PLANNING & ZONING COMMISSION
CITY OF PALMER, ALASKA

REGULAR MEETING
THURSDAY, JULY 18, 2013
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 Chairman Madar and Commissioners Prosser, Kircher, Lucas, and Kerslake. Commissioner Campbell's absence was excused. Also present were Sandra Garley, Community Development Director, Kimberly McClure, Planning and Code Compliance Technician, and Pam Whitehead, Recording Secretary.

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

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

Commissioner Madar moved, seconded by **Commissioner Kerslake**, to postpone until the October 17, 2013 meeting, any action on item G(2) Resolution 13-009, approving a Conditional Use Permit for a Charter School, for the reason that City Council must first approve the rezoning request to R-1E before any discussion or action on a conditional use permit for a charter school can take place; additionally, it would be premature to have what could be considerable discussion and debate as to what conditions would have to be applied for the conditional use to be allowed until after the Council has acted.

VOTE ON MOTION: Carried Unanimously.

E. MINUTES OF PREVIOUS MEETING(S):

The minutes of the June 20, 2013 Regular Meeting were approved as presented.

F. PERSONS TO BE HEARD: None.

G. PUBLIC HEARINGS:

1. **Resolution 13-008**: A Resolution of the Palmer Planning and Zoning Commission Recommending City Council Approve a Zoning Map Amendment for Tax Parcel C10, Located in Section 5, Township 17 North, Range 2 East, Seward Meridian, Alaska, From R-1 Single-family Residential to R-1E Single-family Residential Estate (IM 13-021).

Commissioner Kircher moved, seconded by **Commissioner Kerslake**, to

recommend approval of the requested zoning map amendment, as stated, for Tax Parcel C10, S5, T17N, R2E, S.M., from R-1 to R-1E.
Ms. Garley gave a staff report. The applicant is Ross Walther of BRS Investments, LLC. All notice and publishing requirements per the code have been met. To date, six written comments were received, five opposed, one no objection. This parcel was annexed into the City prior to the creation of the T-Transitional district and therefore automatically zoned R-1 upon annexation. There is an 8-plex structure on the parcel which has been used as multi-family housing since it was built in 1980 and continues to be used for this purpose as a legal nonconforming use. The owners request the zoning be amended to facilitate the process of obtaining a conditional use permit to allow for a possible future charter school to be located on the parcel. The parcel size is five acres. The parcels to the north are zoned R-1E which makes it contiguous to R-1E zoning, to the south is Agricultural, and to the east and west is R-1.

A zoning change pursuant to PMC 17.80.063.C requires the Commission to consider what effect the proposed change would have on public health, safety, welfare and convenience, and to show whether:

Fact 1)
The proposed change is in accordance with the borough and city comprehensive plans:
Applicant's response: This request is in accordance with the borough and city comprehensive plans since it would open up the ability to develop the property into something more esthetically pleasing and harmonious to the neighborhood. The proposed amendment would already match that of the properties connected to the north side of my property currently zoned to R-1E.
Staff finds the following facts support this finding: The 2006 Palmer Comprehensive Plan Objective E listed under Goal 4 of Chapter 6, Land Use, states: "Allow for neighborhood commercial uses." Even though a charter school is not a commercial use, it is very similar because it would provide a convenient service to the neighborhood. The proposed zone change to R-1E would allow the option of a charter school through a conditional use permit which is not a current available option in the R-1 district.

The proposed zone change for this 5-acre parcel is contiguous to existing R-1E, would continue to be compatible with surrounding zoning districts, and would allow a few additional options for use while maintaining the primary residential intent of the R-1E district. The surrounding neighborhoods in this outlying area could benefit by having a proposed school within walking distance of the neighborhoods.

Fact 2)
The proposed change is compatible with surrounding zoning districts and the established land use pattern:
Applicant's response: My lot is a 5-acre parcel that more than meets the criteria to be zoned R-1E. The four lots that are connected to the north end of my property are already zoned R-1E as well as all the parcels in the Hidden Range Phase 3 tract, so compatibility with established land use patterns should not be an issue.
Finding: The parcel's location is surrounded by a mix of Single-family Residential, Single-family Residential Estate and Agricultural uses. Adjacent to the north side of this parcel is Hidden Ranch Phase 3 subdivision which is zoned R-1E. In the R-1E, Single-

family Residential Estate district, the minimum lot area is 20,000 square feet. The Matanuska-Susitna Borough tax sheet reflects this parcel to be 5.00 acres, which exceeds the minimum requirement for the R-1E district.

