

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
MARCH 2, 2011

Session 11-03, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 7:01 p.m. on March 2, 2011 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS DOLMA, DRUHOT, HIGHLAND, KRANICH, MINSCH, VENUTI

ABSENT: COMMISSIONER BOS

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK JACOBSEN

APPROVAL OF AGENDA

Commissioner Highland requested that a Transportation Advisory Commission report be added under reports. There was no objection and the amended agenda was approved by consensus of the Commission.

PUBLIC COMMENT

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

Scott Connelly, local realtor, commented in support of the reconsideration of the amendment to the GC1 zoning district. He's not sure what the best solution is but believes there is room for improvement in that zoning area. He understands from the staff report there are 42 residential units and 9 mobile homes which represents a large financial investment for the folks who own those properties. He has personally been involved in transactions that failed to go through because of the issues the banks have with the zoning. He isn't a fan of encouraging residential use in an industrial area but thinks something that would allow the property owners to maintain their homes in a safe and insurable manner would be a compromise that would allow them to recoup their investment in their property.

Jason Hanenburger, city resident, commented that he owns a house on Meadow Drive. It is too small to accommodate his needs and since he can't expand it he his having to rent, and he can't sell it unless someone wants to do something different with it. He has a neighbor with a trailer who would like to build a small home and get rid of the trailer, but she can't. He hopes the commission will consider the change.

RECONSIDERATION

- A. Staff Report PL 11-15, Draft Ordinance 11-xx Amending the General Commercial One (GC1) District, HCC 21.24.030 to allow single family and duplex dwellings(s) as a Conditional Use.

KRANICH/VENUTI MOVED TO RECONSIDER THE ACTION ON PL STAFF REPORT PL 11-15, DRAFT ORDINANCE 11-XX AMENDING THE GENERAL COMMERCIAL ONE (GC1) DISTRICT, HCC 21.24.030 TO ALLOW SINGLE FAMILY AND DUPLEX DWELLING(S) AS A CONDITIONAL USE.

Commissioner Highland explained that she was advised by planning staff that reconsideration was going to be requested by a commissioner who voted no so they could do findings. City Planner Abboud commented that they felt there wasn't a strong enough discussion on record

to document findings to forward to council since the only thing on record is safety issues for children in a commercial area.

Commissioner Highland noted that minutes reflect her concerns regarding a limited area of GC1 zoning as well. She questioned if there would have been another way to do findings rather than issuing reconsideration. She further commented that she had been thinking about it after the last meeting and wanted to have some more discussion regarding the issue. She questions the merit for allowing a CUP process because of the people who built there in good conscience for the long term and then the zoning changed through annexation.

VOTE: YES: MINSCH, HIGHLAND, DRUHOT, VENUTI, KRANICH
NO: DOLMA

Motion carried.

ADOPTION OF CONSENT AGENDA

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

1. Approval of the January 19, 2011 minutes
2. Time Extension Requests: Lee Cole 2008 Preliminary Plat Time Extension Request
3. Approval of City of Homer Projects under HCC 1.76.030 g
4. KPB Coastal Management Program Reports
5. Draft Decision and Findings for Staff Report PL 11-20 CUP 11-04 A Request for a Conditional Use Permit (CUP) at 880 East End Road for a two-story approximately 8,000 square foot wellness clinic for the Seldovia Village Tribe Wellness Center. A CUP is required for HCC 21.16.030(h), more than one building containing a permitted principal use on a lot.

The Consent Agenda was approved by consensus of the Commission.

PRESENTATIONS

There were no presentations scheduled.

REPORTS

- A. Staff Report PL 11-30, City Planner's Report

City Planner Abboud reviewed his staff report.

- B. TAC Report

Commissioner Highland reported that the committee watched a video by Gary Lauder called Taking Turns. It included statistics on traffic and suggests taking turns at intersections. The Public Works Director gave the committee an update that the City will be developing the trail from West Homer Elementary to the Forest Glen Subdivision and building a bridge over Woodard Creek at Soundview, also on Spit Trail improvements, and that the Beluga Trail improvements won't be happen this year. She said the committee had their annual review of

the HART Policy and had no recommended changes as the policy appears to be working well. At their next meeting they will be considering recommendations for using HART funds for getting the process started for modeled extensions in Homer.

PUBLIC HEARINGS

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

PLAT CONSIDERATION

- A. Staff Report PL 11-23, East End Road Right-of-way Acquisition, State of Alaska, DOT Mile 160-174

City Planner Abboud reviewed the staff report.

