

Session 13-18, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Venuti at 6:30 p.m. on December 4, 2013 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS HIGHLAND, SLONE, SONNEBORN, STEAD, STROOZAS, VENUTI

ABSENT: BOS

STAFF: CITY PLANNER ABBOUD
PLANNING TECHNICIAN ENGBRETSSEN
DEPUTY CITY CLERK JACOBSEN

Approval of Agenda

Chair Venuti called for a motion to approve the agenda.

SLONE/HIGHLAND SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

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.

A. Approval of Minutes of November 6, 2013 meeting

Chair Venuti called for a motion to adopt the consent agenda.

HIGHLAND/SLONE SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Presentations

Reports

- A. Staff Report PL 13-89, 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 13-80, CUP 2013-12 Request to Build a 160' Communication Tower at 5700 Easy Street

City Planner Abboud reviewed the staff report.

Brian Kincaid, applicant and Chief Operating Officer of Kodiak Kenai Cable Company, addressed the Commission regarding this project and noted that a native corporation is the parent company. He explained that he currently runs an undersea fiber optic network that feeds from Anchorage to Kenai and Homer, over the island of Kodiak and to Seward, and have been building out microwave systems to extend broadband service from that network. It has made a huge difference to the Kodiak local community. In progressing the business plan he has been expanding broadband service into smaller villages for schools, libraries, and medical clinics, as these are highly needed services. They have microwave systems carrying the services in Kodiak and Old Harbor, and Akiak is next. He has been building communications in Alaska for 32 years, including undersea fiber, satellite, and microwave. He installed the satellite service to Port Graham and Nanwalek in 1984, and recognized the need and also the potential for broadband service in looking at the Homer area. There are a lot of economics when building a system over so much water that has precluded other carriers from doing it. In selecting a property they looked for one that would be able to feed multiple regions over the whole area from one location. Serving multiple locations results in cutting costs and making it a doable project. Mr. Kincaid explained that studies and surveys were completed in deciding on this property. This is a centrally located point that will be fiber optically connected to the undersea landing station, and will be able to reach Port Graham, Nanwalek, Halibut Cove, the Russian communities at the far east end of Kachemak Bay, and also Nikolaevsk. They considered other locations, but no one location could feed all these areas from one lot. They worked with an environmental agency in the process to determine the property was a valid location. It is also an ideal location because it is close to commercial power and fiber to connect to their landing station. Mr. Kincaid further explained that from a radio frequency (rf) perspective its ideal to be back from a ledge because going over so much water will cause it to reflect back into the antennas as the tide changes. Part of the design is to get it back away from clear visibility of the waterline. The location benefits them from an rf perspective and from a visibility perspective as it is back in a treed area.

Chair Venuti opened the public hearing.

Jim White, Director of Information Services for the Kenai Peninsula School District, said he is responsible for data communications for the school district. Mr. White is in favor of this communications tower and the school district could likely be considered the anchor tenant for the tower. The district has had satellite communication in Nanwalek and Port Graham for over 10 years. What consumers pay for DSL in the tens of dollars, the district pays in the thousands of dollars every month for satellite services to those two communities. The service is poor but has been their only option, so last year he put out an RFP for a microwave terrestrial solution. Mr. White explained that it is expensive for the school district to do it, but not as expensive as what they are paying now, and they will get a tenfold increase in band width. It is very important to the communities as seen from the letters in the meeting packet. Mr. White said they have no other options and this is very important for the school district to get this service to those communities. He believes that by starting this process, other services will also come to the community that will be more affordable to the residents there.

Scott Adams, city resident by annexation and resident of the area for 35 years, commented that Homer Electric Association has a communication tower in the back yard that is approximately 100 foot, the lights at the harbor are 150 foot; now you are going to go another ten foot. The square footage is only by footprint, but you can imagine how tall the tower will be. They want to put 8 foot dishes on it. It might be back in the trees a bit, but there are houses in the area. He thinks it's a bad idea. The covenants of the subdivision say this shouldn't be there, so he thinks they need to have this on the spit or somewhere else. The towers on the ridge now will be dwarfed by this, there will be lights on it, and you'll see it when you drive on Skyline. He is also concerned about air traffic being diverted his way as well because he lives 3/8 of a mile away from this.

Kevin Dee, Executive Director of Ageya, apologized for his late written comments. They have owned a business in an area at the end of Easy Street, behind the tower location. They have been in business since 1984 and adjoin the Wynn Nature Center. They weren't aware of a tower going in until today. Their issues with the application as presented include some inaccurate technical components the City Planner gave. They believe it is an inconsistent application in that the property owner hasn't signed the application. The property was quit claimed from Kyle Clapp to Kelly Clapp and she did not sign. He requested they postpone and reset the clock to allow them to gather more information. They believe they will be a significantly impacted business and property owner on the hill. They have experience in that they have a 100 foot wind turbine on the Ageya wilderness property. While they contacted adjacent property owners, also to properties on Crossman ridge and Lookout Mountain, they knew a 100 foot tower would be affecting anyone who could see it. It was a conforming use, but they worked to be a good neighbor. What's happened here is the Planner is taking a microscopic view according to code, which is what he's supposed to do, and looking from that point of view and just what is touching the property. Mr. Dee said it will affect his property values, his business, and his views. A tower that is 160 feet will be seen from the spit. He can see his wind turbine from the end of the spit and from Lookout Mountain. This will be a huge eyesore affecting many of the property owners. Of the ten phone calls he made today, he reached 8 people who were all opposed. Part of why we live in Homer is the views. They are a tangible commodity that both Bay Realty and Story Realty say affect the components of property value. He supports broadband expansion into the villages; however there are already impacted areas like the tower farm they could use.

