

Session 22-03, a Regular Meeting of the Planning Commission was called to order by Chair Scott Smith at 6:30 p.m. on February 16, 2022 at the Cowles Council Chambers in City Hall located at 491 E. Pioneer Avenue, Homer, Alaska, and via Zoom Webinar.

PRESENT: COMMISSIONERS BARNWELL, CHIAPPONE, HIGHLAND, VENUTI, CONLEY, BENTZ AND SMITH

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK KRAUSE

The Commission met at 5:30 p.m. for a worksession prior to the regular meeting. On the agenda was discussion on the Coastal Bluff Analysis and Storage Container Dwellings.

APPROVAL OF THE AGENDA

HIGHLAND/BENTZ MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PUBLIC COMMENTS ON ITEMS ALREADY ON THE AGENDA

RECONSIDERATION

CONSENT AGENDA

- A. Planning Commission Regular Meeting Minutes of February 2, 2022
- B. Decisions and Findings Document for CUP 22-01 allowing two buildings containing three dwelling units at 373 Mountain View Drive.

HIGHLAND/BENTZ MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

PRESENTATIONS / VISITORS

REPORTS

- A. Staff Report 22-10, City Planner's Report

City Planner Abboud reviewed his staff report that was included in the packet. He commented further on the following:

- comments made at the worksession by the public regarding drainage
- adding funds to the Land Fund and the benefits to replenish that account
- possible funding for stormwater and building code as a result of the Hazard Mitigation Plan update
- Rural Residential Rezone update process and expectations of the benefits to update this in code
- Complaints received by the City Manager on noise from Airbnb's and the question on how to manage this since Homer has literally hundreds of these seasonal rentals
 - o checking on the validity of the complaints
 - o Homer is not a "spring break location"
 - o concerns regarding the removal from the market for year round rentals
 - o reinforcement for the rezoning and will assist in creating more housing to be built

City Planner Abboud facilitated questions and responded to questions on the timeline for the presentation of the draft Hazard Mitigation Plan; building code; green infrastructure funding; details on the projects selected will need input from the Public Works Director; the public works campus relocation is a slow moving long range plan; vacation rental businesses are or should be licensed and remitting sales tax.

PUBLIC HEARINGS

- A. Staff Report 22-11, draft Ordinance 22-xx Eliminating Maximum Parking Requirements for Large Retail and Wholesale Stores

Chair Smith introduced the item by reading of the title.

City Planner Abboud reviewed Staff Report 22-11 for the Commission noting the following:

- no mass or public transportation offered in Homer besides taxi's
- does not decrease the need for parking
- residents do not walk to the store due to location and topography
- considerable patronage by non-city residents, visitors and tourists
- policy itself is inconsistent, only large retail and wholesale stores are limited in the maximum
- Parking lots are an allowed use in the CBD and can be constructed without the limitation

Chair Smith opened the public hearing and having no one present in the audience in person and members of the audience attending by Zoom did not use the raise hand icon he closed the public hearing.

Chair Smith requested a motion and second.

HIGHLAND/VENUTI MOVED TO ADOPT STAFF REPORT 22-11 AND FORWARD TO CITY COUNCIL THE DRAFT ORDINANCE AMENDING HOMER CITY CODE 21-57 LARGE RETAIL AND WHOLE SALE STORES, ELIMINATING THE MAXIMUM PARKING REQUIREMENT.

Commissioner Highland noted that the Commission discussed this topic thoroughly and did not believe that there was anything additional to discuss.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PLAT CONSIDERATION

PENDING BUSINESS

A. Staff Report 22-12 Coastal Bluff Analysis

Chair Smith Introduced the item by reading of the title and invited City Planner Abboud to provide his report.

City Planner Abboud reviewed his staff report at the worksession and provided a summary of what was discussed:

- work out issues insuring the setback is from the face or edge of the structure
- definition for “edge and maybe a measurement section to make sure this is not compromised by other measurements
- displaying 60 foot setbacks west of West Hill Road
- Shoring up definitions of bluff edge which include eliminating the word bluffs so it is not confused with regulations of other bluffs that they deal with
- adding a section or some definitions pertaining to the Marine Erosion and distance from the marine area that this will apply to
- possibly incorporating some measure of mean high water
- working with Commissioner Bentz to define the language for the above

Chair Smith noted that staff has requested motion for recommended setback and locations but was unsure if they were ready to do that at this time and requested further input from the Commission.

