

CALL TO ORDER

Session 24-12, a Regular Meeting of the Planning Commission was called to order by Chair Scott Smith at 6:30 p.m. on July 17th, 2024 at the Cowles Council Chambers in City Hall, located at 491 E. Pioneer Avenue, Homer, Alaska, and via Zoom Webinar.

PRESENT: COMMISSIONER BARNWELL, VENUTI, S. SMITH, CONLEY, SCHNEIDER, STARK & H. SMITH

STAFF: COMMUNITY DEVELOPMENT DIRECTOR ENGBRETSSEN, DEPUTY CITY CLERK PETTIT

AGENDA APPROVAL

Chair S. Smith read the supplemental items into the record and requested a motion and a second to approve the agenda as amended.

SCHNEIDER/BARNWELL MOVED TO APPROVE THE AGENDA AS AMENDED.

There was no discussion.

VOTE: NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS UPON MATTERAS AREADY ON THE AGENDA

Scott Adams, city resident, requested that the Commission reconsider CUP 24-09. He spoke to the decision and reprimand of CUP 23-08, the Doyon application, noting that it went through the appeal systems. He added that he's hoping to see Doyon come back with an honest plan that fits in a workable area and that B Street will be considered as public property.

Jan Keiser, city resident, requested that the Commission reconsider CUP 24-09 and requested another public hearing on the matter.

RECONSIDERATION

A. Conditional Use Permit (CUP) 24-09, 955 Sterling Highway

Chair S. Smith noted that he called for the reconsideration and passed the gavel to Vice Chair Barnwell. Vice Chair Barnwell called for the declaration of any ex-parte communications.

Chair S. Smith stated that he received a call from a member of the public regarding the Commission's processing of this CUP on the Friday immediately following the Commission's decision on this CUP. He stated that in their conversation, this member of the public presented information for concerns about the engineering, and in doing so Mr. Smith inserted that he believes he had ex-parte communication.

Commissioner Schneider stated that he received two calls from two members of the public during the same week that the decision was made on the CUP. He added that he wasn't sure if these instances rose to the

definition of ex-parte communication given that the matter wasn't immediately before the Commission at the time of the calls.

Commissioner Stark stated that he received a call after the meeting of the Commission's approval of CUP 24-09. He noted that this member of the public shared that she hadn't attended the meeting or listened in via Zoom, and further that he did not discuss the matter in length with her. He shared a second potential case of ex-parte communication, where Mr. Stark stated that he had telephone conversations with the engineer that the applicant has retained to work on the project. Mr. Stark noted that the telephone conversations had nothing to do with this CUP.

CONLEY/SCHNEIDER MOVED THAT CHAIR S. SMITH HAS A CONFLICT OF INTEREST DUE TO EX-PARTE COMMUNICATION.

Commissioner Conley asked if the conversation that Chair S. Smith had outside of the meeting would change the way that he perceived and voted on this CUP. Chair S. Smith stated that this information wouldn't affect his judgement. He continued to explain that he received the call regarding the reconsideration around 3:00 p.m. on Friday. Recognizing that the window was closing to call for a reconsideration, Mr. Smith stated that he decided to err on the side of processing the reconsideration. He shared that after sitting with his decision for some time, he realized that he doesn't feel that this was a valid request for reconsideration. Commissioner Stark questioned Mr. Smith if any new information had been presented to him, to which Mr. Smith answered that the conversation was simply an evaluation of what had already been presented.

Vice Chair Barnwell requested the Clerk perform a roll-call vote.

VOTE: YES: VENUTI, SCHNEIDER, BARNWELL

VOTE: NO: H. SMITH, CONLEY, STARK

Motion failed.

CONLEY/BARNWELL MOVED THAT COMMISSIONER SCHNEIDER HAS A CONFLICT OF INTEREST DUE TO EX-PARTE COMMUNICATION.

Commissioner Stark asked Commissioner Schneider if any substantive discussion had taken place that would influence his vote on the matter. Mr. Schneider insisted that there was no substantive discussion, but that he did a little bit of listening to the people's arguments that they were putting forth for reconsideration. He added that he made it clear as quickly as he could that he would not be submitting the reconsideration on his behalf. He concluded that the conversation he had wouldn't influence his vote. Commissioner Conley asked if the conversation changed his perspective from how he previously voted on the CUP, and Mr. Schneider stated that it did not.