Randy Dobbs, General Manager of ACS for the southwest district, which encompasses Soldotna and Homer said he has owned and maintained tower systems for 20 years. He worked with Mr. Kincaid in looking at these sites and stated that this location is a very prime location to bring these services to the communities across the bay. He thinks they have 4 or 5 of these towers across the peninsula and initially people do have issue with them, but typically when they are done, it's the last they hear of it. He supports this project and ACS will be running services to the communities. They currently run a microwave system similar to this into Seldovia and they have been using it as an economic driver in trying to bring businesses into Seldovia, and it has made a powerful impact to the community. He thinks it will also happen in Port Graham and Nanwalek.

Charles Davis, city resident, said he is generally supportive of what the first nation people need to make their lives better, but hopefully the site of this has allowed for an accident to occur. He questions whether it will be near buildings that can be damaged by the blowing over or falling over of the tower. He thinks they are having the same controversy in the valley. Hopefully one of the conditions being considered is that it will be situated in such a way that it can't fall and damage other people's property.

There were no more comments and the public hearing was closed. The floor was open to the applicant and staff to rebut.

Staff had no rebuttal.

Mr. Kincaid commented that they looked at Mr. Dee's property that has the wind turbine and did a lot of studies from surveying. Their line of site will be about the 40 foot level of his wind turbine, so from an elevation stand point the base of his turbine is 100 foot above where this tower will start. The studies also showed you would have to be 30 foot up from the ground at Mr. Dee's house to see the top of the tower, based on the tree line and based on proximity to his property. The business Mr. Dee runs is to the east and it rolls downhill and they think the problem is less and less as you go out into the campsites.

Mr. Kincaid responded to commission questions.

In relation to properties within 160 feet that could be damaged in the event of a fall, Mr. Kincaid explained there are some connexes in the area that are used for storage that could potentially be in the line of a fall. But the FCC is heavily regulated on the tower and its design, and this specific tower is rated at 130 mph for a sustained gust, with icing on it that would obstruct it, which means that it will actually sustain 150 mph of sustained wind. They don't feel there is the potential for it to fall over, and they wouldn't build it if they did.

In relation to site preparation he explained that there is driveway and parking area in front of where they are placing the tower. The piling foundation doesn't require any gravel, and the hut that houses the equipment is inside the tower. They are not planning to gravel underneath it at all, and the effect to the ground surface would be four large pilings driven approximately 30 feet down.

In relation to the quit claim of the property, Mr. Kincaid advised that in working with Chris Story through the process he understands that they were in the process of transferring title from Kyle Clapp

to Kelly Clapp prior to this. His understanding is that Kelly did sign and sees it as a non-issue. City Planner Abboud explained that Kelly Clapp did initial the pages of the CUP application, and the current property owner would be required to sign for any zoning permitting if this is approved.

Regarding lighting, Mr. Kincaid explained that there is a formal procedure to go through, which goes out to comment for air carriers. It is not guaranteed they will require lighting, but if they do, they have specialized lighting that only puts it out in a certain direction, as they will consider the light pollution. They follow FAA guidelines and at this time there is not a ruling. The original environmental survey says it's likely they won't, but he can't imagine they won't ask them to. It is part of the process that comes next.

In response to concern noted in a letter from Joe Lewis Carter, Jr. about having difficulty dealing with the company, Mr. Kincaid explained his dealing with Mr. Carter regarding negotiations to provide broadband to his location. Mr. Kincaid said he would bring service to Mr. Carter, but it was revealed that Mr. Carter did have broadband communication. He thinks that was what Mr. Carter was referring to in the first section.

Question was raised how this tower would benefit Homer. Mr. Kincaid explained that it right now it has no impact to service in Homer. This is a very focused beam system, where basically they are shooting at a dot at a mountain on the other side of the bay. You can't build these long over water shots near the water because of the reflective properties of the water. There may be services deployed from the tower, but in its current design there are no services that affect the city of Homer.

Mr. Kincaid explained that this system does not put out radiation like a typical cell tower environment, these are focused beams. All the energy is focused in a very narrow path, directly to another point across the bay. With a service that is serving an area, it broadcasts down and radiates the area with an rf level deemed safe for the public. This tower does not radiate down.

Mr. Kincaid said he has not been approached by City of Homer Police or Fire Departments about installing communication equipment on the tower, but typically they do get warning systems, and they encourage it.

Mr. Kincaid said that several locations were looked in the search for a spot for the tower. The business plan has to support more than two villages, and they looked from Anchor Point on down through Kachemak Bay. The other end of this will be in up to the east of Port Graham on Dangerous Cape. There are other locations where there are towers in place, but the sight was limited. They made the tower as low as they could to make the path work. Mr. Kincaid explained that they launched a blimp with a measuring stick off of it and flew around in a helicopter with an rf engineer to make it as low as possible while maintaining the clearance to ground they needed.

STEAD/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 13-80 CUP 13-12 AT 5700 EASY STREET FOR PUBLIC UTILITY FACILITIES AND STRUCTURES AS PERMITTED BY HCC 21-12-030(g), WITH STAFF RECOMMENDATIONS AND FINDINGS.

Commissioner Sonneborn commented that the burden of determining whether something will affect adjacent property owners greater than other conditional uses is very difficult. She questioned how

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they determine it. City Planner Abboud responded they could go down the list of permitted and conditional uses, make their judgment, and put their value statement on the record.

