

PLANNING & ZONING COMMISSION
CITY OF PALMER, ALASKA
REGULAR MEETING
THURSDAY, June 16, 2011
7:00 P.M. - COUNCIL CHAMBERS

A. CALL TO ORDER:

The regular meeting of the Planning and Zoning Commission was called to order by Chairman Madar at 7:00 p.m.

B. ROLL CALL, DETERMINATION OF QUORUM:

Present and constituting a quorum were Chairman Madar, Commissioners Campbell, Kircher and Weir. Commissioner Kerlake was not in attendance. Also present were Doug Griffin, Palmer City Manager, Delena Johnson, Palmer Mayor, Sandra Garley, Community Development Director, and Ron Anderson, Recording Secretary. A quorum was established.

C. PLEDGE OF ALLEGIANCE: The Pledge was led by Commissioner Campbell.

D. APPROVAL OF AGENDA: The agenda was approved as presented.

E. MINUTES OF PREVIOUS MEETINGS:

The minutes of the May 19, 2011 Planning and Zoning Commission meeting were approved as presented.

The minutes of the June 2, 2011 Planning and Zoning Commission special meeting were approved as presented.

F. PERSONS TO BE HEARD:

There were no persons to be heard during this meeting.

G. PUBLIC HEARINGS:

1. Consideration of a Conditional Use Permit to allow a Child Care Facility to operate in a residence at 621 N. 1st Street, Bailey Heights Subdivision, Block 3, Lots 10-12, Palmer Alaska.

Commissioner Madar read the Conditional Use Permit into the record and asked if there was a motion to approve the Conditional Use Permit.

COMMISSIONER KIRCHER moved, seconded by **COMMISSIONER WEIR** to approve the Conditional Use Permit to allow a Child Care Facility to operate in a residence at 621 N. 1st Street, Bailey Heights Subdivision, Block 3, Lots 10-12, Palmer Alaska. There were no objections to this motion.

Commissioner Madar requested a staff report on this request for a Conditional Use Permit.

Mrs. Garley explained that the requestors for the application were Archie and Verna Euwer. They filed the application and had paid the required fees.

On June 1, 2011, 172 public hearing notices were mailed to property owners within 1,200' of the site in accordance with 17.80.030. Notification of the public hearing was published in the Anchorage Daily News on June 8, 2011. 16 comments were received in response to either the mailed notices or the notice in the Anchorage Daily News, with 10 in favor of approval and 6 against the proposal.

The three lots are 0.66 acres in combined size and are currently designated as R-1, Residential District. The Child Care Facility can be accessed from North 1st Street and is bordered to the south by West Eagle Avenue and to the far west by the Glenn Highway. The R-1 District permits a Child Care Facility to operate only upon the issuance of a conditional use permit by the Commission.

Mrs. Garley noted that before annexation of this property there had been a childcare facility in operation at this location since approximately 1964. The property was annexed as an R-1 Residential property and the childcare facility which predated this annexation was considered a legal non-conforming use for the property.

The surrounding properties are primarily residential, with one, large commercial-general tract to the south-west of its boundary.

In order for the Commission to approve a Conditional Use Permit the Code requires that the Commission make five findings. The first finding that the Commission would have to make is that the conditional use will preserve the value, spirit, character and integrity of the surrounding area. Staff recommends a finding that the proposed use will preserve the value, spirit, character and integrity of the surrounding area. The Child Care Facility will be located on the lower floor of a family-style structure. The property has additional space dedicated to outside activities. However, the site currently offers only limited off-street parking. A Child Care Facility has existed in this building from approximately 1964 until June of 2009, as a legal, nonconforming use. The Child Care Facility existed at this location prior to annexation by the city. The child care activities will be limited to the lower portion of the existing building.

In June of 2009 the childcare activity was stopped and remained so for a period of time longer than that allowed by City Code. While it remained in continuous operation, it remained a legal non-conforming activity. Once a period of inactivity exceeded 180 days, the legal non-conforming status was lost.

