

VALDEZ PLANNING AND ZONING COMMISSION
REGULAR MEETING
MARCH 28, 2012

I. CALL TO ORDER

The regular meeting of the Valdez Planning and Zoning Commission was called to order at 7:10pm by Chairperson Malone.

II. ROLL CALL

Chairperson Malone, Commissioners Haase, Ragan, Swierk and Delozier were present, Commissioner Hogarth was absent and excused; there is one vacancy.

Staff present included Lisa VonBargen, Director; Janine Vadeboncoeur, Planning Technician; Laura Robertson, GIS/Planning Technician and Wendy Farlin, Senior Office Assistant of the Community & Economic Development Department.

Kimberly and Taylor King, Allen Minish of Wrangell Mountain Technical Services and Bob Zastrow were present in the audience.

III. APPROVAL OF MINUTES – March 14, 2012 Regular Meeting Minutes

MOTION: Commissioner Haase moved and Commissioner Delozier seconded approval of the March 14, 2012 regular meeting minutes.

VOTE ON THE MOTION: 5 Yeas, 1 absent and excused (Commissioner Hogarth) and 1 vacancy; motion carried.

IV. PUBLIC BUSINESS FROM THE FLOOR - None

V. PUBLIC APPEARANCES - None

VI. PUBLIC HEARINGS - None

VII. UNFINISHED BUSINESS – None

VIII. NEW BUSINESS

1) Approval of Recommendation to Council Authorizing Amendment No. 3 to the Use Agreement for a Portion of Tract D, USS 447 with the Valdez Emergency Assistance & Food Bank Extending the Term for an Additional Five Years

MOTION: Commissioner Haase moved and Commissioner Delozier seconded approval of the Recommendation to Council Authorizing Amendment No. 3 to the Use Agreement for a Portion of Tract D, USS 447 with the Valdez Emergency Assistance & Food Bank Extending the Term for an Additional Five Years.

Commissioner Delozier commented that this is the property that the Food Bank is currently occupying and renovated within the past year and they “do good stuff,” so it should be approved. Lisa VonBargen added that on the agenda statement it states that staff will be working with the Food Bank to obtain an as-built.

VOTE ON THE MOTION: 5 Yeas, 1 absent and excused (Commissioner Hogarth) and 1 vacancy; motion carried.

2) Approval of Compliance Order by Consent for Mountain High Espresso for Taylor King

MOTION: Commissioner Haase moved and Commissioner Ragan seconded approval of the Compliance Order by Consent for Mountain High Espresso for Taylor King.

Commissioner Delozier asked for some elaboration on the Compliance Order. Janine Vadeboncoeur, Planning Technician, responded that it set parameters for the Commission such as they can open early if the Commission allows. The Kings are willing to sign a statement that they will bring the building into compliance by no later than July 31, 2012. A copy of engineered plans for the foundation and a City business registration that includes a State of Alaska business license has been submitted by the applicant.

Commissioner Haase asked if the property was going with the building or just the building itself. Janine responded that it is just the building and that she has received written permission from Phyllis Johnson, property owner, granting the King's permission to remain on her property as long as they meet all of the City's requirements.

Lisa VonBargen clarified that in the past when these types of items have come before the Commission they have been in the form of seasonal use structure agreements. However, she asked Janine Vadeboncoeur to change it to a compliance order as the Kings will be moving from a seasonal use structure to a permanent structure in a very short time frame. Therefore it seemed to make more sense since it won't be drawn out over several seasons.

Kimberly King, potential purchaser, stated that in reading over the compliance agreement she wanted clarification on the code as it seems to be a fairly new code. Lisa VonBargen asked for clarification on what Ms. King was referring to. Lisa asked if it was the requirement that the building be on a permanent foundation. Ms. King responded yes and Lisa stated that it is not new; it has always been that way. Lisa further stated that the Commission has been dealing with three or four businesses with similar seasonal use agreements and two of the businesses met the requirement and Mountain High Espresso did not.

Ms. King asked if the agreement was correct in stating that if she did not meet the deadline of placing the building on a permanent foundation by July 31, 2012, she would be required to remove the building and would also not be given a permit for three years. Lisa VonBargen responded yes that would be correct.

