

Session 12-07, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 6:30 p.m. on June 20, 2012 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 ABBOUD
PLANNING TECHNICIAN ENGBRETSSEN
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).

None

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 May 16, 2012 minutes
2. Time Extension Requests
3. Approval of City of Homer Projects under HCC 1.76.030g
4. KPB Coastal Management Program Reports

The consent agenda was approved by consensus of the Commission.

PRESENTATIONS

REPORTS

- A. Staff Report PL 12-31, City Planner's Report

City Planner Abboud reviewed the 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.

PLAT CONSIDERATION

A. Staff Report PL 12-25, Northern Enterprises No. 2 Preliminary Plat

Planning Technician Engebretsen reviewed the staff report. She referenced the laydown item which includes additional staff recommendations.

Gary Nelson, project surveyor, said he was available for questions and commented regarding the recommendation for dedicating Little Fireweed right-of-way. He stated his understanding is this project came about because of a fire last winter. When the applicant went to rebuild he had to meet Fire Marshall Regulations and install sprinklers in the building. It has been a costly process. He had to do a storm water protection plan, when in reality he probably didn't have to, but the Planning Commission required it. The applicant is concerned about the dedication of Fireweed Lane as he needs every bit of space he can for development, and this action will result in loss of his land. Mr. Nelson expressed that he doesn't quite understand the requirement for the dedication other than for future water and sewer lines. According to the staff report there will be discussion on moving it to the south a little bit which sounds like a good idea in relation to space considerations. The owner asked that the Commission consider that building a road would be extremely expensive to develop given it is in the wetlands and there is a drainage ditch there. The right-of-way isn't needed at this time, but possibly would be in the future and the City could always use eminent domain to acquire the right-of-way. This is what the applicant would prefer as it would allow him full use of the property for a few more years.

There were no public comments.

BOS/VENUTI MOVED TO ADOPT STAFF REPORT PL 12-25, NORTHERN ENTERPRISES NO. 2 PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS 1-9 AS OUTLINED IN THE MEMO FROM THE CITY PLANNER.

The Commission discussed the dedication of Little Fireweed. Planning Technician Engebretsen explained the extension is referenced the Homer Transportation Plan, and the Comprehensive Plan. She acknowledged the physical constraints of the right-of-way area and noted it is up to the Commission whether or not they want to follow the recommendations of the adopted plan.

They considered if there is a way to make the dedication yet work around it, like having an easement for the applicant to use the right-of-way until such time as the City needs it. Staff explained the Comprehensive Plan talks about having a corridor preservation program, but there is not a process in place for that right now. It's possible that Public Works could permit the use in a right-of-way. The Commission recognized that note 4 says Public Works has been working with the applicant for months.

Commissioner Erickson questioned the process for developing the road, should the dedication take place. It was clarified that this applicant isn't required to build the road and that the property on the other side has already dedicated a 30 foot portion. When properties are subdivided rights-of-way are dedicated through the platting process. There isn't an exemption because someone does a good business. The City has an adopted long range Transportation Plan and this is part of it.

Mr. Nelson stated there is a section line easement in place now; the only difference is the City doesn't own it.

Commissioner Venuti raised the point that it won't change anything to dedicate and depict the right-of-way easement. Soil conditions make it difficult to develop a road, and it may happen in the long term, but it won't physically change anything right now. It will just show up on paper.

Commissioner Sonneborn questioned the reason for the subdivision. It was explained the assumption is that in order to get water and sewer to the back lot. City regulations are that you can't cross another lot, so the best use is to make it one lot and distribute lines as the owner sees fit. Extending a main from the north for the back lot would likely cost more than going using this process.

Commissioner Highland asked for clarification that Little Fireweed Lane is already there. Staff explained that there is a dedication that ends on former lot 2. There is a 30 foot dedication on the adjacent lot. Mr. Nelson interrupted that staff is being misleading as there is a section line exists and it would be nice if they would tell the truth about it.

Chair Minch advised Mr. Nelson he was out of order and asked him to stand down. Mr. Nelson continued his argument over Chair Minsch and then he left the building.

Chair Minsch read existing plat note 2, noting that it is a legal question that is not within the Commissions pervue to decide. Planning Technician Engebretsen expressed her understanding of plat note 2 says the property the owner is arguing there is no section line easement there. Staff can do more research if the Commission chooses to postpone action.

Chair Minsch added she opposes the applicant's representative view of saying don't do it, and then someday in the future the City can take it by eminent domain. Eminent domain is a process where the City has to buy it. Through the platting process it gets dedicated and is available for Homer's growth as outlined in the long term Transportation Plan.

Commissioner Sonneborn questioned if there are buildings in the area of the dedication. Staff clarified that there is one slight encroachment, but it can be worked around. The city isn't asking the applicant to move anything or do anything different, which is outlined in the staff report.

Commissioner Erickson asked for clarification about how the City justifies taking property. Chair Minsch clarified that in subdividing property, rights of way have to be provided for city, borough, and state. The compensation is the privilege to subdivide and make money by developing land. If a person doesn't want to dedicate rights-of-way to provide for the benefit of the community, then they don't subdivide. City Planner Abboud referenced a previous action where the City said no to dedication of a right-of-way, and when it went to the Borough, they required the dedication.

VOTE: YES: BOS, MINSCH, HIGHLAND, SONNEBORN, VENUTI, ERICKSON, DOLMA

Motion carried.