Commissioner Bentz stated that she agreed with the idea of a 40 foot setback for all areas of Homer east of West Hill and then a 60 foot setback for areas west of West Hill Road. She expressed that if they wanted to make the motion as a Commission about just that number of feet for the setback, and then opined that it would be useful to make a motion to request staff to provide an ordinance with proposed language for review at the next meeting. Ms. Benz further stated that just incorporating those key bullet points that City Planner Abboud just give us an overview of, in the language, will help and having it before us in a draft ordinance form will be really helpful as far as making decisions in the future.

City Planner Abboud stated that he was unsure if a draft ordinance could be ready by the March 2nd meeting as he will be taking some time off and Planning Staff will have other time commitments.

BENTZ/VENUTI MOVED TO RECOMMEND 40 FEET AS A SETBACK FOR LOCATIONS IN HOMER EAST OF WEST HILL AND THE STERLING HIGHWAY INTERSECTION AND 60 FEET SETBACK FOR LOCATIONS WEST OF THE INTERSECTION OF WEST HILL ROAD AND THE STERLING HIGHWAY.

Commissioner Bentz added that it is consistent with the data and the research that shows higher erosion rates in the western portion of City of Homer and lower erosion rates in the areas east of West Hill and that 40 foot setback is pretty consistent with the 30 year planning horizon and with other documentation that the Commission has been presented on this topic.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

BENTZ/BARNWELL MOVED TO REQUEST STAFF TO PROVIDE A DRAFT ORDINANCE OF PROPOSED LANGUAGE OF DEFINITION UPDATES FOR COASTAL BLUFFS FOR REVIEW AT THE STAFF'S CONVENIENCE OR WHEN READY.

There was a brief discussion on putting a time limit on the draft ordinance.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Staff Report 22-13, Storage Container Dwellings

Chair Smith introduced the item and requested City Planner Abboud to provide his staff report.

City Planner Abboud stated that this was a subject thoroughly discussed by the Commission and there are motions on the floor pertaining to allowing container dwellings in the Central Business District, Marine Commercial and East End Mixed Use District and a draft ordinance on eliminating container dwelling city wide by definition and he looks forward to the Commission's guidance on what they wish to do.

Chair Smith requested clarification from the Clerk regarding the motions that were on the floor for consideration.

Deputy City Clerk Krause stated that there were two motions from the January 5, 2022 regular meeting, a main motion and amendment. The amendment will be dispensed with first then the main motion. She provided guidance on the procedure.

Chair Smith read the amendment into the record, VENUTI/HIGHLAND MOVED TO AMEND THE MOTION TO EXCLUDE THE CENTRAL BUSINESS DISTRICT FROM THE MOTION and opened the floor for discussion.

Chair Smith stated that since there was no discussion on the amendment, he requested objections to the motion before them amending the motion to exclude the CBD from the main motion.

Commissioner Venuti requested clarification on what they were voting on.

Chair Smith stated that they were voting on the amendment only at this time, which was to limit the use of shipping containers to East End Mixed Use and Marine Commercial, the amendment excludes the CBD.

Commissioner Highland stated that they have two ordinances to vote on down the line and so her thought would be to vote no on these motion so they would need a roll call vote. She explained that they will be addressing two ordinances that the Commission has a choice between that will be voted on after the Commission addresses these two leftover motions from the meeting in January.

Commissioner Bentz questioned as a procedural aspect if the makers of the motion and the amendment would want to withdraw their motions or if they believe if these motions are the way they want to go.

Deputy City Clerk Krause explained that procedurally the motions should be voted down.

VOTE. (Amendment) YES. VENUTI, SMITH, CHIAPPONE, CONLEY, BENTZ, BARNWELL
VOTE. NO. HIGHLAND.

Motion carries.

Chair Smith then read the main motion as amended into the record as follows:

MOVED THAT THE CITY OF HOMER LIMITS THE USE OF SHIPPING CONTAINERS CONVERTED INTO DWELLINGS TO THE MARINE COMMERCIAL AND EAST END MIXED USE DISTRICTS, after clarification was provided by Commissioner Bentz on the motion being amended and affirmation provided by the Clerk.

Chair Smith then opened the floor for discussion, hearing none, he asked if there were any objections, as there were objections, he called for a roll call vote.

Commissioner Chiappone requested clarification on the result of the vote if they voted yes or no on the motion.

Chair Smith provided clarification that if they voted no on the motion it would not limit the use of shipping containers and if they voted yes it would limit the use on shipping containers as dwellings to those districts.

Commissioner Barnwell commented that it is arbitrary and that they should have a comprehensive city wide policy not district by district.

Commissioner Venuti expressed that he thought they were heading to a city wide decision on this.

Commissioner Highland responded that they were but they had to dispense with these motions first.

