

CALL TO ORDER

Session 24-01, a Special Meeting of the Planning Commission was called to order by Chair Scott Smith at 5:30 p.m. on January 3, 2024 at the Cowles Council Chambers in City Hall, located at 491 E. Pioneer Avenue, Homer, Alaska, and via Zoom Webinar. The worksession at 5:30 p.m. was canceled in order to start the meeting at this time.

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

STAFF: CITY PLANNER FOSTER, DEPUTY CITY CLERK KRAUSE, PUBLIC WORKS DIRECTOR KEISER

CONSULTING: KEN CASTNER, MAYOR

AGENDA APPROVAL

Chair Smith read the items from the Supplemental Packet into the record as follows: **PUBLIC HEARINGS A.** Staff Report 23-060, Conditional Use Permit (CUP) 23-08 Planned Unit Development Lighthouse Village Development at 1563 & 1663 Homer Spit Road and 1491 Bay Avenue B. Staff Report 23-061, Application Amending Zoning Map via Ordinance Rural Residential to General Commercial One C. Staff Report 23-062, Request to Vacate B Street Right of Way South of Bay Avenue - Public Comment Received and Amended Site Rendering. He inquired if the Commission had appropriate time to review the recent laydowns and public comments received and a five minute recess was requested from the Commission.

Chair Smith recessed the meeting at 5:35 p.m. to review the materials received as laydowns and the last 5 emails received in the Supplemental Packet. The meeting was called to order at 5:43 p.m.

Chair Smith requested a motion to approve the agenda as amended.

HIGHLAND/BARNWELL MOVED TO APPROVE THE AGENDA AS AMENDED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PUBLIC COMMENTS ON ITEMS ALREADY ON THE AGENDA The public may speak to the Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

There was one inquiry from a member of the public and they were directed when the appropriate time was to provide their comments on the agenda by the Chair.

RECONSIDERATION

CONSENT AGENDA

Chair Smith noted for the record that all items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. If a separate discussion is desired on an item, a Commissioner may request that item be removed from the Consent Agenda and placed on the Regular Agenda under New Business. No Motion was necessary. There were no requests to move items from the Consent Agenda and the Chair requested a motion and second to adopt as presented.

- A. Unapproved Regular Meeting Minutes for December 6, 2023
- B. Decisions & Findings for Conditional Use Permit (CUP) 23-09 More than One Building Containing a Permitted Principal Use on a Lot at 1149 Virginia Way.
- C. Decisions & Findings for Conditional Use Permit (CUP) 23-10 More than One Building Containing a Permitted Principal Use on a Lot at 1161 Virginia Way.
- D. Decisions & Findings for Conditional Use Permit (CUP) 23-11 More than One Building Containing a Permitted Principal Use on a Lot at 1177 Virginia Way.

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

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PRESENTATIONS / VISITORS

REPORTS

City Planner Foster noted that there were no City Council meetings since the Commission's December 6th meeting so there were no items of interest to provide to the Commission.

PUBLIC HEARINGS

Chair Smith requested declarations of ex parte communication for any of the items listed under Public Hearings since the December 6, 2023 regular meeting. They will address that issue now for all three items on the agenda.

Commissioner Conley declared an ex parte discussion on the Conditional Use Permit stating he was approached by Lane Chesley, the former Borough Assembly member and Planning Commissioner. It was under 10 minutes.

HIGHLAND VENUTI MOVED THAT COMMISSIONER CONLEY HAD EX PARTE COMMUNICATION.

Commissioner Highland requested additional details regarding the content of the discussion.

Mr. Conley stated that he and Mr. Chesley work together and Mr. Chesley brought up the Doyon Hotel in the course of their conversation and briefly recommended how additional focus should be given by the Commission.

repeating what he stated during his testimony from the meeting on December 6th. They both acknowledged that the conversation should stop and it did.

VOTE. NO. VENUTI, SMITH, SCHNEIDER, HIGHLAND, STARK, BARNWELL.

Motion failed

A. Staff Report 23-060, Request for Conditional Use Permit CUP 23-08 for a Planned Unit Development at 1563 Homer Spit Road, 1663 Homer Spit Road, and 1491 Bay Avenue

Chair Smith introduced the item by reading of the title, noting for the record that the Commission heard the Staff Report 23-060 in detail at the December 6th meeting and the Applicant provided their presentation in full. He stated that the Public Hearing portion for CUP 23-08 Planned Unit Development at 1563 and 1663 Homer Spit Road and 1491 Bay Avenue is being continued from that meeting and the Commission will commence hearing from those members of the public who wanted to provide testimony, but did not testify at the last meeting. He requested the public to limit their testimony specifically to the conditional use permit for the Planned Unit Development noting that there will be opportunity to speak on the other items at a later time.

Chair Smith stated that members of the public wishing to testify and did not at the last meeting that are attending via Zoom will go first then those members of the public present in Chambers.

Beverly Bowman, summer resident and has a business at 3361 B Street, expressed concerns on the height, parking and entrance to the employee residence and stated that if there was any room for a vehicle to park where the pedestrian trail was that members of the public would be parking there. She then commented on the public access or private access for residents of Bay Avenue and the landscaping behind the hotel.

George Matz, resident of Fritz Creek, avid birder, commented that he has been monitoring and involved in the Shorebird festival for the past 15 years and expressed concerns on access to continue the monitoring and provided information and comment on how popular the annual event was, that the area was part of the nationally and internationally recognized shorebird habitat citing the importance to the community and visitors.

Marcia Kuszmaul, city property owner and resident of Fritz Creek, expressed concerns on the loss of the viewing platform and the value of that amenity to her guests, expressed agreement with Public Works Director Keiser's report on aesthetics of the project, she did not think the proposed design reflected Homer as a coastal fishing village as there was nothing lighthouse about it and hopes that Doyon would reconsider the design. Ms. Kuszmaul expressed additional concerns on the impact of reported chemicals into the lagoon, environment and on the wildlife. She stated that she added her name to the letter that was being distributed as well.

Catie Bursh, city resident, residing on Mt. Augustine Drive, stated that she has always been ticked off regarding the condos at the end of the Spit just because it's a really unique piece of real estate. She noted that living in Homer for 40 years, it just keeps getting bigger and you are out on the Spit you see this big wall and did not think that is what they want for Homer. Ms. Bursh stated that she has been to Cancun and places where it was just a wall of hotels and you had to have a key card to access the beach or every mile or so there was a little skinny public access where you could squeeze through the hotels to get to the beach. She questioned why the hotel has to be at the edge, expressing that the hotel should be inland and that land should be a park. Everyone likes

parks and walking the beach, it is where the birds are. These areas should be preserved for public access and people, not just for making money, nobody wants to come home and see the backside of a bunch of hotels.

Cooper Freeman, expressed concerns with the GC1 guidelines, agreed with the previous speaker regarding using the land for a park and putting the hotel upland, land use goals on increasing housing diversity but decreasing the height and safety regarding pedestrians. He questioned if the city had the appropriate fire equipment, what impacts would there be if a tsunami occurred; the visual impact on Homer as there is no other four story building and did not believe that there should be one at the edge of the Spit, stormwater drainage into the wetlands, maximizing the parking, and will the Commission consider the letter that has over 200 signatures as each individual signature on the letter or as just one letter.

Nina Faust, city resident, could not support the proposal stating it did not follow the city regulations and should not be developed within flight paths or in a tsunami zone. The project should be moved back or remove the condos from the development, advocating for the development to be scaled smaller as she believed it was overkill for Homer. Ms. Faust opined that the project did not enhance the areas natural beauty and will block the view. She expressed that Doyon should maintain the green corridor around the development, put the platform back and connect Bayview Avenue trail onto the fill perimeter along the lagoon and out to the Spit Road. Ms. Faust spoke about the noise affecting the wildlife, performing green infrastructure to protect the lagoon from runoff or the possible failure of the fill due to the dense weight.

Jack Cushing, city resident, commented on the definition of conditional use and what it implies and having a condition that requires removing some of the illegal fill as part of the approval. He then commented again repeating from the December 6th meeting about the city giving right of ways away noting that he and his wife had submitted written comments that were included in the packet.

William Marley, city resident, provided written comments, repeated his concerns again from the December 6th meeting on having a high rise in the location of flight paths and previous air traffic accidents at other locations and Homer.

Dottie Harness, city resident on Klondike Avenue, stated she reviewed the staff report and based on the number of requests for waivers and exceptions recommended denying the CUP and the vacation of the right of way, but believed that it was a workable situation with practical solutions with several already mentioned by the public tonight. She hopes that the developer goes back and aims for some of those. Ms. Harness continued stating that if the Commission allows the waivers and exceptions that they are opening a very wide door for future developments to parade before them with requests for exceptions and variances. Ms. Harness noted that one of the city code items that the vacation asks is, if it offers equal or better access and in her opinion the applicant has not. She again expressed that the Commission should send a strong "nay" back to the Borough regarding this vacation as they depend on the Homer Planning Commission for advice and recommendations.

