, SKIRTING, PORCH CONSTRUCTION AND COMPLETE SITE DEVELOPMENT AS SHOWN ON THE SITE PLAN AND PROJECT ELEVATIONS.*
- 2. THE ZONING PERMIT AND CUP MAY ONLY BE EXTENDED BY THE PLANNING COMMISSION.*
- 3. FAILURE TO COMPLETE DEVELOPMENT BY AUGUST 1, 2021 MAY RESULT IN A ZONING VIOLATION AND FINES UNTIL THE STRUCTURE IS REMOVED OR BROUGHT INTO COMPLIANCE.*
- 4. BOTH MOBILE HOMES SHALL MEET THE REQUIREMENTS OF HCC 21.54.100*
- 5. COVERED STORAGE MEETING REQUIREMENTS OF HCC 21.54.070, NOT LESS THAN 200 CUBIC FEET OF COVERED STORAGE PER UNIT SHALL BE PROVIDED.*
- 6. PLANT OR SCREEN THE EASTERN AND SOUTHERN PROPERTY LINES WITH A FENCE OR COMBINATION EVERGREEN DECIDUOUS PLANTINGS TO PROVIDE EFFECTIVE SCREENING.*
- 7. OUTDOOR LIGHTING MUST BE DOWN LIT PER HCC 21.59.030*

It was noted that there was a typographical error in the staff report numbers, it was stated that it can be corrected by the Clerk.

City Planner Abboud provided clarification that the Commission could fail the motion and the Applicant would apply for a permit under the ADU and it would be handled administratively. He stated that there are three choices for the Commission: Approve the Conditional Use Permit, Approve with more conditions or deny the permit.

The Commission and City Planner Abboud entertained a brief discussion on amending the findings to substantiate the denial of the CUP by amending the cited city code citation from Finding 1, HCC 20.18.020 (m) and replace with Finding 1 HCC 20.18.020(ii) one

detached dwelling unit, excluding mobile homes, as an accessory building to a principal single-family dwelling on a lot and that two the Commission finds that the structure in question, the shipping container was not used for transportation of merchandise and therefore HCC 21.18.080 Nuisance standards, item c, does not apply.

Chair Smith called for a roll call vote.

VOTE. NO, BENTZ, DAVIS, HIGHLAND, VENUTI, SMITH

Motion failed.

Chair Smith thanked the applicants for a very interesting topic and he wanted to make them aware that the Commission was trying to advocate for the them while addressing the concerns presented by Mr. Griswold and being applicable to city code.

Mr. Lowry responded that he was appreciative of the Commission processes and just wanted to do what was easiest for the Commission and city in regards to paperwork and permits. He had noted through the chat option that they could withdraw the permit application if that was easier but it sounds as if it is past that point. He thanked everyone for their time and discussion tonight.

City Planner Abboud clarified that the applicant can contact the planning department to proceed to the next step for their project.

#### B. Staff Report 20-60, Medical Zoning District

Chair Smith introduced the item by reading of the title.

City Planner Abboud provided a brief summary of the previous actions on the draft ordinance.

There is no applicant as the city is the applicant.

Chair Smith opened the public hearing and seeing no members of the audience coming forward to provide testimony he closed the public hearing and opened the floor to questions from the Commission.

There were no questions from the Commissioners for the City Planner.

Chair Smith Requested a motion.

VENUTI/ BENTZ MOVE TO ADOPT STAFF REPORT 20-60 AND FORWARD THE DRAFT ORDINANCE CREATING A MEDICAL ZONING DISTRICT TO CITY COUNCIL.

There was a brief commentary from Commissioner Highland explaining her reason that she would not be supporting this ordinance was that she did not support the sixty five foot building height.

VOTE. YES. BENTZ, DAVIS, VENUTI, SMITH

VOTE. NO. HIGHLAND

Motion carried.

### **PLAT CONSIDERATION**

- A. Staff Report 20-61, Guy Waddell Subd. No. 3 June's Addn. Lot 1-E 2020 Replat Preliminary Plat

Chair Smith introduced the item by reading of the title.