Commissioner Slone said the applicant has done a pretty good job of proving due diligence and it is clear there will be some residents negatively affected with respect to the view in the area. He agrees it may not be as strong as they have indicated. He doesn't think it will be a measure affect. The project has a tremendous social value for the the communities on the other side of the bay. Since it isn't going to benefit Homer he questions how much of a social obligation they have as City of Homer Planning Commissioners to provide benefit to the other communities.

Commissioner Highland commented that this is difficult when there are people who oppose it and thinks they should consider more time as Mr. Dee asked for to coordinate collection of opposing signatures on a petition. City Planner Abboud explained that this CUP has been noticed three times, starting in October, and we are running out of time to make a decision. Delaying to allow opposition to garner support would be an unusual precedent to set.

VOTE: YES: STEAD, VENUTI, STROOZAS, SLONE
NO: HIGHLAND, SONNEBORN

Motion failed for lack of majority.

SONNEBORN/HIGHLAND MOVED TO RECONSIDER.

Commissioner Sonneborn wanted to have some more discussion before voting yes.

VOTE: YES: HIGHLAND, SONNEBORN, VENUTI, STROOZAS, SLONE
NO: STEAD

Motion carried.

Commissioner Sonneborn commented that she doesn't think they have had good evidence either way to say whether or not this will affect property values. City Planner Abboud said it will affect property values, the question is will it affect them greater than anticipated from any other possibilities that are allowed in the district.

Commissioner Sonneborn responded she sees that although property values will probably be affected by this change in the view shed, they will not be more affected than it would be by other uses like a heliport.

Commissioner Highland said her concern is that in hearing the objections from property owners and thinking about if she was in that situation, it comes up against the technological world and needs, and the better good of a larger area, versus those that are affected living near it. She recognizes the work the company did, and trying to weigh the needs of high tech versus the place where you build your home and business. She is having trouble with it.

Commissioner Stroozas commented that communication towers of this type are here to stay, it's part of life today. This particular project will enable many people outside of Homer to improve their quality of life. We happen to be strategically located to the point that we can enable it to happen. He lives in an area where he looks at these towers all the time. One is about 600 feet from his house. He enjoys the good internet service and everything he gets from them. It has made his life better as it has for many people who live in Homer. Let's help our fellow citizens across the bay and in these communities that need it. This is the 21st century. Let's accept it and move forward.

Chair Venuti asked what happens if this doesn't pass. Mr. Kincaid replied they would have to start again at square one, and go through a budget approval process for spend more money on planning and design. It may not be a deal killer, but likely it would mean areas would fall off from the ability to touch from one site, and would affect the business plan and its whole premise. Cost is a factor from the return on investment stand point in that it is expensive to build this type of system. It is a carrier grade system designed to haul medical clinics so that it will never go down.

Commissioner Slone commented he was conflicted also but reaffirmed that the greater good concept is very significant to him. We are talking about communications to use for education and quality purposes. Enhancing other community's quality of life, more people will want to reside there, and he is certain it will rebound back in some way to the benefit of the people in Homer.

VOTE: YES: SONNEBORN, STEAD, SLONE, STROOZAS, HIGHLAND, VENUTI

Motion carried.

- B. Staff Report PL 13-85, CUP 2013-13, Request for more than one building with a principle permitted use, a residential duplex, at 3850 Heath Street

City Planner Abboud reviewed the staff report.

Kenton Bloom, applicant's representative, commented that this is a genuine attempt to make the conglomeration of existing buildings in to something more of a neighborhood approach that will include green spaces and more connectivity. He gave an overview of the uses that make up the general area that include commercial and residential. Mr. Bloom said his client is amenable to all the conditions the City has presented. He highlighted that they are going to add post mounted lighting in the grassy island, and the landscaped areas will be bordered to delineate the green spaces. There will be an enhancement to the green belt area by Heath Street. In the big picture, this is an interim improvement for a long term vision that is being addressed. At some point the sight will have a bigger purpose than these cabins. His client is looking at a 10 to 15 year plan to develop something more in tune with what we want to see in the character of the city. In terms of design, the buildings have porches, and he is encouraging the applicant to cover the porches on the existing buildings as well.

Chair Venuti opened the public hearing.

Charlie Davis, city resident, commented that he doesn't see what the compelling interest is to tell people what to do on the property. He is in favor of letting people do what they want. He doesn't see

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the point in regulating. We have the most unique town, and we don't want to make it like Butte, Montana.

There were no further comments and the hearing was closed.

There were no rebuttal comments.

Mr. Bloom responded to Commission questions in reference to Frank Griswold's written comments.

Regarding health, safety, and welfare with respect to the inordinate amount of calls to Homer Police Department from that area, Mr. Bloom said he did not have time to confirm whether that is true. His feeling is that the way it is being approached to create a more attractive space, it will inevitably improve the area if there is a bad situation there. He finds it hard to get to a place where it is a detriment to make it better. He further noted that combining the negative behaviors described with seasonal workers or transients in the same lot as being undesirable is probably not something that they would accept as an honest appraisal.

In respect to the setback concerns, Mr. Bloom reiterated that they are in agreement with the staff's recommendations, so that would mean they would be in compliance with the setback from the top bank of the drainage. It will reduce the square footage in the dwelling and/or change the alignment.

City Planner Abboud responded to concern expressed regarding health hazards from buried vehicles, and other potential to be associated with them. He explained that he doesn't have knowledge of buried vehicles on the property. If there is, maybe it is a different organization that should look at that.

