

City of Palmer

Planning and Zoning Commission Packet

June 19, 2014



*Happy
Summer*





AGENDA

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Approval of Agenda
- Page 5 E. Minutes of Previous Meetings
 - 1. Regular Meeting of May 15, 2014
- F. Persons to be Heard
 - 1. Lloyd Smith, Chief Appraiser for Matanuska-Susitna Borough to speak about assessments.
- G. Public Hearings
- H. Unfinished Business
 - Page 13 1. IM 14-011 Review Expanded Boundary of Central Business District as Described in Resolution No. 12-003
 - Page 23 2. Continue discussion of the Central Business District
- I. New Business
 - Page 35 1. IM 14-012 Review Text Amendment to Palmer Municipal Code sections 17.26.068, Fencing requirements in R-3 Medium Density Multifamily Residential District; 17.27.068, Fencing Requirements in R-4 High Density Residential District; 17.28.068, Fencing Requirements in C-L Limited Commercial District and 17.32.068, Fencing Requirements in C-G General Commercial District
 - Page 39 2. IM 14-015 Revise language to establish an appeals process to an administrative Decision
 - Page 55 3. IM 14-016 Discussion of Proposed Kennel Ordinance and Current Zoning Districts
- J. Plat Reviews
 - Page 77 1. IM 14-010 Plat Review - To create a seven - ten acre tract at the northern end of Tract 2, Brasil Springs Survey and create 20 one-acre lots out of the remainder, located outside Palmer city limits.
 - Page 89 2. IM 14-013 Preliminary Plat Review – To combine Tax Parcel A34 in Section 4, Township 17 North, Range 2 East, Seward Meridian with Lot 1, Block 1, Egtvet #2, located inside Palmer city limits.

3. IM 14-014 Plat Review – To create a 2 phase Master Plan of 60 lots from Tract B Hidden Ranch Phase III, (Plat #2005-25), located inside Palmer city limits and to request a Variance from MSB 43.20.055(A)(3) to allow for 50' wide right-of-ways.

K. Public Comments

L. Staff Report

M. Commissioner Comments

N. Adjournment



Minutes

PLANNING & ZONING COMMISSION
CITY OF PALMER, ALASKA
REGULAR MEETING
THURSDAY, MAY 15, 2014
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:

Present and constituting a quorum were:

Michael W. Madar, Chairman
Michael Kircher, Vice Chairman
Dan Lucas, Commissioner
David Petty, Commissioner

Not present:

William Kerslake, Sr., Commissioner (excused)

Also present were:

Sandra S. Garley, Community Development Director
Kimberly A. McClure, Planning and Code Compliance Technician
Pam Whitehead, Recording Secretary

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

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

E. MINUTES OF PREVIOUS MEETING(S):

The minutes of the April 17, 2014 Regular Meeting were approved as presented.

F. PERSONS TO BE HEARD: There were no persons to be heard.

G. PUBLIC HEARING(s): There were no public hearings.

H. UNFINISHED BUSINESS:

1. Continue Discussion of the Central Business District.

Ms. Garley explained the revisions/additions incorporated from the April 17 meeting, directing attention to the updated CBD May working draft provided. Brief questions of

staff included those related to dry cleaning establishments.

Commissioner Lucas moved, seconded by **Commissioner Petty**, to enter Committee of the Whole to continue work on development of the Central Business District.

VOTE ON MOTION: Carried Unanimously.

[The Commission entered Committee of the Whole at 7:15 p.m.; exited at 7:52 p.m.]

While in Committee of the Whole, discussion and general comments continued on the inner and outer cores of the CBD. BED Chairman LaMarr Anderson, who was seated in the audience, was invited to participate. The focus was completion of permitted and conditional use sections. Preliminary discussion began on setbacks for the predominant uses in the inner and outer cores, including parking.

At the next meeting, Ms. Garley will provide current sections of the code that deal with parking both in the City and the Central Business District.

Homework for next meeting: Photos of setbacks for use as examples.

I. NEW BUSINESS: There was no New Business.

J. PLAT REVIEWS:

IM 14-009 Plat Review – To divide Tract 3 and Tract 5 of Kopperud Subdivision into three lots and one tract, located outside Palmer city limits.

Ms. Garley gave a staff report, directing attention to p. 17 of the packet. Proposal has been reviewed by city staff with no objectionable comment. The lots and tract are adequate in size and would meet city zoning if they were brought into the city. There is a notation of possible DOT&PF Glenn Highway Reconstruction ROW acquisition.

There were no additional commissioner comments.

K. PUBLIC COMMENTS: There were no public comments.

L. STAFF REPORT:

Ms. Garley reported:

- Lloyd Smith, MSB Assessor's Office, will be at the June 19, 2014 meeting to address the commission and answer any questions commissioners may have on how the Borough assesses property based on zoning or land use.
- Fran Sager-Boss has been invited to the August 21, 2014 meeting to discuss her work on creating a National Heritage Area in the Borough and specifically focusing on the UAF Research Lab located across from the Kremlin Building and adjacent to the Arboretum.

M. COMMISSIONER COMMENTS:

Chairman Madar cautioned as a reminder to be extra-vigilant looking out for motorcycles on the roadways, commenting on the recent horrific accident on the Glenn Highway involving three fatalities.

There were no additional commissioner comments.

N. ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:58 p.m.

Michael W. Madar, Chairman

Kimberly A. McClure
Planning and Code Compliance Technician

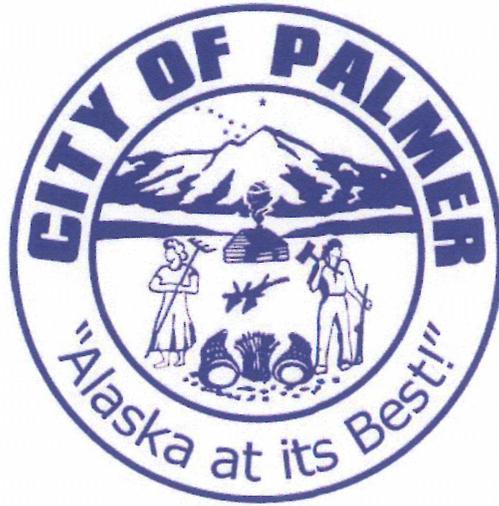


Persons to be Heard

Lloyd Smith

Chief Appraiser

Matanuska-Susitna Borough



Unfinished Business



**CITY OF PALMER
PLANNING & ZONING COMMISSION
INFORMATION MEMORANDUM 14-011**

- SUBJECT:** Review expanded boundary of Central Business District as described in Resolution No. 12-003.
- AGENDA OF:** June 19, 2014
- ACTION:** Review and approve Resolution 12-003 and move forward to City Council.
- Attachment(s):** Resolution 12-003
April 19, 2012 P & Z Minutes
October 17, 2013 P & Z Minutes
- Summary:** The last lengthy discussion by the P & Z Commission about the expanded boundary of the Central Business District was on April 19, 2012. Resolution No. 12-003 was presented for review at that meeting reflecting the proposed expanded boundary of the Central Business District. No action was taken at that time and Resolution No. 12-003 was not approved. The topic and draft Resolution No. 12-003 were re-visited at the October 17, 2013 P & Z meeting. No action was taken.
- Recommendation:** Review draft Resolution No. 12-003 and if approved, move forward to City Council with recommendation for adoption.

PALMER PLANNING AND ZONING COMMISSION

RESOLUTION NO. 12-003

A RESOLUTION OF THE PALMER PLANNING AND ZONING COMMISSION RECOMMENDING THE CITY COUNCIL ADOPT AN EXPANDED BOUNDARY OF THE CENTRAL BUSINESS DISTRICT

WHEREAS, following the City of Palmer's incorporation in 1951, small lot subdivisions were lawfully created, many of which have existing buildings currently in need of remodel or renovation work; and

WHEREAS, over the years many of the lots have been rezoned to permit commercial, limited commercial, and multi-family uses; and

WHEREAS, within the 1982 Comprehensive Development Plan the stated objective of the Central Business District (CBD) was to address ways to resolve the parking problem and recommend techniques to develop and enhance the downtown area described as bounded by West Cedar, West Fireweed, South Colony Way, and Cobb Streets; and

WHEREAS, the 1986 Comprehensive Development Plan identified the CBD as the "Downtown Redevelopment Area" and described an expanded CBD as extending from the commercially zoned area at the western edge of town along the Palmer-Wasilla Highway to Felton Street, north along the Glenn Highway to the north side of Arctic Avenue, south to the intersection of Cobb Street and Colony Way, and east to be integrated with the Town Square and campus area later described across the Alaska Railroad right-of-way; and

WHEREAS, the 1986 Comprehensive Development Plan recommended the Planned Unit Development (PUD) District ordinance language provide for a smaller threshold lot size when located within the Downtown Redevelopment Area; and

WHEREAS, PMC 17.84, Planned Unit Development, adopted in 1992, implemented the 1986 Comprehensive Develop Plan recommendation that established a "minimum area for a PUD of 80,000 square feet unless the planned unit development is used to facilitate redevelopment in the downtown redevelopment area as described in the city's comprehensive plan"; and