Mike McCarthy, city resident, expressed concerns on the timely notification to the public regarding this project since meetings were over the holidays and folks not being available to comment; the impact to traffic and the intersection of Kachemak Drive and Homer Spit Road; hazard mitigation for soil liquefaction has not been addressed in the current proposal, that could happen during an earthquake or other seismic event. Mr. McCarthy referred to a picture he provided of the impact to a residence in Homer at another location during the 1964 earthquake.

Miranda Weiss, city resident, commented on the size of the project, that it was led by a very large corporation making about \$1.5 billion dollars every year, asking for numerous accommodations. She recommended that the Commission reference the Comprehensive Plan and Spit Comprehensive Plan, particularly referencing points made on unique community character, quality of life, and scenic beauty. She expressed that a large hotel makes it look like anywhere USA stating specifically a large corporation that has no connection to Homer does not meet that test. Ms. Weiss further noted that the City Planner and Advisory Commission members have to say no sometimes, and guiding development means you need to say no. She continued by stating that she understood they were under extreme pressure to say yes and acknowledged that Doyon has invested a large sum of money already, but they need to make the hard decision, guide development and say "no thanks".

David Stutzer, non-resident, lives up off of Diamond Ridge Road, but he annually rents a stall at the Harbor and will be driving by this project all summer into the fall. He was concerned about the traffic as others and agreed that it will increase the load, before anything happens the property will need to be rezoned and understood the Commission was advisory to Borough Planning Commission and he recommends that they deny their re-plat because they want to vacate a right of way. Mr. Stutzer advocated that the right of way was public property and belongs to everyone and according to the plans he looked at they have not assured the public access to the tidal area for viewing the birds and walking down to the tidal zone. He then noted the right of the Commission to deny the Conditional Use Permit based on all the buildings including the condos are over the height limits and maximum square footage for buildable area is over 30 percent, citing portions of city code 21.24.040. Mr. Stutzer provided his experience as a builder that going up three floors is cheaper than two, and was surprised that the planning department even allowed the Commission to waste their time, noting that the department should have denied the application.

Sue Mauger, stated she was a resident of the Bridge Creek Watershed district that the city manages, she expressed her experience working on the library project and her first views on this project that it exceeded the city height and square footage and were well outside the parameters established in city code. Ms. Mauger then noted that the planning director concluded that there is no health, safety or welfare concerns with the proposed hotel building height which is completely irrelevant, that is not why that height policy was in place, it has to do with community character and natural environment and wanting Homer to remain a special place. She expressed concerns regarding water flow and contamination, noting the paved parking lot over a gravel lot, compression of the soils and from what they know these soils are contaminated and there is not enough consideration for the flow and changes to that flow pattern and then there are the number of required parking spaces, she stated she could not find that requirement in city code but feared that they are going to soon look like Soldotna with huge parking lots in front of their buildings and stated that there was not enough parking shown in the plans in her opinion and that means they will start parking in the public parking available on the base of the spit and Mariner Park. There is not enough information for her to say yes, and they should be told to go back and do your work.

Laurie Daniel, long time member of the Homer Community commented that she doesn't approve of the Doyon application and recommended that the Commission not approve it or any of the applications submitted. This project is asking for multiple exceptions, the plans are out of compliance, requires rezoning, replatting, and vacating a community right of way. She recited from the Comprehensive Plan regarding thoughtful development as well as cultural and historical aspects of the local area that we have prioritized as most important to living here. She believed the Doyon proposal disregards those priorities in favor of business expansion of a non-local huge corporate entity with no ties to the community. Ms. Daniels stated it simply does not meet our intentions and defined standards. The development is too large, dense and obliterates a decades

long environmental conservation designation and demonstrated traditional use of the site for wildlife viewing, highly impacts the adjacent neighborhood, includes several unnecessary elements in addition to the hotel and poses a tremendous disruption, with added congestion to traffic at an already problematic intersection and sharp curve. She stated that consideration should be taken for the proposed Harbor Expansion and that it would behoove the Commission to wait until the city has made a decision on that project and its consequent effects, as only then the proposed project impacts can be evaluated in the accurate context. She recommended that the Commission deny all permits from Doyon on this development and suggest they come back with a greatly reduced project.

Jennifer Gibbons, Homer resident about a mile from the proposed project, expressed her respect for Doyon's interest and efforts on this project but she is opposed to the project and does not find anything redeemable about it. Ms. Gibbons recommended that the Commission completely deny everything as she recreates all year round in the area and is very familiar with the traffic, the value to viewing wildlife and access for everybody in this community to be able to enjoy as it is why we are all here. She stated that she walks her dog, rides her bike, camps at Mariner. She does not think this project is consistent with what people value and many have expressed the same prior. Ms. Gibbons commented that she has heard from many on how fast and piecemeal Homer is expanding and that for this project they should take their time to allow the discussion and consideration.

Jon Faulkner, city resident and President of Land's End, stated that it is a busy business, heavily impacted by traffic from the Homer Spit. He welcomed Doyon to the community, supports investment and quality development, free enterprise and considers competition good for business and good for the consumer; Doyon is a great Alaskan regional corporation with roots going back years, strong track record in the state and as the owner of a comparable property he considered himself somewhat of an expert in this type of development and he has also designed and permitted several Planned Unit Developments on the Peninsula. He stated that his first recommendation was to not carve out a special favor to a new development in the form of increased maximum heights without broad public input, advising it was not the time to do it, this is not a little issue. Mr. Faulkner clarified that Land's End does not exceed the 35 feet height limit on any of the structures; meets traffic peaks comparable to Doyon's but believed 88 cars was low and recommended increasing that by 40%. In regards to Short Term Rentals with a proposed ordinance coming up that should be considered by the Commission in their approvals; traffic and safety issues on the Spit Road and at the intersection with Kachemak Drive is dangerous now and in his opinion a train wreck, adding the additional traffic will result in maddening delays for hundreds of people each day. Mr. Faulkner proposed a pedestrian underpass or culvert stating the slopes support it and it would be a wonderful addition. He noted the increased revenue for the city that would be paid by Doyon and suggested a partnership with Doyon to effect that pedestrian amenity. Mr. Faulkner did not favor vacation of B Street as he did not see it having a greater detrimental impact on Doyon as it would the community.

Penelope Haas, non-resident, keeps a boat in the harbor and is the author of the letter that has over 202 signatures¹, expressed her hope that the Commission was able to read the entire letter and did not want to repeat it. She reiterated what many previous people said and what was stated in the letter that this was not the place to throw out the book in terms of the city code, there is guidance on how to interpret the code in the comprehensive plan that pointed at protecting the ecology around this development, focusing density of our development away from this area and towards the city center. She expressed her desire for the Commission to find it within themselves to do what the community has clearly outlined they would like in the comprehensive plan and requested the Commission to deny the CUP and all associated parts, vacating the right of way on B

¹ There were no actual signatures on the submitted letter.

Street would end any certainty or clarity that people could view birds at this historic location, whatever Doyon might say, it means nothing, a right of way means a right of way and we should maintain that.

Eric Engebretsen, City resident born and raised, own and operate Bay Weld Boats, expressed his appreciation for Mr. Faulkner's comments, noting it was a big statement for him to publically welcome the competition. He stated that as a business owner, he is working hard to build a business, provide jobs, good lifestyles and a living for local people. Mr. Engebretsen informed the Commission that he left and came back because he could not find a better place, but he grew up with the distinct impression, hearing all the comments and concerns about this project, that there is a message coming out of Homer that we are reluctant to have business opportunities and development come to Homer and it struck him that here is a world renowned investor wanting to come to the community, do something pretty significant, and he was concerned that the message they are hearing is, No. He expressed his hope that there would be a way to proceed respectably, that responsibly addresses concerns and leaves the door open for development that is done right, because in the long haul, that is what is best for the overall community.

Karin Marks, city resident and business owner since 1992, stated that there have been a lot of things said tonight but there are other points of view in this community and many of those are uncomfortable coming forward to speak. She expressed her appreciation for Mr. Engebretsen and Mr. Faulkner's comments and believed there were merits to this development from a corporation with Alaskan roots, interest in doing things to maintain the environment, and developing land tourism rather than cruise ship tourism with consideration to increase the shoulder season business, creating year round jobs, having accommodations for seasonal workers, providing conference/meeting space; noting the plan is not perfect but they can work with Doyon to make it the best possible. Ms. Marks noted that traffic is a top issue and continues to be whether this development happens on this property or not, but believed there are solutions, such as made by Mr. Faulkner. She addressed statements that were not appropriate, reminding the Commission that Doyon provided a new rendering that was in the supplemental packet addressing concerns on public access, providing a viewing platform, and just because they are a large corporation does not mean they are going to rape, burn and pillage the city. She continued with an explanation of the CUP process being approved on a case by case basis and when referencing the Comprehensive Plan recommended the Commission review Chapter 7 regarding economic vitality, as it is often overlooked, and use of such terms as center city versus city center and commerce business district.