VOTE. YES. SMITH
VOTE. NO. CHIAPPONE, HIGHLAND, CONLEY, BARNWELL, BENTZ, VENUTI

Motion failed.

Deputy City Clerk Krause explained that the Commission needs to address the two ordinances presented by the City Planner in response to Chair Smith's question on next steps.

City Planner Abboud noted that procedurally by voting down the motions you voted down the ordinance on page 25 of the packet. He further noted that the Commission can vote or not as it decides on the other ordinance on page 28 of the packet.

Commissioner Highland stated that she would like to address that they do not want to allow containers as dwellings city wide and expressed that she needed some direction on where to proceed next.

Commissioner Bentz offered that she was wanting the draft ordinance shown on page 28 of the packet.

City Planner Abboud offered guidance on making a motion to adopt draft ordinance.

HIGHLAND/VENUTI MOVED TO ADOPT THE DRAFT ORDINANCE AMENDING TITLE 21.03.040 DEFINITIONS USED IN ZONING CODE.

Commissioner Bentz provided clarification that the proposed ordinance would amend city code to update the definition of dwelling so that any dwelling shall not include the use of our incorporation of connex boxes or other similar intermodal shipping containers in part or in whole and that would be a citywide limitation on the use of shipping containers or similar materials for building.

Commissioner Highland expressed her concerns regarding the possible safety concerns on the use of shipping containers for dwellings so she would be voting yes on the motion.

Commissioner Bentz expressed that she would rather see this addressed by a comprehensive building code rather than discriminating against this type of building material over others that may be potentially even more hazardous.

Commissioner Highland questioned the City Planner, stating that toxicity is her major concerns regarding safety with the shipping containers, and she would like to know of the possible dangers with other building materials.

City Planner Abboud responded that hopefully people who used these building methods would remediate the floor such as encapsulation or replacement, commenting that it would not be hard to do but the City does not have a building inspector to ensure that has been done. He further stated that any other building can be hazardous just by poor ventilation or stovepipe, radon, asbestos, lead paint, without a building code anything goes. Old buildings and old methods of building that are unhealthy and provided some current examples.

Further discussion points were made on the following:

- Applicants seeking the advice and input from the planning department

- current conditions within the dwelling that was installed in the neighborhood
- excluding containers by zoning code is very unusual and in terms of city planning Homer does not want to be the exception to that rule

VOTE. YES, CHIAPPONE, HIGHLAND, VENUTI, SMITH

VOTE. NO. CONLEY, BENTZ, BARNWELL

There was a brief discussion on the passing of this motion and clarification that shipping containers or connexes would not be allowed or used as building materials in the city limits.

Motion carried.

NEW BUSINESS

A. Staff Report 22-14, Building Codes

Chair Smith introduced the item by reading of the title.

City Planner Abboud reviewed Staff Report 22-14 for the Commission. He provided additional information on the following:

- if procedural inspections are not done in the building process how would they determine that it was built correctly without doing a destructive inspection
- older homes and buildings in Homer have numerous errors
- protects against man made hazards having a building code
- allows for discounted FEMA insurance rates when there is a building code
- building codes contribute to health and safety issues
- building codes provide energy savings when people implement

Discussion was facilitated and focused on the following:

- ISO ratings and how that would affect the city if they adopted a building code
- Community Rating System (CRS) applies to Flood Insurance
- Costs to implement a building department which are usually housed as a section of the Public Works Department
- City Planner has conducted nominal research on how this would be staffed but the fees usually cover the costs of staffing a department.
- Costs would be borne by the builder and home owner
 - o It has been shown that the filling of a municipal building inspector position is difficult to fill according to other municipalities
- This same personnel could fill the duties of Fire Marshall and or Code Enforcement
- The Planning Commission would recommend the adoption of building codes in the most efficient manner to the city.

Further comments were expressed by Commissioners on the following:

- Cost effectiveness of adopting building code but using private enterprise
- additional unnecessary bureaucracy

- condemning buildings or ensuring nice, safe housing
- the City has limited supply of buildable lots
- Most efficient way possible for the city but this will be driven by Administration and City Council
- Cost benefit comparison
- Overall goal for the community
- It is unusual for a community the size of Homer not to have an adopted building code
- This is not an issue to be hashed out by the Commission and will be developed by Administration.
- The Commission has heard many times over the last several years that certain issues are to be and best dealt with by building code
- Redundancy – if the banks are requiring inspections then it seems the City can just require the inspections

City Planner Abboud stated he will put this information into a memorandum to the City Council and Administration as it is not planning related and he will make sure it includes the concerns of the Commission. This does not relate to zoning code and he will not recommend building code or details as it falls under the administration and he is not qualified to do the work required. This will require structure outside of planning and zoning. The communication will include the reasons cited by the Commission to supported adopting a building code.