Fact 3)
Public facilities such as schools, utilities and streets are adequate to support the proposed change:
Applicant's response: The property is located within a mile of downtown Palmer and already has more than adequate public facilities and utilities in place to support the proposed change. The property has accessible roads on two sides of its five-acre lot.
Finding: This parcel continues to be used and has been used for a multi-family dwelling since the structure was built in 1980. The proposed zone change to R-1E would not have an adverse impact on the schools, utilities, and streets since this parcel has been used for a multi-family dwelling unit since 1980.

Fact 4)
Changed conditions affecting the subject parcel or the surrounding neighborhood support the proposed change:
Applicant's response: There have not been any changes to the property or area in recent years.
Finding: There have been no recent changes to the subject parcel or surrounding neighborhood. The proposed rezone would update the annexation mandated R-1 zoning to reflect a more closely correct zoning designation for the continuing current use of this parcel for multi-family dwellings.

Fact 5)
The proposed change is consistent with the public welfare and does not grant a special privilege to the owner(s).
Applicant's response: We feel the proposed change is consistent with the public welfare since we intend through conditional use permits to develop the property in a collaborative way with the community by building a charter school that provides a valuable service to families with growing children in the surrounding area. At the same time we will provide a plan for improvements, beautification and efficient traffic direction in order to create harmonious co-existence with our neighbors. This proposed change does not grant special privilege to the owner since the connected lots as mentioned above are already zoned R-1E and would have the same privileges and opportunities to enhance their lots in similar ways.
Finding: The proposed zone change does not grant this parcel any special privilege as it is contiguous to an existing R-1E district. The proposed zone change would change the zoning to more closely reflect the 33 years of use of this parcel for multifamily dwellings with the option of applying for a conditional use permit for a charter school.

Based on the information provided by the applicant, staff finds the proposal to rezone Tax Parcel C10, Section 5, Township 17 North, Range 2 East, Seward Meridian, from R-1 to R-1E to be consistent with and substantially in conformance with the Palmer Comprehensive Plan and recommends approval. Resolution 13-008 currently before the Commission supports these findings.

Commissioner Madar opened the public hearing at 7:10 p.m.

Ross Walther, owner/applicant, spoke in support of the requested rezone; voiced frustration and doesn't appreciate the comment he just read by Mr. Hamming stating "sick of the poor management of this property." Since he became a partner in this property about three years ago, he personally has invested about $160,000 to upgrade this property; has a property manager to whom he pays 10 percent; currently there is a cash-flow negative of about $1,000 every two months and he has done all he can without just going in the tank. He has been trying to figure out how he can recover some of his investment and still do a service and have something that makes sense for the community. He is partners in another charter school at Lucille and Seldon and never once has he had a complaint from any of the neighbors about any traffic, any noise, any problems. Most charter schools have well-behaved kids. He has a site plan that has a playground and parking, two accesses in and out. He emphasized that he's not trying to do anything nasty or become rich or anything else, but he's getting frustrated to the point where he wants to hire a lawyer and say look, I've got this piece of property here, what can I do with it – just leave it because my neighbors don't want anything different in its place? He's just trying to do something good for the community. Charter schools are the way of the future. He's trying to build a nice building there with nice facilities around it which will hopefully let him upgrade his 8-plex to ideally turn it into admin or housing for bush kids for example. He's done everything he can to make it a better place. What else can he do to satisfy the concerns everyone has? Any input from anybody would be more than welcome, but he does plan to do something with that piece of property.