Sarah Faulkner, city resident, co-owner of Land's End, commented that in business and development you shoot for the stars and hope to land on the moon and believed that it what they had here. The community wants the project built within the approved limits and we know from experience at Land's End that it is economically viable to build within the city code that we have now. She agreed with previous comments on the project being too big for the location, both footprint and height, expressed concern on vacating the easement since they have had a whole festival built around the shorebirds and that is a major viewing location, and traffic really needs to be addressed since that is the location that everyone speeds up right in front of that property.

Mike Barley, resident of Crossman Ridge Road, commented that "Homer Funky" gets another dink in its armor with this development, expressing that he liked what was there before at that location, referring to the Quonset huts as they have a long history in this state, and god knows they could use another auto body shop more than a hotel but he did not really have any opposition to having a hotel on the site, just the size in relation to the lots citing bigger is not always better. He also believed that they need more public space, not less. He recounted walking the trail and picking mushrooms, that it is a nice green space with lots of trees and they are going to put in a concrete wall and paved walkway. Mr. Barley did not think that the city should give that away. He agreed

with all the comments on the traffic and the building height and then opined on how the City Planner handled the notification of the public on this development when they heard at the last meeting that he has known about the project for a year, believing that there should have been more transparency. Mr. Barley added that he thought the City Planner's report was biased and not objective about the project and it came across like a done deal.

Jim Anderson, born and raised in Homer moved away for several years and then moved back a couple of years ago, stated that he has not done a lot of research on this project and appreciates all the time and energy that has gone into the opinions, facts, and information. He expressed being perplexed on how the public finds out things after it has presumably been accepted with little public awareness. Mr. Anderson recounted his years growing up in the community in those early days, working for three businesses who were very supportive of growth in Homer. He requested the Commission to be supportive of intentional and well thought out growth, noting that there was a lot of pencil work that had to be done for this project. He added that there is a food and beverage conundrum in the community, housing crisis for seasonal support staff, but Doyon appears to be creating solutions to those problems that existing establishments are currently facing. It can be daunting to come in and be seen as an outsider, anecdotally stating his carefully planned re-entry into the community since he also would be seen as an outsider. Mr. Anderson recommended uniting their voices to support reasonable change warning that "our little hamlet by the sea is going to be a community of duct tape and sledge hammers" as 20 years from now, Seward continues to grow, creating culinary opportunities by expanding their stores and restaurants. They are a lot closer to Anchorage. He supported protecting the environment, but people that attend the Shorebird Festival have all these wonderful opportunities to spend money, and there will be more people who are interested in protecting the environment as well, but Homer needs the infrastructure and the support to be able to allow responsible growth to happen.

Chair Smith closed the public hearing after confirming with the Clerk that there were no members of the audience attending on Zoom wishing to speak and seeing no one in the Council Chambers coming forward. He then offered the City Planner rebuttal to the public testimony.

City Planner Foster noted that Randy Kinney with Kinney Engineering who performed the Traffic Impact Analysis was in attendance and deferred to Mr. Kinney.

Randy Kinney, Kinney Engineering, provided the following rebuttal to concerns expressed:

- What a traffic impact analysis was, the methodology, how it works and how did they reach the numbers they did
 - o Reviews the development in accordance with land use
 - Outlined the components of the development, considered a campus
 - Hotel
 - Employee Housing/dormitory
 - Short term Rentals/Townhouses
 - o Used the National Data Base from the Institute of Transportation Engineers
 - Provides data for a large number of land uses that is accessed by companies all over the United States
 - o They used the highest or peak numbers for the time period
 - o Established a base line traffic volume
 - Compared the additional trips on the transportation system that the new development would provide.

- Acknowledged that the timing was not during summer peak travel times and this was recognized and factored into the calculations
 - Obtained the information from the continuous count station located on the Homer Spit Road for July which was two times the count from September
 - The number projected by the development would average 88 vehicle trips per hour and would not create a lot of additional delay
 - The average vehicle delay is only 20 seconds on the main transportation route
 - This delay from the increase in vehicle trips does not require mitigation in accordance with the State of Alaska regulations
- Reviewed Pedestrian very carefully and to mitigate traffic impact is to get people out of their vehicles and onto pathways walking or biking. They reviewed pedestrian delay at the two intersections, FAA Road and Kachemak Drive
 - FAA Road with the summer vehicle traffic and the curve along with the width of the road presents a large delay.
 - Recommend a two stage crossing or a pedestrian refuge which reduces the delay time and the sight distance by crossing one lane of traffic at a time
 - Kachemak Drive is better but there is still a substantial delay
 - Recommended rapid flashing pedestrian beacons to be installed at the existing crosswalk
- Recommended the pathway to connect Bay Avenue with the Homer Spit Road
- This project does not increase the congestion that is already being dealt with and the numbers do not require mitigation in accordance with state law
 - Ocean Drive is a state owned and maintained roadway
- Addressed vehicular accidents and the number of them were not very extensive over the past several years

Chair Smith addressed a request to take a brief recess by stating he would like to finish addressing the traffic impact related questions then take a recess. The Commission agreed by consensus and Chair Smith opened the floor to questions from the Commission for Mr. Kinney.

Mr. Kinney facilitated questions and answers on the following:

- Personal opinion was to the information and data reflected in the TIA
 - Expressed confidence in the report as he:
 - Followed a prescribed methodology
 - Identified impacts
 - Numbers speak for themselves
- Why the study was not conducted in July
 - The contract was not executed until August and that was the earliest they could get the work on the schedule.
 - Numbers realized reflect previous July traffic counts from existing counting equipment located a mile south of the Kachemak Drive intersection on the Homer Spit Road
 - July's numbers were twice the numbers in September
- Clarification on the where or how the number 88 expectation was derived
 - The campus is expected to generate an additional 88 vehicle trips per hour throughout once you build something this number will stay consistent throughout the life of the analysis
 - Background traffic can change

- Reviewed the previously stated information of traffic counts for September and July
 - Multiplied September numbers by a factor of two
- Clarified the term Baseline Traffic or Background Traffic
- Reiterated that the campus/hotel will generate 88 trips per hour additional to existing traffic
 - Account for the baseline traffic
 - He referred to page 32 of the TIA, Figure 10 complete figures are for 2022 and that reflected 8800, say 8900 for July
 - September traffic at the same location was 4000 or 4500
 - Numbers based on Average Daily Traffic
- You can go back and review previous years and the numbers stay fairly similar exceptions to the pandemic years when there was overall less traffic.

Chair Smith called for a recess at 7:45 p.m. The meeting was called back to order at 7:57 p.m.

Mr. Kinney continued his rebuttal and clarified the following:

- Background Traffic
 - o 700-900 vehicles per hour according to the continuous counter
 - o The type of land use for the new development extrapolates to 88-90 additional vehicles per hour
 - o This number will vary dependent on the time of year, month, day, time but is not expected to be greater
- There was no consideration of installation of raised pedestrian walkways over those areas discussed as the costs would be considerable, not to mention there is not enough land for the approaches that would be required on both sides. Overhead Pedestrian Crosswalks are multi-million dollar structures.

Chair Smith opened the floor to City Planner Foster for rebuttal.

City Planner Foster provided rebuttal to the following topics:

- Noted the revision provided by the Applicant of the proposed site plan includes viewing platforms
 - o This platform is not a recommended condition but the Commission could include that as a condition on the CUP
 - o Continuous pedestrian access is shown from Bay Avenue to the Homer Spit Road and is a condition that he has recommended for approval
- The inclusion of comments from the Fire Chief from his review of the proposed plan and statement that he will be working with the applicant further on the development of the project when or if a Zoning Permit application is submitted.
 - o The applicant is submitting a conditional use application for the use of the property to be approved, it is not a construction permit.
 - o The applicant will need to submit a Zoning Permit Application and it will need to be approved before construction can begin.
 - o The Zoning Permit is the next stage and there are conditions that need to be met before that will be granted.
- The process of the development and the public perception that it has been overly quick and non-transparent
 - o This Conditional Use Permit was processed as quickly and transparent as any other project in accordance with the Homer City Code.

