

## **1. CALL TO ORDER**

Session 23-07, a Regular Meeting of the Planning Commission was called to order by Chair Scott Smith at 6:30 p.m. on April 5, 2023 at the Cowles Council Chambers in City Hall, located at 491 E. Pioneer Avenue, Homer, Alaska, and via Zoom Webinar. The worksession was canceled by the City Planner.

**PRESENT:** COMMISSIONERS VENUTI, SMITH, HIGHLAND, STARK, CHIAPPONE

**ABSENT:** COMMISSIONER BARNWELL, CONLEY (EXCUSED)

**STAFF:** ACTING CITY PLANNER/ECONOMIC DEVELOPMENT MANAGER ENGBRETSSEN  
DEPUTY CITY CLERK KRAUSE

## **2. AGENDA APPROVAL**

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

HIGHLAND/VENUTI 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**

## **4. RECONSIDERATION**

## **5. CONSENT AGENDA**

### **5. A. Unapproved Meeting Minutes**

Regular Meeting Minutes for March 15, 2023

### **5. B. Time Extension Request**

Right of Way Acquisition Sterling Highway Reconstruction Anchor Point to Baycrest Hill  
Preliminary Plat

### **5. C. Decisions and Findings**

Conditional Use Permit (CUP) 23-02 at 3375 Sterling Hwy  
Conditional Use Permit (CUP) 23-03 at 1368 Lakeshore Dr.

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

HIGHLAND/VENUTI MOVED TO ADOPT THE CONSENT AGENDA AS PRESENTED.

There was no discussion.

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 23-022**

Chair Smith introduced the topic and deferred to Acting City Planner Engebretsen.

Acting City Planner Engebretsen provided a summary review of Staff Report PC 23-022. She facilitated a brief discussion on future staffing of the Planning Department.

Chair Smith noted that they needed a Commissioner to volunteer to provide the report at the next Council meeting which is April 10 or the 24<sup>th</sup>. He stated that he can submit a written report for the packet after getting no volunteers. Chair Smith commented that Commissioners can attend the Council meeting via Zoom and report to Council also, noting that he did that for the last Council meeting.

## **8. PUBLIC HEARING(S)**

8. A. Request for Conditional Use Permit (CUP) 23-04 at 106 W Bunnell Avenue for Approval of reduced setback from a dedicated right-of-way within the Central Business District.  
Agenda Item Report PC 23-023

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

Acting City Planner Engebretsen provided a summary review of the report presented in the packet. She noted that this CUP was a condition listed in CUP23-01 and that all other conditions of that CUP are still in place.

Chair Smith invited the Applicant to speak to the Application.

Melody Livingston, applicant, reiterated that they were not intending to touch or alter the front of the building, all construction would be done on the back of the building.

Chair Smith opened the public hearing, seeing no members of the public wishing to provide testimony on Zoom or coming forward from the audience in Council Chambers, he closed the public hearing and opened the floor to questions from the Commission.

Commissioner Venuti brought his concerns on the Commission having ample time to fully digest materials submitted in the Supplemental Packet. He reiterated his request from the previous meeting for the deadline to be amended. Mr. Venuti indicated that an hour and half prior to the regular meeting even when they have no worksession is not enough time to effectively assimilate the information that is provided to the Commission. He would like to see the deadline pushed back a day.

Acting City Planner Engebretsen explained the established deadlines and further noted that does not stop the public from submitting their comments from the 4:00 p.m. deadline to providing it within the meeting.

The deadline was established so that there was time for staff to get the materials distributed to the website and the Commission and anything submitted after the deadline there was no guarantee that the Commission would receive the information or the public to have access as well to that material.

Deputy City Clerk Krause responded stating that policy follows generally what is established by Council and that she will consult with the City Clerk to see if that can be amended.

Chair Smith called for a point of order and requested any additional questions from the Commission hearing none, he requested a motion.

HIGHLAND/VENUTI MOVED TO ADOPT STAFF REPORT 23-023 AND RECOMMEND APPROVAL OF CONDITIONAL USE PERMIT 23-04 WITH FINDINGS ONE THROUGH ELEVEN.

There was a brief comment on the conditional use permit being very straight forward.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **9. PLAT CONSIDERATION(S)**

9. A. A.A. Mattox 2023 Replat Preliminary Plat - Staff Report PC 23-024

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

Acting City Planner Engebretsen provided a summary review of Staff Report 23-024 commenting on the very small creek and drainage with historical overflows and the process conducted by the City over time in this area regarding right of way dedication.

There was no applicant present.

Chair Smith opened the Public Comment Period seeing no one that was attending the meeting in person or via Zoom coming forward to provide comment, he closed the Public Comment Period and opened the floor to questions from the Commission.

