

**PLANNING & ZONING COMMISSION
CITY OF PALMER, ALASKA**

**REGULAR MEETING
THURSDAY, OCTOBER 15, 2015
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 Kerslake on October 15, 2015 at 7:00 p.m.
- B. ROLL CALL:
Present and constituting a quorum were Commissioners:
 William Kerslake, Sr., Chairman
 Michael Kircher, Vice Chairman
 Dan Lucas
 David Petty
 Merry Maxwell
Excused absence(s):
 Douglas Cruthers
Also present were:
 Sandra S. Garley, Community Development
 Kimberly A. McClure, Planning and Code Compliance Technician
 Pam Whitehead, Recording Secretary
- C. PLEDGE OF ALLEGIANCE: The Pledge was led by Commissioner Petty.
- D. APPROVAL OF AGENDA: The agenda was approved as presented.
- E. MINUTES OF PREVIOUS MEETING:
The minutes of the September 17, 2015 Regular Meeting were approved as presented.
- F. PERSONS TO BE HEARD:
There were no members of the audience wishing to speak on a topic not on the agenda.
- G. PUBLIC HEARING(S):
1. **Resolution No. 15-009:** A Resolution of the Palmer Planning and Zoning Commission Denying a Variance Request for Exception to PMC 17.20.020(F) to Permit Applicants to Live in an RV on Their Property Zoned R-1, Single-family Residential on Lot 1, Fairside Estates, located at 12301 E. Helen Drive, Palmer.

Staff Report: Ms. Garley reported background and site information, including surrounding land use, noting the request is for a variance to permit the applicants to live in their RV on subject property which they own. The code specifically states at PMC 17.20.020(F) that motor homes cannot be used or occupied as living quarters in an R-1 district. All notice and publishing requirements pursuant to code have been met. A

total of four comments have been received, one in favor of granting the variance and three in opposition. A full written report is contained in the packet [pages 13-39], including the Applicant's responses.

In order to grant a variance, the Commission must find that each of the following code requirements has been met. Ms. Garley reported the following staff findings in response to the variance application for the commission's review and consideration:

PMC 17.76.020:

- A.** That there are unusual circumstances applying to the property that do not apply generally to other properties in the same vicinity and that the problem of the applicant is not the result of his own action.

Staff Findings:

There are no unusual circumstances applying to this property that do not apply generally to other properties in the same vicinity.

- 1) The parcel was part of a large annexation by the City in 2003 and upon annexation, this property and surrounding properties were zoned R-1, Single-family residential.
- 2) The owner(s) enjoys the same right to a single family dwelling unit as other properties in the R-1 district which contain existing single family dwelling units.
- 3) The lot exceeds the minimum lot width and lot area required for the R-1 district which provides adequate space for a single family dwelling in compliance with the Palmer Municipal Code.

- B.** That strict interpretation of this title would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the terms of this title.

Staff Findings:

- 1) Living in an RV is prohibited in the R-1 district; therefore the variance would grant a land use that is not commonly enjoyed by other properties in the same district.
- 2) At the time of annexation, staff noted the property contained a mobile home.
- 3) According to information from the Matanuska Borough Assessment Records Department, the mobile home was removed from the Borough's assessment records in January of this year.
- 4) The applicants purchased the property on May 29, 2015.
- 5) Photos from a site visit on August 18, 2015 show a motor home and greenhouse on the property.

- C.** That the authorization of the variance will not be injurious to nearby property nor harmful to the public welfare.

Staff Findings:

- 1) Authorization of the land use variance would be harmful to the public welfare by permitting a land use in a district in which that land use is prohibited in violation of PMC 17.76.020(F).

- D. That the granting of the variance will be in harmony with the objectives of this title and the comprehensive plans.

Staff Findings:

- 1) The intent of the R-1 district is to establish a district in which the principal use of land is for single-family dwellings and to encourage construction of and use of the land for single-family dwellings.
- 2) The City of Palmer has guided land use through use of a zoning code since the City was incorporated in 1951. In regards to planning and zoning land use policies, Goal 10 of Chapter 6 of the Comprehensive Plan states: "Palmer residents have some certainty that structures within the city limits were built to code. Their neighborhoods are also protected from the intrusion of incompatible uses because Palmer has enforced local zoning for many years. These conditions have not always been considered to be assets in the Mat-Su Borough. However, increasing densities and land use conflicts in the "Core" area are changing attitudes toward land use regulation. Increasingly, Borough residents are recognizing that reasonable planning and zoning policies help ensure the quality of neighborhoods, and maintain and increase property values."
- 3) There are several nonconforming properties, including the hangar and airstrip that were all there when the properties were annexed into the City. The City's recognition of these nonconforming properties upon annexation would not be the same as the action of granting a variance which is prohibited under PMC 17.76.020(F).