- There was no secrecy or expeditious nature of the application process
- There are time requirements outlined in City Code for Conditional Use Permits that must be followed.
- This application was submitted, reviewed for completeness and due to the Commission's meeting schedule for November and December it was scheduled for the December meeting.
- Notification to the public was followed as outlined in city code. Applicants usually contact the planning department when they have an idea of something they might like to do and staff discusses the processes and permits that are required for their proposed project.
 - Until the application and fees are paid it is unknown whether the property owner will actually go forward with the development of the property.
 - Once the Planning Department receives the application and fees they proceed with review of the application and attached documents.
- A Traffic Impact Analysis (TIA) was requested by the Planning Department due to the scale of the project.
- Role and tasks of the City Planner in facilitating the application through the process of submittal, review, notice, advertising, presentation to the Commission and finally a public hearing.
- Acknowledged that the proposed project was large and could possibly take more time for review by the Commission.
 - Tremendous amount of information and public comment provided for the Commission in a short time period.
 - Decision is required no later than 45 days from close of the public hearing.
 - A Public Hearing must be held 60 days from date of receipt of application.
- There will be no vehicle connection, or parking, at the pedestrian access or B Street vacation of right of way.
- Aesthetics for a planned unit development in General Commercial 1 districts are limited and is different than the requirements for Central Business District or Town Center District
- Zoning the property for a Park, these lots are private property and zoned for rural residential and General Commercial 1, parks are not allowed.
- Issued regarding the potential for soil and or fill materials, foundations is done or conducted under the Zoning Permit application.
 - Building inspections for commercial and multifamily residential which are included in the site plan require fire marshal review that happens at the Zoning Permit stage, which includes site planning and construction.
- Army Corps of Engineers will be contacted by the applicant regarding wetlands and any permitting requirements as they are the authority and it will be a condition of the CUP.
- Letter from the Federal Aviation Authority will be a condition or requirement to obtain the Zoning Permit in regards to possible crane use.
 - The FAA did not have opposition to the overall building height but it did not address if cranes were used during construction.
- Parking requirements were addressed and shown on the site plan and calculations based on code requirements for the number of spaces.
 - Accommodating guests that are towing boats are definitely a consideration and will take up more than one space but there is nothing in city code that addresses consideration of that requirement.
 - There is a balance required by design and development in providing what is required by regulation in city code for a specific district, what is needed to adequately service the development, and what is needed to service the public.

- Parking is historically provided based on the peak usage for any land use such as retail, services, hotels, etc.
- The proposed development acknowledges the vehicular use and non-motorized use of the property.
- Preliminary Stormwater plan was submitted with the proposal but that is not addressed at the Conditional Use Permitting application. That is considered during the Zoning Permit application phase and is dependent on other factors as well.
- Exceptions and Variances
 - o Do not apply to this Conditional Use Permit application. The developer has submitted an application for a Conditional Use Permit for a Planned Unit Development which has a separate criteria for review.
 - o Variances and waivers have their own applications and are applied in a different manner to city code.
 - o This Planned Use Development process allows the flexibility for height, land use, density, and non-permitted usage on a portion of the property.
 - o The City Code that addresses Planned Use Developments (PUD) is 21.52 not 21.24
- Clarified the difference between variance and city code 21.24.040 which states a building height is limited to 35 feet
 - o This is something that the Commission has not had to address.
 - o Previous PUD's were denied as it came down to the analysis of the development by the Fire chief at the time and the inability to address fires in structures over 35 feet. Currently Homer has a ladder truck and that is not a limiting factor now.
- A standard Conditional Use Permit application would only require a site plan.
- Homer City Code 21.24.040(e) (4) is applicable to large retail such as a Walmart, Fred Meyer and not this project
- A PUD does not limit the Commission on their decision, however, clarifying that the only item that did not meet GC1 Zoning District and the PUD is the height.
 - o In accordance with City Code 21.52.040 addresses the ways that the Commission can deny the permit
- Homer City Code 21.44.020 (a)(1-3) was cited and questioned on applicability to this project, this lot does not fall under ravine, steep slope, or bluff or coastal edge. He referred to a picture a member of the public displayed earlier in the meeting.
 - o Bluff is described in city code as an abrupt elevation change in topography of at least 15 feet, with an average slope of not less than 200 percent (two feet difference in elevation per one foot of horizontal distance).
 - o "Coastal edge" is described in code as the seaward extent of a relatively flat land where a slope break or scarp occurs that is adjacent and within 300 feet of the mean high water line of Kachemak Bay. The chosen coastal edge must represent the seaward extent of land that is neither part of a previous landslide nor a bench on a slope.
 - o The Shannon & Wilson report includes an opinion regarding the possible movement of fill behind the existing retaining wall
- In rebuttal to the tsunami concern since the city does not have building code, falls under the Fire Marshall
 - o Comment was provided regarding the emergency management preparedness and action plans, which incorporates state, city and federal processes during disasters and natural events that occur. Noting that typically earthquakes and tsunamis are constant threats and hazards here in Alaska and if considered there would be no development allowed on the Spit.

- Review of the Comprehensive Plan, Objective A
 - this project does address affordable housing needs for the workforce
 - Walkable community – providing the pedestrian access through a boardwalk and connecting one Bay Avenue through the site, with amenities to view the tidal areas, provides three viewing areas and connection to the Homer Spit Road
 - Property was developed with Restaurant, Short Term Rentals, an auto body repair/towing business, boat parking versus a hotel and residential housing.

Chair Smith invited the applicant to come forward and provide rebuttal.

Patrick Duke, Senior Vice President & Chief Financial Officer, Zach Dunlap, Operations Manager with Doyon Limited and Lauren Egbert, Lead Architect & Project Manager with Womer & Associates provided rebuttal on public testimony for the following:

- Acknowledged that Doyon was a large company, testimony provided on the amount of money the business made to be \$1.5 Billion per year anecdotally stated that his bonus was really bad since it was misrepresented by a factor of 50 – he wanted to get that off the table.
 - Addressed the Land Use Agreement that the former property owner had regarding the viewing platform was never disclosed to Doyon.
 - Doyon did not violate any agreement as there is no language in that agreement that bound future land owners to keep and maintain the viewing platform.
 - Doyon wants to provide a viewing platform for public use and has provided revised conceptual drawings that show three viewing areas strategically placed overlooking the lagoon within the boardwalk pedestrian access
 - Demolition of the platform was a safety issue in their view.
- Reiterated the experience Doyon has working in environmentally sensitive areas such as the North Slope
 - Been in business for 50 years, 40 years on the North Slope
 - Largest landowner in the country
- This project will create jobs for the community
 - Use local contractors to construct to development
- Related prior experience coming into a small community with economic development and the community fought against it and later regretted turning away the project.
 - They loss residents due to the lack of work
 - Closed schools because of the lack of families with children
 - Loss of Services
- Doyon will be providing for shoulder season and winter economy by providing services used for conferences, visitors that fish, flight seeing tours, bear viewing, and year round restaurant/bar service.
 - Recited Homer documents related to a Conference Facility study performed in 2005 which is still relevant today
 - Conferences by organizations outside of the community has the potential to bring in \$2.5 million in revenue
 - Provide meeting room space
- The integrity of the company which represents 20,000 shareholders and has a proven track record to bring a balanced approach to every community with sensitivity for the environment, increased economic revenue and economic vitality.

- Acknowledged the public comments and concerns expressed at this meeting and the December meeting and have made some changes to the project to address those concerns with the pedestrian amenities and wildlife viewing over the tidal areas.
- Doyon is an Alaskan company and work diligently to maintain and employ Alaskan companies and local employees for all their businesses.
 - o Noted the companies Alaska based companies currently under contract for the development and the experience working in sensitive habitats such as Margaret Park, who worked on the mediation with Exxon Valdez and Mariner Park and is very familiar with Homer and the critical habitat.
- Doyon has followed all the regulations as outlined by City Code and there was no intention of the appearance that they were “rushing” the project.
 - o This development has gone through many renderings and will probably have many more until the final design is decided.
 - o Geotechnical work was done and due to discovery that is why the placement of the hotel is where it is on the land.
 - Environmental was included since they knew the historical use of the property
 - Auto Body Repair
 - Fuel containers on site
 - Made this investment at this stage prior to requirement to be aware of potential impacts to the project before construction in order to plan responsibly

Commissioner Highland reviewed the specification outlined in Homer City Code related to fill materials referencing Title 21.50.150 (a) and (b) and stated that the applicant heard the comments from the public regarding where the fill came from and she expressed concerns regarding the development of such a heavy structure on that fill and requested comment on that point.

Chair Smith asked if it would be okay for the Public Works Director to respond to Commissioner Highland’s concerns. Commissioner Highland acquiesced.

Public Works Director Keiser provided input stating that she was unable to confirm or deny that the alleged fill material was placed. The city does not have a permit on file for the property and the Corps of Engineers were unable to locate a permit.

City Planner Foster referred to Homer City Code 21.50.150 Site Development Standards was applicable during the Zoning Permit stage, noting that the applicant would be required to submit due, to the nature of the project, a level three and show how they are meeting the requirements outlined in city code.