David Walker, next door neighbor on Helen Drive, spoke in opposition. His objections still stand as far as increased influx of people coming and going on the property. There is a manager but apparently he doesn't live on the property so he does not see what goes on there. He doesn't want to get into a personal conflict here, but he's continually had problems with the owner's manager. Just recently they had a run-in and had to have the cops come and deal with one of the residents of the property. He raised concerns with the proposal, pointing out that originally the applicant tried to get it rezoned so he could subdivide it and add to his property and because he couldn't do that, now he's trying to back-door-in a charter school, which would be fine if it were some place other than right next door to him. He voiced concerns about keeping the existing residential building there with the same residents and building an additional school on the property which would increase utilities, septic, water, gas, plus there is not enough room down one side of the driveway to make it safe for the multitude of people running in and out of there. It gets worse and worse; every time he gets shot down, he comes up with a new proposal that is no better than the one before it. Originally, he tried to get it subdivided and turned commercial so he could sell it. That didn't work so now he's come up with the charter school idea. That didn't work so now he's got a full proposal drawn up. He's been there since 1982. The property has been a problem ever since it was converted into an apartment complex.

William Walker, owner of adjoining property, brother of David Walker, spoke in opposition. The building started out as a single family home; then one apartment was

added, then three more, now eight, and with the front unit that makes nine. Now they want to turn it into a proposed school. Somebody made a bad investment and is now trying to take it out on the neighbors. When he moved in, the property was un-zoned by the state and we were allowed to do anything we wanted. He had intended on having a business there himself and is totally in favor of commercial through that area. A lot of the neighbors are businessmen and they have businesses but none are trying to put 20 or 40 more cars on one little piece of property, or to drive 40 or 50 more kids in there to say I've got a school in there and can make more money. He doesn't believe the applicant's intent regarding the school and most of the neighbors feel the same way – they don't want it.

Janette Bower, resident on Helen Drive further down the street, and Palmer City Clerk. She is not a neighbor but drives by this property every day. A couple of things come to mind with this proposal of an R-1E. First, 8-plexes are not allowed in an R-1E, so what would happen to it if the rezone passes? By way of history, she believes in 2003 there was a water and road upgrade and an LID, which required curb, gutter, and sidewalks. The property owners petitioned the Council to not have that because of the agricultural nature of Helen Drive. Nor is there a sewer system. Septic is a big issue on that property as well as all the properties along there. Her concern is sidewalks for the kids – there are none, and the residents on Helen Drive do not want them. There is Agricultural directly across the street causing concern from those property owners as well, including water runoff from the subject property. There are huge frost heaves on Helen Drive in the winter. The residents deal with it, but it may be a problem for buses or other vehicles to and from a charter school. She personally likes and does not oppose charter schools, but questions whether one would be well-suited here. Also, there were other uses spoken about here tonight that would be prohibited in an R-1E district.

Mr. Walther emphasized and wanted to make clear that from his first time here, he has never wavered from his original intent of a charter school on this property. In response to some of the comments regarding more of a developed plan, he informed the Commission that John Shadrach is his surveyor and Gary Wolf is his architect and they both have been involved in this project from the beginning. He's not some fly-by-night guy who wants to put in some cheesy little building. He wants it safe and it will be paved.

Dave Walker, rebutted that he also has been to all the meetings and the initial meeting had absolutely nothing to do with a charter school; the initial intent was to just subdivide the property so he could sell it commercially.

There being no others coming forward, the public hearing was closed at 7:30 p.m.

Prior to opening the matter for discussion, Chairman Madar emphasized that this is *not* about the charter school, which has been postponed. The only action before the commission tonight is the rezoning request from R-1 to R-1E.

Commissioner Kircher spoke in support of the rezoning request, quoting that R-1E is established to provide large lot residential estates comprising primarily single-family residences. The regulations are designed to protect and stabilize the characteristics of the

neighborhood and to encourage an environment compatible for family living, to prohibit all commercial activities except home occupations, and conditional uses which are allowed as defined. He believes the Commission would have difficulty not approving this rezone because of the other contiguous R-1E lots already established. In addition, there was no Transitional district at the time this property was annexed when everything came in as R-1. It should have been rezoned years ago to a designation other than R-1 and doing so now would allow the opportunity to correct this historical oversight. The property is currently R-1, legal nonconforming use. He pointed out that charter schools have to be built to a certain standard, so if one were to be built under an R-1E conditional use, the structure would have to meet current codes, especially with someone of Mr. Wolf's reputation designing it. It actually could enhance the property values of adjacent properties in that area. Lastly, he does not believe the current decision should be contingent upon historical problems on this property; that such problems should be resolved by other means.

