

Session 11-01, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 7:05 p.m. on January 5, 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 ABOUD  
DEPUTY CITY CLERK JACOBSEN

### APPROVAL OF AGENDA

### AGENDA APPROVAL

The agenda was approved by consensus of the Commission.

### PUBLIC COMMENT

### 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).

There were no public comments.

### RECONSIDERATION

### RECONISE RATION

There were no items for reconsideration.

### ADOPTION OF CONSENT AGENDA

### 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 December 1, 2010 minutes
2. Time Extension Requests
3. Approval of City of Homer Projects under HCC 1.76.030 g
4. KPB Coastal Management Program Reports

### December 1, 2010 Minutes

The Consent Agenda was approved by the consensus of the Commission.

### PRESENTATIONS

### PRESENTA TIONS

There were no presentations scheduled.

### REPORTS

### REPORTS

- A. Staff Report PL 11-05, City Planner's Report

City Planner Abboud reviewed his staff report.

### 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

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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.

A. Staff Report PL 11-02 Draft Ordinance Zoning Enforcement

City Planner Abboud reviewed the staff report. He referenced a lay down letter in support of the draft ordinance.

Patricia Wallace, city resident, said she has lived on Rochelle Road for 19 years and lived Homer 27 years. Off and on in her neighborhood there have been a lot of junk vehicles and just plain clutter and garbage type junk in people's yards. There is still some, but it certainly is getting better. It is very disgusting and hazardous. Homer is a beautiful place, let's take some pride in it and get rid of the eyesores. She would like to thank the people in her neighborhood who have done just that and others in the community who have participated in getting rid of some of this stuff. She thanked the City for helping financially to get rid of abandoned and junk vehicles. She agrees with the 1500 square feet of storage for 2 drivable vehicles, one recreational, one boat less than 36 feet, one work truck, plus 200 square feet for miscellaneous storage. That seems more than fair. If someone needs more storage, they can go rent it. A neighborhood is just that, not a place to accumulate junk and vehicles that don't run or boats that never see the water.

There were no further comments and Chair Minsch closed the public hearing.

KRANICH/HIGHLAND MOVED TO BRING THE DRAFT ORDINANCE TO THE FLOOR FOR DISCUSSION AND POSSIBLE AMENDMENT.

Commissioner Kranich commented that this has been discussed several times at the Commission level and it has been refined to where it should work for most people.

Regarding enforcement, there was discussion that it should be identifiable if a vehicle sits longer than the number of days allowed. It was clarified that line 182 refers to one year after adoption of the ordinance. It was noted that the commercial districts are not included as they have different provisions than the residential chapters, and City Planner Abboud said he could provide the Commission with a better explanation at another time.

KRANICH/DOLMA MOVED TO FORWARD THE DRAFT ORDINANCE ZONING ENFORCEMENT TO CITY COUNCIL AND RECOMMEND ADOPTION.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Staff Report PL 10-111 Draft Ordinance Amending the City of Homer Comprehensive Plan to Include the Homer Spit Comprehensive Plan and Recommending Adoption to the Kenai Peninsula Borough

City Planner Abboud reviewed the staff report.

Chair Minsch opened the Public Hearing.

Draft  
Zoning  
Ordinance

Draft Spit  
Comprehensive  
Plan

Hal Sheppard, Acting Director with the Kachemak Bay Conservation Society, commented regarding concerns about residential development on the spit. Concern was expressed about it during the public process as it is unnerving that the city is considering more residential uses on the spit. He said it's been suggested that there could be question if the City met the letter of the law on public notice about residential uses in this case since there has been strong opposition and concern about it. He asked they go beyond the letter of the law to get more notice out there. Mr. Sheppard also commented in the plan it says the City is working with the ACOE regarding the dredge spoils but there's not a lot of description of a plan, again full disclosure about the plan and criteria for the spoils, and where the overburden might be placed is important. He feels there should be more public hearing about that. Lastly he commented about the reference to the Climate Action Plan, he encouraged more provisions of implementing the plan be incorporated in to the Spit Plan, since it appears the City is implementing it already. He asked the Commission to refer to their written comments.