Commissioner Stark commented that the question from Commissioner Highland and comments made by the public assumed that the fill material, if placed, was presumably done illegally, that Doyon will hire a company to come in and excavate, then pop in a foundation and put a building up. The applicant has stated they have performed core drillings and analysis of the soil so that they understand what is there, based on that information when submitting the Zoning Permit application they will provide the appropriate plans. He noted that the safety of the investment by the applicant for the development with a lifecycle of 50 years or longer, plus as stated by the City Planner, a requirement of the Zoning Permit application phase. Mr. Stark was assured that this was not going to be a hole dug, concrete poured and the building erected. There will be special engineering

with it being so close to the coast and all. He expressed confidence that the project will be carefully reviewed by the new city engineer as well.

Chair Smith added that the public comment submitted was regarding the lack of the presence of a permit from 1981 not the content of the fill material and questioned if that would affect the pending application of the CUP for the PUD.

Commissioner Highland expressed her concerns on fill material and believed that the comments expressed by members of the public who were present at that time the fill was placed were valuable to issues regarding development of the property noting that this has been the largest proposed project before the commission since she was appointed. She then requested clarification from the applicant on the public concerns and questions expressed at this meeting and the last and how they were going to respond to all those questions.

Mr. Dunlap responded that they presented their application, made their presentation at the meeting in December and then provided amended site design from the concerns and questions stated at that meeting as there was one theme of bulk and scale and reiterated that they are a year into planning this project, provided a supplemental view of the employee housing unit from Bay Avenue, explaining that they were very thoughtful in the design for the site, the business planning aspect and reiterating that all requirements have been met. He expressed that Doyon has addressed the concerns of the public the best that they can within the scope of the project that benefits the community as well as Doyon and the site.

There was a brief discussion on process asking additional questions of the applicant between the Chair and Commissioner Highland.

Chair Smith then acknowledged the Clerk who noted it was almost 9:30 p.m. and a motion was required to extend the meeting. The Chair recommended two hours.

SCHNEIDER/BARNWELL MOVED TO EXTEND THE MEETING TO 11:30 P.M.

There was no additional discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Smith then addressed the previous discussion stating that he has meant no disrespect but the Commission has discussed previously that during more difficult and larger meetings and it was agreed to maintain protocol, that they would adhere to the standard two questions, if needed the Commission can go back to Commissioner Highland's additional questions regarding the content of the letter. He added that the Applicant has provided responses in a general manner to the concerns and questions presented by the public not individually or specifically.

Commissioner Stark inquired if it would be possible for the applicant to provide a written response to the public's submitted questions for the Commission through the Clerk.

Mr. Duke stated that they would be willing to provide that to the Commission.

Chair Smith recognized the Clerk.

Deputy City Clerk Krause noted that the Public Hearing portion of the meeting has been closed, this was a public process and new information cannot be submitted. Rebuttal from the Applicant would need to be provided at this time so that the members of the public attending and the Commission can receive it. It is presumed that the Commission will be deliberating on this action so all information is required at this time.

Mr. Stark clarified his intent of allowing the Applicant to respond in writing since the public was able to submit their comments in writing.

Patrick Duke, Zach Dunlap and Lauren Egbert continued their rebuttal/response of questions from the Commission and public on the following:

- Reducing the scale and density of the project
 - o If the Commission finds that this footprint just cannot be approved then we will revise and present again until a design can be agreed upon
- What return the City receives for vacating the right of way of B Street south of Bay Avenue
 - o The benefit to the city is a development that will provide additional revenue to the city in the form of tax revenue for property and services
 - o Year round employment opportunities
 - o Additional opportunity for earning more revenue during the season for the businesses in town and on the spit
 - o Tourism Industry Association report for 2023 confirmed that it was a record year for Alaska and are predicting additional growth for 2024
- How will Doyon use the property in the off season
 - o Business plans considered the stated desire and need for meeting and conference space in the shoulder and winter months
 - o Community desire to have additional options for year round restaurant choices
 - o Community stated needs for employee housing options
- Does Doyon as a native owned corporation pay property tax or tax exempt
 - o Doyon pays property taxes in most locations with the exception of the military bases, they are not a sovereign nation and have no issue paying taxes on properties owned throughout the state.
- Does the Boardwalk Pedestrian Access extend beyond the viewing platform at the end of the right of way
 - o The Boardwalk will extend all along the edge of the proposed development from Bay Avenue to the Homer Spit Road and will accommodate Cyclists and Pedestrians at the same time plus there will be three different locations where people can stop to sit and view the wildlife, shorebirds. There will be a connection to a sidewalk through the development as well.
- Consideration of the proposed issues and concern with traffic and it will be Doyon's problem as well as everyone who travels that road but what are Doyon's thoughts about the potential issues.
 - o The development will need to deal with the issues with travel onto and off the Homer Spit Road from an operational perspective and while not an engineer the TIA did note the issues regarding pedestrian crossings at the intersections and as frequent visitors to the area will bring about more caution, professionally it hard to respond since they do not have a final design.

- Comprehensive Plan, Transportation Section, 2A refers to continued support that adequate streets are built by public and private sponsors to keep pace with current community development and support future community development. So would Doyon pressure AKDOT/PF and the City to construct a roundabout or other traffic mitigation at Kachemak Drive?
 - o Doyon is following the process and as such they would be supportive of additional mitigation efforts if this project is approved.

City Planner Foster noted in Staff Report 23-060 Condition 6 which were recommendations from the TIA analysis specifically the last bullet point as follows: *The May 2012 Transfer of Responsibilities Agreement (TORA) between the City of Homer and DOT&PF for parking and pedestrian facilities near the project area apply to the improvements recommended in this TIA. Ownership and maintenance of the proposed pathway and pedestrian crossings will be finalized between the City of Homer, DOT&PF, and the developer prior to final permits being issued. The City, Developer and the State will be working together throughout the entire project.*

Public Works Director Keiser noted the state project upgrading the Sterling Highway to the intersection of Kachemak Drive and recommended that they should be advised regarding this potential project.

Mayor Castner reported on a recent visit by the Commissioner Anderson and discussion was conducted regarding the people who arrive at Homer Airport or via the Air Taxis and must walk alongside Kachemak Drive and Homer Spit Road on the shoulder with luggage and that is a year round problem so there is also going to be a redesign of Kachemak Drive noting a possibility of addressing those pedestrian issues in the area.

Patrick Duke, Zach Dunlap and Lauren Egbert continued their facilitation of questions from the Commission on the following:

- Noting the other traffic difficulties all along Ocean Drive due to increased businesses and future development of the Harbor, etc. it is apparent that Doyon is amenable to working with the City and others to come up with solutions.
 - o Doyon will be working with various organizations and intend to be good corporate citizens
 - o There will be the Alaska Native Heritage that will be unique to Homer and you do not see today
 - o Civic donations to various groups such as Boy Scouts and Girl Scouts
- What is the expected occupancy of the development on an annual basis for the Condos, Employee Housing, Short Term Rentals, and the hotel?
 - o Studies show that in this industry the goal is 85% - 90% occupancy in season
 - Winter may be 40% occupancy
 - o There are different mix such as food & beverage
 - o Conference
 - o Meetings
 - o The housing is expected to be seasonal but it would be available year round
- Has consideration been made on having oversized vehicular parking or motorcycle parking and auxiliary parking if there are times of 100 percent occupancy
 - o Not specifically considered but depending on how the business develops those options will be considered

Chair Smith brought the Commission back to Commissioner Highland's additional questions concerning the letter with 202 names included on it.

Commissioner Conley advised that they focus on what is relevant to the CUP as there is a lot of public comment that is pretty ambiguous, while important, but for the sake of time.

City Planner Foster stated that many of the points addressed in the letter were addressed in his analysis.

Commissioner Highland interjected that her questions were for the Applicant.

Public Works Director Keiser reminded the Commission that in review of Commissioner Conley's comment regarding City Code 21.52.040 it does require the Commission to address community standards in view of the Commission's decision making and many of the public comments address community standards.

Chair Smith agreed and further noted that City Planner Foster, Staff Report 23-060 and the Applicant have addressed many of the questions that are in the submissions and then questioned Commissioner Highland if she had additional questions. He then reminded everyone that the questions should be relevant to the CUP they should not be about the vacation of B Street, Preliminary Plat or rezone issue.

Commissioner Highland stated that she was not satisfied with the City Planner's response to the public comments as it was limited to Planned Unit Development code which allows flexibility and she opined that it appeared the public comment did not amount to anything. She would like to hear from the applicant their response to those questions or concerns presented.