Chair Smith recounted his personal experience and if there was an adopted building code they might not have incurred the repair costs that they have on a three year old home. He further noted that they had omitted certain inspections assuming such a new home would be built in accordance with industry standards.

Commissioner Bentz expressed her appreciation for the City Planner keeping the scope of the Commission's work and where it needs to go and recapped the reasons supporting adoption of a building code as they can save lives, due to safety and they can be developed adopted and enforced efficiently using city resources and the resources of the local professional community.

INFORMATIONAL MATERIALS

- A. City Manager's Report for Feb. 14, 2022
- B. Kenai Peninsula Borough Notice of Decisions
- C. 2022 Meeting Deadlines Schedule
- D. 2021 Permit Report
- E. Planning Commission Calendar

City Planner Abboud commented on the Commission Calendar items and progress.

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY STAFF

Deputy City Clerk Krause commented that it was a very interesting meeting and recounted her personal experience where land was built and people came in and bought existing buildings and knocked them down and built new and if they did not have the building codes then what type of structures that would have been constructed in their stead on the beach.

City Planner Abboud expressed appreciation for the Commission working through this as Homer is having growing pains and they will see more of this, expressing that it was inevitable as Homer matures as a city. Some of these issues that other cities do are going to become matter of fact and it is the 21st century and Homer will have to regulate too but they will get there and it will require input and effort from everyone.

COMMENTS OF THE COMMISSION

Commissioner Conley commented that growing up in Homer and going through the stages of its growth he is inherently resistant to rules and regulations but he was coming to the sober realization that Homer is growing and he believed that the their secret here has been found out, and while a tough pill to swallow, there are a lot of things that the Commission has been talking about that are slow to come around but are very important. He appreciated the effort from everyone focusing on making Homer a better place to live as he is raising three kids and he has invested in Homer so wants to ensure that they make it a good place to live. He expressed his appreciation for the work that City Planner Abboud and Deputy City Clerk Krause for her patience and assistance in working this all out stating that they do a great job.

Commissioner Highland echoed Commissioner Conley's comments and that they had a good thoughtful discussion tonight and expressed her appreciation of staff.

Commissioner Venuti expressed his appreciation for the Commission listening to his spiel and encouraged the commissioners to review the information contained in the links he provided noting that some of it was pretty dry reading but what they are all about. He then commented that they had a celebrity in their midst, congratulating Commissioner Chiappone on his award from the Alaska Literary Council and \$5000.

Commissioner Chiappone stated that this was a fantastic meeting and expressed his appreciation to Deputy City Clerk Krause and Commissioner Bentz for their assistance in getting through the motions and amendments and he heard a new term for Homer from the City Planner that Homer was getting "snowbirdish." It was a great meeting and everyone was great to work with.

Commissioner Barnwell thanked City Planner Abboud and Deputy City Clerk Krause for all their hard work stating that the memorandums and information are well written and the background provided such detail. He appreciated the comment regarding regulating for the 21st century and his mantra is to use the knowledge and data they have to plan better and do better. He then provided some experience in walking around Anchorage with his dad after the 1964 earthquake and while he opposes more bureaucracy, he does see the need to regulate but maybe they can do it better and smarter. He then agreed that it was a good meeting.

Commissioner Bentz stated that she has requested excusal for the March 2nd meeting, she expressed her joy at already having her signed copy of Commissioner Chiappone's book, so will not ask for an autograph and she agreed to commit to working with the City Planner on some bluff definition language and perhaps follow-up about doing a future worksession regarding community resilience and crosswalk plans and nature based solutions for conversation in the near future.

Chair Smith recounted some new things he learned at the Chair/Vice Chair training that Commissioner Highland and he attended regarding the limitation on comments on motions and that they do not require a motion to close a meeting but he will not rob Commissioner Highland of her pleasure in that action. He then expressed his appreciation for the talents that each of the Commissioners bring to this body. He also noted that he may miss a meeting coming up as will need to travel to be with his dad.

Commissioner Bentz also advised the commission on the upcoming training opportunity offered at the Annual Planning Conference.

City Planner Abboud will get that information distributed to the Commissioners.

ADJOURN

There being no further business before the Commission, the meeting was adjourned at 8:25 p.m. The next Regular Meeting is Wednesday, March 2, 2022 at 6:30 p.m. A worksession is scheduled for 5:30 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska and via Zoom webinar.

Renee Krause, MMC, Deputy City Clerk II

Approved: _____