Vice Chair Barnwell requested the Clerk perform a roll-call vote.

VOTE: NO: S. SMITH, H. SMITH, CONLEY, STARK, BARNWELL, VENUTI

Motion failed.

SCHNEIDER/VENUTI MOVED THAT COMMISSIONER STARK HAS A CONFLICT OF INTEREST DUE TO EX-PARTE COMMUNICATION.

There was no discussion.

Vice Chair Barnwell requested the Clerk perform a roll-call vote.

VOTE: NO: SCHNEIDER, H. SMITH, CONLEY, BARNWELL, S. SMITH

VOTE: YES: VENUTI

Motion failed.

SCHNEIDER/VENUTI MOVED TO RECONSIDER CUP 24-09, PER HCC 21.22.030 (A), MORE THAN ONE BUILDING CONTAINING A PERMITTED PRINCIPAL USE ON A LOT AT 955 STERLING HIGHWAY.

Commissioner Stark called a point of order to question if the gavel should be passed back to Chair S. Smith at this time. Deputy City Clerk Pettit stated that would be appropriate at this time given that Mr. Smith hadn't made the motion for reconsideration. Vice Chair Barnwell handed the gavel back to Chair S. Smith.

Chair S. Smith stated that the Commission was to consider the merits of the reconsideration at this time. He reinserted his position against reconsideration of the CUP, stating that the questions that were brought forth to him by a member of the public should have been done so during the public hearing portion of the CUP process, noting that this is due process. Chair S. Smith added that by allowing this reconsideration, the Commission would be setting a precedent that anybody can show up and have an opinion on a CUP that's already been approved.

Commissioner Stark stated that he wasn't sure why the Commission would reconsider the CUP unless there had been some omission of information or something intentionally withheld.

Commissioner Conley echoed Chair S. Smith's concerns about the precedent the Commission will be setting if they reconsider this CUP.

Commissioner Stark reiterated that the CUP is just the first step of the building process. He added that there are subsequent steps that have to go through the City Planner and the Public Works Director. He urged any members of the public with concerns regarding this CUP to forward those concerns to the City Planner or the Public Works Director.

Commissioner Barnwell stated that he feels the need for reconsideration due to the fact that the CUP is the critical first step where the development activity plan is formed.

Commissioner H. Smith noted that an applicant can only be expected to pour so much money into the planning process before given permission to move forward. He added that there will always be unhappy parties with certain decisions, and that he feels content with the process and the previous result.

Commissioner Schneider shared that he has had some trouble deciding whether the Commission gave the CUP the attention that it deserved at the last meeting, which is why he made the motion for reconsideration.

Chair S. Smith requested the Clerk perform a roll-call vote.

VOTE: NO: H. SMITH, CONLEY, STARK, S. SMITH

VOTE: YES: BARNWELL, VENUTI, SCHNEIDER

Motion failed.

CONSENT AGENDA

A. Unapproved Regular Meeting Minutes of June 19, 2024

B. Decisions and Findings CUP 24-10, 2065 East End Road

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. He then requested a motion and second to adopt the consent agenda.

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

There was no discussion.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT

Motion carried.

PRESENTATIONS / VISITORS

REPORTS

A. City Planner's Report, Staff Report 24-032

Community Development Director Engebretsen noted that the Comprehensive Plan Community Survey closed at the end of June, totaling 552 responses. She added that the transportation plan will be in front of the City Council for introduction on Monday before being brought back for a public hearing in August. Ms. Engebretsen informed the Commission that the Planning Department is in the process of hiring a full-time associate planner position with plans for another half-time position slated to begin working in the next week or two. She noted the lull in zoning permits at this time, stating that this is to be expected at this time of year.

PUBLIC HEARINGS

PLAT CONSIDERATION

PENDING BUSINESS

NEW BUSINESS

A. Review of Capital Improvement Plan with Jenny Carroll, Special Projects Coordinator

Special Projects Coordinator Carroll provided an overview of the Capital Improvement Plan (CIP), noting that this is the City's forward-looking document that is used to define and forecast which projects are needed and/or wanted throughout the City. She added that depending how far along these projects are in the development pipeline determines the amount of planning and funding that a project receives in order to move through the system. Ms. Carroll explained that the draft CIP is put in front of each Board/Commission to garner feedback from these groups, which is then used to craft a document that goes to City Council to ultimately make the decisions on which projects make the cut for inclusion in the CIP.