Patrick Duke, Zach Dunlap and Lauren Egbert continued their facilitation of questions on the following:

- Did the Applicant review the Comprehensive Plan when you were designing your project?
 - o it guided the design of the proposed project
- It is essential to guide, to allow business development and the preservation of the essential environmental culture on historical elements. How does your project do this?
 - o If everyone in Homer could agree on a design that was aesthetically pleasing no new development would ever occur in Homer.
 - Everyone has a different personal view on what looks good
 - Not everyone who lives in a community can agree on what is best for the community
 - Established rules and regulations were followed for this project
- Concerns expressed regarding the height of the proposed hotel
 - o In developing the project the PUD allows the flexibility of design and height is part of the design.
 - Reasonable minds can agree to disagree
- Reviewing the previous activities at the location, which many in the public stated they were fine with or preferred, and then reviewing the proposed development and the comments that it looks more like it belongs in Anchorage and not the Homer Spit, what is your response to those comments?
 - o Our view of that property was very different
 - Old boats that had been there for years and were not seaworthy
 - Buildings and structures that should have been demolished several years ago.
 - Several very dilapidated
 - Old fuel barrels

- Reasonable minds can agree to disagree, not sure how to end this debate
- Providing comments that are derogatory to the design and disparaging a city that many including the applicant call home, because it does not appease one's palette is impolite and unprofessional.

Commissioner Highland acknowledged the last comment stating Homer and Anchorage are very different, people live in Homer and have expressed their viewpoints. This project is unusual for Homer and they can keep going down that same road so will end her questions.

- Doyon plans to market the conference abilities for the off season and has done studies of the market and this expectation will offset the slow season.
 - Correct studies and market evaluation has shown that there is strong interest in having conferences in the Homer during the shoulder season months/winter months
 - 2005 Conference Center Feasibility Report that Homer
 - Statements from local organizations needing meeting/conference locations
- Concerns expressed regarding the Corps of Engineers permit and wetlands will be addressed by the CUP
 - Doyon has hired a professional to perform a wetlands determination
 - Site evaluations performed
 - Determine the extent of the wetlands
 - Review by the Corps of Engineers as a third party
 - determines the limitations of the development
 - This will provide the limitations that the development must stay within

Chair Smith closed the rebuttal and questions on the CUP 23-08 and noted that a motion is in order. The Clerk has provided a suggested motion or direction that the Commission can move to deliberate at a date and time to be determined. He recommended that they review the motion first and questions can be asked regarding that or amendments made as suits the Commission.

Commissioner Highland requested clarification on conditions regarding Staff Reports 23-061 and 23-062.

City Planner Foster stated that the approval of the CUP is contingent on the vacation of the Right of Way, the Rezone and the Preliminary Plat. These conditions are dependent on those additional applications that are on the agenda.

Commissioner Conley recommended the Commission take the time to deliberate on this as there is a lot to consider.

Commissioner Highland requested clarification on Public Works Director Keiser report and if her comments were to be incorporated into the staff report, noting Ms. Keiser's memorandum on page 86 of the packet.

City Planner Foster noted that the statement was from the December meeting and whatever comments were provided for the December 6th meeting, it would be those comments.

Commissioner Highland re-stated her concern that the Memorandum from Public Works Director Keiser on page 86 of the current meeting packet should be discussed by the Commission before they make a decision.

Public Works Director Keiser agreed and reviewed the memorandum provided in the packet, noting she addressed comments made by the public at the December 6th hearing. She stated that the applicant has addressed a number of them and her recommendation to add specific conditions to the CUP in the event that it was approved, such as the viewing platform and pedestrian access. She noted that certain issues would be addressed if Homer had a building code but there is none, but a recommendation could be made for the requirements to be added, such as including a grease trap to prevent oil and fats to go into the sewer system. Chemicals were identified in the soil so a recommendation was made to construct using pile foundation to disturb as little of the soil as possible. These items she believed were easy to accommodate in the applicants design process.

There was a brief discussion on what is already included in the Conditions outlined in the suggested motion as presented by the Clerk.

Commissioner Stark noted the various items that the Commission should consider before making their motion and stated that they should make a motion to have separate deliberation meeting to have adequate time for review.

Chair Smith requested clarification on how that would be conducted.

Deputy City Clerk Krause advised that the Commission could take poll to determine which day and time would be best to schedule the meeting, noting that it would not be a public meeting.

STARK/SCHNEIDER MOVED TO HAVE THE COMMISSION SCHEDULE A DATE AND TIME TO BE DETERMINED TO SCHEDULE DELIBERATIONS.

There was a brief discussion on the time the Commission has to make their decision is 45 days from closing of the Public Hearing which was tonight.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Staff Report 23-061, Application Amending Zoning Map via Ordinance

Chair Smith introduced the item, noted that the Staff Report 23-061 was provided in full at the December 6th meeting and if desired by the Commission a summary of the report can be provided.

City Planner Foster determined that the Commission did not want a summary of Staff Report 23-061 for the record.

Chair Smith invited the applicant to make their presentation or speak to their application.

Zach Dunlap, Operations Manager for Doyon Limited introduced Katie Kirsis, Seabright Surveying & Design to speak to the application.

Katie Kirsis, Seabright Surveying, stated she prepared the rezone application and the re-plat. She reviewed the findings that was presented by the City Planner in the report and agreed that they supported the approval of the rezoning for the parcel to allow the development of the project as designed. The two parcels are already zoned GC1 and this property would be contiguous if the vacation is approved, noting that it would be appropriate shift in the zoning limits.

Chair Smith opened the public hearing.

Beverly Bowman, own property across from the proposed employee housing and commented that the project as presented would impact her property in general. She would prefer that the area stay residential. The employee housing does not show parking on Bay Avenue but noted that there is room to park some cars there and expressed concern about that. She recommended reconfiguring the proposed design.

Peter Garay, city resident, he commented on some earlier concerns for the flight paths and suggested getting some input from actual pilots to see if the project would actually have some impacts from their perspective.

Penelope Haas, non-resident, clarified that comments can only be on the rezone, speaking on behalf of the 202 people who have signed the letter that was provided in opposition to the rezone for this location due to it being a sensitive area ecologically. it is outside the city center which the Comprehensive Plan has designated for dense development. So many people who don't live adjacent signed the letter is because they come and recreate here or get their boat. She noted the viewshed matters to these folks and urged the Commission to consider the broader public interest.

Rika Mouw, city resident, commented that this rural residential lot on Bay Avenue is heavily treed piece of land, and if rezoned it would be completely logged and excavated to bring it down to the elevation of 164A. She stated that it is a protection and division of the neighborhood and Kachemak Drive.

Rick Foster, city resident, Klondike Avenue, commented his appreciation for the Ms. Mouw statement and where's Frank when you need him about spot zoning because this action was definitely spot zoning and should remain rural residential.

Betty Seaman, city resident, property owner next to the proposed property for rezone commented that she lives 160 feet away from the boundary line and against the rezone, it will indelibly change the character of the neighborhood, she still was unsure even with the new diagram regarding the 30-40 foot drop and there will be this wall of 20-30 feet, a gently slope with concerns that it falls off that bluff. Ms. Seaman wanted them to preserve that piece of land in its natural state, to allow the wildlife to remain which would provide viewing opportunities for their customers. She noted all the wildlife that can be seen in that section of land. She questioned that if the city needs more commercial land what happens the next time land come up, they rezone one then it's a domino effect.

Glenn Seaman, city resident, commented that the project proposes to increase the housing supply, condos, they will be like Land's End. The condos are not going to be for regular people but those that can afford a million dollars according to one local realtor's opinion, not homes but investment property. He then addressed the serene pristine natural environment, and that it will be maintained but that was a matter of opinion. Mr. Seaman believed there was a lot of corporate speak, noted the geologist on staff and protections for the critical habitat but having the project built to the edge will not provide that. Mr. Seaman offered

comments on the size of the project, impacts to the rural residential neighborhood, traffic study and the deliberation by the Commission being open to the public.

Karin Marks, city resident, reiterated the fact that Doyon has already made changes to the design from comments made at the last meeting and was sure that more changes would be coming forward from this meeting; noted that there are positive things that can be worked out and as a general thought the growth of Homer and how everything was so rural in the early days. The comprehensive plan addresses central city as a general term and doesn't necessarily mean the center of the business district. The General Commercial District 1 is where we need to grow. Reminded them to review the economic vitality chapter 7 as well.

Scott Adams, city resident, commented on the development of Bay Avenue, the large old spruce trees that will be lost, oversized structures, amending the zoning to accommodate a large project, advocating for compromise.

Eric Engebretsen, city resident, commented that the location in retrospect is the least impact for placement of a project of scale, he can sympathize with the residents but believe that placement doesn't impact the viewshed there is commercial buildings all around except the one side. He stated that he could have purchased the property next door, clear cut the trees and they would not be having this conversation.

Nick Garay, city resident, stated his fiancée just purchased property adjacent to the proposed site and wondered if there was a point person to ask questions about the project if there are issues during development.

Jack Cushing, city resident, commented on the rezoning noting the zoning applied to surrounding property

Chair Smith closed the public hearing and opened the floor to questions for the Staff and Applicant from the Commission and rebuttal of public comment from Staff and the applicant.