There were no questions from the Commission.

HIGHLAND/VENUTI MOVED TO ADOPT STAFF REPORT 23-024 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT TO VACATE LOT LINES TO CREATE A LARGER LOT FROM THREE SMALLER LOTS WITH THE FOLLOWING COMMENTS:

1. CREATE A PLAT NOTE STATING "PROPERTY OWNER SHOULD CONTACT 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 IF ANY."
2. THERE WILL NEED TO BE RIGHT OF WAY DEDICATION ON THE EAST SIDE OF PENNOCK STREET. EXACT DEDICATION REQUIREMENT IS UNKNOWN AS THE RIGHT OF WAY VARIES ADJACENT TO THE LOT. PAST CITY REQUIREMENTS REQUESTED 9.85 FEET. DIMENSIONS SHALL BE VERIFIED.

3. DEDICATE A 15 FOOT UTILITY EASEMENT FRONTING THE UNDETERMINED DEDICATION ON EAST SIDE OF PENNOCK STREET.
4. THE PROPERTY OWNER WILL NOT BE REQUIRED TO ENTER INTO AN INSTALLATION AGREEMENT WITH THE CITY.
5. DEDICATE A 20 FOOT DRAINAGE EASEMENT CENTERED ON THE DRAINAGE ON THE NORTHEASTERN PROPERTY CORNER.

There was a brief comment on the known drainage issues being addressed with the easement.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

9. B. Bunnell's Subdivision 2023 Replat Preliminary Plat - Staff Report PC 23-025

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

Acting City Planner Engebretsen provided a summary review of Staff Report PC 23-025. She noted that there was a previous action that dedicated a 15 drainage easement centered on the creek and the City would like to continue that easement. Ms. Engebretsen continued by providing a brief description of the creek path and this dedication will assist in prevention of future flooding. She then noted an oversight in not carrying over the recommendation regarding dedication of a 15 foot utility easement and the Commission will need to address that issue. Ms. Engebretsen stated that she can provide additional clarification if needed when appropriate.

Gary Nelson, Ability Surveys, applicant, provided a brief history of the project and noted that they would like to offer a counter recommendation to staff recommendation number four, noting that this has taken the owner by surprise and will add an additional cost of \$10,000 or more to the project. He stated that the property owner is trying to rectify a bad situation and suggested that instead of bonding and requiring installation if it could be changed to say no building permit would be offered or approved for Lot 51 A until services are installed. Mr. Nelson acknowledged that services must be installed but the cheapest way to take care of the situation is to abandon in place the stub services and install new ones 50 feet north of the existing location. Further adding that to hire a contractor to do this work before it's needed is really adding expense and the services will not be needed until someone wants to build on that lot. He continued explaining how the process would work, tying up capital and advocating for the requirement to be delayed until needed.

John Hendrix, property owner and applicant, provided historical ownership and use of the land, issues and legal options available. He noted that they are giving up 15 feet on the Swatzell side and now the City is asking to give an additional 15 feet for the creek and pay additional for the removal of the existing services which is unreal to him. He questioned how much a person has to give to do it right.

Chair Smith opened the public comment period and confirmed with the Clerk that there was no one on Zoom that wanted to comment and noted that there was no one present in chambers who wanted to comment he closed the public comment period. He then opened the floor to questions from the Commission and noted that Ms. Engebretsen can provide guidance on the amendment as well at this time.

Ms. Engebretsen stated that amending may not be under the purview of the Commission and requested a moment to review code as she believed that lay in Title 11.

Commissioner Highland commented that she did not recollect ever amending recommendations and felt that Public Works would be involved. She further noted that she did not believe they needed a decision tonight.

Chair Smith requested a motion and second before continuing discussion.

VENUTI/CHIAPPONE MOVED TO POSTPONE THIS ITEM TO THE NEXT MEETING TO ALLOW A RESPONSE FROM PUBLIC WORKS ON THIS ISSUE.

Ms. Engebretsen cited for the record the following: Homer City Code 22.10.050 Improvement requirements – General. (a)(2) All other utilities and public improvements to be constructed in the rights-of-way and easements dedicated by the plat, including water, sewer, electric, communications, and gas lines, and applicable means for non-motorized transportation; adding that the Commission cannot exempt the requirement under Homer City Code 22.10.050 (b) *The Commission may exempt a plat from the provisions of subsection (a) of this section as provided in Homer City Code 22.10.040*, since this plat does involve the dedication of a right of way. She acknowledged the expense and frustration but noted that this action was a standard in city code, and frequently when you see a lot line vacation a service has to be abandoned, dug up and in this case relocated with installation of a new service for the northern lot.