WHEREAS, a majority of the lots in the proposed expansion area for the Downtown Business District are less than 20,000 square feet in size and therefore not eligible to apply for Planned Unit Development status; and

WHEREAS, the Central Business District, described in PMC 17.64.050 and adopted in 2006, did not include all areas described in the previously adopted Comprehensive Plans; and

WHEREAS, insufficient parking area continues to remain a barrier to redevelopment or renovation of existing properties; and

WHEREAS, the Palmer Municipal Code, Chapter 17.64, Parking and Loading permits a reduction in the number of required parking spaces in the Central Business District; and

WHEREAS, expanding the Downtown Redevelopment Area to include the areas referenced in previously adopted Comprehensive Development Plans will bring the district into compliance with requirements of the Planned Unit Development code; and

WHEREAS, an expanded Central Business District boundary will help promote the city's economic growth and the preservation of its existing structures and support efforts to help ensure Palmer's traditional downtown is lively, attractive and inviting for residents and visitors thereby remaining in harmony with the 2006 adopted Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Palmer Planning and Zoning Commission does hereby recommend the City Council approve a revised Central Business District described as follows:

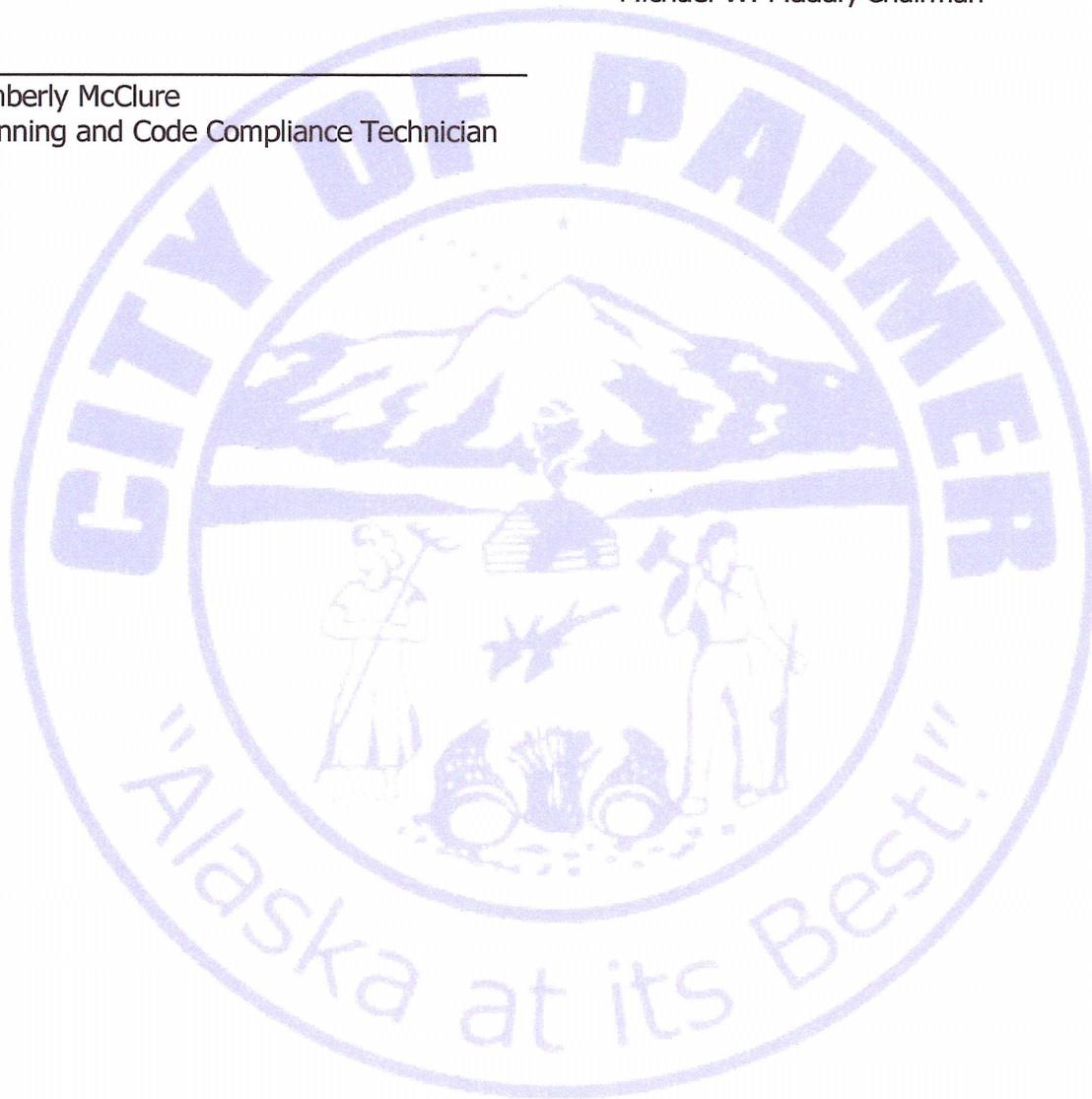
Beginning at the intersection of the Palmer/Wasilla Highway and the Glenn Highway centerlines, then north along the centerline of the Glenn Highway to the centerline of W. Auklet Avenue, then east along the centerline of W. Auklet to the east side of parcel 18N02E33 Tract 1-A, then south along the east side of said parcel until the southern boundary of 18N02E33 Block 3, Lot 8, T.A. Smith then east along the boundary of parcel 18N02E33 Tract 1-A to its terminus, then south along the east side of 18N02E33 Tract 1-A to the centerline of the alleyway, then east along the centerline of the alleyway to the centerline of N. Bonanza Street, then south along centerline of N. Bonanza Street to the centerline of E. Arctic Avenue, then east along the centerline of E. Arctic Avenue to the centerline of S. Denali Street, then south along the centerline of S. Denali Street to the centerline of E. Cottonwood, then east to the centerline of S. Gulkana Street, then south along the centerline of S. Gulkana to the southeast corner of Tract A, Arbor Estates, then west along the south property line of Tract A to Lot 4, Block 2, Arbor Estates, then south to the southeast corner of Lot 4, Block 2, Arbor Estates, then west along the south property lines of Lots 4, 3, 2, and 1, Block 2, Arbor Estates to the centerline of S. Eklutna Street, then north along the centerline of S. Eklutna Street to the centerline of E. Fireweed Avenue, then west along the centerline of E. Fireweed to the centerline of S. Colony Way, then south along the centerline of S. Colony Way to the junction of S. Colony Way and the Glenn Highway centerlines, then north along the centerline of the Glenn Highway to the point of beginning.

BE IT FURTHER RESOLVED, all references in the Palmer Municipal Code to the Downtown Redevelopment Area shall mean the Central Business District.

Passed by the Planning and Zoning Commission of the City of Palmer, Alaska, this _____ day of _____, 2014.

Michael W. Madar, Chairman

Kimberly McClure
Planning and Code Compliance Technician



17.72.100 (B) by inserting "one of the following" to the last sentence. The motion was seconded by **Commissioner Kircher**.

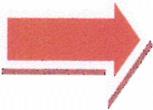
VOTE ON MOTION: the amendment passed unanimously.

ROLL CALL VOTE ON MAIN MOTION:

Campbell	Kerslake	Kircher	Madar	Prosser	Weir	Vacant
Y	Y	Y	Y	Y	Y	--

VOTE ON MOTION: the motion passed unanimously.

H. NEW BUSINESS:



1. Discussion of boundaries of the Central Business District.

Chairman Madar asked for a staff report.

Ms. Garley provided a staff report as to status.

Commissioner Kerslake moved, seconded by **Commissioner Kircher**, to suspend the rules temporarily to allow an audience member to speak to the issue. There were no objections.

Kevin Brown, former Commissioner and member of the Palmer Economic Development Authority (PEDA), commented on the need for infill and an increased opportunity for new small businesses to find a home in downtown. He suggested that any discussion on boundaries should also include adoption of design standards including lighting and landscaping.

Teresa Roy, chairman of the Palmer Economic Development Authority (PEDA), commented that the Commission consider reviewing the sign code within the central business district boundaries as well as incentives to beautify the community.

Commissioner Weir moved, seconded by **Commissioner Kerslake** to re-establish formal rules. There were no objections.

Commissioner Kerslake moved, seconded by **Commissioner Kircher**, to enter the Committee of the Whole. There were no objections.

The Commission entered into the Committee of the Whole at 7:15 pm.

Chairman Madar spoke about his desire to tackle the central business district as a zoning district. By creating a new district with commercial and residential uses, we could create the downtown that we all want. It might be a new zoning district or an overlay zone for the downtown area.

The current boundary is too small and it only impacts, to a minor degree the number of parking spaces a business must provide in the downtown area. It is not flexible and has not really created an incentive for infilling.