Ms. King stated that the current owners were given several deadlines to place the structure on a permanent foundation and did not meet these deadlines. One of them was that the building would be removed if the deadlines had not been met and yet the building still remains and they are also being allowed to operate another coffee shop in town. Ms.

King asked how they have been allowed to not move the building and why they are allowed to run another business. Lisa VonBargen responded that there are two reasons; one, the current owners will not be given another permit to operate Mountain High Espresso for three years and two, because of the weather the City has not dealt with the removal of the building at this time.

Ms. King stated that she understood that they are in a kind of limbo as far as building removal but feels like she's being punished for past transgressions because there isn't any leeway if she can't make the deadline of July 31st. Ms. King further stated that if there isn't any leeway given because of weather, then she can't purchase this business. Lisa VonBargen responded that she was under the impression that the deadline that was given was one that Ms. King felt she could achieve and that was why the deadline of July 31st was used in the agreement. Lisa further stated that the deadline was not meant to treat Ms. King harshly or punish her but was used because Ms. King had discussed the deadline with Janine Vadeboncoeur and agreed with it; otherwise, another deadline would have been selected.

Ms. King asked if "weather permitting" could be added and stated that she has a contractor lined up to do the work but it depends on when it will be allowable because of the weather conditions. Lisa VonBargen reiterated that she was sorry this discussion was taking place at a Commission meeting as she was under the impression that the deadline had been accepted by Ms. King, but if Ms. King felt it wasn't reasonable and the Commission was amenable, it could certainly be changed. Lisa VonBargen further stated that the language regarding the deadline was taken from other existing agreements; it was not meant to punish Ms. King and apologized if Ms. King felt that way.

Ms. King asked if Sacred Grounds, another coffee vendor, was considered to be on a permanent foundation and Lisa VonBargen responded yes, it was on a concrete foundation. Ms. King stated that Mountain High Espresso was as well and if that is indeed the case, then why is she being asked to have the agreement. Lisa VonBargen responded that staff was not aware that Mountain High Espresso was on a permanent foundation and that it would be investigated. Lisa further stated that if that was indeed the case then the agreement would be null and void. Lisa clarified that she didn't want things to be delayed, as the agreement is scheduled to go before City Council on April 2nd and if it is found that Mountain High Espresso is not on a permanent foundation, then postponing the approval would delay Ms. King's ability to proceed. Lisa suggested going forward on voting on the agreement and if it is found that Mountain High is on a permanent foundation, then the agreement will be dropped.

Commissioner Haase asked whether moving the deadline to August 15th would be acceptable and Ms. King responded that she felt like she was being boxed in by the deadline of July 31st; that she can't control the weather and if her contractor, Bob Zastrow says he can't do it then she's stuck. Commissioner Haase responded that in his experience, by August it's usually raining and muddy anyway so he thought that August 15th would give Ms. King enough time and asked Ms. King if that was acceptable. Ms. King responded that July 31st is fine as long as it could be changed to include weather permitting. Commissioner Haase felt that weather permitting was too lenient.

Commissioner Delozier observed that a proposal has been done by Zastrow Enterprises on the foundation placement and asked if Bob Zastrow could speak to it. Mr. Zastrow stated that he hadn't actually looked under the building; he had been operating on the assumption that it was not on a permanent foundation. Mr. Zastrow stated that he had submitted a quote a couple of years ago on this building when a car had run into it. At that time, Mr. Zastrow noticed that the building seemed to be sitting on timbers. Mr. Zastrow indicated that he would be happy to inspect the building to determine if it was indeed on a permanent foundation.

There was some discussion on whether the date should be moved to August 15th or "weather permitting" be added to the July 31st deadline. Ms. King asked Mr. Zastrow if he could meet the current deadline of July 31st and he responded yes, depending on the weather. Mr. Zastrow further stated that typically in his contracts he has a clause regarding extensions because of weather. Lisa VonBargen stated that staff would be happy to adjust the deadline to account for justifiable reasons such as weather or family issues. She also wanted Ms. King to know that since she was new to the community, it may seem like the agreement is iron clad; however, staff is most amicable and easy to work with and if something justifiable came up the deadline could certainly be adjusted. Lisa VonBargen reiterated that the approval was scheduled to appear before the City Council On April 2nd and she would prefer that the Commission approve the consent and then if it is determined that the building is on a permanent foundation then it could be removed from the City Council agenda. This way, the process will not be held up while the permanent foundation is determined.