Commissioner Kerslake also spoke in support, concurring fully with Commissioner Kircher's comments; that this property fits in with the neighboring R-1E properties and sees no reason why the property owner shouldn't have the right to change it. For the benefit of the applicant, he noted that it is unfortunate that the process has been so long and drawn out and now it will be into October, but a charter school will take a lot of planning. One of the advantages of the conditional use process is that the Commission will be able to help make determinations as to the design, to some extent at least, so it doesn't end up impacting the neighborhoods. He has some concerns, like septic, but someone will have to come up with a feasible design as to how it will all work. Under the process, no matter what the 8-plex structure becomes, it will have to be addressed in some manner.

Commissioner Prosser also commented in support of the R-1E designation. Most of the comments over the last three or four months have dealt with traffic and the 8-plex. If the 8-plex is a legal nonconforming use that city charter allows, he agrees it is an issue that has to keep on getting addressed.

Commissioner Lucas spoke in support of the R-1E. It's a 5-acre lot, contiguous with other R-1E, has absolutely no objection. As for the conditional use permit for a proposed school, all of those conditions would have to be addressed under that application.

Chairman Madar also spoke in favor with the requested change being suitable to an R-1E district and reminded the Commissioners that the conditional use permit is not before the Commission tonight and should not be addressed at this time.

VOTE ON MOTION [zoning map amendment, R-1 to R-1E]: **Carried Unanimously.**

2. **Resolution 13-009**: A Resolution of the Palmer Planning and Zoning Commission Approving a Conditional Use Permit for a Charter School to be Developed on a Lot Located in the R-1E Single-family Residential Estate Zoning District (pending) at 12251 East Helen Drive on Tax Parcel C10, in Section 5, Township 17 North, Range 2 East, Seward Meridian, Alaska (IM 13-022). [**Postponed** to October 17, 2013 meeting]

H. UNFINISHED BUSINESS: None.

I. NEW BUSINESS:

1. Review of Open Meetings Act with Janette Bower, City Clerk.

Ms. Bower distributed a handout and discussed meeting rules and procedures outlined in Palmer Municipal Code as it applies to the Planning and Zoning Commission. The discussion included the Agenda, Committee of the Whole, Open Meetings Act, and Parliamentary Procedures. In addition, she briefly reviewed a draft ordinance (13-0XX) (primarily housekeeping updates for readability) on Chapter 2.20, Planning and Zoning Commission; that after the Commission has had time to digest the content, now would be the time to let her know if there are any proposed changes, before moving it forward to City Council.

Brief discussion and questions ensued.

2. Review and discuss Ordinance 13-003 Amending Palmer Municipal Code Chapter 3.28 Capital Projects Fund, to Include Language Concerning the Capital Project Development Process, as requested by City Council.

Ms. Garley gave a staff report explaining the reasons behind the proposed ordinance. Years ago the council approved a capital development process (AM 10-030). PMC 3.28, Capital Projects Fund, addresses the capital fund and contains a small section on legislative priorities. AM 10-030 and PMC 3.28 are closely related, however, AM 10-030 is often overlooked because it is not in the code. Ordinance 13-003 brings both together and amends the chapter, among other things, to include 3.28.045 Project development process (see packet, p. 66).

Discussion ensued primarily on the timing as to when the commission should receive the project list for its evaluations to be meaningful to the council before making its final decisions, and also whether the timing of such review should be included in the code as a step in the process. Commissioner Kircher pointed out that the Commission a number of years ago spent a lot of time developing a project evaluation matrix. It never got implemented because the project list was received too late for the evaluations to be of value.

Commissioner Kircher moved, seconded by **Commissioner Kerslake**, that the Planning and Zoning Commission be included early in the project development process right after the Project Fair public project presentation.

Commissioner Kircher spoke in support of implementing the evaluation matrix and do it in one meeting, pointing out that the commissioners are usually in attendance at the project fair and have already formed opinions as to which projects were favored. Commissioner Kerslake concurred, noting the earlier the better, as did the other commissioners.

VOTE ON MOTION: Carried Unanimously.

3. Review and discuss language in Palmer Municipal Code Chapter 17.76 Variances for possible revision.

Ms. Garley gave a staff report, explaining the city is moving forward with the variance setback exception and directed attention to the draft language at p. 79 of the packet. The commission is to review and suggest revisions.