Pat Cue, resident outside city limits, thanked the Commission for their work on the plan. She commented that it is her understanding that there is a proposed area for residential development towards the end of the spit. She expressed concern not only with additional development, but also how that development could adversely affect the areas that are available for public use. She encouraged the Commission to ask themselves what living legacy they want to leave, and she asked that they strongly consider conservation recommendations.

Jack Wiles commented that as he said last time, more isn't always better, sometimes it is just more; don't overdevelop the spit. You don't know what you have until it's gone and he hopes they don't pave paradise by putting up more condo's and blocking views on the west side of the spit in particular. In looking at the 25 foot height limitation in the plan, he suggested that they do not allow that conditional use on the west side. He encouraged they consider the campground lease at the end of the spit as the transitional area in terms of a buffer to maintain the last piece open of space at the end of the spit. He hopes the Commission will keep the public value of the area in mind.

Lani Raymond, resident outside city limits, suggested reasons not to develop the spit too much more. One, migratory bird habitat, especially in the spring and fall, it is called critical habitat. Two, dangers due to evacuation problems, too many people out there can't get off safely. Three, large businesses and development mean loss of ambience for tourists and natural beauty being ruined. An alternative to more development would be encouraging development in downtown Homer and in the Old Town areas. People will always want to go out on the spit and they need reasons to go to the other parts of town. Four, we should want to pass the spit on as a natural and healthy place for future generations as well as ourselves now. We should collectively say yes to the outdoor activities that make our spit a treasure.

Robert Archibald, city resident, commented that the spit plan has come a long way but he knows there a lot of ideas that have come out and pages of things that probably deserve a little more consideration. He likes the idea of taking another look at the input. The spit is a natural wonder and there aren't many like it in the world. The decisions that the City makes are going to be the future of the spit. Do it wisely.

Barb Peterson, city resident, recalled when Pier One was first located on the city dock and they had to use the restrooms at Land's End. At its current location people are amazed at this activity in the middle of a campground. It has impressed her that when you are there, you are

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**Draft Spit  
Comprehensive Plan**

in the middle of people fishing, flying kites, and having campfires. There is this wildness and it's what part of the spit is. The other thing she noticed is having an alternative type of activity that draws people out to be part of the spit. 70% of the audience is local. Let's keep this legacy as close to what it is that we can.

There were no further comments and Chair Minsch closed the public hearing.

KRANICH/HIGHLAND MOVED TO BRING THE DRAFT SPIT COMPREHENSIVE PLAN TO THE FLOOR FOR DISCUSSION.

No objection was expressed and discussion ensued.

There was discussion that a lot of public comment has been received and reviewed. While all the ideas aren't adopted specifically many are blended in. It is a good document and a little more worksession time would be beneficial. If there are minimal amendments it probably won't come back for a hearing but substantial changes will trigger another public hearing. It was suggested that the ownership map from a previous draft be added in.

KRANICH/HIGHLAND MOVED TO MOVE THE DRAFT SPIT COMPREHENSIVE PLAN TO THE NEXT WORKSESSION.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

C. Staff Report PL 11-08, Nonconforming Use Status as a Bulk Petroleum Storage Site Located at 4755 Homer Spit Road, aka Tract A and Lot 22A Lands End Subdivision.

Commissioner Druhot stated she has a conflict of interest in this action.

KRANICH/HIGHLAND MOVED THAT COMMISSIONER DRUHOT HAS A CONFLICT OF INTEREST.

Commissioner Druhot stated that she has a financial interest that exceeds the limitations outlined in code.

VOTE: YES: MINSCH, HIGHLAND, VENUTI, KRANICH, DOLMA

Motion carried.

Commissioner Druhot left the table.

City Planner Abboud reviewed the staff report.