B. Staff Report PL 12-26, W.R. Bell Subdivision Preliminary Plat

Planning Technician Engebretsen reviewed the staff report. She reviewed the minimum lot size requirements for on site water and sewer. The original lot being subdivided is less than 40,000 square feet. So far when dealing with lots that are smaller like this one as long as the lot is getting bigger and not smaller it has been acceptable.

Jerry Johnson, project surveyor, said he was available to answer questions. He commented that the Borough and City requirement that minimum lot size is 40,000 square feet for on site well and septic, but the state DEC will allow it at 20,000 square feet.

BOS/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 12-26, WR BELL SUBDIVISION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was no discussion.

VOTE: YES: HIGHLAND, SONNEBORN, MINSCH, VENUTI, ERICKSON, DOLMA, BOS

No discussion.

C. Staff Report PL 12-28, Cooper Subdivision Haaland Addition Preliminary Plat

Planning Technician Engebretsen reviewed the staff report.

Roger Imhoff, project surveyor, said he was available for questions and had no comments for the Commission.

HIGHLAND/BOS MOVED TO ADOPT STAFF REPORT PL 12-28, COOPER SUBDIVISION HAALAND ADDITION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PENDING BUSINESS

A. Staff Report PL 12-29, Flag Lots

Planning Technician Engebretsen said staff talked with the State Fire Marshall about flag lots and fire department access. When a commercial project undergoes plan review, the access for a fire truck is considered, but not during the subdivision process. Fire Chief Painter is scheduled to attend the July worksession to talk about Homer's fire equipment and what kinds of access issues are specific to our community. She encouraged the Commissioners to send her any questions they may have so Chief Painter can be prepared to address them at the worksession.

B. Staff Report PL 12-30 Amending HCC 21.28 Marine Commercial Zoning District

Planning Technician Engebretsen reviewed the staff report.

The Commission reviewed the permitted and conditional uses outlined in the marine commercial district draft. There was no objection to the amendments proposed by staff under the permitted uses and structures section.

When discussing conditional uses, one opinion expressed was that drinking establishments shouldn't be allowed outright.

They discussed removing wholesale outlets for marine products, and staff explained the limiting factors of leaving it as a conditional use, and that sale of marine products would be allowed as retail under permitted uses. Allowing more than one building containing a permitted principal use on a lot allowed out right as there are other things that will regulate it, such as impervious coverage and setbacks. Point was raised that in today's economy business owners need some flexibility in what they do in their business, it was requested that staff look at options for businesses being allowed to do different types of job within their property or business.

In relation to types of residence allowed in the district it was suggested that owner or caretaker residence seems to be an appropriate allowed use. It was noted in discussion that there can be limitations to size to help maintain some of the view shed. There are also height limitations in place through code. It was noted that the Fire Marshall spoke about the different qualification given to owner occupied and not owner occupied, probably because an owner is going to be a little more accountable and familiar with their space in the event of a fire.

NEW BUSINESS

No new business was scheduled.

INFORMATIONAL MATERIALS

- A. City Manager's Report dated June 11, 2012
- B. Zoning Practice, 2012

There was no discussion regarding informational materials.

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

Staff thanked Chair Minsch for her service on the Commission.

COMMENTS OF THE COMMISSION

Commissioner Venuti thanked Chair Minsch. He commented that he would like to revisit the issue of allowing Paul Banks to have a changeable copy sign. He thinks they were remiss on that, raising the point that they failed to consider a Commissioner had a conflict as they live within 300 feet of the property. It bothers him that the Commission is considered sign Nazis and didn't pay attention to everyone's input on the sign ordinance and as a consequence we

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were suddenly in crisis when it was instituted. He doesn't know how many people signed the Paul Banks petition but it was like they completely ignored them and he is concerned they aren't being user friendly to the community. He didn't come to the Commission to start dictating, he is here to serve. Regarding the Paul Bank's sign, it bothers him the way it went because there are a lot of good people who signed the petition, and the intent was good. He agrees it is difficult to change the ordinance as it was, but it seems to him that public schools are important entities in the community and deserve special treatment. If there is some way to change the ordinance to have a special allowance for public schools it is something that merits doing. It bothers him that they are not being user friendly. They didn't pay close attention to what they were doing.

City Planner Abboud commented that the proposed amendment was a legislative action that affected a mass group of people, not an application by one person, and thereby no conflict of interest within 300 feet as it affects a greater class of individuals over three zoning districts. He noted it is too late to reconsider, however the request to amend the zoning will still go to City Council to make a final decision, so the request is still alive. Once Council makes their decision, the Commission can decide if they want to revisit options for public schools.

Commissioner Dolma said he will miss Chair Minsch; it has been great to have her here.

Commissioner Bos said he will miss Chair Minsch, he thanked her for her mentoring while he has been on the Commission, he has appreciated it. He thought it was a pretty good meeting tonight and thanked staff for putting together factual information again. He thinks it is incredibly important for them to be able to discern facts.

Commissioner Sonneborn said it has been a pleasure working with Chair Minsch.

Commissioner Erickson thanked Chair Minsch, it's been fun and we'll miss you.

Commissioner Highland said all of the above. She wished Mrs. Minsch well and said we will figure this out. She thanked her for all she does for the community; she is a very good community member who steps up to the plate.

Chair Minsch said everyone here is amazing and thanked them for their hard work.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 7:57 p.m. The next regular meeting is scheduled for July 18, 2012 at 6:30 p.m. in the City Hall Cowles Council Chambers.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____