A general discussion followed of how to encourage a cohesive look to new construction in the downtown area in order to keep the "Palmer feel" as the community continues to grow. In addition to landscaping and permitted uses, setbacks and building height were discussed.

Commissioner Weir moved, seconded by **Commissioner Kircher**, to exit Committee of the Whole at 8:15 pm. There were no objections.

Chairman Madar directed staff to research other community overlay zones and/or zoning districts for their central business districts and return with a report to the Commission on her recommendations.

I. UNFINISHED BUSINESS:

1. Discussion of City Council Goals for Community Development.

Chairman Madar asked for a staff report.

Ms. Garley explained the process the Council had used to come up with their goals and objectives and the desire of Council to have the Commission review and comment on the items with the Council's highest priority. She directed Commission's attention to the items on page 16 of the packet.

Commissioner Kircher made the motion, seconded by **Commissioner Prosser** to enter into the Committee of the Whole.

The Commission entered into the Committee of the Whole at 8:18 pm.

While in committee of the whole, the Commission continued review of the goals and objectives relating to the Council's Objective of increasing outdoor use of the MTA Events Center complex which included sending flyers listing Event Center activities out to Palmer schools, using the City's Robo calling system to highlight the Events Center once a quarter, and getting posters up at local stores.

Discussion regarding the Council Action Plan for using the paved parking area for basketball to provide teens with active play area which highlighted the need to provide lights in the parking area for safety.

Other items of discussion included using a message board to advertize community events. Placing a digital message board on the Glenn Highway by the gas station or by the electric substation was suggested.

Commissioner Kerlake moved, seconded by **Commissioner Weir**, to exit the

Commissioner Kircher moved, seconded by **Commissioner Prosser** to postpone action on the conditional use permit until after City Council has made a decision on the rezone request on the parcel from R-1 to R-1E.

Vote on Motion: Carried Unanimously.

H. UNFINISHED BUSINESS: There was no unfinished business.

I. NEW BUSINESS:

1. Annual Review of Conditional Use Permits.

Ms. Garley directed attention to the packet, beginning at page 47, listing Active Conditional Use Permits as of October 17, 2013 and the status of each as to compliance.

Commissioner Kircher inquired of staff as to procedure for removal from the active list if the conditions of the permit have been met.

Commissioner Kerlake moved, seconded by **Commissioner Prosser**, to enter into committee of the whole. There were no objections.

[The commission entered committee of the whole at 7:10 p.m.; exited at 7:22 p.m.]

While in committee of the whole the commission reviewed and had questions on several of the CUPs discussing status and compliance.

2. IM 13-027 Review site plan for proposed courthouse expansion for JS Trooper office space and sallyport located on Lot 1A, Deneke Park.

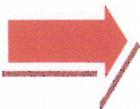
Ms. Garley reported that the courthouse is located in the P-Public District and the proposed expansion will allow additional Judicial Services Trooper office space, additional holding cells and a larger Sallyport. The proposed parking will be sufficient to meet the minimum parking requirements and the lot area and width both exceed the minimum requirements. Staff recommends approval of the proposed courthouse expansion.

Upon review of the submitted documents, the commission had no additional comment or questions.

Commissioner Kerlake moved, seconded by **Commissioner Prosser**, for approval the proposed courthouse expansion.

Vote on Motion: Carried Unanimously.

3. Discussion of Central Business District.



Ms. Garley gave a staff report directing attention to the packet containing information and minutes of previous meetings when discussion of a CBD first began in 2010, including a draft ordinance recommending an expanded boundary. The purpose of discussion tonight is to renew discussions and determine what the commission needs to do differently to encourage more high quality growth in the Central Business District and develop ideas that would engage the city council moving forward, including adding it to the agenda of the next joint meeting in January, 2014.

Commissioner Madar moved, seconded by **Commissioner Prosser**, to enter into Committee of the Whole for open discussion on the matter. There were no objections.

[The commission entered Committee of the Whole at 7:26 p.m.; exited at 8:00 p.m.]

While in committee of the whole, the commission discussed what other communities have done to revive downtown business districts, parking solutions, city/business partnerships, among others, including status of the Mat-Maid properties. Commissioners should think about ideas for the next meeting.

J. PLAT REVIEWS:

1. IM 13-026 To divide Parcel C-2 of MSB Waiver 96-38-PWm into three lots and one tract to be known as Zastrow Acres, also known as Tax Parcel D20 in Section 17, Township 18 North, Range 2 East, Seward Meridian, located outside Palmer city limits.

Ms. Garley gave a staff report. The request is to divide the parcel into three lots and one tract, to be known as Zastrow Acres, containing 10.57 acres more or less. The Alaska Department of Transportation claims prescriptive rights for the Farm Loop right-of-way extending to the back of the existing ditch, which is shown on the plat. See vicinity map on page 144 of the packet. City staff had no recommended changes.

Following review, the commission had no additional comments.

K. PUBLIC COMMENTS: There were no public comments.

L. STAFF REPORT: Ms. Garley reported:

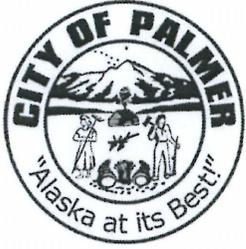
- Status of Mat-maid (reported during CBD discussion);
- Status of Pioneer Square on the market for sale; DOT is moving forward with upgrades on Dogwood to Felton which should be appealing to potential buyers.

M. COMMISSIONER COMMENTS:

Commissioner Lucas had no comment.

Commissioner Kircher:

- Reiterated his previous complaints about the voluminous amount of paper in the monthly packets plus the costs of mailing; noted preference for the "paperless



DEPARTMENT OF COMMUNITY DEVELOPMENT

Sandra Garley
Director

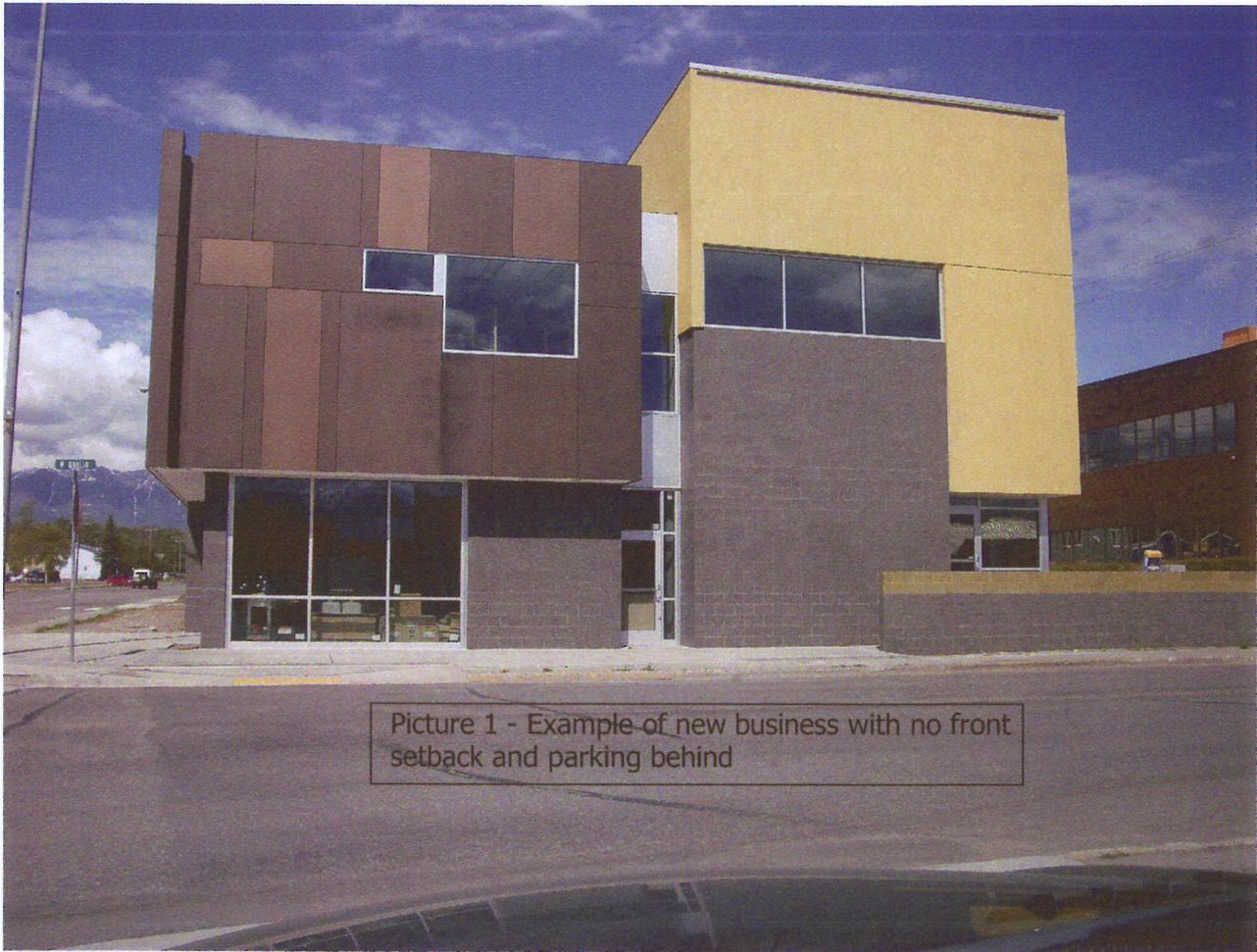
David Meneses
Building Inspector

Beth Skow
Library Director

MEMORANDUM

TO: P & Z Commission
FROM: Staff
DATE: June 10, 2014
SUBJECT: Pictures of setbacks within the Central Business District