HIGHLAND/SLONE MOVED TO ADOPT STAFF REPORT PL 13-85 CUP 13-13 FOR MORE THAN ONE BUILDING CONTAINING A PRINCIPLE PERMITTED USE ON A LOT AT 3850 HEATH STREET WITH STAFF RECOMMENDATIONS AND FINDINGS.

Question was raised about Mr. Griswold's comments about zoning violations. City Planner Abboud commented that when the applicant comes through for the permit for the duplex, they will look at the whole site. Permitting this building will require that it meet all of today's standards of a site plan review.

In relation to a secondary sewer system, City Planner Abboud explained that water and sewer is approved by Public Works, who will have to approve and sign off on a plan before the City Planner can permit it.

Lastly, regarding the construction of a driveway, City Planner Abboud said in situations like this where you have a long term, existing driveway, the State will most likely permit it. They can request the applicant consult the right of way agent for that. Past experience has shown a drive that has long existed was not altered even though it didn't fit current distance regulations. The courthouse is an example.

VOTE: YES: SLONE, STEAD, STROOZAS, VENUTI, HIGHLAND, SONNEBORN

Motion carried.

- C. Staff Report PL 13-98, Draft Ordinance 13-42(A) Amending the Definition of “Discontinued” in Homer City Code 21.61.015, Definitions, to Extend Time Required to Discontinue a Nonconforming Use from 2 months to 24 months.

City Planner Abboud reviewed the staff report and acknowledged the Commission had extensive discussion at the worksession on whether to leave it at less than 24 months or increase it to more than 24 months. He noted that he doesn't have an objection to 24 months. In the bigger picture there are other avenues the Commission can address uses and zoning in the area.

Chair Venuti raised the point of an interest in relation to the Bayview Inn property specifically, and question if it may be a conflict in this matter. City Planner Abboud clarified that this is not a quasi-judicial action. This is a legislative decision that will affect all properties and the discussion needs to be broader than one property. Commissioners Slone and Highland expressed agreement with City Planner Abboud and no other Commissioners expressed objection.

Chair Venuti opened the public hearing.

Corbin Arno, city resident, commented in support of changing it to 36 months. 12 months definitely isn't long enough when dealing with an estate, and 24 may not be enough either. Change it to 36 and let's be done with it.

Scott Adams, city resident, commented that with the 24 month limit the hotel wouldn't have made it because the time has passed. Between their conversations in the last few months the seller was unable to sell because of the lots nonconformity. If they still had it, it would look better to purchase. Saying they fell off the time frame has been revolving around what the Commission and City Council decide. It is unfair to play that into the game, if it would have been longer than 12 months, this issue would already be taken care of, the property would have been sold, and no one would have to be at these meetings over and over again.

Charles Davis, city resident, commented it was his understanding from Council that putting this back to the Commission would result in another solution. It's not really about how many months; it's about what happens to us when we can't continue the use of a property in the same way after 35 or 40 years. Now we have all these complicated rules and it comes down to pinch, and who is it going to pinch next. Hopefully there will be some kind of general solution that would apply in all the different cases. He questioned the compelling interest in doing this to us is.

There were no further comments and the hearing was closed.

Commissioner Sonneborn commented that it seems they are dealing with more than one problem at the same time. The problem that the City doesn't allow enough time for a continuance to happen if someone dies and there is any kind of problem with the estate. She would like them to extend the

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amount of time for nonconforming use to be continued. She would like to see them solve the problem for the Bayveiw Inn specifically and look at rezoning the area as mixed use.

Commissioner Stroozas commented that times have changed since these laws were written and in his opinion, it takes longer today to get through the legal process than it used to. A 36 month period is in order in this particular case.

Commissioner Stead doesn't understand why they want to change it at all. He closed several family members' estates in six months or less. He doesn't understand the overall drive of this change. If they want to rezone, we can talk about that. If it's about preserving wealth, then it needs to be done a different way. It doesn't make sense to him to extend it.

Discussion ensued recognizing the various opinions of whether to extend the time limit and the Commission's desire to address the larger issue of nonconforming, allowed uses, and zoning in this particular area.

SLONE/HIGHLAND MOVED THAT THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL ADOPT ORDINANCE 13-42(A) AMENDING THE DEFINITION OF "DISCONTINUED" IN HCC 21.61.015, DEFINITIONS TO EXTEND TIME REQUIRED TO DISCONTINUE A NON CONFORMING USE FROM 12 MONTHS TO 24 MONTHS.

SONNEBORN/SLONE MOVED TO AMEND THIS MOTION TO EXTEND THE TIME FROM 24 TO 36 MONTHS.

Commission Slone commented in disagreement to the amendment. He agrees with Commissioner Stead's comment. He feels like they don't need to reinvent the wheel regarding the nonconforming timeframe. The property owners have other avenues to attempt to find resolve, whether it be to appeal to City Council or to a higher court. The Commission is tasked to review and make recommendation to Council and he doesn't see any basis to modify it.

Commissioner Highland read an excerpt from a point of view by Lane Chesley in a recent edition of the Homer News. He says typically most codes define discontinued as a period of 12 consecutive months where the use ceases to exist and once discontinued it can't come back. She said another idea he included was that under specific conditions it's possible the time period to sell or lease a property would not count against the 12 consecutive month rule. She added that she doesn't agree with 36 months.

