

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
OCTOBER 19, 2011

Session 11-14, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 6:32 p.m. on October 19, 2011 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, DOLMA, ERICKSON, HIGHLAND, MINSCH, SONNEBORN, VENUTI

STAFF: CITY PLANNER ABOUD
DEPUTY CITY CLERK JACOBSEN

APPROVAL OF AGENDA

The 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).

RECONSIDERATION

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 October 5, 2011 minutes
2. Time Extension Requests
3. Approval of City of Homer Projects under HCC 1.76.030 g
4. KPB Coastal Management Program Reports

The Consent Agenda was approved by consensus of the Commission.

PRESENTATIONS

REPORTS

- A. Staff Report PL11-111, 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 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 11-108, Draft Sign Code Amendments

City Planner Abboud reviewed the staff report.

Chair Minsch opened the public hearing.

Scott Fraley, city resident, said he didn't really feel the Commissioners heard anything anyone said at the last hearing. He referenced the editorial from the Homer news and said their article in the paper came off arrogant and rude. You have a bunch of business owners from the community come and talk about their concerns and frustrations with what this will do to their businesses. You dismiss their concerns with a statement in the paper "they're wrong". The article just came off as insulting and in the end it slammed every business owner in the community with the statement that "Yes, business can be hard, yes it can be tough, but if we are creative, offer a good product, work together without taking unfair advantages, we'll all succeed." That is basically telling the businesses that you need to realize you aren't making a creative or a good product. "Vegas will never happen in Homer" is a paranoid statement. For a lot of businesses, 90 days is their business period and to tell them they only get 14 days of advertisement is not realistic or appropriate. The statement that the reason people visit and settle in Homer is the beauty and natural settings of our town, is not completely true. A large percentage of people who live in this town grew up here, and the little quirks in the town aren't keeping tourists away. He thinks we need to be pro-business and the Commission hasn't given any reason why sandwich boards should be thrown out. There is no proof or evidence they cause safety problems. It is an opinion, and not a good reason to make a rule.

Dan Coe, non city resident and sign painter in town for 7 years, addressed the issue of sandwich boards and fairness. He said he understands the nature and necessity of sign ordinances and compliance and that one man's freedom may be his neighbor's offence. He researched on line that many municipalities in the US are dealing with the same issue and from it, constitutional concerns have come up. One resource says local governments are completely unaware of the constitutional ramifications of regulating signs and billboards, believing like residential and commercial buildings, that signs are subject to zoning and land use restrictions without limitation. But as explained by the US Supreme Court, signs and billboards possess both communicative and non communicative aspects. It means that a Planning Commission can make an ordinance based on size, positioning, and so forth, but what is protected by the 1st and 14th Amendments is the content. An issue cited is you can't allow one category as opposed to another, you need to allow all of them or none of them. Mr. Coe provided copies of his research to the Clerk.

Adrienne Sweeney, city resident and business owner, knows what a sign can mean to a business. She explained when she first purchased her business the previous owner had worked hard to get a DOT sign located along the Sterling Highway. A few years later Homer became considered Urban instead of Rural and the signs were taken away. After hers was removed in 2005 her business went from filling up daily with walk ins in the summer to zero walk ins. It hurt the business and she was not prepared for it. Being only a few years into the business it was a difficult time. She tried to be creative and put a sandwich board up by Fat Olives, Planning Staff would come pick it up, and Mrs. Sweeney would go get it and pay the fine. Now she puts her sandwich boards on her personal property and is very adamant that she should be able to do it. She opposes the sign ordinance with the exception of the 1 pro business point of allowing the multiple businesses on a lot to have more square footage. She did research as well, and found that the City of Redmond Washington lost a law suit based on the same subject that you can't allow one and not the other. There is no proof or documentation that the temporary signs are a safety hazard, or not works of art, and who is going to judge art? She proposes they de-regulate the A board signs language to allow display year round, with limited square footage and off the sidewalk two feet; promote free enterprise not impede it;

consider becoming the most pro business city in Alaska; consider lowering water rates, and help businesses survive. Consider working with the States Way Finder Pilot Program they have in Fairbanks to help visitors find businesses off the beaten track. Consider working with the State to install a kiosk at the top of Homer hill with the State grant program. Finally, consider developing a comprehensive plan developing goals and policies that are designed to attract and retain business, build on our community strengths, and create jobs.