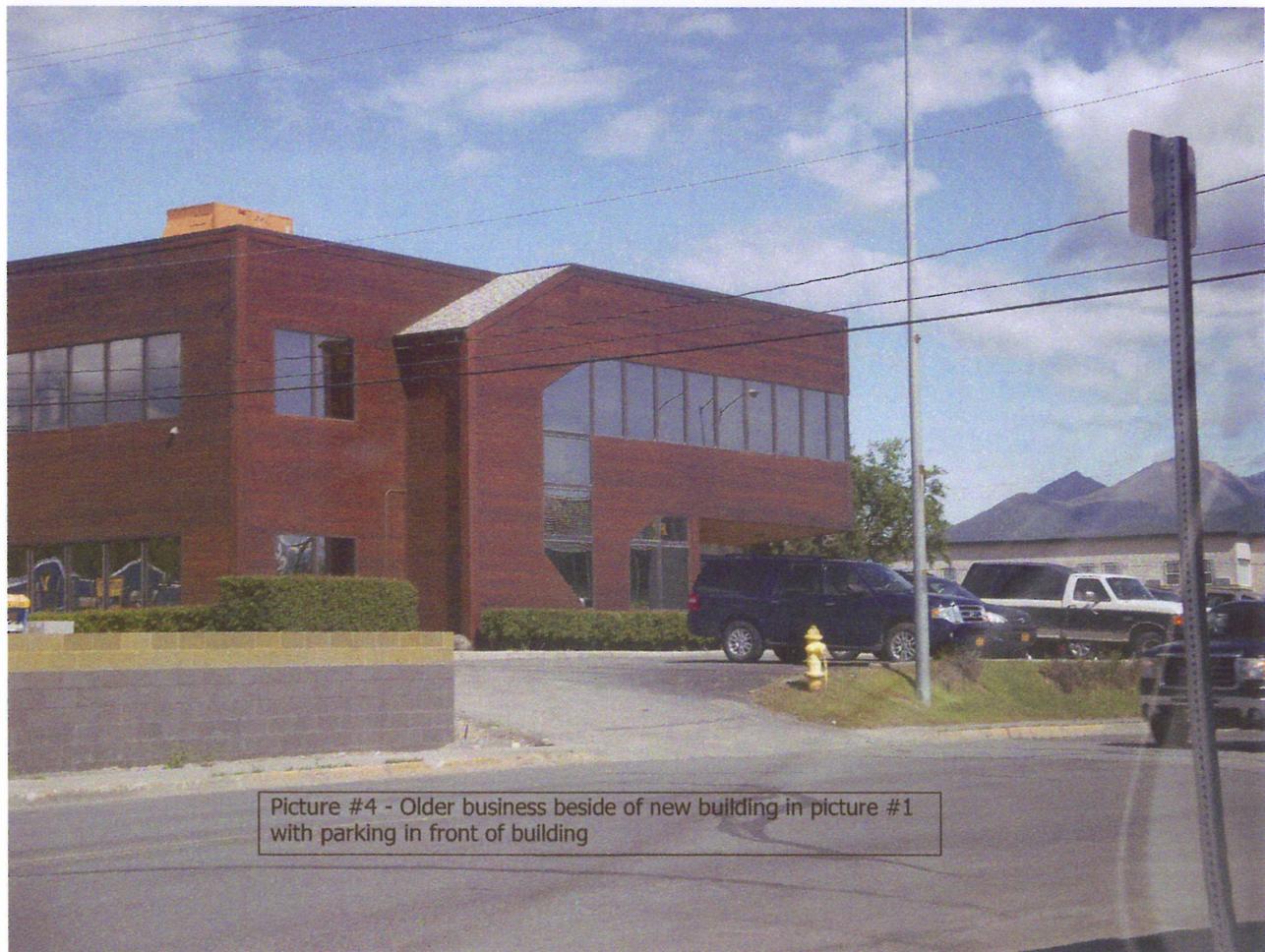
On June 5, staff conducted site visits of several businesses and mixed use structures to take pictures showing the various setbacks from the right of way.



Picture 1 - Example of new business with no front setback and parking behind



Picture 2





Picture 5 - Business across from new building in picture 1 & 4, also with no front setback and parking behind building



Picture 6 - Side of Fosselman building showing setback from street



Picture 7 - Another business with no front setback

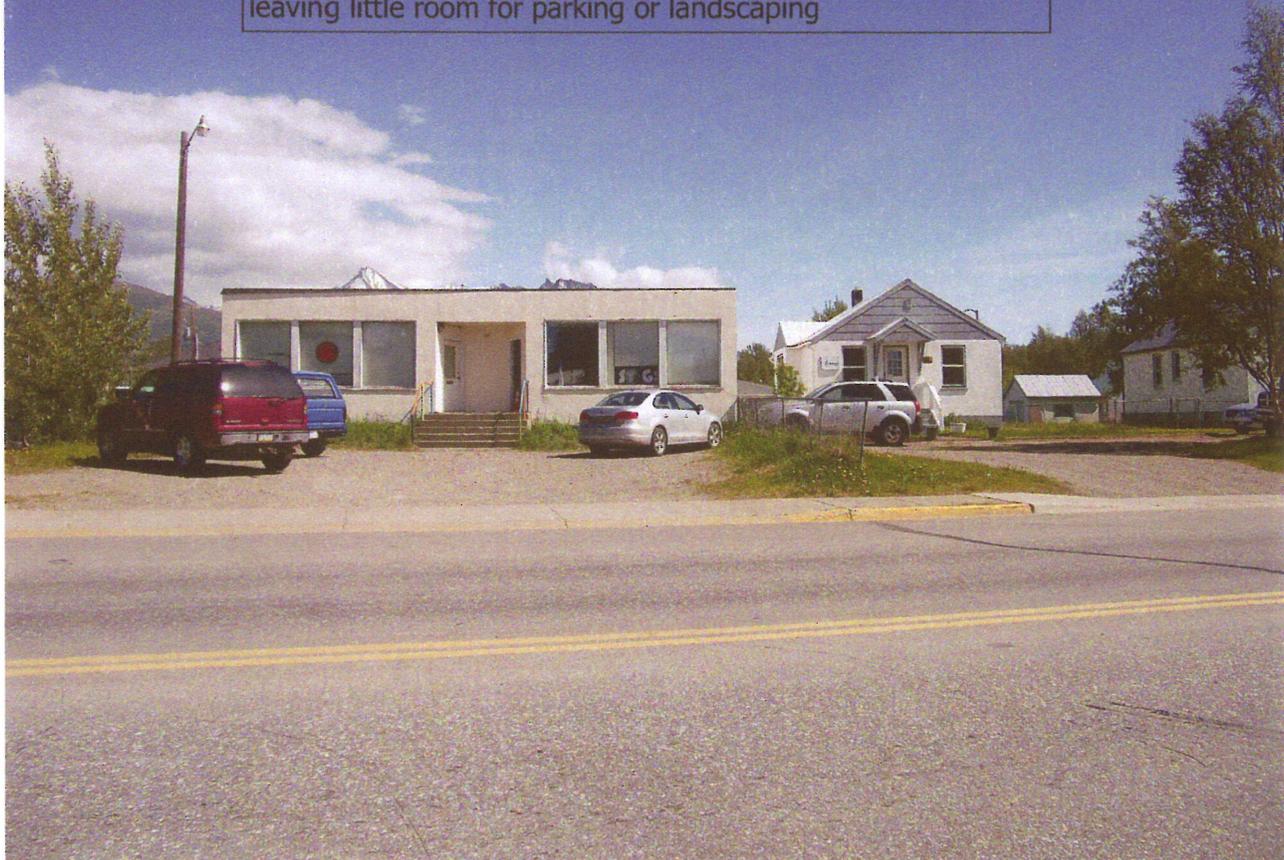


Picture 8 - Example of commercial on ground level and residential on second floor

Picture 9 - Residential houses beside of mixed use structure shown in picture 8



Picture 10 - Old building built in 1952 takes up most of the lot leaving little room for parking or landscaping





Picture 11 - Back side of old building in picture 10 showing how much of this lot is taken up by the building