Commissioner Slone added that through the process of the Comprehensive Plan and city ordinances defining uses in districts, the community at large has weighed in on how to address the nonconforming uses in their zoning district in that they terminate because the uses are no longer suitable, compatible, or the best use of the property. He reiterated there is no compelling evidence to make this amendment.

VOTE: YES: STROOZAS, SONNEBORN
NO: VENUTI, HIGHLAND, SLONE, STEAD

Motion failed.

Discussion ensued regarding the main motion. Commissioner Slone acknowledged the need for the development of concepts and the need to refine this in the near to immediate future with respect to these types of issues.

Commissioner Sonneborn asked about an amendment to make it 12 months from the time the estate has been settled. City Planner Abboud said the Commission has already made a recommendation to something of that nature.

Commissioner Highland suggested they try to come up with something and incorporate the concept of under specific conditions for discontinuing use. They would have to figure out the specific conditions, look at where are the nonconforming uses are, what are they doing, what problems they are creating, and come up with some specific ideas. She thought this would be an appropriate time to make a couple little changes to it and send it back to Council saying they want to do more work on the issue and consider some broader concepts.

Deputy City Clerk Jacobsen suggested that rather than making amendments on the fly tonight, that the Commission address the ordinance before them and let the Council know if they support the change to 24 months or not, as that is what the Council is asking. The Commission has given Council the message that they want to work on nonconforming for the City, and the Commission can certainly do that at future meetings.

VOTE: YES: VENUTI, SLONE, SONNEBORN, STROOZAS
NO: STEAD, HIGHLAND

Motion carried.

Plat Consideration

A. Staff Report PL 13-94, Paradise Heights Subdivision 2013 Replat Preliminary Plat

Planning Technician Engebretsen reviewed the staff report.

Doug Stark, applicant, commented that the lot line created 25 years ago. They found that the house foundation is a foot and a half over line and this action will resolve that issue.

There were no public comments.

SONNEBORN/SLONE MOVED TO ADOPT STAFF REPORT PL 13-94 AND RECOMMEND APPROVAL OF PARADISE HEIGHTS SUBDIVISION 2013 PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was comment that this looks clean and simple.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 13-95, Tietjen Subdivision 2013 Addition Preliminary Plat

City Planner Abboud reviewed the staff report.

There was no applicant to make a presentation and no public comments.

HIGHLAND/SLOANE MOVED TO ADOPT STAFF REPORT PL 13-95 AND RECOMMEND APPROVAL OF TIETJEN SUBDIVISION 2013 ADDITION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

Question was raised regarding water and sewer. Staff explained that it would have to be extended from East End Road.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

C. Staff Report PL 13-97, Tietjen Subdivision-Compass Addition Preliminary Plat

City Planner Abboud reviewed the staff report.

There was no applicant to make a presentation or public comment.

HIGHLAND/SLOANE MOVED TO ADOPT STAFF REPORT PL 13-97 AND RECOMMEND APPROVAL OF TIETJEN SUBDIVISION COMPASS ADDITION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

D. Staff Report PL 13-96, Barnett's South Slope Subdivision Quiet Creek Park Preliminary Plat

Planning Technician Engebretsen reviewed the staff report and the amended recommendations that were provided as a laydown item.

Tony Neal, applicant, gave a brief overview of the history starting in 2005 when the plat was approved by the city and approved by the borough. They got wetlands delineation and an ACOE wetlands permit. They permitted every lot and it was ready to go at that time. Since then they have been sitting on it, renewing the plat at the borough, and to his knowledge it is still ready to go. Having taken time off since the plat was completed they did some thinking about the subdivision in relation to road grades and feedback during the previous process. He worked with Kenton Bloom on redesigning the subdivision by looking at the contours of the area to help ensure the lots are buildable. This plat isn't substantially different, but each lot has an identified building site and total lots have reduced from 90 to 71. In relation to storm water they will be incorporating rain gardens and vegetated depressions to

hold water from lots. They also incorporated shared driveways to preserve land rather than develop more streets that the city has to maintain. Traffic calming techniques have been considered. The development will be done in phases and will take four to five years, giving the city time to make plans for the streets that include Shellfish, Heath, Anderson, and accesses to Mountain View and Elderberry. Mr. Neal explained that they rented the council chambers and held a couple of community meetings a month or so ago. He thinks it's a beautiful project and a credit to Homer. He asked that the Commission approve it.

Kenton Bloom commented that this follows a pattern of development that his company and others have worked on called Kachemak Greenway Design. It is basically orientation around design elements that relate to the environment and landscape, community amenities, and the overall livability of the development. They look at the dynamics of the land, slopes, watersheds, views, existing vegetation, and so forth, and also building sites. From there follow where roads, trails, and lot lines will fall. Community amenities include two kinds of trails, the road based trail running east and west. North and south there will be three non-road based trails on green belts with open space buffers. There are three parks in the area that are associated with drainages, but there is usable land as well to provide a neighborhood amenity and in one case the extension of an intensive trail development at the high school. Relating to livability, they have the site based design; every lot has a proven access and pad elevation. There are four types of lot configurations, downhill slope or uphill slope with either a terrace or a daylight site. The benefit to the developer is that a lot of things can happen during the course of construction because you have more "knowns". Benefit to the City and community is that there is an understanding that it will really work. The other thing that happens with this modeling is ending up with known vegetative or landscaped buffers between lots that end up being open space that can be looked at as protected areas in covenants and subdivision design.

Chair Venuti opened the floor to public comments.