KRANICH/HIGHLAND MOVED THAT THE COMMISSION HAS NO COMMENTS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- B. Staff Report PL 11-25, Forest Glen No. 12 Preliminary Plat

City Planner Abboud reviewed the staff report.

Roger Imhoff, project surveyor, noted a correction of staff recommendation number 2 that it should refer to Lot 10A and not 10B.

Commissioner Kranich asked for clarification on the lot line being eliminated. Mr. Imhoff explained that 10B is not part of this subdivision and in the original plat of Forest Glen #7 there will be two lots instead of the original three.

Commissioner Kranich questioned why there are some situations where a replat requires a water line be abandoned and in other situations it is not. He encourage that it should be consistent for all the actions.

DOLMA/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 11-25 FOREST GLEN NO. 12 PRELIMINARY PLAT WITH STAFF COMMENTS AND RECOMMENDATIONS.

KRANICH/DRUHOT MOVED TO AMEND RECOMMENDATION NUMBER 2 TO READ 10A INSTEAD OF 10B.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the main motion as amended.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PENDING BUSINESS

- A. Staff Report PL 11-15, Draft Ordinance 11-xx Amending the General Commercial One (GC1) District, HCC 21.24.030 to allow single family and duplex dwellings(s) as a Conditional Use.

The motion for reconsideration passed and the following motion is back on the floor for further consideration:

HIGHLAND/KRANICH MOVED TO ADOPT STAFF REPORT PL 11-15 AMENDING THE GC1 DISTRICT, HCC 21.24.030 TO ALLOW SINGLE FAMILY AND DUPLEX DWELLING(S) AS A CONDITIONAL USE WITH RECOMMENDATIONS AND FINDINGS.

The Commission had a lengthy discussion regarding this amendment and reviewed their zoning maps to consider how much GC1 property will be affected.

- While this may benefit residential properties in the East End area of the district we may not want to allow this use in all GC1 area because it also includes Baycrest and Ocean Drive.
- Homer code used to say that nonconformities could be expanded. In 2008 the zoning regulations about non-conformity were changed that allowed no replacement of existing buildings and that is the problem that is happening here.
- Making a zoning amendment to solve a particular problem may not be the best way to approach this.
- Code says if a non conforming use is damaged more than 50%, it can't be rebuilt, which indicates that we want the nonconformities to go away. It doesn't make sense to change the zoning and leave the nonconforming rules if the intent is that they can be rebuilt.
- If the intent is that nonconformities can be rebuilt, that is the piece of code to change. It isn't fair if these select people in this area can re-build but the others can't.
- The issue isn't only damaged properties. There are residential uses that are usable but can't be made larger to accommodate the families using them and a person can't remove a small mobile home and replace it with a house. These are issues a CUP could fix.
- There are residential type uses in the Ocean Drive area as well that will also be considered as nonconforming.
- There is a very small supply of GC1 zoning in the City of Homer and there is a perceived mind set in the community that may be that we won't get anymore GC1 or GC2.
- All this does is change nonconforming rules under the guise of zoning.
- Perhaps this issue can be resolved through the mixed use zoning that was called out in the Comprehensive Plan or by reconfiguring boundaries.

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- In other places when areas are rezoned properties in the area are given a specific time line when they have to come into compliance.
- Limit the number of CUP's with no new residential development allowed.

DOLMA/VENUTI CALLED FOR THE QUESTION.

There was brief discussion clarifying the result of a yes or no vote.

VOTE: YES: DOLMA
NO: HIGHLAND, DRUHOT, MINSCH, VENUTI, KRANICH

Motion failed.

Discussion continued bringing up similar points of whether amending the GC1 zoning is the most appropriate way to resolve the issues of existing nonconforming residential uses in the GC1 district. The Commissioner's also briefly reviewed questions raised in laydown items presented by Frank Griswold. It was noted that this will go to the City Council with the Commission's recommendations.

VOTE: YES: DRUHOT
NO: MINSCH, DOLMA, KRANICH, HIGHLAND, VENUTI

Motion failed.

The Commission took a break at 8:53 p.m. and the meeting resumed 8:58 p.m.

MINSCH/HIGHLAND MOVED THAT AMENDING GC1 ZONING TO ALLOW SINGLE FAMILY AND DUPLEX DWELLINGS IS NOT CONSISTENT WITH THE INTENT AND WORDING OF OTHER PROVISIONS OF TITLE 21.