Nancy Deaver, city resident and owner of Sweet Berries Cafe, admitted that she hates her sandwich board, it's her nemesis. But the fact remains that it brings people through her door. She has built up her business from a three table café to nine tables. They have a good product but to this day, people can't find them because she can only have one small sign on the building and the owner of the building takes up the rest of the sign space. The sandwich board is the only thing she can have. She understands there is a problem with them, but she doesn't think the issue is with the year round businesses. She has paid attention since the last meeting and there aren't that many that are a problem in town. She proposed that the Commission change the ordinance to allow the sandwich boards for year round businesses. The summer businesses are only here 90 days and don't really care about the year round businesses. What scares her is that if they take the signs away, the permanent signs are expensive and a struggling business it is a lot of money. That is a situation where you need a little sign to build business up until a permanent sign can be afforded. She hopes there can be a way to figure out how the year round businesses aren't punished by having a cheaper sign and a different ordinance for summer businesses. She worries the year round businesses will go under if they can't have the smaller signs. It hurts Homer economically, it isn't a good plan.

Kimberly Hemphill, city resident, said she has had businesses in town since 1989. When the sign ordinance started originally it was all about not having billboards. She paid her fee, and did what she was supposed to do. She likes the sandwich boards and the flyers that hang off the poles. She likes that she can see who the benefits are for at Alice's and what Sweet Berries special is for the day and others around town. She does forget about them without their sandwich board. She doesn't think illuminated signs should be eliminated because even the open and closed signs are illuminated. They are needed when it is dark for sake of safety. This has all gone too far. This is a nice little town and we need to have freedoms, she doesn't find any of it offensive. There are some ugly signs, but it is a matter of opinion. What the ordinance was originally supposed to do and what it does now are two different things and she finds it very disappointing.

Steve Gibson, city resident, thanked the Commission for their work. He commented that he doesn't have a dog in this fight, but thinks sandwich boards should be permitted and understands that enforcement is difficult. He thinks the enforcement of the proposed ordinance is worse. Sandwich boards are a piece of the town he appreciates because of the information they provide. He thinks they should protect that right, not ban it. The setback requirements from the olden days were part of the problem as it resulted in parking in front of businesses, a pedestrian unfriendly environment, and an inadequate area for signs. The new code would enable business owners to make a garish car to park outside of a business every day yet ban the small sandwich boards. He doesn't think that is what the Commission planned. He hopes they aren't against the sandwich board because they don't like the way they look, he understands they can get out of hand, and part of the new sign code revision deals with enforcement questions and that will address problems raised by sandwich boards.

Bob Carpenter, from Magic Touch Massage, commented that he is frustrated with the basics of this. He understands its purpose. They took the time to make sure their sign is tasteful, to take it out of the thoroughfare and parking area, and be easily seen along Pioneer. His business has easily doubled because of their sandwich board sign. They ask every new customer how they found out about the business and most say it was the sandwich board sign. Mr. Carpenter said their objective is to bring in customers and be a valid business to help Homer. He hopes they will consider what the businesses are coming up with. Word of mouth is great, once the clientele is established. Taste and safety was the forethought for their sign. The ordinance only allowing it to be out 5 days a month is skewed and he would like them to reconsider that. We want to bring business to Homer, because with out business it will become a dustbowl.