Ginny Espenshade, city resident off Rainbow Court, commented that every day she walks, skis, or snowshoes with her dog up the trail across the high school cross country trail, just below the south border of the subdivision. The trail doesn't show on the plat and in the past, stakes for this subdivision have shown the trail encroach the property. One of her concerns is that it be clarified that it won't impact the high school cross country trail. A lot of the residents were here for the process 8 years ago, and she appreciates the comments of the applicant that some of what they said had merit, and she appreciates the changes to the plat. Primary concern for her is the runoff. When Bear Creek flooded the first time, the streams behind the high school dumped dirt on the football field, even with all the natural vegetation there. The ponds and rain gardens are great, but at least three times there has been flooding down the slopes. Every driveway and roof will change natural vegetation with impervious surfaces. She hopes they consider their role in traffic calming. If they can vote up or down a plat, they can factor in and require assurances. She urged them to look at the record from 2005.

Tom Kizzia, city resident on Mountain View, commented that he does like some of the changes that have been made, including the trails, lower density, and commitment to build Ronda Street to East End. He is still concerned about the density as it is pretty much the same as his neighborhood, which is urban, and this is rural. He doesn't think it qualifies as a large lot or cluster and open space. The main concern with density for him and his neighbors is the traffic coming out into the neighborhoods to the west. There has been a lot of attention to the other end but it feels to him like the developers

and city staff are kind of mumbling into their sleeve about what is going to happen on the west side. It seems that the conversation about an exit on the west side and the effects of traffic, lack of sidewalks, and narrow residential streets should be taken up at this point. Mr. Kizzia expressed concern about drainage after the flood this fall. In his 12 years, there have been several big floods coming down the canyon. It comes into the back side of the subdivision, passed through, and goes out the other side, which is going to be a concern in the future. Just so the Commission is aware of that and confident that the developers have that figured out and under control.

John Fitzpatrick, city resident on Elderberry, commented that his main concern is the traffic and the construction. They had a water main break on Elderberry this summer and the City coming in with the heavy trucks, you could feel the trucks when they drove by, and could feel movement when they were digging. If Elderberry is used as a prime construction he is worried about structure and integrity of the road. He is worried about traffic patterns if a lot of traffic is coming down the small residential road it will really affect him.

SONNEBORN/SLOANE MOVED TO EXTEND THE MEETING ADJOURNMENT TIME TO 10:30.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Tim Moore, city resident on Tasmania, commented that he agrees with the idea of fewer lots. Some new information the first time has been some of the water issue and some of the development on the uphill side of the subdivision. There have been some homes built uphill of him and even though the lots are significantly larger, the damage people had in their homes happens almost every spring. The water would overwhelm existing French drains and people have had to add a second one around their property. He has had to French drain around his entire property to deal with the problem. As we develop the hillside it will be an issue. He really likes the recommendation to require the Nelson Avenue through Ronda Street be completed initially, because that would allow the construction not to impact the neighborhoods. Traffic flow has been one of the biggest concerns.

Paul Gavenus, city resident on Rainbow Court, commented that rural residential in city code is supposed to be low density. He asked them to go to Mountain View and decide if that is low density, and that is what this subdivision is almost exactly like as far as the number of lots in the same sized area. He found five things that aren't to code. Lot 55 is under 10,000 sf. The first drive to the east is less than 60 degrees, and then there is a hairpin turn. He thinks that's a health and safety issue. Sophie Court is too long. Curb 11 radius is 100. An 18 foot driveway for an emergency vehicle is not adequate. He said he thinks the shared driveways are a cost cutting measure so he can have more lots with a driveway through it and not have to have cul-de-sacs. He recommended postponing action to have a traffic assessment. He thinks they should look at some of the letters from 2005 before making a decision.

Kathryn George, city resident on Mountain View, said she was intimately involved in the discussion previously on the subdivision. The speakers tonight have addressed a lot of her concerns. She thinks

water is a huge issue. She is one of the people who had to put in another drain because one house was built on a lot above her. Looking at 71 houses in the area with the history of flooding, slopes, wetlands, and drainage problems, then sees all the impervious surfaces they are bringing to an already problem area, causes her great concern. The people who have houses below the subdivision and the high school will be impacted in just a normal year. When there is a flood event, she is really concerned. She is concerned about the traffic flow and she isn't sure they have it right yet. She thinks it is better than the previous plan, but would like to see it fine-tuned. She is concerned about the flag lots, there are at least seven, which have access, but it isn't really a usable one, therefore there are these private driveways. That causes her concerns with lawsuits and fire department access. She questioned what a fire department accessible shared driveway is. She would like to see the new wetlands map overlay on this subdivision. She recalls before that it was extensive. They talked earlier about the public interest and the public good. She thinks the traffic and the water impacts are important. She questions if the developer is the only person who can build on the lots. She thinks this development could be improved with lower density.

Robert Patton, city resident, lives below the lot by the old Nelson Road. They moved in about 10 years ago, and the drainage comes in right behind his back yard. When they purchased the house it was called seasonal runoff occurring once or twice a year. With the development up by Tasmania and Quiet Creek, he isn't sure where it comes from but now it runs year round. The drainage is a problem. Maybe they will solve it with their little ponds, but it really needs to be addressed. He questions where the water and sewer will come from.

Vivian Findlay, city resident on Elderberry, reiterates what others have already said about the trails. She encourages maintaining the trails around the high school. She moved from Wasilla where they don't have those wonderful trail systems. She would hate to see those ruined in any way, and she doesn't see any protection in these plans.