James Beckham, Vice President of Operations for Harbor Enterprises Inc., dba Petro Marine Services, commented that in the course of other business with the City they discovered some missing paperwork, approvals, and authorizations for the tank farm at the end of the Homer Spit. In conjunction with that discovery, they are trying to chart a course forward to clean it up and comply for forward movement in the future. He said he is available for questions.

**Nonconforming Use  
Status as  
Bulk  
Petroleum  
Site 4755  
Homer Spit  
Road**

There was brief question and discussion of a discrepancy in the staff report regarding number of tanks that would be addressed after the public hearing. Question was also raised regarding the availability of the company's contingency plan. Mr. Beckham advised that a copy of the plan is available through the City and through DEC. The plan does meet all the state DEC and Federal requirements.

Chair Minsch opened the public hearing.

Kevin Hogan, city resident, commented in support of what ever gets this through the process as smoothly and quickly as possible. The applicant is a good corporate citizen and an integral part of the community. This use has been in existence prior to the existence of the City. Mr. Hogan said bulk fuel storage needs to be an outright permitted use in Marine Industrial not a conditional use. It is adjacent to both of the docks where most of the delivery is through barges. It is a change that should be made in the zoning code.

There were no further comments and Chair Minsch closed the public hearing.

In response to questions regarding quality control, Mr. Beckham provided an overview of the requirements, standards, and procedures regarding inspections of their tanks and pipelines, noting that leaks are bad for business so they do what they can to prevent them.

KRANICH/DOLMA MOVED TO APPROVE GRANTING NON CONFORMING USE STATUS AS A BULK PETROLEUM STORAGE SITE LOCATED AT 4755 HOMER SPIT ROAD AKA LOT 22A AND TRACT A LAND'S END SUBDIVISION.

There was discussion clarifying that the use extends over both lots as the tanks are on one lot and the support equipment, such as the containment rack and the loading facility, extend to the other lot. It was suggested amending through out the staff report to add "and loading facility" to clarify.

HIGHLAND/KRANICH SO MOVED TO AMEND THROUGH OUT THE STAFF REPORT WHERE IT SAYS BULK PETROLEUM STORAGE ADD "AND LOADING FACILITY".

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

City Planner Abboud commented to the amendments regarding the discrepancy regarding the tanks referenced in the time line. He clarified the following for staff report PL 11-11:

- 1966 change six (6) to 12
- Add 1975 "aerial photo showing 8 tanks, storage pump building, and warehouse building
- 1981 strike six (6)
- 1986 strike six (6)
- Strike 1992 reference to the attachment
- 2003 strike six (6) and replace with eight (8)

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**Nonconforming Use  
Status as  
Bulk  
Petroleum  
Site 4755  
Homer Spit  
Road**

KRANICH/HIGHLAND SO MOVED TO IDENTIFY THE AMENDMENTS OUTLINED BY THE City PLANNER.

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): YES: HIGHLAND, MINSCH, VENUTI, KRANICH, DOLMA

Motion carried.

Commissioner Druhot returned to the table.

Chair Minsch called for a short break at 8:30 p.m. The meeting resumed at 8:36 p.m.

**PLAT  
CONSIDER  
ATION**

**PLAT CONSIDERATION**

**Anderson  
2011 Sub  
Prelim Plat**

A. Staff Report PL 11-03, Anderson 2011 Subdivision Preliminary Plat

City Planner Abboud reviewed the staff report.

Roger Imhoff, project surveyor and applicant representative, commented regarding a letter he submitted that the subject of the unsubdivided remainder comes up time and time again. An unsubdivided remainder is not part of the subdivision and is not subject to review by the City or Borough except to see that it does meet the code for unsubdivided remainders, which is if it is less than 40 acres it must abut a dedicated right-of-way. It does meet that code requirement. Mr. Imhoff also commented that there is the request for drainage easements but he has yet to see staff provide a code citation for that, and the Borough does not have one, or even the definition of one. He noted what he failed to address is Borough Code 20.21.010 that generally requires a 60 foot right-of-way when a road accesses this number of lots. He explained that Rainbow Place is a 50 foot wide right-of-way. It was originally a through street which connected to what is now the high school property, but was re-platted into a cul-de-sac. The City and Borough Planning Commissions in the past have granted exceptions to the street width in cases like he has explained in his letter. Pennock Street is an example of this situation where a 40 foot right-of-way was granted an exception to extra right-of-way width.