Picture 12 - Showing sidewalks and business fronts in downtown



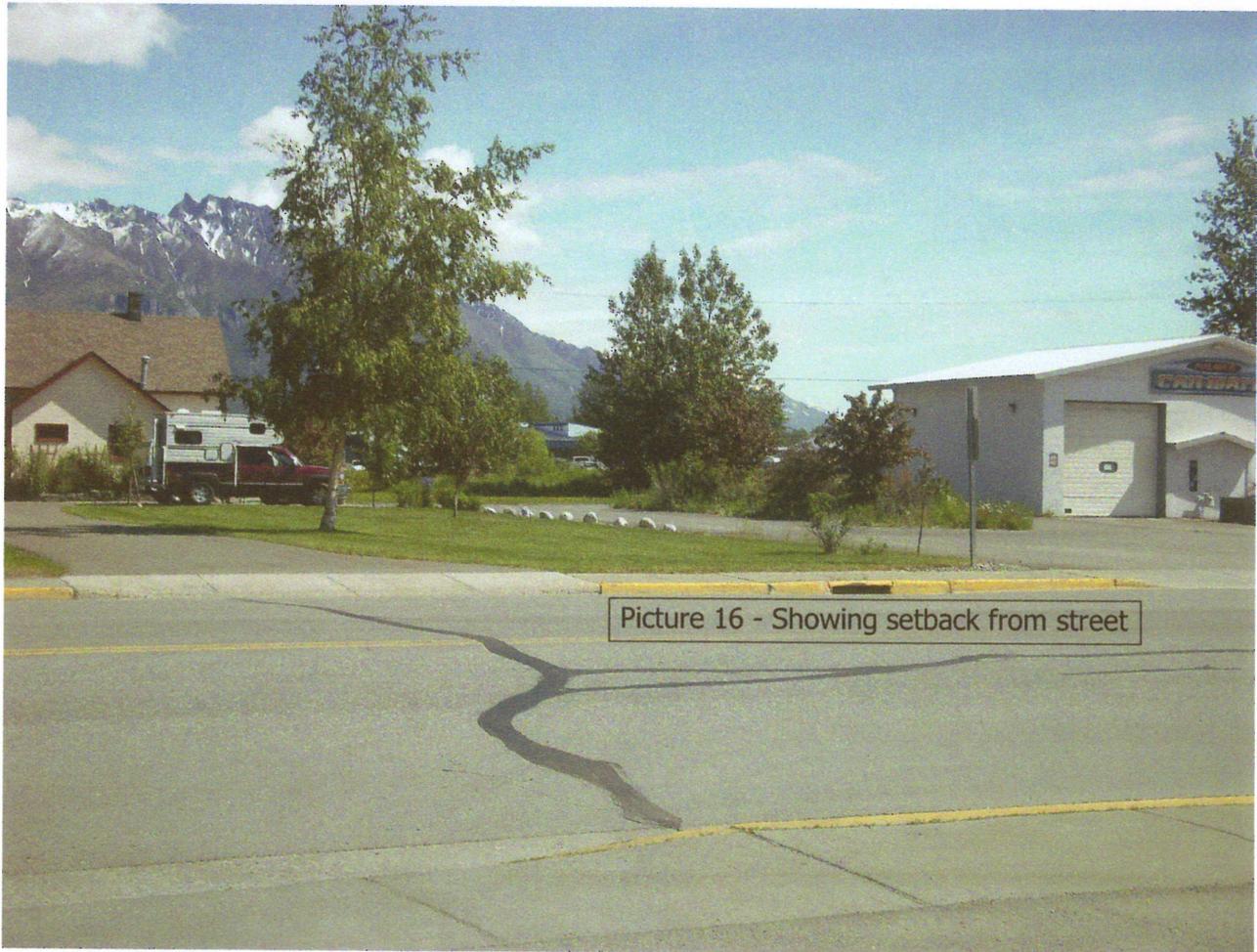
Picture 13 - Showing parking in front and business set back from street



Picture 14



Picture 15



Picture 16 - Showing setback from street



New Business



**CITY OF PALMER
PLANNING & ZONING COMMISSION
INFORMATION MEMORANDUM 14-012**

SUBJECT: Text Amendment to Palmer Municipal Code sections 17.26.068, Fencing requirements in R-3 Medium Density Multifamily Residential District; 17.27.068, Fencing Requirements in R-4 High Density Residential District; 17.28.068, Fencing Requirements in C-L Limited Commercial District and 17.32.068, Fencing Requirements in C-G General Commercial District for fence height

AGENDA OF: June 19, 2014

ACTION: Review and approve draft Ordinance No. 14-0xx and move forward to City Council

Attachment(s): Draft Ordinance No. 14-0xx

Summary: The text amendments to PMC 17.26.068, 17.27.068, 17.28.068 and 17.32.068 will correct the fence height from six-foot six inch to six foot. According to the Building Inspector, any fence taller than 6 feet requires an engineer's stamp.

Ordinance No. 586 adopted on February 26, 2002 enacted and adopted R-3, Medium Density Multifamily Residential Zone and showed a fence height of six feet in 17.26.066, Fencing and open space requirements. This ordinance was later repealed by Ordinance No. 05-003 which showed the fence height as six foot six inch in 17.26.068, Fencing requirements.

Ordinance 05-004 adopted on February 8, 2005 enacted R-4, High-Density Residential District and showed a fence height of six-foot six-inch.

Ordinance No. 627 adopted on June 22, 2004 adopted 17.28.068, Fencing requirements in the Limited Commercial District and showed a fence height of six-foot, six-inch. This ordinance was later amended by Ordinance No. 05-026 which showed the fence height as six foot, six inch.

Ordinance No. 626 adopted on June 22, 2004 adopted 17.32.068, Fencing requirements in the General Commercial District and showed a fence height of six foot, six inch. This ordinance was later amended by Ordinance No. 05-027 which showed the fence height as six foot, six inch.

Recommendation: Review draft Ordinance No. 14-0xx and if approved, move forward to City Council with recommendation for adoption.

Commission Information:
 Initiated by: Planning and Zoning Commission
 First on Agenda: June 19, 2014
 Action:
 Vote:
 Council Information:
 Introduced by: City Manager Hannan
 Introduced:
 Public Hearing:
 Action:

Yes:	Vote:	No:

CITY OF PALMER, ALASKA

ORDINANCE NO. 14-0xx

An Ordinance of the Palmer City Council Amending Palmer Municipal Code Sections 17.26.068, Fencing requirements in R-3 Medium Density Multifamily Residential District; 17.27.068, Fencing Requirements in R-4 High Density Residential District; 17.28.068, Fencing Requirements in C-L Limited Commercial District and 17.32.068, Fencing Requirements in C-G General Commercial District

THE CITY OF PALMER, ALASKA ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Section 2.30.080 is hereby amended to read as follows (new language is in blue underlined and deleted language is red and stricken):

17.26.068 Fencing requirements.

A lot, which abuts or is immediately across an alley from an R-1, R-1E, or R-2 residential zone and which contains five or more dwelling units, shall have a six-foot ~~six-inch~~ solid or interlap

fence on the side or sides abutting or across an alley from the lower-density residential zones. The fence shall be well built, finished and maintained. (Ord. 05-003 § 4, 2005)

17.27.068 Fencing requirements.

Lots abutting or immediately across an alley from an R-1, R-1E, or R-2 residential zone which contain five or more dwelling units shall have a six-foot ~~six-inch~~ solid or interlap fence on the side or sides abutting or across an alley from the lower-density residential zones. The fence shall be well built, finished and maintained. (Ord. 05-004 § 3, 2005)

17.28.068 Fencing requirements.

Lots abutting or immediately across an alley from any residential zone which contains four or more dwelling units or any nonresidential use shall have a six-foot, ~~six-inch,~~ solid or interlap fence on the side or sides abutting or across an alley from residential zones. The fence shall be well built, finished and maintained. (Ord. 05-026 § 4, 2005; Ord. 627 § 7, 2004)

17.32.068 Fencing requirements.

Lots abutting or immediately across an alley from any residential zone which contain four or more dwelling units or any nonresidential use shall have a six-foot, ~~six-inch,~~ solid or interlap fence on the side or sides abutting or across an alley from residential zones. The fence shall be well built, finished and maintained. (Ord. 05-027 § 3, 2005; Ord. 626 § 7, 2004)

Section 4. Effective Date. Ordinance 14-0xx shall take effect upon adoption by the Palmer City Council.

Passed and approved this _____ day of _____, 2014.

DeLena Goodwin Johnson, Mayor

Janette M. Bower, MMC, City Clerk



**CITY OF PALMER
PLANNING & ZONING COMMISSION
INFORMATION MEMORANDUM 14-015**

SUBJECT: Revise language to establish an appeals process to an administrative decision

AGENDA OF: June 19, 2014

ACTION: Review and discuss an appeals process to an administrative decision and discuss if such language should be combined with PMC 17.98, Appeals To Hearing Officer and move forward to City Council

Attachment(s): PMC 17.98 Appeals to Hearing Officer
P & Z minutes from August 16, 2007
City Council minutes from September 11, 2007
Wasilla Appeals Process
Soldotna Appeals Process

Summary: Ordinance No. 454 adopted by City Council on November 24, 1992 contained a statement regarding an appeal for Conditional Use Permits and for Variances but did not contain an appeals process to an administrative decision from the Planning and Zoning department.

