

1. CALL TO ORDER

Session 23-03, a Regular Meeting of the Planning Commission was called to order by Chair Scott Smith at 6:30 p.m. on February 1, 2023 at the Cowles Council Chambers in City Hall, located at 491 E. Pioneer Avenue, Homer, Alaska, and via Zoom Webinar. A worksession was called to order at 5:35 p.m. On the agenda was a continuation of a presentation by Jen Martin, US Army Corps of Engineers, regarding their role and permitting authority in Alaska.

PRESENT: COMMISSIONERS BARNWELL, VENUTI, SMITH, HIGHLAND, CONLEY, STARK

ABSENT: COMMISSIONER CHAIPPONE (EXCUSED)

STAFF: CITY PLANNER ABBOD
DEPUTY CITY CLERK KRAUSE
ASSISTANT PLANNER DODGE

2. AGENDA APPROVAL

Chair Smith noted the items in the supplemental packet and requested a motion and second to adopt the agenda as amended.

HIGHLAND/CONLEY MOVED TO APPROVE THE AGENDA AS AMENDED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

3. PUBLIC COMMENTS ON ITEMS ALREADY ON THE AGENDA

Scott Adams, city resident, spoke to Ordinance 23-02 regarding appropriations for the purchase of land in the Bridge Creek Watershed Protection District. He noted that the dates will need to be changed and council postponed the ordinance to bring back a new ordinance.

4. RECONSIDERATION

5. CONSENT AGENDA

5A. Unapproved Regular Meeting Minutes for January 18, 2023

Chair Smith read the consent agenda into the record and requested a motion and second.

HIGHLAND/CONLEY MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

6. PRESENTATIONS/VISITORS

7. STAFF & COUNCIL REPORTS/COMMITTEE REPORTS

- 7A. City Planner's Report
Agenda Item Report PC 23-006

Chair Smith introduced the topic and deferred to City Planner Abboud.

City Planner Abboud reviewed his staff report that was presented in the packet. He spoke to the following:

- Invasive Species
- Port Expansion
- funding for the purchase of land in the Bridge Creek Watershed
- Permitting software update
- Commission providing input on the transportation plan draft mid-March
- Selection of a firm to perform the Comprehensive Plan and Title 21 Update
- Clearing and Grading regulations
 - o information provided tonight in the supplemental packet provides good information for consideration
 - o Can be used for the Comprehensive Plan update
 - o Previous recommendations of 50 & 100 feet did not pass with the public
- Participation by the City in a housing forum
 - o Planning Directors of Alaska speaking on this topic
- Commission Calendar
- EDC actions over the past month

Commissioner Highland volunteered to provide the Commission report at the February 13th Council meeting.

Mayor Castner responded to the public comment made on Ordinance 23-02 and stated that it was postponed to the February 13th Council meeting. He provided a quick synopsis of the process regarding the ordinance, reporting that a new ordinance was not required.

City Planner Abboud stated that when a draft of the Transportation Plan was ready it will be submitted to the Commission for review and input. He explained that he was not involved in that project and would have to double check the staff assigned to it. City Planner Abboud reiterated the mid –March date as a first guess for Commission review in response to Commissioner’s questions.

8. PUBLIC HEARING(S)

9. PLAT CONSIDERATION(S)

- 9.A. Forest Trails Subdivision Preliminary Plat
Agenda Item Report - PC 23-007

Chair Smith introduced the item and deferred to City Planner Abboud.

City Planner Abboud pointed out the aerial map and reviewed specifics included in the Action Item Report PC 23-007 commenting further on the following:

- Comprehensive Plan guidance
- Applicant working with Public Works and the Planning Department on road rights of way widths
- Pedestrian Easement and paths or connections
- Development Agreement is required
- Exceptions that the Applicant was requesting
- Staff recommends the Commission approve this preliminary plat
- Creek bed has been designate as wetlands from the Corps of Engineers
- Discussion can be held on the road width
- Easements required are being met
 - o 2 Pedestrian Easements leading to the school
- Review of the Borough Code Requirements
 - o If the project is phased streets must be dedicated in the first phase
- Not discussing the development of this property at this time and the city would need to amend city code to address those concerns.

Nick Botkin, applicant, reported that he was present for questions from the Commission.

Chair Smith opened the public comment period.