STARK/BARNWELL MOVED TO POSTPONE THE DECISION ON THE TOP 3 CIP PRIORITIES TO THE NEXT REGULARLY SCHEDULED MEETING.

There was no discussion.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT.

Motion carried.

INFORMATIONAL MATERIALS

- A. PC Annual Calendar
- B. 2024 Meeting Dates & Submittal Deadlines
- C. Decision and Order of Remand CUP 23-08
- D. Public Comment from Mary Griswold
- E. Public Comments Received Regarding Reconsideration of CUP 24-09
- F. Addt'l Public Comments Received Regarding Reconsideration of CUP 24-09

Chair Smith noted the informational materials included in the packet.

COMMENTS OF THE AUDIENCE

Jan Keiser, city resident, clarified that CUP 24-09 isn't a subdivision development, therefore no subdivision or construction agreements are required. She noted that the zoning permit process will only address issues covered by city code, excluding things like street designs and soils reports. She also expressed concern over the lack of guidance for storm water management in the area, and criticized city staff for claiming that there would be no undue detrimental harm without providing any evidence.

Scott Adams, city resident, questioned why CUP 24-09 is considered a development rather than a subdivision despite having 25 single-family dwellings and only one access point. He expressed concerns about the inclusion of unusable tidal and coastal bluff areas in the project, and criticized the lack of traffic analysis and safety considerations. Mr. Adams emphasized the need for multiple meetings to address larger projects like CUP 24-09.

COMMENTS OF THE STAFF

Community Development Director Engebretsen encouraged any Commissioner with questions regarding the Doyon project to reach out the Planning Department.

Deputy City Clerk Pettit welcomed Commissioner Heath Smith to the Commission.

COMMENTS OF THE MAYOR/COUNCILMEMBER (If Present)

Mayor Castner stated that the City of Soldotna's Comprehensive Plan addresses concerns about river erosion and impacts, and includes significant restrictions on riverfront development. He emphasized that Homer cannot start "spot-zoning," and added that the Binocular Bluff subdivision has been an approved plat since sometime around 1970. Mayor Castner briefly spoke on ex-parte communications, procedure in running a meeting, and the City Council's new contract with Melissa Jacobsen, who was recently hired as the City Manager.

COMMENTS OF THE COMMISSION

Commissioner Heath Smith said that it's great to be here. He highlighted his time served on City Council, and spoke to the hazard mitigation plan and the amount of lands in Homer that are susceptible to certain hazards.

Commissioner Venuti shared that he's glad Commissioner Heath Smith is on board. He thanked the rest of the Commission for serving.

Commissioner Stark shared his excitement to serve with Commissioner Heath Smith. He also gave thanks to Mayor Castner, city staff, Chair Scott Smith and the rest of the Commission. He thanked the public for their comments.

Commissioner Conley stated that Homer is on the map and that people are interested in bringing their money and enjoying what Homer has to offer. He emphasized the responsibility that lays with the Commission to pay attention to the details and give it their focus.

Commissioner Schneider welcomed Commissioner Heath Smith and thanked the city staff, the public, and the rest of the Commission.

Commissioner Barnwell welcomed Commissioner Heath Smith and noted his experience. He stressed the importance of the Comprehensive Plan, and spoke specifically to the hazard mitigation plan. He stated that he's pleased to see the City Council chose Melissa Jacobsen for the City Manager position, and shared his praise for city staff and the Commission. He shared his disappointment regarding the Commission's decision on CUP 24-09.

Chair Scott Smith affirmed the voice of caution that Commissioner Barnwell frequently brings to the Commission. He also welcomed Commissioner Heath Smith, and noted that it's a critical time for Homer. He stated that hearing what Ms. Keiser had to say in regards to CUP 24-09 brings a little fear.

ADJOURN

There being no further business to come before the Commission Chair Smith adjourned the meeting at 8:10 p.m. The next Regular Meeting is **Wednesday**, August 7, 2024 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.



Zach Pettit, Deputy City Clerk I

Approved: Aug. 7, 2024