Steve Zimmerman, city resident, commented that he doesn't see an issue with sandwich boards as long as they aren't in the right-of-way. He recommended enforcing the existing rules and leaving the rest of them alone. Businesses need advertising and it doesn't hurt anyone anywhere. Regarding size allowance, Mr. Zimmerman asked why a business can't simply have signage on a percentage of their building. It would be fair and equitable that way. He also questioned the \$50 permit fee. As a tax payer he shouldn't have to pay to put a sign up, and as long as he complies with code he shouldn't even have to ask permission to put a sign up. It is just another cost of business that gets him nothing. The sandwich boards are lower than some of the landscaping that you have to pull out past to see. Maybe that should be dealt with before picking on the landscaping people.

Karen Carpenter, with Magic Touch Massage, said she likes signs because they help people find things. No one would agree that sandwich boards be allowed in the right-of-way and it should be required they be weighted so they won't blow down. She noted that the way some of the buildings are built in relation to the lay of the land makes for visibility problems and the businesses need to be seen.

There were no further comments and the public hearing was closed.

BOS/VENUTI MOVED TO DISCUSS ACCEPTING THE STAFF REPORT AND STAFF RECOMMENDATION.

No objection was expressed and discussion ensued.

Commissioner Highland commented to help clarify that sandwich boards became a topic of looking toward the future, they were not legal to start with, and then we started seeing more. If we allow some, we have to allow all of them and there are people concerned about that. She acknowledged the constitutional concerns that were raised and noted that the City Attorney has been involved in reviewing the ordinance and did not raise any concern about fairness. The original sign ordinance came out in an effort to not have the big arches when McDonalds came in and it was proactive. There has been a lot of information about what signs can mean to a community and fair ways of everyone finding the signage. She wonders about considering something for businesses off the main roads coming in to town.

Commissioner Erickson expressed her appreciation for people coming with some ideas to consider and would like to take time to consider the year round businesses and the fairness issue.

Commissioner Bos said the Commission really hasn't changed the rules on sandwich boards, and they haven't changed many rules, other than sizes. This is something that has been in place for a long period of time. It isn't as though we are against new or old businesses. The sandwich board is status quo and you are either following the rules or your not. He hopes he is as pro business as anyone.

VENUTI/BOS MOVED TO FORWARD THE DRAFT SIGN ORDINANCE TO CITY COUNCIL.

Question was raised about consideration for businesses off the main roads. City Planner Abboud responded that when making a regulation it is important to make sure to treat all classes of individual equally for whichever district you may find them in. If you do it geographically and start crossing zoning districts it raises issues with treating everyone equitable.

Commissioner Venuti expressed that this was underway when he joined the Commission and when he first looked through it he was concerned it was anti business. He was concerned that they weren't getting any input as they worked through it. After the two public hearings he understands the overwhelming feeling about sandwich boards. He understands the rules in the ordinance as early in the summer they were in the corners of intersections blocking lines of sight, and on the spit in the roadway. Initially the issue was safety. The Commission values the public's input and in light of what they have heard, he encouraged the public to express their concerns to the City Council at their hearing.

Commissioner Sonneborn suggested that unless there is another way to prevent the proliferation of sandwich signs then it should be sent on to Council.

Commissioner Bos added that a reason the Commission discussed this for so long was to try to make sure it is equal for everyone. A lot of testimony has expressed that it isn't equal for everyone. He suggested that if he had a sandwich board, maybe he would get more business; but if you don't have a sandwich board it doesn't mean Homer is losing business, they may just be going somewhere else that day for the service.

Commissioner Erickson noted as it stands now there is an allowance for sandwich boards over a 90 day period, the proposed amendment is to do away with them completely, and she hears from testimony that they want what is currently law to go away. There hasn't seemed to be a happy medium and maybe we do need to look harder at year round businesses.

Lastly, Commissioner Highland expressed that it would only take one accident involving a sandwich board, a pedestrian, and a vehicle. It raises question if the City would be sued for allowing a dangerous situation. While it hasn't happened here yet, it could and public safety holds a lot of merit.

VOTE: YES: BOS, MINSCH, HIGHLAND, VENUTI, DOLMA
NO: SONNEBORN, ERICKSON

Motion carried.