The second finding that the Commission would have to make is that the conditional use fulfills all other requirements of Title 17.72 pertaining to the conditional use in question.

Staff recommends a finding that the conditional use may meet all requirements of Title 17.72 because:

In an R-1 District a building height is limited to 25' in height. The current building is 24' 9" in height.

The lot size covered by the application will be 0.66 acres or 28, 750 square feet (lot 11-1 is 0.44 acres and lot 10 is 0.22 acres); and far exceeds the minimum lot size permitted is 7,200 square feet (less than ¼ acre). The combined width of the three lots is 150 feet; the minimum lot width permitted is 60 feet.

As currently licensed by the State of Alaska, the maximum capacity for the Child Care Facility is forty (40) children. The Child Care Facility is licensed to care from children from birth through 12 years of age. The number of staff is driven by the age-mixture of the children. In February of this year there was 2 care givers, 2 child care associates and 1 administrator on staff, however staffing levels are subject to change based on enrollment.

Nine parking spaces for the Child Care Facility will be required, along with a single (13'x20') ADA compliant space. The private residence located on the property will have an additional parking requirement of two parking spaces. The circulation and parking plan must be submitted before the Conditional Use Permit is issued.

Landscaping must be provided along the perimeter of the property as required by PMC 17.64.080.

All signage must comply with the requirements of PMC Title 14, Signs. Signage location and size shall be submitted with the sign permit application.

The third finding that the Commission would have to make is that granting the conditional use permit will not be harmful to the public health, safety, convenience and comfort of the neighborhood.

Staff recommends a finding that there is no evidence of harmful emissions, odor, vibrations or glare, having been produced by services of this type. Day Care Facilities are commonly located in residential districts without harmful impacts. This is why a daycare facility is listed as a conditional use in a residential district.

The impact on traffic generated by the Dare Care Facility would occur on N. 1st Street. Adequate parking and an improved parking lot design could greatly reduce the anticipated congestion at the Child Care Facility location. This would have to be tied to the approval of a parking plan before the conditional use permit would be considered in effect.

The fourth finding that the Commission would have to make is that there are sufficient setbacks, lot area, buffers, or other safeguards are being provided to meet the conditions.

Staff recommends a finding that there are sufficient setbacks, lot area, buffers or other safeguards are being provided to meet the conditions as previously addressed in Item 2. Any improvements to the property must meet all requirements of PMC, Title 17, Zoning.

The fifth finding that the Commission would have to make is, if the permit is for a public use or structure, is the proposed use or structure located in a manner which will maximize public benefits.

Staff recommends a finding that the child care facility is privately owned and therefore not a public facility or structure. There is a public aspect of a childcare facility since this service is needed in the community like the City of Palmer.

Therefore staff recommends approval of the Conditional Use permit with the following conditions:

A child care facility is a Conditional Use allowed in an R-1 Residential district. Based on our review of the request, Community Development recommends approval of the Conditional Use Permit to allow for the operation of a child care facility, with the following conditions:

1. The first condition is that all landscaping shall meet the requirements of PMC 17.64.080. Parking facilities which adjoin the side of a lot in residential districts shall be separated from the residential district by a fence or sight-obscuring landscaping.

If a fence is used, it must be six feet in height; landscaping shall not be less than four feet. The fence or landscaping shall be maintained in good condition.

Parking lots of five spaces or more are to have a landscape buffer at least five feet in width along any property line adjacent to a street. This buffer would be adjacent to 1st Street.

2. The second condition is that the parking requirements shall meet all the requirements of PMC 17.64.

All parking areas shall be designed so no parking space requires the backing of a vehicle into public rights-of-way.

Turning and maneuvering space shall be located entirely on private property.

If the parking spaces are to be on a lot other than the subject lot, then the parking plan must meet the requirements as outlined in the code effective March 27, 2001.

3. The following signs are allowed would be limited to either one nameplate or one wall sign not to exceed four square feet in area;
4. Obtain all necessary sign and driveway permits from the City of Palmer;
5. The Conditional Use Permit will be considered to be in force upon submittal of required permits and a final inspection for compliance;
6. Maximum number of children for this facility shall be limited to 40
7. Project and site use must comply with all laws and ordinances of federal, state and local governments.