- E. That the application is due to unusual lot shape, topographic condition, or governmental action or regulations which render the property unusable.

Staff Findings:

- 1) Lot 1, Fairside Estates, is a standard rectangular shaped subdivision lot; there is no topographic condition or governmental regulations which render the property unusable for single family residential construction.
- 2) The lot is 164.34 feet wide by 243.40 feet deep with 25 foot setbacks on the front yard and rear yard, and 10 foot side yard setbacks resulting in a buildable area 193.40 feet by 144.34 feet totaling 27,915.36 square feet. There is sufficient room on this lot for placement of a single family residential structure in compliance with all setback requirements.
- 3) Governmental action does not render the property unusable as the property has been sold and purchased several times since the creation of the lot in 1984.

- F. That the granting of the variance will not permit a land use in a district in which that use is prohibited.

Staff Findings:

- 1) The granting of this variance would permit a land use in a district in which that use is prohibited. Any use not permitted in a district is a prohibited use. Occupying a motor home as living quarters is a prohibited use in the R-1 district.

Based on these findings, staff recommended that the variance not be granted and if the Commission concurs, following public hearing testimony and review, additionally recommended adoption of the stated findings of fact.

Applicant Bob McCarthy spoke in favor of granting the requested variance, noting he has lived in Alaska for 50 years. He emphasized the “temporary” nature of living in their motorhome on property they purchased to live closer to his mother. They are snowbirds and will be leaving in a month and come back in the spring when the work picks up again. He is a journeyman lineman; they move and live in their motorhome by where the work is. They want to do the right thing, but he doesn't think they are hurting anything. In fact, they have worked to improve the property a lot by just clearing away junk. The property is not a dump, has a fence around it, and not in the core of the city. They have done everything they thought was correct and were shocked when told they were in violation by using their RV as living quarters. He wanted to know what he needs to do.

Mr. McCarthy responded to commissioner questions. At this time, he has no plans to build a permanent structure on the property; perhaps next year but he could not be definite. Until that time, they are in and out of their motorhome. He goes where the work is.

Public Hearing [Resolution 15-009]:

Chairman Kerslake opened the public hearing at 7:18 p.m.

Gale Barnett, adjacent property owner for 13 years, Lot 3 to the north of subject property, testified in full support of the McCarthys' request. The improvements they have made on Lot 1 is amazingly wonderful compared to what it was before because it was a derelict mobile home that was falling in on itself. When they moved it out, the neighborhood cheered. The McCarthys hauled away a tremendous amount of debris and continue to keep it well maintained. They have a driveway with lots of surrounding trees and well-maintained vegetation. They have water, power, a septic system; it's not like they are camping on the side of the road.

Darrin Hamming, neighbor across the street, spoke in opposition to the requested variance, noting he agrees with staff findings that none of the requirements of the code have been met. He reminded the Commission that a variance runs with the land, not with the people. It doesn't matter what the intent is or improvements that have been made. He quoted 17.76.030, cases where a variance is illegal. “In accordance with state law, no variance shall be granted because of conditions caused by actions of the applicant or for reasons of financial hardship or inconvenience, nor shall a variance be granted which will permit a land use in a district in which that use is prohibited.” Mr. Hamming opined that it would be in violation of state law if the variance were to be granted.

There being no others coming forward to testify, Chairman Kerslake closed the public

hearing at 7:24 p.m. and brought the matter back before the Commission.

Commissioner Kircher moved, seconded by **Commissioner Petty**, recommending adoption of **Resolution 15-009**, denying the requested variance and accepting the Findings of Fact as presented by staff.

The matter was opened for discussion. Commissioner Kircher expressed sympathy for the applicants dilemma, but further explained the city's code is explicit that the variance being requested is prohibited. A variance is actually permission to violate the code and can only be used when there is no other possible reasonable use of the land. This is not the case here. Commissioner Petty spoke in agreement.

ROLL VOTE ON MOTION: PASSED UNANIMOUSLY.

[Kircher – Yes; Petty – Yes; Lucas – Yes; Maxwell – Yes; Kerslake – Yes]

Director Garley explained the appeal process to the applicant and audience.

H. UNFINISHED BUSINESS:

There was no Unfinished Business.