Commissioner Kircher moved, seconded by **Commissioner Kerslake,** to move into Committee of the Whole, to discuss revisions to proposed Chapter 17.76.

[The Commission entered Committee of the Whole at 8:25 p.m. and exited at 8:35 p.m.]

Commissioner Kerslake moved, seconded by **Commissioner Kircher**, to remove 17.76.030, Cases where variance is illegal, except for the last sentence, which shall be inserted as paragraph F to 17.76.020, stating: That the granting of the variance will not permit a land use in a district in which that use is prohibited.

VOTE ON MOTION: Carried Unanimously.

4. Review Parking Alternatives and Options in Residential Areas as requested by City Council.

Ms. Garley gave a staff report explaining that the City Council has asked that by September, the Commission come up with some recommendations on how to deal with various neighborhoods in Palmer where in the older subdivisions, either because of the width of the right-of-way and the street or because of the density of the housing on the smaller lots, the two parking spaces per residential unit do not handle the traffic and have become a safety issue as well as an annoyance to people living in the neighborhood and people who are traveling through the neighborhood.

Ms. McClure has looked into what other communities are doing to deal with this issue. A "Residential Parking Alternatives and Options Workbook" has been provided for the Commission's review in the next month for use in developing recommendations. Staff expects to have some representative photos depicting the congestion on some of the streets at the next meeting.

Brief discussion ensued; the Commission was asked to prepare ideas for the next meeting on how to help these neighborhoods find some peace.

J. PLAT REVIEWS:

1. **IM 13-023** Vacate any roadway rights that may lie within the NE1/4 SW1/4, Section 9, Township 17 North, Range 2 East, Seward Meridian.

The request is to vacate any roadway rights that may lie within the above-cited parcel.

On February 12, 2013 the Platting Board approved Mountain Ranch Estates 4 Master Plan, a subdivision of this parcel. This vacation will clear up any remaining pieces of the U.S. Dept. of Commerce Bureau of Public Roads Route 5661 and any other rights that may exist outside of Crowther Road which is being dedicated with this plat.

Commissioner Kerslake commented that he thinks the Borough is doing a disservice to the residents on Caulkins by turning their driveway into a main artery into the neighborhood without requiring the developer to at least put down some kind of hard surface to cut down on the dust.

Commissioner Kircher commented where are the sidewalks and/or paths for the kids to move from one place to another without having to go onto the roads. Also there appears to be no space for playgrounds. The five cul-de-sacs will end up being playgrounds.

Commissioner Prosser commented that they should think about upgrading Caulkins and voiced concern about the stub-outs that don't go anywhere.

K. PUBLIC COMMENTS: None.

L. STAFF REPORT:

1. Minutes of June 18, 2013 Special Joint Meeting with City Council.

Ms. Garley reported on the work she will be doing with the Committee that is trying to get formed to make improvements to the Arboretum. In the next couple of weeks she will be meeting with Sig Restad here at City Hall, along with Ms. Whitehead who will record an oral history of the Arboretum and Mr. Restad's work with the Agricultural Research Center and the Grange. The resulting document will be used to inform and perhaps draw interest and funding to maintain and improve the Arboretum and the area surrounding it.

M. COMMISSIONER COMMENTS:

Commissioner Prosser:

- thanked his sponsor for the meeting reminders;
- advised of the possibility that he may be moving outside city limits if the offer he has made on a home is accepted.

Commissioner Kerslake:

- commented that he thought it was a good discussion tonight;
- informed that the Commission member information on the city's website should be updated.

Commissioner Lucas:

- inquired regarding the Arboretum project, whether anyone has brought up the idea of using the area on the approach to the runway as a community garden;

- applauded Ms. Garley's efforts on the project.

Commissioner Kircher:

- informed that he is a member of the Master Gardeners Club and suggested having someone come to do a presentation; said they would probably get on board pretty readily and may be able to contribute financially for beautification; noted there are other Master Gardeners Clubs that give out $500.00 grants;
- commented that he thought the Commission was fairly productive tonight.

N. ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:00 p.m.

Michael W. Madar, Chairman

Kimberly A. McClure
Planning and Code Compliance Technician