Once again the reason they are being required to obtain a conditional use permit is that they no longer enjoy the legal non-conforming status granted when they were annexed into the city.

Commissioner Madar asked if any of the Commissioners had any questions of staff.

Commissioner Kircher asked if the property was all one lots or three separate lots.

Mrs. Garley explained that they were three separate lots, but the main house had been built across lot lines.

Commissioner Madar opened the public hearing for comments from the public. He suggested that the applicant should present their presentation first for consideration.

Mrs. Verna Euwer made the first presentation. She stated that she did not voluntarily file this application for a permit. Mr. Larry Hill filed a petition with the city stating that she was operating an illegal daycare facility. Because of the petition she received a letter from the Community Development office advising her to shut down her operation or file an application for a conditional use permit.

She also stated that she had operated the oldest daycare center in the city of Palmer until June of 2009 when she turned 82 years old. She started looking for a new person to operate the daycare but was unable to locate an interested party. She also stated that she maintained her city of Palmer business license until the end of 2009 even though there were no kids at the daycare.

She described 1st Street as a one lane road, which would only add to the problem of congestion. She didn't recall a single complaint from the Police Department, or any citations being issued for traffic or any other problems at the daycare center.

She described the daycare facility as being at least 2000 square feet in size and separated from the main living quarters of the residence by a door. She also mentioned that if a daycare was not operating in the lower portion of the building, she didn't think the space

could be used as living quarters. This concluded her introduction.

COMMISSIONER MADAR asked if any of the Commissioners had any questions for Mrs. Euwer.

COMMISSIONER CAMPBELL asked if there was a certain time when there was a lot of traffic, a rush-hour?

Mrs. Euwer answered that traffic was an all day event with several periods where there are a lot of cars and other times just a few.

COMMISSIONER WEIR asked how late the daycare was open, and were there driveways for this traffic to use?

Mrs. Euwer indicated that the daycare was open until 6:00 pm. She also indicated that there were no driveways for this traffic to use.

COMMISSIONER MADAR asked if business was open on the weekends, was there any off street parking available and why didn't she keep her business license in 2010.

Mrs. Euwer told the Commission that they were not open on the weekend there was no off street parking and she didn't have any children attending the daycare so why maintain a license.

There were no further questions for Mrs. Euwer.

COMMISSIONER MADAR asked if any of the audience had comments to make before the Commission.

Mr. Hill was the first to speak. He indicated that he did start a petition to have the daycare center closed. Mr. Hill was the first of numerous people who testified before the Commission. The comments seemed to echo several main points:

Traffic was a tremendous problem because of the daycare center.

Traffic posed a safety threat to the children living in the neighborhood.

Noise was a secondary issue due to the children at the daycare playing outside.

Nobody objected to the existence of the daycare, if something could be done about the traffic.

The youngest to present an opinion was a school aged young man. He too, mentioned traffic and recounted near misses from backing vehicles and traffic.

COMMISSIONER MADAR asked if any of the Commissioners had any final comments having heard this additional information from the audience.

COMMISSIONER KIRCHER commented that children all over Palmer have to walk to school. So safety is always an issue. He felt that the traffic problems on 1st Street could be eliminated with adequate off street parking. He also mentioned that he always passed

several children waiting at bus stops on his way to work. His point seemed to be that this is again a safety concern not just on 1st Street but any where children have to travel for school. He also felt that there was traffic on both Eagle Street and the Glenn Highway, so locating a bus stop that was completely safe might pose a problem. He also mentioned that anywhere you have children playing outside, there is happy noise while they play. Farmers faced similar problems when entire farms were annexed. The neighborhood grew up around these farms. Then new neighbors had issues with the cows, with the noise they made and with a certain farm aroma that some found distasteful. But these conditions existed before they moved into the area. There is also a noise problem in Palmer from low flying aircraft on the way to the Palmer Airport. And this was a business that was needed in Palmer and the Commission should try to encourage businesses to operate in the city.