On September 11, 2007, City Council enacted Chapter 17.98 Appeals to a Hearing Officer, which contains an appeals process to a decision of the Commission but does not contain an appeals process to an administrative decision from the Planning and Zoning department.

The lack of an appeals process to an administrative decision was brought about recently when a citizen of Palmer did not agree with staff's interpretation of the code. The citizen did not agree with staff's interpretation of code regarding a single family dwelling as part of a mixed use development only being located on and above the second floor or below the ground level of the structure in the General Commercial District. The citizen asked how to appeal staff's decision. Currently, there is no appeals process to staff's interpretation of the code.

The attached examples from the City of Wasilla and Soldotna outline the process to appeal any administrative decision or determination made by the city planner or the Commission.

Recommendation: Develop a process and move forward to City Council with recommendation for adoption.

Chapter 17.98 APPEALS TO HEARING OFFICER

Sections:

- 17.98.005 Definitions.
- 17.98.010 Hearing officer.
- 17.98.015 Stay on appeal.
- 17.98.020 Notice of appeal – Appeal fee.
- 17.98.030 Preparation of appeal record.
- 17.98.040 Written arguments.
- 17.98.050 Distribution of appeal packet – Notice of hearing.
- 17.98.060 Conduct of hearing.
- 17.98.070 Scope of review.
- 17.98.080 Decision.
- 17.98.090 Remedies.

17.98.005 Definitions.

“Appeal packet” means the packet which contains the notice of hearing date, appeal letter, the appeal record and briefs.

“Appeal record” consists of the entire community development file pertaining to the case under appeal, including all original papers and exhibits, and the transcript of the proceedings before the commission.

“Appellant” means the party who files an appeal application pursuant to this title.

“Appellee” means the party responding to the appeal application.

“Interested persons” means any person who would be adversely affected by the decision. (Ord. 07-018 § 5, 2007)

17.98.010 Hearing officer.

A. To be appointed as a hearing officer, a person must be an attorney at law in the state of Alaska who possesses knowledge of this title, general land use regulations, and principles of due process. An attorney may not act as hearing officer in any case in which he or she has any direct or indirect financial interest, and must certify to the absence of any such interest before receiving the appeal record on a form provided by the clerk. A hearing officer may not be a current city employee or a current member of the council or commission.

B. A hearing officer shall be impartial in all decisions, both in fact and in appearance. The hearing officer shall not engage in ex parte contact with any person concerning the appeal either before or after the appeal hearing.

C. The manager or clerk shall solicit persons who are willing to serve as hearing officers, and shall maintain a list of interested persons determined to be qualified.

D. Upon an appeal being filed, the manager shall appoint the hearing officer and shall report the appointment to the council.

E. Compensation of the hearing officer shall be determined by council legislation prior to the hearing. (Ord. 07-018 § 5, 2007)

17.98.015 Stay on appeal.

An appeal stays the decision or order appealed until a written decision is rendered by the hearing officer; provided, that the hearing officer may, upon motion, vacate the stay if it is determined to protect the public's health, safety and welfare. (Ord. 07-018 § 5, 2007)

17.98.020 Notice of appeal – Appeal fee.

A. As set forth in this title, a decision of the commission may be appealed by filing an appeal application with the clerk on a form provided by the clerk. The appeal application shall clearly state the grounds of the appeal, and include the appellant's mailing address or that of the appellant's representative.

B. Except as provided in subsection (C) of this section:

1. An appeal application shall include a nonrefundable filing fee, established in the current, adopted budget, and a deposit, established in the current, adopted budget, for preparation of the appeal record, advertising and mailing costs.
2. Upon receipt of the appeal record, the clerk shall reasonably determine the cost of preparation of the appeal record, advertising and mailing costs. If the costs exceed the amount of the deposit, the clerk shall invoice the appellant for the excess. The invoice shall be paid within 15 business days of receipt of the invoice by the appellant or the appeal will be dismissed. The clerk shall return to the appellant all amounts in excess of the actual costs of preparing the appeal record, advertising and mailing.

C. Within the time frame for filing the appeal application, an appellant may request the city waive payment of part or all of the fee and costs described in subsection (B) of this section because of the appellant's indigence. The request shall include a sworn financial statement in a form approved by the clerk. The clerk will grant or deny the request based on a determination of whether the appellant is indigent. (Ord. 07-029 § 34, 2007; Ord. 07-018 § 5, 2007)

17.98.030 Preparation of appeal record.

A. Upon the timely filing of an appeal, the clerk shall request the record from the city staff. The city staff shall provide the record to the clerk within 30 calendar days of the request. The record shall contain all pertinent records including:

1. A verbatim transcript of the proceedings before the commission from which the appeal has been taken.
2. Copies of all documentary evidence, memoranda and exhibits, correspondence and other written material submitted to the commission prior to the decision from which the appeal is taken.
3. A copy of the written decision of the commission, including its findings and conclusions.

B. Upon completion of the record, the clerk shall mail or personally serve the appeal record on the hearing officer, the appellant, the applicant, if not the appellant, and each other interested person who has submitted a written request for a copy of the appeal record. Interested persons requesting a copy of the record shall be charged on a per page basis. (Ord. 07-018 § 5, 2007)

17.98.040 Written arguments.

A. Brief of Appellant. The appellant may file a written brief of points and authorities in support of those

allegations of error specified in the appeal letter with the clerk's office not later than 15 calendar days after service of the appeal record. The clerk shall mail or otherwise deliver a copy of the appellant's brief to the city staff and hearing officer assigned responsibility for the appeal.

B. Brief of Appellee. The appellee may submit to the clerk a written reply to the appeal letter and any brief no later than 30 calendar days after service of the appeal record. The clerk shall mail or otherwise deliver a copy of the appellee's brief to the appellant, city staff and hearing officer assigned responsibility for the appeal.

C. Reply Brief. The appellant may file a written reply brief to appellee briefs submitted pursuant to subsection (B) of this section. The appellant's reply brief is due no later than 10 calendar days after service of notice that the appellee briefs have been filed.

D. Form of Briefs. All briefs shall be typewritten on eight-and-one-half-inch by 11-inch pages. The text of the brief shall be double-spaced other than quotations from the record, case law or other applicable law or exhibits which cannot be retyped on eight-and-one-half-inch by 11-inch pages. The brief of the appellant is limited to 25 pages exclusive of exhibits. The brief of the appellee is limited to 25 pages exclusive of exhibits. The reply brief is limited to 10 pages exclusive of exhibits. The clerk shall not accept a brief unless it is in the form prescribed by this section and filed within the time prescribed by this section. (Ord. 07-018 § 5, 2007)

17.98.050 Distribution of appeal packet – Notice of hearing.

Following the time set for receipt of written arguments from the appellant and appellee, the clerk shall prepare and distribute to the hearing officer an appeal packet containing the notice of appeal, the appeal record, written comments by interested parties, and any briefs filed in accordance with PMC 17.98.040. Notice of the hearing date shall be published in a newspaper of general circulation and shall be mailed or personally served to the appellant and appellee. Interested persons requesting a copy of the record shall be charged on a per page basis. (Ord. 07-018 § 5, 2007)

17.98.060 Conduct of hearing.

A. The meeting at which the hearing officer hears an appeal shall be open to the public and a record of the hearing shall be made.

B. The hearing shall be subject to the following order and time limitations:

1. City staff: 10 minutes to present the decision of the commission;
2. Appellant: 15 minutes;
3. Appellee: 15 minutes;
4. Interested persons: three minutes each;
5. Appellant, for rebuttal: five minutes.

C. The hearing officer may question each of the parties listed under subsection (B) of this section.

D. The hearing officer may adjourn the hearing for deliberative purposes. (Ord. 07-018 § 5, 2007)

17.98.070 Scope of review.

A. The hearing officer shall hear an appeal solely on the basis of the appeal packet and oral testimony as described in PMC 17.98.060(B).

B. The hearing officer may exercise his or her independent judgment on legal issues raised by the appellant. The term "legal issues," as used in this section, means those matters that relate to the interpretation or construction of ordinances or other provisions of law.

C. The hearing officer shall defer to the judgment of the commission regarding disputed issues or findings of fact unless a substitution of his or her independent judgment pursuant to subsection (D) of this section is made. Findings of fact adopted expressly or by necessary implication by the commission may be considered as true if they are supported in the record by substantial evidence. The term "substantial evidence," for the purpose of this section, means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. If the record affords a substantial basis of fact from which the fact in issue may be reasonably inferred, it shall be considered that the fact is supported by substantial evidence.

D. Notwithstanding the provisions of subsection (C) of this section, the hearing officer may substitute his or her independent judgment for that of the commission on any disputed issues or findings of fact. Such judgment must be supported on the record by substantial evidence. (Ord. 07-018 § 5, 2007)

17.98.080 Decision.

A. The hearing officer shall decide an appeal on the basis of the appeal packet, in accordance with the standards of PMC 17.98.070.