Clyde Boyer, city resident on Elderberry, agrees with the testimony presented about the problems. One additional thing to note is that the streets are all platted the same width but on Bayveiv, Kachemak Way, or Mountain View you will see the pavement is about 4 to 6 feet wider than it is on Elderberry. There won't be room for a lot of traffic through there.

Public Works Director Meyer commented that sometimes after spending hours looking at a large subdivision he comes to the meetings and a light bulb comes on with another thing that the city should be asking for. He recommended a water line easement with a pedestrian access along the waterline easement that would run between lot 15 and 16. It would be an extension off what is being referred to old Nelson Ave. He would still like to see a waterline connection to Nelson Way to eliminate the dead end water lines that exist there to help with water quality. Overlaying it with a pedestrian easement would allow pedestrian access up that corridor.

There were no further public comments.

Mr. Bloom commented regarding some of the concerns that were raised. Regarding the shared driveways, he commented that as of today, the city builds and maintains 18 foot wide roads. The purpose for the shared driveways is not a cheap out, but that the corridor would be impacted by a city street that is 75 feet wide. Putting that in a sloped area has an impact on the viability of having

certain sized lots. Putting in a big street will result in smaller lots. The other thing is they are trying to minimize how many people are on the shared driveways. The final design will meet the city standards of alignment in relation to the roadway. He explained the sewer and water is coming from Ronda Street, at East Road.

Mr. Bloom also commented about the drainage. He explained after observing it closely each day for the better part of three and a half weeks, he noticed the issues happening in the bigger drainages are flow through issues from events on the bluff. There is not erosion or catastrophic failures. Poor soils are endemic to Homer and a lot of this bigger flow factor. In the context of what they are doing, those flows will be un-impeded. The more particular issue of draining issues and their mitigation plan, Mr. Neal talked about rain gardens and retention ponds being integrated. Mr. Bloom said they have an engineer who has completed a storm water design that is still in the initial stages, as there is still work to do with Public Works on a lot of contextual issues that happen. That will come later as this is conceptual approval at this point. He added that they feel very confident that the techniques being used today to deal with off-site water are much more advanced than just the French drain building drain. From his experience, those drains fail because they freeze at the outlet. In the big picture, they think site based drainage management is the way to go.

Regarding traffic, Mr. Bloom said that as a surveyor and a designer, he looks at what is required. If he were to put a cul-de-sac at the end of Nelson, he would not be able to get the plat approved. They have to have connectivity. To make the traffic more reasonable for the existing neighborhoods, they feel like traffic calming is the answer. There are different techniques that will be worked out with Public Works because they will be maintaining it.

Mr. Neal added that storm water has always been an issue to him. There isn't much they can do to deal with the issue at Kallman that was mentioned earlier, but they have dedicated all that area to a park and will give the city and easement to maintain the drainage. At the other end on the upper west corner it is wet and their plan will put it into a better channel and the city can maintain it, and hopefully it will be better. Regarding the question whether a development will impact water on a property, Mr. Neal said that developments do that. Each house will change the impacts, as all houses have roofs. When they did the Anderson Subdivision, there weren't the storm water details there are now. In their case, they are working on the mitigation aspect with the rain gardens so when water comes off the roof, it get stopped before it starts to tumble down and flood. He thinks it's a good plan, and similar plans for storm water control are working all over the United States. In looking at the shared driveways, when you build streets, you have pavement, then water running of that. The shared driveways are a benefit to the land and the community. Mr. Neal said the density of the subdivision meets the code requirement. Lastly, Mr. Neal commented that the wetlands that are there have been delineated and staked by engineers. They aren't filling or disturbing the wetlands.

Planning Technician Engebretsen commented on a question about a definition fire department access. She said there is an international code from which she summarized that fire department access means the road is going to be 18 to 20 feet wide and will have a certain amount of material compaction so a water truck or heavy vehicle can travel it. She said there are also rules about grade and turn around areas. It doesn't necessarily have to be a cul-de-sac as there are other configurations that allow a piece of equipment to be turned around. There is a standard and that is what is being asked of the developer.

Commissioner Highland questioned where the steepest slope on the subdivision is located on the development, the wetlands, and the historical trails. Mr. Bloom referenced the drawing to show the park in the southwest corner, and there is no development there. He added that the building areas on the lots are delineated on the drawings. He explained the wetland information is included on a submittal in the packet and a large drawing that is posted. He noted that some of the information on the submittal is low and wet areas, not all of it are designated as wetlands. He wanted them to see the full context of what they are working with. In the low and wet areas are where they are creating some perimeter drainage and the rain gardens so those lots can be usable. They do have a wetlands determination from the ACOE. On the topic of historical trails, Mr. Bloom said there is one trail that goes through the area and they have made an effort maintain the trail corridor. After his survey, it is his opinion that the high school trail doesn't encroach on the the proposed subdivision, but if it did, they would perpetuate it.

Mr. Stead noted that he doesn't see any delineation of rain gardens in the drawing. Mr. Bloom said that the City provides information for building rain gardens, and that is the modeling they will use. They have an engineer involved who is doing the calculations per the city's formula to provide the right sizing for the variety of different revetments, retention ponds, and rain gardens. In terms of providing a specific site detail, the city has a book of standard construction details, which they are fully on board with regarding subdivision development. Regarding drainages, he noted the areas that are delineated on the drawing by bold dashed lines, are areas having drainage easements so the areas can be managed by the city and undisturbed by the developer and future land owners.

There was brief discussion regarding the drainage locations while referencing the drawing.