City Planner Abboud provided a summary of Staff Report 20-61.

There was no applicant or representative present.

Chair Smith opened the floor to public comment on the project. Having no one in the audience come forward to comment on this project he closed the public comment period and opened the floor to questions from the Commission.

The Commission had no questions for the City Planner.

BENTZ/HIGHLAND MOVED TO ADOPT STAFF REPORT 20-61 AND RECOMMEND APPROVAL OF GUY WADDELL SUBDIVISION NUMBER 3 JUNE'S ADDITION LOT 1-E 2020 REPLAT PRELIMINARY PLAT WITH COMMENTS ONE AND TWO:

1. INCLUDE PLAT NOTE STATING "PROPERTY OWNER SHOULD CONTACT THE 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. A CITY OF HOMER DEVELOPMENT AGREEMENT OR CONSTRUCTION AGREEMENT IS REQUIRED FOR THE INSTALLATION OF WATER AND SEWER SERVICES.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **PENDING BUSINESS**

## **NEW BUSINESS**

## **INFORMATIONAL MATERIALS**

### **A. City Manager's Report for the August 24th City Council Meetings**

## **COMMENTS OF THE AUDIENCE**

Bob Shavelson, city resident, commented on the amount of development being done during this time of COVID 19 and did not appreciate Mr. Griswold being called out tonight as some of the tone and content was negative. He did not see any place for that . Mr. Griswold may be a thorn in the side of the city but he is a resident of the city and cares about the community.

## **COMMENTS OF THE STAFF**

Deputy City Clerk Krause thanked the Commission for an interesting meeting, noting that she will be brushing up on city code.

City Planner Abboud commented that it was nice to be back, he found that he can do a lot of work in COVID time and he thought they may look at their worklist and maybe have a worksession in the future. He noted that Julie will be out of the office for approximately two month so it may present challenges.

## **COMMENTS OF THE COMMISSION**

Commissioner Highland commented it was a good meeting and welcomed Rick back.

Commissioner Bentz commented on appreciated the input from the public and is a very important part of the process and that they initially had a few points of confusion with one of the applications but the public comment helps the commission. It made them go back to reread city code and really understand what the decision they were being asked to make is; interesting to read in the City Manager's Report that there is an opportunity for a NEA grant partnership. She mentioned moving forward on the transportation as a priority and to wait until they get the new census information.

Commissioner Davis commented on sharing Commissioner Highland's concern with the 65 foot building height especially as applied in the district without concern for viewshed, he voted in favor as they have worked on this for a long time but he will always side on the effect a tall building will have on someone's viewshed. He agreed that public comment is important and they can just focus on the pertinent comments that apply and ignore the non-relevant comments.

Commissioner Venuti welcomed Rick back and commented on seeing him in action as the Acting City Manager and complemented him on doing a great job. He responded to Mr. Shavelson



remarks regarding talking negatively about a anybody although he understands why an individual who has been a pain in the neck for a long time could be considered in a negative manner. His concern is the possibility of litigation from Mr. Griswold if more connex homes catches on, so we have to watch what they do because he seems to be setting policy. Mr. Venuti stated it was a good meeting and complimented Chair Smith on a great job.

Chair Smith echoed the sentiments previously expressed about public comment and hoped that his comments were not perceived as negative, that was not his desire. He appreciated Commissioner Bentz' attention to detail and providing the alternative solution for the commission and applicant tonight. He thanked Rick for his knowledge regarding these matters and providing direction for the Commission. It was a good meeting and believed that they need to ask themselves a couple of questions such as Do we want trailer parks as part of our language and do they want connex as a part of the building possibilities they will need to have some future conversations.

#### **ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 7:45 p.m. The next Regular Meeting is scheduled for Wednesday, September 16, 2020 at 6:30 p.m. All meetings are scheduled to be held virtually by Zoom Webinar from the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska

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RENEE KRAUSE, MMC, DEPUTY CITY CLERK

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