B. The hearing officer may affirm or reverse the decision of the commission in whole or in part. A decision reversing or modifying the decision appealed from shall be in a form which finally disposes of the case on appeal except where the case is remanded in accordance with PMC 17.98.090(A).

C. Every decision of the hearing officer to affirm or reverse the decision of the commission pursuant to subsection (A) of this section shall be in writing and shall be based upon and include findings and conclusions adopted by the hearing officer. Such findings must be reasonably specific so as to provide the community, and, where appropriate, reviewing authorities, a clear and precise understanding of the reason for the hearing officer's decision. The hearing officer may seek the assistance of the city staff in the preparation of findings.

D. Every final decision of the hearing officer shall clearly state it is a final decision with respect to all issues involved in the case, and that the parties have 30 days from the date of mailing, or other distribution of the decision, to file an appeal to the superior court.

E. A decision by the hearing officer to remand the case on one or more issues, in accordance with PMC 17.98.090(A), is not a final decision with respect to any issue involved in the appeal. Notwithstanding the foregoing, all matters decided by the hearing officer (except those remanded pursuant to PMC 17.98.090) will be deemed a final decision following the lower administrative body's decision, provided no appeal is perfected within the time period specified in PMC 17.72.080.

F. A hearing officer's decision remanding a case on one or more issues, in accordance with PMC 17.98.090(A), will include the following statements:

1. The decision is the final decision with respect to all matters resolved therein when, following the lower administrative body's decision on remand, no appeal is perfected within the time period specified in this section; and
2. The parties have 30 calendar days from the expiration of said time period to appeal to the superior court. (Ord. 07-018 § 5, 2007)

17.98.090 Remedies.

A. Where the hearing officer reverses or modifies a decision of the commission in whole or in part, its decision shall finally dispose of the matter on appeal, except that the case shall be remanded to the commission where the hearing officer determines either that:

1. There is insufficient evidence in the record on an issue material to the decision of the case; or
2. There has been a substantial procedural error which requires further public hearing.

A decision remanding a case shall describe any issue on which further evidence should be taken, and shall set forth any further directions the hearing officer deems appropriate for the guidance of the commission.

B. The commission shall act on the case upon remand in accordance with the decision of the hearing officer in the minimum time allowed by the circumstances. Cases on remand following a decision of the hearing officer shall take precedence over all other matters on the commission's agenda. (Ord. 07-018 § 5, 2007)

The Palmer Municipal Code is current through Ordinance 14-016, passed May 27, 2014.

Disclaimer: The City Clerk's Office has the official version of the Palmer Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website:

<http://www.cityofpalmer.org/>

City Telephone: (907) 745-3271

Code Publishing Company

VOTE ON MOTION: MCU

2. Text amendment to Title 17, Zoning, Authorizing the Planning and Zoning Commission to hear Variance Requests.

COMMISSIONER MADAR moved, seconded by COMMISSIONER KERSLAKE, to recommend approval of Ordinance 07-021 authorizing the Planning and Zoning to hear variance requests.

Ms. Jansen provided the staff report:

- City Council requested the legislation for a hearing officer be drawn up and forwarded to them;
- the city clerk worked with the city attorney and Cindy Cartledge, attorney for the Council on process matters during the last appeal;
- addressed application fees and separate fee for the hearing officer on the new ordinance; and
- stated that variances may only be granted if the request meets state regulations.

Commissioner Madar inquired why the ordinance is being brought before the Commission; Ms. Jansen advised it was done at the direction of the City Council.

Commissioner Brown asked what the hearing officer would look at during an appeal; Ms. Jansen responded they would look at whether proper procedures were followed.

Commissioner Kerslake inquired what the next step in an appeal would be after a hearing officer; Ms. Jansen stated it would be Superior Court.

Commissioner Madar stated he had concerns about one person making the decision on an appeal and felt that the elected council should be the ones to make the decision. Commissioner Brown pointed out that the hearing officer would review procedural issues rather than render a new decision.

VOTE ON MOTION: MCU



3. Text amendment to Title 17, Zoning, Enacting 17.98, Appeals to a Hearing Officer

COMMISSIONER SILVA moved, seconded by COMMISSIONER Hamming, to recommend approval of Ordinance 07-018 enacting Chapter 17.98 Hearing Officer.

Ms. Jansen provided the staff report:

- The proposed ordinance would change the appeal process by substituting a hearing officer for the City Council;
- add definitions to the code; and the
- the previous appeal of a conditional use permit lead to the decision by the City Council to change the process.

Commissioner Hamming asked for clarification as to whether it was the council's desire to be totally out of the appeals process or to have legal council during the process. The

decision on a conditional use permit is made by the appointed Planning and Zoning Commission; Commissioner Hamming spoke in favor of keeping the process nonpolitical by having it heard by a hearing officer.

Commissioner Madar spoke against the ordinance and stated it is the City Council's responsibility to make those decisions.

Commissioner Brown asked staff on what grounds a hearing officer could overturn a decision on a conditional use permit. Staff responded that the council and the hearing officer have a lot of latitude in making their decisions; the findings can be subjective.

Commissioner Silva asked how the ordinance was drafted; staff responded ordinances from the City of Wasilla, the City of Anchorage, and the Mat-Su Borough were all reviewed and the ordinance is a compilation of the best parts of those ordinances.

Commissioner Hamming asked whether the hearing officer would look at procedures and findings of fact to determine whether the facts were correct; staff responded in the affirmative. Commissioner Hamming then spoke in favor of the ordinance.

VOTE ON MOTION: Motion failed 3 to 3.

Madar	Kerslake	Hamming	AlLee	Silva	Brown	Kircher
N	N	Y	Y	Y	N	

Staff advised that the decision might be appealed and may come up for discussion on August 28, 2007; she suggested that members of the Commission come to the meeting to provide comments.

4. Text amendment to Title 17, Zoning, Enacting 17.90, Accessory Dwelling Units

COMMISSIONER MADAR moved, seconded by COMMISSIONER KERSLAKE, to suspend the rules to discuss the text amendment.

VOTE ON MOTION: MCU

Staff presented information regarding the new Accessory Dwelling Unit (ADU) ordinance:

- The ordinance is a new chapter in the code and will address the size of the ADU, location, application process, allowable districts for ADU's, number of ADU's allowed per lot;
- The ordinance is based on ordinances from Santa Cruz, CA, Anchorage, and two model ordinances; and
- The owner of the property must live on site more than six months out of the year and sign a statement that they understand the rules and limitations.

Discussion followed regarding:

- Detached ADU's, and their possible locations especially as it relates to the front plane of the principle dwelling unit;

- Backup Generator Project upgrade; and
- Traffic issues caused by the Fair.

3. Friday Fling Update

Jeff Johnson reported on the following items:

- Friday Fling Market origination with the Greater Palmer Chamber of Commerce;
- Market in operation for the past five years;
- “Veggies in Motion” art exhibition funded by the Mat-Su Health Foundation and Mat-Su Regional Hospital;
- Friday Fling Walkabout participation by 800 people;
- Market held 52 booths, 42 booths per week were averaged in 2007;
- Goal to select vendors who market Alaska Made items;
- Between 400 and 500 persons at the Market at one time; and
- Increased business traffic in town on Fridays.

F. AUDIENCE PARTICIPATION

David Holladay:

- voiced concern regarding the Mat-Maid property;
- spoke of email correspondence from Kristan Cole regarding interest in the Palmer Mat-Maid facility;
- urged the council to request that Governor Palin set aside the property for Palmer development; and
- described the Borough tax assessment of the property as \$300-400,000.

Mark Parmelee:

- spoke of the audience resources available to speak to resolution no. 07-015.

G. PUBLIC HEARINGS



Item 1 – Public Hearing – Ordinance No. 07-018: Amending Palmer Municipal Code Section 17.08.215, Hearing Officer Definition; Section 17.72.080 Appeal, to Refer Appeals to a Hearing Officer; and Enacting Chapter 17.98, Appeals to a Hearing Officer (IM 07-039)

Mayor Combs opened the public hearing for ordinance no. 07-018. There being no one who wished to speak, the public hearing was closed and the matter was brought before the council.

MOVED BY:	Pippel	To adopt ordinance no. 07-018
SECONDED BY:	Vanover	

Council Member Pippel:

- commented on the Planning and Zoning Commission recommendation;
- described the previous appeal hearing heard at the council level;
- spoke in favor of the hearing officer process; and
- commented on the inability to fill the current boards, commissions, and/or council.

Council Member Wood:

- spoke of the role of a Board of Adjustment;
- recommended the ordinance be sent back to Administration to examine utilization of a Board of Adjustment; and

- stated he was unable to support a hearing officer.

Mayor Combs:

- questioned the ability of citizens to comprehend the magnitude of an appeal;
- described the hearing officer as an arbitrator; and
- voiced support of the ordinance as written.