City Planner Foster rebutted comments that there are limited areas within the city where on street parking and parking will be available onsite for employees, regarding spot zoning with two parcels already designated rural residential once rezoned it would be contiguous to the two parcels. He explained what spot zoning would be and this was not it. Mr. Foster addressed the notion that this rural residential area is called out in the Comp Plan as transitional, there is a demand for GC1 and this is the largest of the two areas. He then referenced the Zoning Map on the wall pointing out that the area in question was central within the city.

City Planner Foster continued by addressing the impact to the zoning of rural residential versus recreational, the notion of providing a buffer of trees for the neighboring property would be a good thing and through the vacation it becomes contiguous and acknowledged the plans showing trees and fencing being utilized. The lot is zoned rural residential and by right could be developed as such with no Zoning amendments.

Lauren Egbert, Womer, reviewed the design of the employee housing and from Bay Avenue looking south the view is upon the residential unit; utilizing the grade it the hotel appears as a two story structure not a three story structure. They are planning a vegetated barrier whether natural or structured and will be looking to code to act as a guide on that subject.

Questions presented to the Applicant and Staff as follows:

- Buffer between the proposed project and the rural residential neighborhood
 - o Hotels are very modular in nature
 - o Loss of rooms with loss of height
- Clarification on treating this project as a PUD
 - o Directing back to addressing strictly the rezone
 - o It is referred to as a PUD due to the entire proposal which includes the housing, hotels, condos etc.
 - o Reiterated that it is contingent upon approval of the CUP
- There may be possible replacement of rooms by adding them to the 4th floor
- The subject property for rezone is private property and just because it was not done by the former owner doesn't mean it cannot or should not be done.
 - o Condos are residential, employee housing is residential
 - o Comprehensive Plan recommends the area of placement where the hustle and bustle is occurring

Chair Smith restated that the Commission was required to make a recommendation on this action tonight.

HIGHLAND/SCHNEIDER MOVED TO ADOPT STAFF REPORT 23-061 AND RECOMMEND COUNCIL APPROVAL OF THE AMENDMENT TO THE ZONING MAP FOR 1491 BAY AVENUE FROM RURAL RESIDENTIAL TO GENERAL COMMERCIAL ONE.

There was no further discussion.

VOTE. YES. SMITH, SCHNEIDER, CONLEY, STARK
NO. HIGHLAND, BARNWELL, VENUTI

Motion carried.

C. Staff Report 23-062, Vacation of B Street Right of Way South of Bay Avenue

Chair Smith introduced the item and noted for the record that the staff report was heard in detail at the last meeting and asked if the Commission needed a summary of that report provided.

The Commission did not indicate a summary was needed and a short recess was requested.

Chair Smith called for a recess at 11:20 p.m. The meeting was called back to order at 11:26 p.m. with a request for a motion to extend the meeting.

SCHNEIDER/BARNWELL MOVED TO CONTINUE THE MEETING TO 12:30 A.M.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Katie Kirsis, Seabright Survey & Design stated they prepared the right of way vacation and provided a summary of the action noting that it would be included in the replat as well.

Zach Dunlap, applicant, stated that this vacation will allow them to extend the walkway which was depicted in the rendering provided in the supplemental packet.

Chair Smith opened the public comments.

Mark Mikols, city resident, commented on vacating the easement allows the public to trespass on private property. He questioned if that vacation would provide a legal access to the public.

Katie Kirsis responded that in exchange for vacating the right of way a pedestrian easement would be granted and would encompass the sidewalk providing perpetual legal access.

Rick Foster, city resident, Klondike Avenue, provided his experience dealing with vacation and believed that it would not be equal or superior to what is available now and believed that it would go to the Borough Planning Commission and City Council and it would be thrown out. He then added comments on Spot Zoning citing a similar location near the Research Reserve Buildings and that was determined to be spot zoning since it provided a similar buffer; then remarked on the Planned Unit Development was not widely accepted when first adopted due to the issues that may arise in the hands of weak planning director. We need to get rid of it and tighten the rules. Town Center is identified on the zoning map there is a central business district that is the focus of those districts.

Penelope Haas, non-resident, expressed comments regarding the applicant creating a little pathway, there is nothing equal to what is existing, the area is already protected, referred to building a large hotel across the land and large development that the public does not want and allowing the public to continue the use of what they already have.

Susan Cushing, city resident, expressed support for previous comments made, consideration for the future, viewing wildlife in that area to be vacated, removing one of the few remaining accesses to the beach at Mariner Park.

Rika Mouw, B Street Road Right of Way is priceless as an access to such a rare opportunity, it is a precious public asset and that privatizing this access would be similar to previous incident at Forest Trails taking out the trees, and it means so much more than a concrete sidewalk and viewing platform to many people.

Beverly Bowman, city resident, questioned if the City Planner was supposed to be impartial, it is spot zoning in her experience as a commercial real estate broker, spoke on the profit that Doyon is going to make, consideration of the existing residents and businesses on the spit if a tsunami hits

PW Director responded regarding the comment on illegally removing an easement providing clarification that this was not an easement but a right of way and the city was legally allowed to give away the land and previously done so on many occasions.

Glenn Seaman, city resident, commented that the borough has specific rules to vacate, and he feels that they will not follow the recommendations. He spoke about the platform and that it was not comparable, he reviewed the borough rules, if the commission votes to vacate that it should be similar to the previous owner.

Bette Seaman, city resident, commented on making it accessible as transportation so it needs to be wider to allow for passing people with strollers, questioned how they are going to have the platform that hangs out over the marsh. Questioned how wide the platform was and if it is only eight feet did not think that was wide enough.

Scott Adams, city resident by annexation, commented on the land being public land, value of the land, in the previous discussion according to a recent case of a property owner who wanted to close a trail that was used by snow machines that property owner lost. He warned that if they vacate this they are giving it away for just a trail and viewing platform.

Eric Engebretsen, city resident, commented on protecting land rights and uses, noted the trail goes to the left and the right but that does not give prescriptive rights to access private land.

Karin Marks, city resident, commenting on the process and the Commission can vote and then there is a vote at Council and the Borough and if the Commission passes this, it will go to City Council and allows Doyon to continue making improvements.

Chair Smith closed the public comments and offered rebuttal to Staff and the applicant.

City Planner Foster provided information on his duties and responsibilities as the staff liaison to the Commission. He reiterated the process of right of vacations noting that the Commission is not the final authority.

Staff and the Applicant responded and facilitated discussion on the following:

- Addressing the development, if the vacation is not approved.
 - o Applicant would go back to the drawing board
 - o Hope to come to a compromise, but it will be challenging
- provided the basis for placement of the hotel due to soil testing
- Important to encourage legal public access and believed it fit into the non-motorized transportation plan
 - o A pedestrian corridor would be established to the tide lands and platform
 - o Connection to Homer Spit Road would be tentative until the Applicant could review requirements, regulations
 - o Typical width of the pedestrian walkway was 15-20 feet
- Public Access and separation between the Rural Residential and General Commercial 1
 - o Clarification on spot zoning
 - o Screening
 - o Addressed by the Preliminary Plat
 - Provide continuous and contiguous to GC1
- There is an existing use for the Right of Way
 - o Improvement in the existing use
 - o Apparent value to the improvement of non-motorized connections and access
- Concerns on drainage easement
 - o Would provide improved drainage
- Details of the design have not been determined as yet by the applicant

- The city has no building department²
 - o Zoning Permit applications do not go to the level of detail needed for this project
 - o it is hoped that with the conditions established in the various documents that will be disseminated out of this, that the details will get solidified
- Public access creates issues between people, wildlife and dogs in the sensitive areas
 - o Employ known tactics to increase education for the public regarding sensitive areas
 - o Interpretive signage
- Clarification of a right of way and easement
 - o City has the authority to determine uses for a Right of Way
 - o Easements have a more defined restriction such as utility, pedestrian and use of that easement is limited to the restriction
 - o Public Access Easement is a term in the vernacular and would allow unrestricted public access along the route.
- Support was expressed by the Commission for the objectivity of the City Planner
 - o Required to provide technical analysis and review in accordance of the existing regulations
- Spacing requirements for pathways

STARK/SCHNEIDER MOVED TO ADOPT STAFF REPORT 23-062 AND RECOMMEND APPROVAL OF THE VACATION OF THE B STREET RIGHT OF WAY SOUTH OF BAY AVENUE WITH THE FOLLOWING COMMENTS:

1. CREATION OF A PUBLIC ACCESS ROUTE TO ACCOMMODATE PEDETRIAN BICYCLE ACCESS FROM BAY AVENUE ALL THE WAY TO HOMER SPIT ROAD.
2. DRAINAGE EASEMENT OR CONVENIENCE FOR DRAINAGE FROM BAY AVENUE SOUTH TO KACHEMAK BAY
3. RECOMMENDATIONS PROVIDED IN MEMORANDUM ON PAGE 86 OF THE PACKET FROM THE PUBLIC WORKS DIRECTOR FOR VACATING THIS PARCEL.