It was determined that the deadline would be amended to include weather and natural disasters.

VOTE ON THE MOTION: 5 Yeas, 1 absent and excused (Commissioner Hogarth) and 1 vacancy; motion carried.

3) (SUBD #12-02) Approval of Final Plat: Lot 4A, Block 10, A Lot Line Vacation Within Block 10 Corbin Creek Subdivision Phase III. Applicant: Scott Benda

MOTION: It was moved by Commissioner Haase and seconded by Commissioner Delozier to approve the Final Plat: Lot 4A, Block 10, A Lot Line Vacation Within Block 10 Corbin Creek Subdivision Phase III.

Laura Robertson recapped that this is for Scott Benda to build his house and was seen by the Commission in February. The only change from the preliminary plat to the final plat was adding a signature block for the beneficiary interest, which was missing.

VOTE ON THE MOTION: 5 Yeas, 1 absent and excused (Commissioner Hogarth) and 1 vacancy; motion carried.

4) SUBD #12-03) Zastrow Subdivision, Creating Lots 6A and 6B, Block 1. A Subdivision of Lot 6, Block 1 Raven Subdivision Plat 94-9 Valdez Recording District. Applicant: Robert Zastrow

MOTION: Commissioner Haase moved and Commissioner Delozier seconded approval of Creating Lots 6A and 6B, Block 1. A Subdivision of Lot 6, Block 1 Raven Subdivision Plat 94-9 Valdez Recording District.

Laura Robertson explained that the Commission would not see the final for awhile because there are still some items to finalize, as well as waiting for the snow to melt. Commissioner Delozier asked about the degree of accuracy on the GIS lot line placement on the aerial, since it appears that some of the Zastrow property is on another lot. Laura Robertson responded that she isn't too confident and calculates an error of 30 feet. She is working with the surveyor, Allen Minish, on this and Allen will survey the property in the spring and will make sure to adjust for it. Lisa VonBargen stated that currently, there is an access and utility easement shown on the proposed lot 6A and has recommended that it be turned into a flag lot. Allen Minish added that a survey has not been done yet and as the current aerial shows the driveway with a "jog" in it, they will make sure that whatever the width needs to be to accommodate this driveway will be accounted for and added that in discussion with Mr. Zastrow it was determined that lot 6A will be a flag lot.

Laura Robertson stated Copper Valley Electric (CVEA) submitted a letter with suggestions on the plat. They recommended that the easement be extended to the back of Lot 6B and be a public utility easement, not just a sewer easement. This would be the most direct route and would be cheaper, especially if the two lots are owned by different owners in the future. It would allow CVEA to run their lines in the same area as the sewer, it will reduce building costs for new service to 6B, reduce the amount of clearing required, it would most likely reduce the need to cut across driveways, and provide less risk of voltage drop. Allen Minish stated that this was the first he'd heard about the utility easement and if that is going to be the case then he would recommend that the easements on the west side of the property be vacated, as long as they aren't being used. Laura Robertson suggested that CVEA isn't asking for the easement, they are just supporting where it's being proposed. Laura further stated that she didn't think it was a problem vacating the western easement, as long as they weren't being used and suggested that the Commission draft a letter of non objection supporting it. The Commissioners were in support of a letter of non objection.

VOTE ON THE MOTION: 5 Yeas, 1 absent and excused (Commissioner Hogarth) and 1 vacancy; motion carried.

5) Discussion Item: Harbor & Uplands Master Planning

Lisa VonBargen stated that at the last meeting, when the Commission was discussing goals, it was brought up that there are a number of items that need to be planned for related to the harbor. This includes the existing harbor, the potential for a new harbor and the uplands that would be serving both. She reminded the Commissioners that all three Commissions; Parks & Recreation, Ports & Harbor and Planning & Zoning, had met and discussed similar issues during Sea Otter Master Planning. The joint Commissions tried to come up with a plan and present it to City Council. At the last P & Z meeting it was determined that Lisa would provide a copy of the recommendation that went to City

Council, as well as the aerial renderings that Laura Robertson created. Lisa further stated that the Commission needs to determine if they want to have a general conversation about where the Commission goes. Lisa stated that Diane Kinney, Ports & Harbor Director, is very concerned about the timing for planning of the new Harbor. The Corps of Engineers is ready to begin designing the basin for the new harbor and is asking the City for their recommendations on the float configuration, but this will require extensive public input before they can create a plan and they haven't taken place. Lisa stated that she's sure that the Ports & Harbor Commission will be jumping on this soon and may be asking Planning & Zoning for assistance.