I. NEW BUSINESS:

1. Presentation by Jessica Smith, Transportation Planner, Matanuska-Susitna Borough.

Jessica Smith, new MSB Transportation Planner, with the assistance of her supervisor, **Lauren Driscoll**, spoke to the Commission regarding transportation planning in the Borough. Ms. Smith talked about her background as a civil engineer specializing in transportation systems and later in planning. She spoke to the growing population in the Valley causing challenges to the transportation system citing less funding and emphasizing a greater need to collaborate and communicate with transportation system decision-makers and stakeholders. They are working on projects at the Borough to help solve some of the challenges. She defined an MPO (Metropolitan Planning Organization) as a federally mandated and federally funded transportation policy-making organization made up of representatives from local government and governmental transportation authorities, and described an MPO Self-Assessment for the core area of the Borough. MPO components include a Long-Range Transportation Plan (which the Borough already has and which is currently being updated) and a Financial Plan. They are looking to establish a formal relationship or partnership between DOT, Cities, and the Borough to collaborate from the very beginning on mega-transportation projects, including ways to keep everyone involved throughout the whole process for an end product that benefits everybody. The Borough expects to complete the update on the LRTP in April or May of 2016. The City should be expecting invites for future discussions and collaboration on what we want our road systems to look like moving forward.

Commissioner questions and further discussion ensued primarily concerning the Long Range Transportation Plan.

2. 2015 Annual Conditional Use Permit Review.

Ms. Garley reported and directed attention to written report in the packet (pages 45-84) of the City's Active Conditional Use Permits as of October 15, 2015. All except one are in compliance. The one found not in compliance was the Borough Green House/Tree Nursery on Auklet Avenue, however Ms. McClure reported that upon her last inspection, the Borough was taking steps to address any deficiency to maintain compliance.

3. Discussion of PMC Title 14 Signs, Signs Related to Electronic Changeable Copy Signs.

Ms. Garley reported at the last meeting a comment was made about an electronic changeable copy sign. The first such sign has appeared in Palmer, prompting research of the code to determine if it is allowed. See packet (pages 85-95) for portions of PMC 14.04 Sign definitions and signs permitted in commercial and public use districts.

David Meneses, City Building Inspector, addressed the Commission instructing that changeable copy signs are allowed in all commercial and industrial districts, including automatic changeable copy signs. He drove by the sign commented on and stated that it is an allowable sign per code. He also discussed signs that would have to be addressed if they were to become too distracting or a safety hazard to drivers.

Questions and further discussion ensued. Ms. Garley provided in the packet examples for the Commission's review of what other cities do to deal with or regulate changeable copy signs. In response to inquiry by Chairman Kerlake, Mr. Meneses informed regarding legal nonconforming signs upon annexation. Ms. Garley asked the Commission to let her know if they wished to pursue this topic further.

J. PLAT REVIEWS:

1. **IM 15-023:** Pre-application review: The request is to divide Lot 1-A, Block 1, ARRC #1 between existing structures to create two lots, located inside Palmer city limits.

Ms. Garley directed attention to comments in the packet (p. 101) by the Building Inspector that all applicable Life Safety Codes will apply, by Public Works that separate sides of the building must have separate water and sewer connections, and by Community Development in support of these comments especially those focusing on exits and fire walls.

Commissioner Lucas questioned ownership of the property and asked for follow-up, noting different names stated as Petitioner and Owner on the Pre-Application. Ms. Garley stated she would follow up.

Upon inquiry by Commissioner Kircher, Building Inspector Meneses informed that subject building has been added onto and remodeled about three times and that there is probably very little left of the original building.

2. **IM 15-024:** Pre-application review: The request is to divide Tract A-1, Cedar Hills #2 Ph. I into 3 new tracts, located inside Palmer city limits.

Ms. Garley directed attention to the packet (page 117) vicinity map showing the location in Cedar Hills and reported City Department comments regarding this request.

Commissioner Kircher inquired if there will be requirements for sidewalks and playgrounds. Ms. Garley noted it will require development of sidewalks, as it is a future subdivision wholly within the city of Palmer and will have to meet city street, curb, gutter, and sidewalk standards at the time of development. She further discussed requirements relating to neighborhood parks.

K. PUBLIC COMMENTS: There were no comments from the public.

L. STAFF REPORT:
Director Garley had no additional staff report.

M. COMMISSIONER COMMENTS:

Commissioner Lucas pointed out that he noticed the photos of the two towers (packet pages 62 and 67) in the Conditional Use Permits are of the same tower; the one on page 62 should actually be of the tower located about ¼ mile to southwest from the one shown in the picture. Ms. Garley appreciated the comment and noted she will see that the correction is made.

Commissioners Maxwell, Petty, Kircher, and Chairman Kerslake had no additional comments.

N. ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:25 p.m.

William Kerslake, Sr., Chairman

Kimberly A. McClure
Planning and Code Compliance Technician