Chair Smith requested Mr. Nelson to come forward to speak on the record.

Mr. Nelson stated that Ms. Engebretsen left out the language, “or an installation agreement being in place.”

Ms. Engebretsen responded that Mr. Nelson was correct, and further commenting that typically people perform all the relocations before they record because it is easier, since they do not want it to be left hanging out there that long, other options are through the bonding process and Public Works usually handles all those details.

Mr. Nelson opined that installation agreements are commonly used and Ms. Engebretsen agreed but added that there is always an installation agreement but whether you install all those improvements before recording the plat, and typically on a bigger plat it is, you can choose either way to record this particular plat, if you have the installation agreement in place.

Mr. Nelson restated that was his desire to have the conditions in the subdivision development agreement that whatever is figured out, and a building permit could not be issued until such time as those improvements are installed but they can talk about it more with this postponement.

Chair Smith called for a point of order noting the motion on the floor for postponement. He requested discussion on the motion.

Ms. Engebretsen stated that she did not believe the Commission has purview on this, but if the Commission would like to postpone and since the applicant is requesting this for a more thorough review, staff can do that however this does not preclude the Commission from approving this plat tonight but if the Commission would prefer to consider it in the future with more information staff can facilitate that.

Chair Smith inquired about the details of the additional recommendation that Ms. Engebretsen stated was omitted when she was providing her report.

Ms. Engebretsen noted that the recommendation to dedicate a 15 foot utility easement was in the report under Public Works comments but was not carried forward under Staff recommendations.

Ms. Engebretsen fielded questions regarding the following:

- There is nothing that the applicant can do if this action is postponed tonight to change the outcome
- the Commission can recommend approval to the Borough, the installation issue is a discussion for Public Works as it is addressed by Title 11 in Homer City Code
- Under Title 22 the Commission cannot waive this exemption
- this action will come back at the next meeting with a little more information in the staff report but nothing else will have changed
- the requirement of the new stub is because they are dealing with two lots
- If the applicant purchased the lot they could then vacate the lot line and still would be required to abandon and excavate the old service.

Commissioner Stark commented that approving the motion to postpone provides the applicant additional time to speak with staff regarding the application and referenced the advice of the Mayor to have most if not everything resolved and identified prior to approving the plat even though it is preliminary.

Chair Smith stated that the applicant was wishing to speak to the Commission and requested a motion to suspend the rules to allow them to speak. He then acknowledged his error previously allowing Mr. Nelson to speak earlier in the meeting.

HIGHLAND/CHAIPPONE MOVED THAT THE COMMISSION SUSPEND THE RULES TO ALLOW THE APPLICANT TO ADDRESS THE COMMISSION.

There was no discussion.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mr. Hendrix jokingly offered to pay the city to install the new service stub in order to move this process along. He reiterated that he is trying to cure an old problem but can just as well use the parking lot as is and start litigation.

Chair Smith countered that he understands that a postponement delays the applicant's grief but assured the applicant that they are trying to reach a successful outcome and this postponement will allow Mr. Nelson to speak with Public Works. He noted that this item will be on the agenda under pending business.

## **10. PENDING BUSINESS**

## **11. NEW BUSINESS**

## **12. INFORMATIONAL MATERIALS**

- 12.A. City Manager's Report  
CM Report for March 28, 2023

## **13. COMMENTS OF THE AUDIENCE**

## **14. COMMENTS OF THE STAFF**

Acting City Planner Engebretsen commented her appreciation for a very efficient meeting.

Deputy City Clerk Krause echoed Ms. Engebretsen's comments regarding the short meeting.

## **15. COMMENTS OF THE COMMISSION**

Commissioner Highland commented that they had a short meeting, a little complication but she suspected that it will get taken care of, and thanked everyone.

Commissioner Stark expressed his appreciation for the Commissioners attending in person and on Zoom and the Acting City planner for a very succinct Planner's Report. He advised that he will require one additional eye surgery but will gladly provide the report via Zoom and in person after he gets back as always. He then requested Julie to contact him regarding information for the CDL feedback on the Transportation survey.

Commissioner Venuti commented that it was an interesting and short meeting.

Commissioner Chiappone stated that he will not be at the next two meetings as he will be traveling out of the country, and thanked Julie for filling in.

Chair Smith expressed his appreciation for the efficient meeting and the efforts of the staff. He thanked Julie for filling in noting that it was always a pleasure working with her.

## **16. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 7:30 p.m. The next Regular Meeting is Wednesday, April 19, 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.



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Renee Krause, MMC, Deputy City Clerk II

Approved: \_\_\_\_\_ April 19, 2023