COMMISSIONER WIER agreed that traffic seemed to be the single problem that everybody had addressed. She did feel that there was a solution to the problem and if an adequate parking plan could be developed, the daycare would be able to continue to operate and the traffic problem would be solved.

COMMISSIONER CAMPBELL liked the idea of daycare centers in Palmer. He too, felt that there was a workable solution to the problem and a good parking plan would help correct the problem.

COMMISSIONER MADAR stated that the daycare center had been in operation perhaps before the current neighbors moved into the area. The daycare was in operation at that time, so they should perhaps understand that there is always a little amount of noise when ever children play. Again, the conditions as outlined by staff, seemed to address these issues and provide a solution.

Commissioner Madar recommended approval of the findings of facts based upon the recommendations of staff.

Campbell	Kerslake	Kircher	Madar	Weir	Vacant	Vacant
1. The conditional use permit will preserve the value, spirit and integrity of the surrounding areas.						
Y	A	Y	Y	Y		
2. The proposed conditional use permit will meet all the requirements of Title 17.72						
Y	A	Y	Y	Y		
3. Granting the conditional use permit will not be harmful to the public health, safety, convenience and comfort of the neighborhood.						
Y	A	Y	Y	Y		
4. Is there sufficient setbacks, lot area, buffers or other safeguards being provided to meet all conditions as outlined by code.						
Y	A	Y	Y	Y		
5. If the permit is for a public use or structure, is the proposed use or structure located in such a manner to maximize public benefits.						
Y	A	Y	Y	Y		

Commissioner Madar requested a roll call vote on the original motion to approve the Conditional Use permit to allow the operation of a Daycare Center at its current location.

Campbell	Kerslake	Kircher	Madar	Weir	Vacant	Vacant
Y	A	Y	Y	Y		

The motion passed by unanimous vote.

Mrs. Garley then explained the appeal process to both the Commissioners and those present in the audience. She explained that any person, including members of the Commission, or those on either side of the issue was allowed to file an appeal. This appeal would then be heard before a hearing officer and that decision would be final. She further explained that the appeal procedure was outlined in the Palmer Municipal Code Title 17.98, Appeals.

Mrs. Garley explained that the code was available on line at the City of Palmer web site. She also stated that if any person had a question or needed help with the appeals process or Code, they could contact either her or Mr. Anderson for assistance.

Mrs. Garley explained that any appeal must be filed within 20 calendar days of this evenings meeting. There were no questions raised by any person about this process.

Commissioner Madar asked about when Mrs. Euwer needed to submit the parking plan for review by the Commission.

Mrs. Garley indicated that this plan would be due to the Commission for review by the July 21, 2011 meeting.

H. UNFINISHED BUSINESS:

There was no unfinished business for this meeting.

I. NEW BUSINESS:

1. The Board of Economic Development meeting for June was cancelled. There was no report for this meeting.

J. PLAT REVIEWS:

There were no plat reviews scheduled for this meeting.

K. PUBLIC COMMENTS:

There were no public comments presented at this meeting.

L. STAFF REPORT:

There was no staff report presented during this meeting. Mrs. Garley did mention that

additional information had been submitted for the Conditional Use Permit to construct a power plant. That information would be available for consideration at the July 21, 2011 regular Planning and Zoning Commission Meeting.

Commissioner Madar asked if there was a need to address stack height on another Conditional Use Permit that had been considered.

Mrs. Garley stated that there was little movement on the other permit. When a building permit was applied for, the issue could be addressed at that time.

M. COMMISSIONER COMMENTS:

Commissioner Campbell had no additional comments for the Commission.

Commissioner Kircher had no additional comments for the Commission.

Commissioner Madar expressed his thanks to the members of the audience who had taken the time to attend this meeting.

Commissioner Weir had no additional comments for the Commission.

N. ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:30 p.m.

Michael W. Madar, Chairman

Ron Anderson, Recording Secretary