Discussion ensued on the following:

- Absent proof of equal and superior access action will fail at council level
- If this motion is passed Commissioner Venuti will be excusing himself at the Borough level
- Is it possible to create equal access given what the Mayor has stated and currently what is proposed by the Applicant is not spatially or otherwise?
 - o Define equal and better access based on Lot 163, there are lots of moving parts
 - It is existing trail the ends into the marsh land or onto private property
 - Applicant proposed a built walkway that is pedestrian and bicycle friendly
 - There is no possibility of the roadway to be constructed
- Public Works reviewed the possibility of improving the existing public access and it was determined that the City could not make the improvements required for access and drainage due to cost impediment so it was removed from the project
 - o Receiving a ten foot paved pedestrian/bicycle path that takes one from Bay Avenue to the Homer Spit Road would be a real asset to the City
- A partial trail that ends into private land versus a trail that proceeds from Bay Avenue to the proposed boardwalk that goes to Homer Spit Road
 - o Council hire an assessor appraise the access
 - o Require Doyon to maintain the pathway
- May be more tangibles for why it is better
- Lack of consideration for the vacation of the right of way to a private enterprise

² Public Works Director Keiser misspoke stating the city had no planning department

- o The improved value may be a consideration
- o Exchanging a right of way for an easement is not equal value

Chair Smith requested a motion to extend the meeting another hour at 12:30 a.m.

SCHNIEDER/HIGHLAND MOVED TO EXTEND THE MEETING TO 1:00 AM

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Further debate on the motion and points made were as follows:

- Council stated value of the right of way
- City has vacated similar right of way and did not require compensation to do so
- In review of the proposed non-motorized amenity Public Works would be very supportive but since the City has not building code unless there is a condition stated requiring this amenity there are no guarantees or assurance that the applicant will perform
 - o The right to review plans and specifications is also needed.

STARK/BARNWELL MOVED TO ADD A COMMENT DESIGN SUBJECT TO APPROVAL BY THE HOMER CITY ENGINEER.

Additional discussion ensued on the city has approved trails standards to guide the construction so it is not arbitrary, corrected the verbiage to the motion.

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

Motion carried.

Chair called for additional discussion on the main motion as amended.

Further discussion on the motion ensued with the following points made:

- Moving the right of way to the west to maintain a barrier between rural residential and GC1; how that action would impact the project and the applicant could respond to that question
- Right of Ways maintained by the city versus the property owner, preference for the maintenance to be taken on by the applicant
- Significant impacts would occur if the setback was created to more than what is required and would also impact the possible pedestrian access as well as drainage.

Chair Smith requested the Clerk to restate the motion and called for the vote.

STARK/SCHNEIDER MOVED TO ADOPT STAFF REPORT 23-062 AND RECOMMEND APPROVAL OF THE VACATION OF THE B STREET RIGHT OF WAY SOUTH OF BAY AVENUE WITH THE FOLLOWING COMMENTS:

1. CREATION OF A 10 FOOT PUBLIC ACCESS ROUTE TO ACCOMMODATE PEDESTRIAN AND BICYCLE ACCESS FROM BAY AVENUE ALL THE WAY TO THE HOMER SPIT ROAD.
2. DRAINAGE EASEMENT OR CONVEYANCE FOR DRAINAGE FROM BAY AVENUE SOUTH TO KACHEMAK BAY.
3. DESIGN SUBJECT TO BE APPROVED BY THE CITY OF HOMER ENGINEER

VOTE. NO. HIGHLAND, CONLEY, BARNWELL, VENUTI, SCHNEIDER

YES. STARK, SMITH

Motion failed.

PLAT CONSIDERATION

- A. Staff Report 23-066, Bayview Subdivision Lighthouse Village Replat Preliminary Plat

Chair Smith Introduced the item by reading of the title and deferred to the Clerk regarding postponing this item to the next meeting.

Commissioner Highland requested postponement due to the hour.

Deputy City Clerk Krause deferred to the City Planner but noted that as far as process if allowed by the applicant they could do so.

City Planner Foster clarified that there are time limits and has 49 days and they are at 47 so he can send an email and the applicant can officially respond, or they can power through, the Applicant agreed to the postponement of this item to the next regular meeting.

Chair Smith requested a motion and second to continue to the next meeting.

HIGHLAND/SCHNEIDER MOVED TO POSTPONE STAFF REPORT THE BAYVIEW SUBDIVISION LIGHTHOUSE VILLAGE REPLAT PRELIMINARY PLAT TO THE NEXT REGULAR MEETING ON JANUARY 17, 2024.

Public Works Director Keiser stated that she will not be at the next meeting as tomorrow was her last day with the city and would like to provide some comments on the action.

1. Plats show the boundary of the wetlands and the applicant said that they were going to have a wetland delineation performed, she recommended having a requirement to see the wetland delineation added to plat so it is clear to all where it is

2. Referencing Note 8 refers to the Meeker easement, and for disclosure this Meeker easement is a problem that should be addressed. It was an easement between the city and Douglas Meeker in 1993 to allow encroachment into the city right of way by a retaining wall and the fill behind the retaining wall. This condition states that grantees at their expense shall restore the land within the above described easement to original condition at such time the grantee elects to remove said retaining wall. She recommended having a real estate attorney review and address the easement.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS

NEW BUSINESS

INFORMATIONAL MATERIALS

- A. 2024 Commission Annual Calendar

COMMENTS OF THE AUDIENCE

Penelope Haas, non-resident requested clarification on the status of the right of way vacation.

Chair Smith stated that it goes to City Council. City Planner Foster provided the next steps in the process for the vacation.

Scott Adams, commented on page 53 of the packet and expressed concerns on the recommendations by DOT regarding entrances to the project stating that the Commission should talk to DOT. He recommended that the Commission push for a traffic light due to inherent safety concerns

Deputy City Clerk called for a point of order noting that those comments are relevant to the CUP 23-08 and that public hearing was closed.

COMMENTS OF THE MAYOR/COUNCIL MEMBERS

Mayor Castner commented that he really wanted to point out to the audience that this Commission is unlike any other Commission they meet twice a month. Every single one of them have been thoroughly vetted before appointment was made by Council. He expressed appreciation of all the work they did and the seven commissioners tonight do it at every meeting. This is a very difficult Commission to serve on and the amount of work that is asked of them is very large.

COMMENTS OF THE STAFF

City Planner Foster commented his thanks for Jan's service. He has worked with her for a relatively brief time, but knew the huge impact in the community and that he has learned a lot working with Jan and really admires her dedication and hard work she did wearing two hats as the public works director and city engineer.

COMMENTS OF THE COMMISSION

Commissioner Highland expressed her appreciation for the excellence of the work Jan did during her time with the city. She will be missed. Ms. Highland thanked everyone for hanging in there tonight.

Commissioner Venuti expressed that it was another interesting meeting, noted that one of the things the Commission did not determine was when they would be meeting for deliberations.

The Clerk will contact the Commissioners to get available dates and times.

Commissioner Venuti then asked when the new associate planner would be starting and if they had planning experience.

City Planner Foster responded that he would start on next Monday, the 8th. The Associate Planner is experience in Landscape architecture and estimating. He added that it was six long months and was very excited to have another planner coming on board. There was light at the end of the tunnel.

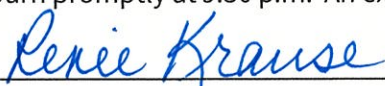
Commissioner Conley expressed his appreciation for a great meeting and thanked the Chair for getting them through it all. Thanked City Planner Foster and the Clerk for their hard work. He wished Jan the best and notes that she was leaving some big shoes to be filled.

Commissioner Stark expressed his appreciation for the services provided by Ms. Keiser and wished her well and expressed his thanks for the Staff.

Chair Smith expressed his admiration for Jan's professionalism and service and wished her the best in the future. He expressed hope in coming to an amicable resolution that was amendable to all. He expressed his appreciation for the Clerk being the silent major contributor and hanging in there with them. Mr. Smith expressed appreciation for the public attending and staying through the entire meeting and providing substantive comments and evaluation that they did on the topics. He thanked the Mayor for attending this meeting and providing his valuable insight. Mr. Smith acknowledge the City Planner and his efforts and diligence in being a one man show for such a long period and providing exemplary service.

ADJOURNMENT

There being no further business Chair Smith adjourned the meeting at 1:10 a.m. The next regular meeting is on Wednesday, January 17, 2023 at 6:30 p.m. All meetings are scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska and via Zoom Webinar. Meetings will adjourn promptly at 9:30 p.m. An extension is allowed by a vote of the Commission.



RENEE KRAUSE, MMC, DEPUTY CITY CLERK II

Approved: Jan 31, 2024