Jan Keiser, Public Works Director/City Engineer, referring to page 20 in the packet, reviewed her Memorandum dated January 12, 2023 on this project. Referring specifically to the recommendations in that memorandum stated the following:

- a 10 foot wide easement between Lot 3 & Lot 4 recommended adoption
- provided an explanation for asking for the 40 foot drainage/pedestrian easement
 - o working out land management concerns with the Kachemak Heritage Land Trust
- working with DOT in the future for connecting sidewalk and Paul Banks along East End Road

Joel Cooper, Stewardship Director for Kachemak Heritage Land Trust (KHLT), noted the information that was provided in the Supplemental Packet covering 10 pages expounded on the following points:

- stream channel that runs through the area is a significant one
- KHLT manages almost 4000 acres - 28 conservation easements, and 18 parks and preserves
- pro-land and pro-development
- protection of vital habitats
- Previously seen in these types of developments were immediate increase in unauthorized tree cutting, motorized vehicle use, discriminate trail development which opens areas up for the potential spread of invasive species and habitat degradation.
- Recommended reducing the right of way size which will lessen the impact, reduce impervious cover, which will lessen the impact to drainage that would affect the property that KHLT manages.
- Recommended and requested a 50 foot undisturbed, riparian buffer.
 - o information was submitted on the benefits of a natural buffer versus a planted buffer
- The Notice of Subdivision should have included a map that had more information since their opinion the map provided was not informative enough, it just showed lines and did not reflect the prominent natural and man-made features.
- The city should review the requirements of Chapter 20 and cross reference with the subdivision process.

- Having pedestrian access to their managed land creates additional costs for KHLT and they already have limited staffing and budget.
 - o It is believed by KHLT that this will bring additional persons and impacts to the management of the property and existing trail system.

Scott Adams, city resident, expressed concerns on bringing a development of 13 homes next to a school with no safe pedestrian access for children, the bulldozing of trees on the property before anything has been approved, presenting plans with pedestrian connections that are never developed and if developed are not maintained. This subdivision will also compound the issue of traffic along East End Road to and from Paul Banks Elementary School and he hopes the Commission will take that into consideration.

Laura Karstens, city resident, explained that she started listening and attending Planning Commission meeting when she herself was recently sent a notice regarding activity near her home up Baycrest. She has her children take a bus to West Homer Elementary a mile to the school as she does not believe that there is a safe way for her children to walk that mile to the school. She noted that the maintenance of the sidewalk and location next to the highway provides questionable safety. She encouraged the Commission to implement a safe alternative for this subdivision to the school.

Chair Smith seeing no further members coming forward or indicating they wish to provide comment, closed the Public Comment period. He offered the City Planner and Applicant the opportunity for rebuttal.

City Planner Abboud reminded the Commission on some of the information before them regards cleaning some items up when they make motions. He stressed the Commission make a motion on what they felt was appropriate, Public Works is asking for a 40 foot easement and a neighboring property owner is requesting a 50 foot buffer. He noted that City Code does not contain a definition for buffer. If there is a drainage easement, you cannot construct anything within that easement or interfere with it. The Commission can amend the size to keep people out of the drainage easement. A buffer would have some qualities that in theory the city could put something in there. He recommended the Commission make a motion to address the size of the drainage easement. In that motion you may combine it with verbiage that addresses a pedestrian easement on the south of the right of way on the plat. Impervious coverage would be addressed in the development agreement. City Planner Abboud acknowledged that he would not mind seeing where the road would be placed and if there would be a consideration for a narrower developed road; that is a part of City Code that is enforced by Public Works, not the Planning Department.

In reference to the Public Notice, the Planning department could send out a more detailed vicinity map. The intent of the notice is to provide neighboring property owners of the proposed development, but the purpose is to give people an idea and the public can then ask for more information on the project. He noted the pedestrian sidewalk/easement was addressed and would be included in the subdivision agreement.

Mr. Botkin, applicant, offered rebuttal on the reason for the pedestrian easement were to provide that access. He was unsure whose responsibility the maintenance of such access would fall to once those lots were sold.

Chair Smith opened the floor to questions from the Commission.

City Planner Abboud facilitated discussion on the following:

- City Council approved regulations requiring all new subdivision roads to have sidewalks, this subdivision is not requiring sidewalks.

- Pedestrian access would be created on the south side of the right of way
 - o Question is raised on how a sidewalk is constructed next to a gravel road
 - Very Wide gravel road which lends to speeding traffic
 - Separated path with additional maintenance issues
- this is rural residential district not central business district or urban residential where a paved road and sidewalk is required
- they will have a space for pedestrians
 - o minimal traffic
 - o narrow road, residential traffic, limited
- Does the regulations permit that flexibility
 - o Yes, it is permitted outright for sidewalk and paved roads in urban residential, residential office and central business districts
 - o as the transportation plan is developed refining requirements better

Mayor Castner countered that City Council was not interested in having unimproved rights of way that is not going to substitute for access. If you create an unimproved right of way, then that is all it probably will ever be. He further stated that the expectation the city will come in, construct the improvement then maintain it if there is an improved right of way, then the expectation may be met. He opined that this is not what Council had in mind on providing walkable areas.