Commissioner Sonneborn asked for clarification on what a development agreement is. Public Works Director Meyer explained it is an agreement executed by the developer that promises to do things talked about tonight, building roads, water and sewer, dealing with drainage, put in utilities, and so forth, based on a plan approved by Public Works after the plat is approved. In addition the developer puts up a performance bond as a guarantee so that when lots are sold after plat approval, lot owners can have the guarantee that these improvements will be constructed. If the developer doesn't follow through, the city can take over construction with the performance bond.

Planning Technician Engebretsen noted that the City doesn't have the authority to require the developer put in a sidewalk. Things like street lights, sidewalks, and trails are at the developer's desire. If a developer was going to build those and build them to city specs, it could be included in the subdivision development agreement. Commissioner Sonneborn commented for clarification that the developer is saying he is going to put in rain gardens and trails, but there is no way to ensure it is going to happen. She questioned that with all the concern expressed about drainage, where is the assurance these things are going to happen.

City Planner Abboud noted the drainage easements that are being dedicated and Public Works sees they need to be handled. There are not any more requirements for this subdivision, than in any other.

Mr. Neal commented that the ACOE is involved in that and is part of their wetland permit. What the city doesn't cover, the ACOE often does. At the last plat they had a lot of engineering for a storm water retention plan at that time that was complete and kept water from pouring into these creeks. At

that time it was the larger retention ponds, and now they want to use the smaller retention ponds. The ACOE figures it out the way that it should be.

Public Works Director Meyer reiterated the development agreement performance bond being in place to protect the City and future property owners. He added that most of the time drainage improvements are constructed within street rights of way or dedicated easements that the city can have access to. He thinks they can work with the developer to have reasonable conditions in the subdivision agreement for addressing the drainage and rain gardens.

Mr. Neal noted that they aren't planning to sell lots until the subdivision is built out. Since they are doing it that way there won't be a performance bond so all the work has to get done, with the City's and ACOE approval throughout the process. With that approval in hand, then they can sell the lots. It will be built out in phases.

Mr. Bloom added that they are creating a storm water plan that addresses drainage from the larger context. In the plan there are some larger retention ponds, in addition to the rain gardens. They are trying to have no net gain of storm water drainage from the lots construction itself into the ditches using the rain garden concept. They are doing this because they feel it is the right way to address the concern about storm water issues. ACOE wants to see that they don't increase the flow, so they will have to address this whether it is through the city's rain garden design or something other.

Chair Venuti noted the time and the Commission discussed continuing discussion to the next meeting, and potentially scheduling a site visit.

SLONE/HIGHLAND MOVED TO POSTPONE THIS TO THE JANUARY MEETING.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Planning Technician Engebretsen encouraged that if the Commission has specific questions or comment for staff to research between now and the next meeting, that they email her so she can provide the information in a staff report for everyone to review.

There was discussion about including the recommendation that Public Works Director Meyer recommended in his comments, and also whether it is relevant to have the 2005 information available to review.

Pending Business

A. Staff Report PL 13-93, Resolution 13-xx amending HAPC Bylaws

The Commission agreed to address this at the next meeting.

New Business

Informational Materials

- A. KPB Planning Commission Notice of Decisions
 - Glacier View Subdivision 2013 Addition Preliminary Plat
 - Yah Sure Subdivision 2013 Preliminary Plat
 - Wintergreen Subdivision Preliminary Plat
 - 10-ft. utility easement vacation along western boundary of Tract A-2A Rumley-Collie Five and 10 ft. utility easement vacation along easterly boundary of Tract A-1A Rumley-Collie Three also shown on Rumley-Collie Subdivision Six Sec. 11, T6S, R13W, S.M.
- B. City Manager's Report from November 25, 2013 City Council Meeting
- C. US Army Corps of Engineers Alaska District Special Public Notice , Service Area Guidance for Mitigation Banks and In-Lieu Fee Programs Operating in the US Army Corps of Engineers, Alaska District

Comments of the Audience

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

Ginny Espenshade commented that the body in 2005 discussed how they would measure the flow of water before and after, and there were specific conditions that it not be increased. There is language from that meeting. If this commission wants to do all that work again, have at it. She thinks they would find some of the discussion, work, and recommendations very helpful.

Katheryn George asked if the public comment is still acceptable since they have postponed the action.

Planning Technician Engebretsen commented that this isn't a CUP hearing and public would be allowed to comment at the first part of the agenda at the next meeting.

Comments of Staff

City Planner Abboud commented that we are not water engineers, and the ACOE has requirements for maintaining flows and things like that. He isn't sure it is in their realm to tie down flows of water. It is good information to know and perhaps Public Works can help with it.

Comments of the Commission

Commissioner Highland welcomed Mr. Stroozas to the Commission. This was a real meeting for his first one. It's the longest they have had for a long time.

Commissioner Sonneborn thought it was a good meeting and welcomed Mr. Stroozas. She thought there was a lot of good communication and a ton of information exchanged.

HOMER ADVISORY PLANNING COMMISSION
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Commissioner Stroozas thanked everyone, it was quite an indoctrination.

Commissioners Slone and Stead had no comments.

Chair Venuti said it had been an interesting meeting. It is nice to see a full house and people giving input. He recognized Planning Technician Engebretsen for doing an excellent job during the City Planner's absence.

Adjourn

There being no further business to come before the Commission, the meeting adjourned at 10:39 p.m. The next regular meeting is scheduled for January 2, 2014 at 6:30 p.m. in the City Hall Cowles Council Chambers.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____