It was noted that the Public Works comment #3 refers to Rainbow Avenue, in the staff recommendation it is referred to as Rainbow Court. Mr. Imhoff clarified that it is Rainbow Place and the utility easement should be on the north side where it fronts on proposed Lot one and Tract A.

There were no public comments.

DOLMA/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 11-03 ANDERSON 2011 PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was brief discussion regarding the zoning and the status of the unsubdivided remainder.

KRANICH/HIGHLAND MOVED TO AMEND STAFF RECOMMENDATION 2 TO READ ALONG RAINBOW PLACE AS INDICATED ON THE PRELIMINARY PLAT.

There was brief discussion whether it needed to be changed elsewhere and it was suggested that this makes the recommendation correspond with the preliminary plat.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was brief discussion regarding procedure.

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

Motion carried.

#### **PENDING BUSINESS**

A. Staff Report PL 11-01 East End Mixed Use District

HIGHLAND/KRANICH MOVED TO DISCUSS THIS AT A WORKSESSION.

There was brief discussion about scheduling.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

#### **NEW BUSINESS**

A. Staff Report PL 11-07, Exclusion from Bridge Creek Watershed Protection District

City Planner Abboud reviewed the staff report.

HIGHLAND/KRANICH MOVED TO DISCUSS AND MAKE RECOMMENDATIONS REGARDING EXCLUSIONS FROM THE BRIDGE CREEK WATERSHED DISTRICT.

There were comments supporting a recommendation that no exclusions be allowed. This is currently the only watershed and it would be in the best interest of the city to remove the allowance. It was pointed out that surface water isn't the only issue, and you don't know where subsurface water goes.

Other comments suggested that if the lot slopes away from the water shed it could be considered for exclusion. It was requested that GIS information be provided to show the slopes of the lots in the watershed district.

**PENDING  
BUSINESS**

**East End  
Mixed Use  
District**

**NEW  
BUSINESS**

**BCWPD  
Exclusions**

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**BCWPD  
Exclusions**

KRANICH/VENUTI MOVED TO POSTPONE THIS TO A WORKSESSION PENDING GIS INFORMATION FROM STAFF.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**INFORMAT  
ION ITEMS**

**INFORMATIONAL MATERIALS**

A. City Manager's Report

**AUDIEN  
CE COMMENT**

**COMMENTS OF THE AUDIENCE**

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

There were no audience comments.

**STAFF  
COMMENT**

**COMMENTS OF STAFF**

There were no additional staff comments.

**COMMISSI  
ON  
COMMENT**

**COMMENTS OF THE COMMISSION**

Commissioners Dolma, Venuti, and Kranich had no comments.

Commissioner Highland commented that she has been looking at the Comprehensive Economic Development Strategy (CEDS) and she loves to repeat herself about one of her goals to see balance between economy and the environment. She apologized to the Commission for her late submittal of information for the Spit Comprehensive Plan.

Commissioner Druhot wished everyone Happy New Year.

Chair Minsch initiated conversation the CEDS and its relation to the Comprehensive Plan. City Planner Abboud said it may be coming to the Commission for consideration of if this should tie in with the Comprehensive Plan.

Chair Minsch commented that there is a lot of work to do and reminded them that she will be leaving the next meeting at 9:15, and will miss both meetings in February.

**ADJOURN**

**ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 9:17 p.m. The next regular meeting is scheduled for January 19, 2011 at 7:00 p.m. in the City Hall Cowles Council Chambers. There is a worksession at 5:30 p.m. prior to the meeting.

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MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: \_\_\_\_\_