Commissioner Highland requested clarification on the pedestrian access up to East End Road and between Lots 3 and 4 regarding size.

City Planner Abboud and the applicant, Mr. Botkin, facilitated discussion on the following from the Commissioners:

- Not providing a larger print out of the plat, while the one provided in the packet was clear the writing was so tiny it could not be easily read.
 - o Technical issues in printing the document provided by the applicant prohibited an 11 x 17 copy to be provided to the Commission.
 - o Staff offered to share screen so they could review a larger copy of the print
- Concerns with the lack of a buffer along the creek as it was a substantial drainage
- Trees were already cut to edge of the creek
 - o trees were cut down to perform a topographical survey as the road would be going in along the creek which is required for the engineering specifications
- No construction can be conducted within a drainage easement
- Public Works recommended a drainage easement of 40 foot, this is 20 feet on each side of center
 - o Commissioners can amend that recommendation
- Consideration of a 60 foot drainage easement
 - o Question on how that would impact the building setback and the unknown effect on the development design
 - o Development cannot interfere with the drainage so the building setback would be the drainage easement.
- Clarification that a pedestrian path, in the existing easement, would run along the south side of the proposed subdivision road, there is a proposed pedestrian easement between Lot 3 and Lot 4
- Steep slope regulations would not be applicable to this action, even though some of the topography in the pictures may make it appear to apply, but unless there was a 15 drop to the creek it would not apply.

- Appreciation was expressed for the memorandum from Public Works and the recommendation on extending the easement for the drainage.
- Concerns on how this creek was affected by a 100 year flood
 - o There was no available data or studies on this creek.

Mr. Cooper requested an opportunity to speak to the Commission.

Chair Smith advised that the Commission would require a motion to suspend the rules to allow additional public comment period.

Chair Smith requested a motion.

HIGHLAND/CONLEY MOVED TO SUSPEND THE RULES TO ALLOW ADDITIONAL PUBLIC COMMENT PERIOD.

There was no discussion.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mr. Joel Cooper requested clarification of the definition of a 15 foot drainage easement in as far as landscape and vegetation.

City Planner Abboud stated that the drainage management is definition of the land in this case centered on the actual drainage, which is the stream itself. You would extend 15 feet from the center to the left and then to the right. No structures would be allowed as far as zoning and development, no filling, debris that would or could interfere with the drainage could be removed using heavy equipment if needed. The city has no regulations on the vegetation in that drainage at this time.

Mr. Cooper then posed a question regarding installation of oversized culverts in the creek crossings to accommodate the possibility of heavy rain events bringing lots of sediment downstream and onto KHLT property.

City Planner Abboud noted that the person within the city was present tonight and has heard Mr. Cooper's concerns. The Commission does not address those concerns during this action tonight. There is nothing in the plan that is before the Commission for them to reference.

Mayor Castner commented that he was familiar with state laws regarding riparian zones, and they are always marked from the edge of the creek, not center of the creek. So, if the city has an alluviated area that is 10 feet wide they would only have a couple of feet to work.

City Planner Abboud responded that they can only work with the current conditions. He could not forecast what would happen if the drainage changes in the area, it is not supposed to be disturbed now, mark it on the plat according to what the surveyors find is the center of the creek currently.

Mayor Castner questioned further, that if they were starting from center and the creek or stream was 3 to 4 feet wide then we have already eaten up a couple of feet on each side, so he tried to visualize other areas

in the city where people have contacted him regarding flooding because they never got the drainage area delineated and then structures were constructed within the drainage and while these were legal, they really were detrimental to the flow and drainage of the storm water. He expressed surprise and consternation at the thought of having to deal with the center line of any water course, expressing that those courses can move back and forth and you could end up with a house sitting on the edge of a creek.

City Planner Abboud noted that there no riverine studies and that would be needed to do such regulations. The Commission can address the issue by recommending a larger easement.

Scott Adams commented reviewing the Kenai Peninsula Borough website and the changes that happen from preliminary plat to actual construction regarding pedestrian access easements and for the most part he stated they never were built; so questioned what assurance was provided that the pedestrian access routes would be constructed.