Attorney Gatti:

- commented on the previous appeal process;
- spoke of Board of Appeals and Adjustments and stated the Board may seek advice from an attorney;
- commented on the skills and qualifications of a hearing officer attorney;
- recommended the council undertake the hearing officer process;
- expanded on the need for implementation of a process prior to the filing of another appeal;
- commented on the council’s role in a quasi-judicial capacity; and
- described the issues involved in an appeal as being complex and the need for an attorney to sort out the issues.

Council Member Hanson:

- voiced support of the hearing officer process;
- described the recent appeal as a highly technical exercise; and
- commented on public opportunities to respond to a Planning and Zoning Commission issue.

VOTE ON MOTION: Carried by 6-1 voice vote.				
	Yes:			No:
Pippel	Erbey	Vanover	Wood	
Hanson	Best	Combs		

Item 2 – Public Hearing – Ordinance No. 07-021: Amending Palmer Municipal Code Chapter 17.76, Variance, Whereby All Variance Requests are Heard Before the Planning and Zoning Commission and Establish a Variance Appeal Process (IM 07-040)

Mayor Combs opened the public hearing for ordinance no. 07-021. There being no one who wished to speak, the public hearing was closed and the matter was brought before the council.

MOVED BY:	Hanson	To adopt ordinance no. 07-021
SECONDED BY:	Pippel	

VOTE ON MOTION: Carried by 6-1 voice vote.				
	Yes:			No:
Pippel	Erbey	Vanover	Wood	
Hanson	Best	Combs		

Item 3 – Public Hearing – Ordinance No. 07-023: Amending Palmer Municipal Code Title 17, Zoning, by Enacting Chapter 17.49 A-M Airport Mixed Use District (IM 07-038)

WASILLA APPEALS PROCESS

Chapter 16.34

APPEALS TO THE PLANNING COMMISSION

Sections:

16.34.005 Definition.

16.34.010 Ex parte contact.

16.34.020 Stay.

16.34.030 Appeal to the planning commission.

16.34.040 Notice of hearing.

16.34.050 Preparation of record.

16.34.060 Hearing.

16.34.070 Decision.

16.34.005 Definition.

“Interested person” means, with respect to a decision of the city planner or planning commission, the applicant, any person adversely affected by the decision who appears before the city planner or planning commission and made an oral or written presentation, and any governmental agency. (Ord. 04-03 § 2 (part), 2004)

16.34.010 Ex parte contact.

A planning commissioner shall be impartial in all decisions, both in fact and in appearance. No planning commissioner may engage in ex parte contact with any person interested in an appeal concerning the appeal either before or after the appeal hearing. (Ord. 04-03 § 2 (part), 2004)

16.34.020 Stay.

An appeal to the planning commission stays the effectiveness of the decision or order of the city planner until the planning commission finally decides the appeal; provided, that the planning commission may vacate the stay if doing so is necessary to avoid immediate danger to public health and safety. (Ord. 04-03 § 2 (part), 2004)

16.34.030 Appeal to the planning commission.

Any interested person may appeal a decision or order of the city planner to the planning commission by filing a written notice of appeal with the city planner on a form provided by the city planner within fifteen (15) calendar days after date of the decision or order. The notice of appeal shall state with specificity the grounds for the appeal, include the appellant’s mailing address or that of the appellant’s attorney, and be accompanied by a filing fee of two hundred fifty dollars (\$250.00). (Ord. 09-46 § 2, 2009; Ord. 04-03 § 2 (part), 2004)

16.34.040 Notice of hearing.

A. Upon the timely filing of an appeal, the city planner by regular mail or personal service shall deliver notice of the appeal within three business days to the appellant and the owner of each property that is the subject of the decision or order appealed from. The notice shall include:

1. A brief description of the decision or order appealed from; and
2. The appellant’s notice of appeal. (Ord. 04-03 § 2 (part), 2004)

16.34.050 Preparation of record.

A. The city planner shall submit the appeal to the planning commission at the next regular planning commission meeting occurring at least fifteen (15) business days after the filing of an appeal. The city planner shall forward all pertinent information related to the appeal to the planning commission for review.

B. The city planner shall publish at least once the time and place of the hearing in a newspaper of general circulation within the city at least five calendar days prior to the hearing.

WASILLA APPEALS PROCESS

Such notice shall state the nature of the appeal, the location of the property that is the subject of the appeal, and the time and place of hearing. Notice by regular mail of the time and place of hearing shall be given to each interested party and to each record owner of any property that immediately adjoins the property that is the subject of the appeal. A notice of hearing shall be posted in a conspicuous manner on the property that is the subject of the appeal. (Ord. 04-03 § 2 (part), 2004)

16.34.060 Hearing.

A. Only persons who have submitted written arguments to the planning commission prior to the meeting may present oral arguments at the hearing. A written argument must include the name, physical and mailing addresses of the person submitting the argument.

B. At the hearing, oral argument shall be subject to the following order and time limitations, unless the planning commission, for good cause shown, permits a change in the order or an extension of time:

1. City planner or representative, five minutes to present the city position and to set forth the evidence and reasons relied upon for the decision.
2. Appellant or representative, five minutes.
3. Each interested person supporting or opposing the appeal, five minutes.
4. Appellant, for rebuttal, five minutes. (Ord. 07-58(AM) § 4, 2007; Ord. 04-03 § 2 (part), 2004)

16.34.070 Decision.

A. The planning commission shall base the decision upon the record and argument presented at the hearing. The planning commission may affirm, reverse, or modify the decision or order of the city planner in whole or in part.

B. The planning commission's decision shall be in writing and shall state that it is a final decision, include the planning commission's findings of fact and conclusions of law, and notify the parties of their right to appeal under Section 16.36.060.

C. The planning commission's decision shall be mailed by regular mail or personally delivered by the city planner within ten (10) business days after the planning commission's decision was final to the appellant and each interested person submitting written testimony at the hearing. (Ord. 04-03 § 2 (part), 2004)

SOLDOTNA APPEALS PROCESS

17.10.430 Administrative appeals.

- A. Scope. This section governs all administrative appeals taken under this zoning code.
- B. Who May Appeal. Any persons with interests in real property which are affected by an action or determination made under this zoning code may appeal such action or determination.
- C. Period for Appeal. An administrative appeal taken to a higher agency must be filed within 14 days of the action or determination being appealed.
- D. Application. An application for administrative appeal shall be filed with the Administrative Officer, shall be in writing, and shall contain, but not be limited to, the following information:
 - 1) Name and address of the applicant;
 - 2) A description of the action of determination from which appeal is sought; and
 - 3) The reason for the appeal, which must include a description of the harm which the appellant will suffer. The Administrative Officer shall immediately transmit a copy of the application for appeal to the City Clerk.
- E. Stay of Enforcement. An appeal stays enforcement proceedings unless the Board of Adjustment or a court issues an enforcement order based on a certificate of imminent peril to life or property made by the Administrative Officer.
- F. Body to Hear Appeals.
 - 1) Appeals from an action or determination of the Administrative Officer are heard by the Commission.
 - 2) Appeals from an action or determination of the Commission are heard by the City Council serving as the Board of Adjustment.
 - 3) Appeals from a decision, action or determination of the Board of Adjustment shall be taken directly to the Superior Court of the State of Alaska.
- G. Procedures. All administrative appeals made under this zoning code shall be governed as follows:
 - 1) All appeals shall be decided following an appeal hearing by the governing body with whom the appeal has been filed and within 45 days after the filing.
 - 2) The appellant, all parties who have participated in the decision, and adjacent property owners shall be notified of the appeal hearing as provided in Section 17.10.430 of this zoning code.
 - 3) All persons taking part in the appeal may be represented by such persons as they desire, may produce additional new evidence as necessary, and may dispute evidence introduced by any party.
 - 4) An electronic recording shall be kept of the entire proceedings and shall be reduced to written minutes. The electronic records shall be preserved for one year unless required for further appeals.
 - 5) All decisions shall be in writing and shall be based solely upon the record before the governing body hearing the appeal and shall make reference to evidence contained in the officially adopted minutes and decision of the agency from which the appeal was taken.
 - 6) The governing body deciding an appeal shall adopt as part of its decision an official statement of findings and reasons supporting its decision. This statement shall refer to specific evidence in the record and to the controlling sections of this zoning code. Upon express vote, the governing body may adopt, as its statement of findings and reasons,

SOLDOTNA APPEALS PROCESS

those findings and reasons officially adopted by the governing body below from which the appeal was taken.

- 7) Copies of the governing body's decision and official statement shall be promptly mailed to all parties participating in the appeal hearing.
- 8) Any party participating in an administrative appeal proceeding shall have 30 days from the date of the final decision of the Board of Adjustment to appeal that decision to the Superior Court. Any decision not appealed within that period shall become final. No appeal shall be taken to the Superior Court unless and until the appellant has exhausted his or her administrative remedies.
- 9) The city council, in accordance with the provisions of this zoning code, may or may not adopt the amendment as a city ordinance. (Ord. 752 § 2, 2001; Ord. 692 § 1, 1999)