There was brief discussion that this comes into play in several sections of title 21 including GC1 and the nonconforming regulations.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

DOLMA/HIGHLAND MOVED TO ADOPT A FINDING THAT GRANTING CUP STATUS WOULD INCREASE CONFLICTS WITH OTHER MORE FAVORED USES LIKE COMMERCIAL AND INDUSTRIAL.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

MINSCH/HIGHLAND MOVED TO ADOPT A FINDING THAT AMENDING GC1 ZONING WILL NOT BE REASONABLE TO IMPLEMENT OR ENFORCE. THE ISSUE IS NONCONFORMING CITY WIDE.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

HIGHLAND/DOLMA MOVED TO ADOPT A FINDING THAT ALLOWING SINGLE FAMILY RESIDENCES AND DUPLEX DWELLINGS AS A CONDITIONAL USE IN GC1 DOES NOT PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE FOR CHILDREN IN THE DISTRICT.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

DOLMA/HIGHLAND MOVED TO ADOPT A FINDING THAT GRANTING CUP'S FOR NONCONFORMING USES PERPETUATES THE USES INSTEAD OF DISCOURAGING THEM.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

HIGHLAND/DRUHOT MOVED TO ADOPT A FINDING THAT AMENDING THE GC1 DISTRICT WILL FURTHER LIMIT AVAILABLE LAND FOR COMMERCIAL ACTIVITIES.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

MINSCH/HIGHLAND MOVED TO ADOPT A FINDING THAT AMENDING THE GC1 DISTRICT TO ALLOW SINGLE FAMILY AND DUPLEX DWELLINGS DOES NOT SOLVE THE PROBLEM OF THE NONCONFORMING ISSUE IN HOMER.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

KRANICH/HIGHLAND MOVED TO ADOPT A FINDING THAT ZONING REGULATIONS THAT GROUP COMPATIBLE USES TEND TO REDUCE THE OCCURRENCE OF CONFLICT.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was discussion that we have found that residential and commercial uses are not compatible.

MINSCH/HIGHLAND MOVED TO ADOPT A FINDING THAT ALLOWING A CUP IS NOT INTENDED TO RESOLVE CONFLICT OF NONCONFORMING USES.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was agreement that the Commission would like to define the questions and discuss other options at a future worksession to find a way to resolve the issues with residential use in this district.

B. Staff Report PL 11-19, Draft Policies and Procedures

Chair Minsch commented that they discussed this at the worksession and requested staff bring it back at a later time.

HIGHLAND/DRUHOT MOVED TO POSTPONE THE DRAFT POLICIES AND PROCEDURES UNTIL BROUGHT BACK BY STAFF.

There was brief discussion to bring it to a worksession.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

A. Staff Report PL 11-26, Draft Ordinance 11-xx, East End Mixed Use

KRANICH/DRUHOT MOVED TO HAVE STAFF BRING THE EAST END MIXED USE DRAFT ORDINANCE BACK TO A FUTURE WORKSESSION.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 11-27, Draft Ordinance 11-xx Amending Homer City Code 21.61.040 Nonconforming uses; regarding the effective date of the restriction on enlarging, increasing or extending nonconforming uses

City Planner Abboud reviewed the staff report.

Question was raised whether this amendment to nonconforming uses was made as a result of the 2008 technical re-write of Title 21 or if the Commission had been advised of the amendment and supported it. Chair Minsch commented that she is uncomfortable amending this without more information.

KRANICH/HIGHLAND MOVED TO POSTPONE ACTION UNTIL BROUGHT BACK BY STAFF.

Chair Minsch asked if staff could do some research and said she would be willing to help review minute and look through stuff.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- C. Staff Report PL 11-28, Draft Ordinance Amending HCC Chapter 21.34, Conservation District

DOLMA/HIGHLAND MOVED TO BRING STAFF REPORT 11-28 TO THE NEXT WORKSESSION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

INFORMATIONAL MATERIALS

- A. City Manager's Report

COMMENTS OF THE AUDIENCE

Members of the audience may address the Commission on any subject. (3 minute time limit)

There were no audience comments.

COMMENTS OF STAFF

City Planner Abboud commented that he appreciated the discussion on the GC1. They rooted out some of the issues and made some clearer findings to forward to City Council.

Deputy City Clerk commented that if the issue was just to produce findings there may be other ways to bring something back after adoption rather than staff soliciting Commissioners for reconsideration. The Clerk's office staff can help with that when there are questions.

COMMENTS OF THE COMMISSION

Commissioner Venuti welcomed Chair Minsch back.

Commissioner Dolma, Highland, Kranich, and Druhot had no comments.

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Chair Minsch commended the group on their work while she was gone. She appreciates their patients and time to work to figure something out for this nonconforming change to zoning.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 9:36 p.m. The next regular meeting is scheduled for March 16, 2011 at 7:00 p.m. in the City Hall Cowles Council Chambers.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____