Chairperson Malone stated that Council didn't really look at the recommendation last time and asked how to make them stop and look at it this time. Commissioner Delozier stated that he wasn't a Commissioner when the original recommendation was submitted to the Council and wanted to know what their logic was for their non-action. Lisa VonBargen responded that she didn't know. She stated that the Council thanked the Commissions for their work on it and then went nowhere; perhaps they weren't ready to put out a request for proposal because there were too many unanswered questions. Commissioner Delozier asked what was driving this plan at this particular time and suggested that maybe Council should direct Planning & Zoning on what they specifically want from the Commission, instead of Planning & Zoning going through the process again as, while he feels it's important, it's at least the third time that Commissioner Delozier has worked on the plan. Lisa VonBargen responded that the Council hasn't yet been provided a list from staff of necessary deliverables related to harbor planning.

Lisa commented that the Core of Engineers is also asking for the survey and geotechnical work done on Hotel Hill because the overarching opinion right now is that a portion of Hotel Hill will be raised for more upland space and that bedrock could potentially be used as a portion of the riprap in the new harbor. If that's the case, then some of that material could be used in the design configurations. Wrangell Mountain Technical Services has been hired to do the survey and a geotechnical work for the City beginning late this spring. She indicated there are many questions that need to be answered and the City needs a comprehensive plan on how to move forward with all harbor aspects so they are working in concert with one another.

Commissioner Delozier stated that he appreciates that and said that the harbor has been worked on for about twenty years and the latest that he heard was that the new harbor would be a seasonal basin; in any case, there are a number of things that need to be determined before the Commission can move forward on a master plan, such as parking, utility placement, float configurations, etc.

Lisa VonBargen stated that the Ports & Harbor Commission would certainly be taking the lead on this. Commissioner Swierk asked what the Commission would be trying to plan out if there are several variables that haven't been answered and are out of the Planning & Zoning Commission's control. Lisa VonBargen responded that when she added this to the list of goals, it was to let the Commission know that they may be asked to work with the Ports & Harbor and Parks & Recreation Commissions on the master plan. Commissioner Swierk asked if the intent was for Planning & Zoning to come up

with a list of what the Commission would like to see and Commissioner Delozier stated that he was excited to work on the plan, but if he's going to devote more energy to it he wants it to be used at some point in time and there are a number of things that need to be laid out, by the decision makers, that don't seem to be in place yet.

It was the consensus of the Commission to wait until they are given more information and are asked specifically to work on the master plan.

IX. REPORTS

1) E-Notes

There were no additions to the e-notes.

2) Staff Report – Verbal at Meeting

Lisa VonBargen reminded the Commission that the last milestone session for Strategic Planning is Saturday, March 31, 2012.

Lisa informed the Commission that all items that were submitted to the Council at the last meeting were approved.

3) Abatement Report (Verbal at Meeting)

Lisa VonBargen reported that she did not complete a report.

X. COMMISSION BUSINESS FROM THE FLOOR

Commissioner Ragan will miss the last meeting in April as well as both meetings in May.

Commissioner Delozier thanked staff for dinner and stated that he will be out of town this Saturday and will miss the Strategic Planning meeting. He asked if any new properties had been added to the abatement list because of this winter.

Lisa VonBargen responded that there are two buildings that are being worked on right now; they are the Lynden building, which has been removed, and the Old Three Bears building, which staff is still waiting on an update from Larry Reynolds. Also, there are two properties that have just been reported to staff and the Building Inspector will be looking at them and taking pictures hopefully this week.

Chairperson Malone will also miss the last meeting in April.

XI. ADJOURNMENT

The meeting adjourned at 8:10 pm.