The Commission took a break at 7:30 p.m. and the meeting resumed at 7:30 p.m.

- B. Staff Report PL 11-109, Draft Ordinance allowing accessory dwelling units as a permitted use

City Planner Abboud reviewed the staff report.

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

VENUTI/BOS MOVED TO DISCUSS AND MAKE RECOMMENDATIONS REGARDING THE DRAFT ORDINANCE ALLOWING DWELLING UNITS AS A PERMITTED USE.

There was no objection expressed and discussion ensued.

Commissioners commented in favor of the ordinance and the way it would streamline the process.

Question was raised about how the allowance will relate to lot coverage and building size. City Planner Abboud explained the way it is now the accessory structure is one that is not as prominent as the primary structure on the lot. If the property owner wants a bigger one, they will have to come in and ask. It is also dependant the services given to the lot as one without water and sewer will have a larger lot size requirement per dwelling. If he doesn't feel it will qualify for an accessory structure or the applicant feels it should be permitted they will come to the Commission through a CUP process.

There was brief discussion about water and sewer meters, rates, and that those are issues for Council.

There was also discussion about in-fill and what could be considered in-fill.

There was no more discussion and no objection to sending this draft ordinance to City Council for public hearing.

PLAT CONSIDERATION

No plats were scheduled for consideration.

PENDING BUSINESS

- A. Staff Report PL 11-110, Policies and Procedures

BOS/DOLMA MOVED TO DISCUSS STAFF REPORT PL 11-110.

There was brief discussion regarding the recommendation of the staff report.

BOS/SONNEBORN MOVED TO POSTPONE TO THE WORKSESSION AND REGULAR MEETING ON NOVEMBER 16.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

No new business items were scheduled.

INFORMATIONAL MATERIALS

A. City Manager's Report: Budget Message FY 2012 Operating Budget

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 they are working on getting notices out for the East End Mixed Use district and scheduling for an open house before the public hearing.

COMMENTS OF THE COMMISSION

Commissioner Venuti questioned what happens if Council sends the sign ordinance back. City Planner Abboud said if it gets sent back they will give the Commission direction on what they want. Mr. Venuti said he sees fault with the process in that all the testimony came in at the end and it would have been easier if the input had come in earlier.

Commissioner Dolma expressed his agreement that having input earlier in the process would have been better. He doesn't know if it would have ended up any different, but it might have been a more pleasant situation at the end.

Commissioner Highland said she likes the idea of the open house for East End Mixed Use and thought it might have been a good idea with the sign code. It would be good to have more of a give and take conversation.

Commissioner Erickson wondered if there was a way when the sign code goes to council if there is a way to look at temporary signs separately, as it is the most controversial. She was glad to see people tonight bring ideas for solutions. It was a little late, but better than what they had before.

Commissioner Sonneborn hopes that something can be figured out to make the sign ordinance work for everyone, and hopes if it does come back that Council's directive is very clear.

Commissioner Bos said it was a good meeting. In looking at the complexity of the sign ordinance he thinks he only heard in one case someone address the amount of square footage of signage on a larger store, because they may have more to advertise. The other issue was sandwich boards. He commended the Commission on a job well done, and while he is disappointed at being called non-pro business, the Commission spent a lot of time on this, shared a lot of ideas, and came up with the best possible scenarios.

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Chair Minsch said everyone did a good job. It is worth talking about how to get the public's interaction in the beginning, but you have to give them something to talk about, so that is the catch 22. The Commission has to get something that makes sense and then can have as many public hearings they want, open houses, and that kind of stuff. The people here tonight just need to get a permit and put their sandwich board on something to make it permanent. She doesn't know what Council will do, but she keeps trying to stay focused. There are 5000 people in town and this is a small group who don't follow the rules.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 8:07 p.m. The next regular meeting is scheduled for November 2, 2011 at 6:30 p.m. in the City Hall Cowles Council Chambers.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____