Public Works Director Keiser responded that Public Works has been researching and marking all pedestrian easements and actually over the past summer brushed out so that they can be used by the public. They will have gravel laid this upcoming summer. She provided further information on pedestrian easements in the new development next to Jack Gist Park. Ms. Keiser explained that the drainage easement is designed to cover the area where the stream or creek is predicted to go, however that is not always the way things happen, in Homer there is a tendency for the stream to get deeper, not wider. If we get the easement wider then it could follow the stream as it moves from side to side. We haven't seen big alluvial drifts being created. Asking for the 40 foot is a progressive move for the city. This will allow the water to move and we can keep structures out of the drainage.

Commissioner Barnwell noted that page 39 of the supplemental packet described the easement with pictures and could be very useful in discussion of drainage management and the different habitats involved.

Commissioner Conley supported increasing the drainage easement to 40 feet and that would address a lot of the Commissions concerns.

HIGHLAND/CONLEY MOVED TO ADOPT STAFF REPORT 23-007 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT WITH THE FOLLOWING COMMENTS:

1. THE CITY OF HOMER DOES NOT OBJECT TO REQUESTS FOR EXCEPTION TO CODE LISTED IN THIS STAFF REPORT.
2. INCREASE DRAINAGE EASEMENT TO 40 FEET FROM CENTER OF DRAINAGE
3. PORTION OF SOUTH ROAD RIGHT OF WAY WILL INCLUDE PEDESTRIAN EASEMENT

Discussion ensued on the following:

- Use of Weed Free Gravel
- Getting Walkways in Developments
- Setbacks or provisions for the sustainability of the creek were accomplished
- City sets standards and the Developer must meet those standards before taking on the maintenance
- Council expressed frustration over the lack of enforcement of adopted policies
- City Code establishes requirements for non-motorized transportation
- Pedestrian Access is defined between Lot 3 & 4 on the plat

- Does a Pedestrian easement get defined in the utility easement or right of way
- Observation of heavy traffic on East End Road and school children walking along there versus having a pedestrian path
- Previous success by the City working with the School District regarding establishment of connecting trails to schools

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Smith called for a recess at 8:08 p.m. The Meeting was called back to order at 8:16 p.m.

10. PENDING BUSINESS

11. NEW BUSINESS

11. A. US DOT RAISE Planning Grant Application and Recommendation of Support Agenda Item Report - PC 23-009

Chair Smith introduced the item by reading of the title and deferred to City Planner Abboud.

City Planner Abboud and Public Works Director Keiser jointly reported on the purpose and intent of the proposed grant application and how the opportunity for federal funding would be used by the City of Homer and for which projects. It was explained that the action was time sensitive so a motion in support is being requested.

Chair Smith requested a motion and second.

HIGHLAND/VENUTI MOVE TO ADOPT ACTION ITEM REPORT 23-009 AND RECOMMEND SUPPORT OF THE CITY OF HOMER REACH PROJECT, 2023 RAISE PLANNING APPLICATION AND FURTHER RECOMMEND CITY COUNCIL FAVORABLY CONSIDER ISSUING A RESOLUTION OF SUPPORT.

There was no discussion

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

11. B. Review of the Preliminary Plat Processes Agenda Item Report - PC 23-008

Chair Smith introduced the item and deferred to City Planner Abboud.

City Planner Abboud reviewed Action Item Report 23-008. He commented further on the following:

- Process and review of the preliminary plat by the Planning Department staff then present for public comment before submittal to the Kenai Peninsula Borough Planning Commission.

- City Planning Commission is advisory to the Borough
- City Planning Commission can make recommendations such as larger drainage easements.
- Applicant will make the recommendations and plat notes on the preliminary plat prior to submittal to the Borough.
- Borough will perform a more detailed review of the plat and then present to the Borough Planning Commission for additional public comment and approval.
- Public Works Director will review and create/draft the subdivision/development agreements.
- Exceptions to requirements are reviewed by the Planning staff and presented to the Planning Commission with comment.
- Advisement of development concerns from the Planning Staff
 - o pre- meeting to discuss issues such as public safety concerns or access
 - o road widths, drainage, driveways, etc.
 - o density
- Development requirements addressed when applicants come in for a permit
- Changes to regulations and the Comprehensive Plan update
- Time frame of 2 yrs to comply – extension requests are listed in the consent agenda on the meeting agendas

City Planner Abboud and Public Works Director Keiser facilitated question and answers on the following:

