



City of Homer

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Planning

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HOMER ADVISORY PLANNING COMMISSION

Denial of CUP 19-07

RE: Conditional Use Permit (CUP) 19-07
Address: Not assigned

Legal Description: Lot 31, Homer Spit Road Subdivision Amended

DECISION

Introduction

Bryan Hawkins, City of Homer Port and Harbor Director, (the “Applicant”) applied to the Homer Advisory Planning Commission (the “Commission”) seeking approval of a conditional use permit (CUP 18-09) under Homer City Code (HCC) 21.32.030(d) for parking areas on a parcel found in the Open Space Recreation District located on the Homer Spit.

The applicant proposes to expand an existing parking lot in the Open Space Recreation Zoning District by adding fill to construct additional parking spaces. The application was scheduled for a public hearing as required by Homer City Code 21.94 before the Commission on October 2, 2019. After receiving public testimony, the Commission approved a motion to postpone the item until the Commission regular meeting of November 6, 2019. Notice of the public hearing was published in the local newspaper and sent to 8 property owners of 25 parcels and 79 lease holders representing 103 leased parcels on the Homer Spit prior to each of the meetings.

At the December 4, 2019 meeting of the Commission, after deliberations, the Commission voted to deny CUP 19-07 with the unanimous consent of the six Commissioners present.

Evidence Presented

At the Planning Commission’s meeting of October 2, 2019, Deputy City Planner Engebretsen reviewed the staff report. Carey Meyer, Public Works Director, representing the applicant, made a presentation and responded to questions of the Commission. Two written comments in opposition were received. Six members of the public testified with five of the speakers

expressing opposition and one in favor of the proposal. The item was then postponed until the Commission's meeting of November 6, 2019 to allow for the gathering of additional information.

At the meeting of November 6, Deputy City Planner Engebretsen reviewed an additional staff report. Bryan Hawkins, Port and Harbor Director made a presentation, as the applicant, and answered questions. Thirteen people testified against the proposal or expressed caution and six testified in favor. Five of the opponents and one of proponents had previously testified on October 2, 2019. Twelve written comments were provided to the Commission. Ten of the written comments opposed the proposal and two expressed caution toward the concept. One of the written comments in opposition was from an individual that also testified in person.

Findings of Fact

After careful review of the record and consideration of the testimony presented at the hearing, the Commission determined that Conditional Use Permit 19-07 does not satisfy the review criteria under HCC 21.71.030 and thus denies the conditional use.

Pursuant to HCC 21.71.030 and HCC 21.71.040, a conditional use must satisfy the following criteria:

- a. The applicable code authorizes each proposed use and structure by conditional use permit in that zoning district.
- b. The proposed use(s) and structure(s) are compatible with the purpose of the zoning district in which the lot is located.
- c. The value of the adjoining property will not be negatively affected greater than that anticipated from other permitted or conditionally permitted uses in this district.
- d. The proposal is compatible with existing uses of surrounding land.
- e. Public services and facilities are or will be, prior to occupancy, adequate to serve the proposed use and structure.
- f. Considering harmony in scale, bulk, coverage and density, generation of traffic, the nature and intensity of the proposed use, and other relevant effects, the proposal will not cause undue harmful effect upon desirable neighborhood character.
- g. The proposal will not be unduly detrimental to the health, safety or welfare of the surrounding area or the city as a whole.

- h. The proposal does or will comply with the applicable regulations and conditions specified in this title for such use.
- i. The proposal is not contrary to the applicable land use goals and objectives of the Comprehensive Plan.
- j. The proposal will comply with all applicable provisions of the Community Design Manual.

Based on the findings below the proposed conditional use fails to satisfy all the criteria identified in HCC 21.71.030. The Commission hereby denies Conditional Use Permit 19-07 the following findings.

Finding 1: Protecting and preserving natural and scenic resources is supported in the purpose statement of the Open Space - Recreation District. Full construction of phases one and two will result in the loss of public beach area, particularly with phase two. The proposed expansion of the parking lot undermines the recreational potential within the property and compromises the natural and scenic resources of the area. This is found to cause an undue harmful effect upon desirable neighborhood character.

Finding 2: The Commission finds that the uncertainty of the project's effects on neighboring property, substantiated with both written and oral testimony, is an unacceptable risk. This applicant has not provided compelling evidence that the project is not going to be unduly detrimental to the health, safety and welfare of the surrounding area.

Finding 3: The applicant proposes to place fill and pavement in an existing natural beach area. This development is found contrary to the Homer Spit Plan Goals 1.4 and 4.1, as it does not properly value natural resources and compromises the natural resources of the spit by harming habitat and biological diversity. Conflict with the 2018 Homer Comprehensive Plan is noted in that the proposal is contrary to maintaining the quality of Homer's natural environment and scenic beauty as found in Goal 2 of the Land Use chapter.

Conclusion

Based on the foregoing findings of fact and law, Conditional Use Permit 19-07 is hereby denied.

Date Chair, Franco Venuti

Date City Planner, Rick Abboud

NOTICE OF APPEAL RIGHTS

Pursuant to Homer City Code, Chapter 21.93.060, any person with standing that is affected by this decision may appeal this decision to the Homer Board of Adjustment within thirty (30) days of the date of distribution indicated below. Any decision not appealed within that time shall be final. A notice of appeal shall be in writing, shall contain all the information required by Homer City Code, Section 21.93.080, and shall be filed with the Homer City Clerk, 491 East Pioneer Avenue, Homer, Alaska 99603-7645.

CERTIFICATION OF DISTRIBUTION

I certify that a copy of this Decision was mailed to the below listed recipients on _____, 2020. A copy was also delivered to the City of Homer Planning Department and Homer City Clerk on the same date.

Date Travis Brown, Planning Technician

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