- development versus platting
 - o developments meeting existing regulations
 - o concerns in design of the development
- Public Works does not have a requirement to inform the Kenai Peninsula Borough(KPB)
- Process seems backwards in that the Commission sees a preliminary plat, then KPB, then it goes to Public Works
 - o a surveyor is not an engineer but does his best to layout where on the plat roads and infrastructure may be placed
 - o A developer will then have an engineer design the project and that is where they may run into problems
 - o better regulations to address the land and neighboring property owners
- Appreciation for the comments provided by the neighboring property owners
 - o process for the Commission to relay those concerns to Public Works for consideration in the development agreements
 - Comments are included in the record
 - o Public Works is contacted by the property owners
- Opportunity to provide findings to the KPB concerning a plat
 - o Legal representation for the plat considerations
 - o City is not the final decider on the issue before the Commission

- Public comment period not a public hearing, so not quasi-judicial
 - CUPs are different in that the Commission has final decision making authority
- Clarification on what the term, “beneficial interest holder”
- Adequate noticing of property owners
- Public comments are important to the process

Chair Smith expressed his appreciation for the materials and discussion as it has provided clarification on the plat process and Commission duties.

12. INFORMATIONAL MATERIALS

12.A. City Manager's Report
CM Report for January 23, 2023

12.B. 2023 PC Calendar

Chair Smith noted the informational items and opened the floor to comments or questions from the Commission. Hearing none, he offered comment on the increase in the number of calls answered by the Fire Department and inquired if the City Planner had any statistics as to the increase, such as the increase in population.

City Planner Abboud did not have any data on those numbers, he then commented on the items listed in the Commission Calendar were flexible and would be changed as needed. It was noted as a working document and there were only a few items that would always be addressed at specific times such as training and reappointments.

13. COMMENTS OF THE AUDIENCE

14. COMMENTS OF THE STAFF

City Planner Abboud did not have any comments.

Deputy City Clerk Krause commented it was along meeting but a very interesting meeting as well.

15. COMMENTS OF THE COMMISSION

Commissioner Barnwell expounded on the need for the city to have a wetlands management plan in place, expressed concerns over the amount of projects the city is taking on and commended the Public Works Department and Planning Department for all their hard work. He expressed that the plat tonight showed how the two departments can work with a developer to get things going in the right direction, it may not be perfect but it works.

Commissioner Stark expressed he was happy to be at the meeting and seeing everyone, that the agenda had some really encouraging stuff on it tonight, lot a good stuff was discussed. He noted that the Commission is charged with some difficult decisions that can be conflicting and frustrating. It was the one

thing he kept reminding himself with is that Homer is a town of 5800 people and it has done a pretty good job dealing with issues that bigger cities usually dealt with and it is one of the reason he asked at his very first meeting what each Commissioner's objective to being on this body because they each had to be fair and equitable to create the right environment for prosperity. He continued by stating it was encouraging that the Commission wants to understand the processes and the City planner explaining it and with the Public Works Director adding their part in the process explains how the collaboration works together and not against each other. Commissioner Stark stated it was a pleasure to be part of that process.

Commissioner Highland did not have any comments.

Commissioner Conley expressed his appreciation for City Planner Abboud and Deputy City Clerk Krause keeping the Commission informed and in line following the rules. He echoed Commissioner Barnwell's comments regarding green infrastructure and that it would be worth a worksession or further discussion on ideas regarding development in Homer, especially seeing all those trees cut down, regarding putting in place guidelines.

Commissioner Venuti commented that it was a good meeting. He was hoping that the Mayor would have stuck around a little longer as he wanted some input on a concept that there is a causeway plan from Mud Bay out to the harbor. He inquired if the City Planner was aware of that proposal.

City Planner Abboud commented that everybody has a plan they could even be like Dubai and build islands that look like pine tree, but he thought it might of came out of the worksession that the Mayor was involved with the Port & Harbor Commission.

Chair Smith concurred and noted that it submitted to each of the Commissioners from the Clerk as it was forwarded to them by a member of the public that that was one proposal for the new port expansion project. It would be interesting to see how that is involved with everything. He expressed his appreciation towards the work that is done by the Staff and very grateful to have the Mayor participate. Chair Smith echoed each Commissioner sentiments on the items on the agenda tonight and more discussions on the Comp Plan for the near future.

ADJOURNMENT

There being no further business before the Commission, the meeting was adjourned at 9:30 p.m. The next Regular Meeting is Wednesday, February 15, 2023 at 6:30 p.m. A worksession is scheduled for 5:30 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska and via Zoom webinar.



Renee Krause, MMC, Deputy City Clerk II

Approved: February 15, 2023