PLANNING & ZONING COMMISSION
CITY OF PALMER, ALASKA

REGULAR MEETING
THURSDAY, December 19, 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 Kircher, Lucas, and Kerslake. 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 presented.

E. MINUTES OF PREVIOUS MEETING(S):

The minutes of the November 21, 2013 Regular Meeting were approved as presented.

F. PERSONS TO BE HEARD: None.

G. PUBLIC HEARING:

1. **Resolution 13-013:** A Resolution of the Palmer Planning and Zoning Commission Approving a Conditional Use Permit for the Continued Reclamation of the Property Through the Operation of the Exiting Inert Waste Mono-fill Located in the I-Industrial District with Special Limitations on Tax Parcel D8, in Section 8, Township 17 North, Range 2 East, Seward Meridian at 550 E. Rebarchek Avenue, Palmer, Alaska.

Commissioner Kerslake moved, seconded by **Commissioner Lucas**, to approve the request for a conditional use permit.

Ms. Garley gave a staff report and summary background information. The Rebarchek gravel pit was used for gravel extraction from 1963 to 2002. The property was annexed into Palmer city limits in 2003 and was automatically zoned R-1 becoming a legal nonconforming use. On February 24, 2004, this parcel was rezoned to I-Industrial with special limitations and a conditional use permit was issued on March 5, 2004 for a period of 10 years for the operation of an inert waste mono-fill. According to the applicant, reclamation activities have slowed due to the reduction in federal spending and the

economic downturn causing this reclamation process to take longer than originally anticipated. Thirty-five percent of the excavated portion of the gravel pit has been reclaimed, however, the project is incomplete and there still exists a large unusable pit, along with the zoning designation of I-Industrial with Special Limitations will expire on February 24, 2014.

Pursuant to code, in order for the Commission to approve a conditional use permit, it must make findings to assure that the following standards are met. Staff proposed the following Findings for the Commission's consideration:

Fact 1) The conditional use will preserve the value, spirit, character and integrity of the surrounding area:

Finding: This parcel is contiguous with residential neighborhoods on the east and south side and the fairgrounds on the north and west side of the property. Even though 35% of the original excavated portion of the pit has been restored, there still remains a large open pit, which is not compatible with the residential neighborhoods or the fairgrounds. The conditional use permit will allow the completion of the reclamation process for the pit transforming it into a more usable and safe parcel of land for the benefit of the surrounding area. Once the pit has been filled in and restored to an elevation matching the surrounding grade, it will be more compatible with the surrounding land and neighborhoods.

Fact 2) The conditional use fulfills all other requirements of Title 17.72 pertaining to the conditional use in question:

Finding: The conditional use permit issued in 2004 contained specific conditions and requirements that were met by the applicant and continues to be in compliance with those listed conditions. The listed conditions imposed in 2004 fulfill the other requirements of Title 17.72 by addressing the concerns of access points to the property, screening and landscaping, maintaining the property in keeping with surrounding area and safeguards designed to ensure compatibility with surrounding uses, among other requirements.

Fact 3) Granting the conditional use permit will not be harmful to the public health, safety, convenience and comfort of the neighborhood.

Finding: Any issues with public health and safety can continue to be addressed through the 27 listed conditions and requirements in the 2004 conditional use permit in addition to the following 8 Best Management Practices submitted by the applicant, Alaska Demolition, which are as follows:

1) All disposals of exempt or Construction Demolition materials (C & D) in the Mono-fill area require written authorization to dispose by Management Site Representative (MSR).
2) Mono-fill shall be gated and locked when not in operation or when not supervised by MSR. All visitors to the Site must check in with MSR prior to disposal of any materials.

3) All C & D disposal loads entering the site must be secured and covered with a tarp or other containment and the loads manifested by MSR.
4) All C & D loads are placed into separate earthen cells contained by gravel backfills on the bottom of the cell and all four sides and then covered by not less than one foot of backfill.
5) All cells are capped and covered not less than weekly. Cells to be covered daily if wind or other conditions require.
6) Supervisory labor to be present on all operating days and Mono-fill area to be inspected daily for compliance.
7) Surrounding earthen berm and drainage ditches are inspected not less than weekly or more seasonally, as required to ensure correct conditions.
8) Annual topographic survey of the site to be conducted by Alaska Demolition and cubic volume or site disposal calculated by registered licensed surveyor quantifying disposal fills and gravel extractions if any during the annual period preceding the date of survey.

The listed conditions in the 2004 conditional use permit in conjunction with the above Best Management Practices are designed to ensure and support the public health, safety, convenience and comfort of the neighborhood. Any additional safeguards or best management practices not currently addressed can be added to the conditional use permit, if granted. Granting the conditional use permit for an additional 10-year period will allow completion of the reclamation process for this parcel of land to remove a large attractive nuisance for the safety and comfort of the surrounding neighborhoods.

Fact 4) Sufficient setbacks, lot area, butters, or other safeguards are being provided to meet the conditions.

Finding: According to PMC, Title 17, Zoning, the setbacks for all buildings and structures in the I-Industrial district are 25' from any public right-of-way and from any lot line adjoining a residential district. The 2004 conditional use permit requires a 50' setback from all property boundaries in which no excavation of material shall occur; and natural buffers of 25' on the east, west and north, and 50' on the southern boundary.

Fact 5) If the permit is for a public use or structure, is the proposed use or structure located in a manner which will maximize public benefits.

Finding: The requested conditional use permit is not for a public use or structure as the property is under the private ownership of Alaska Demolition, LLC.

Based upon its review, Community Development recommends approval of the Conditional Use Permit to allow the continuance of the reclamation process of the property through the operation of an inert waste mono-fill and incidental activities that are necessary to reclaim the property for an additional 10-year period to include the 27 conditions listed in the 2004 conditional use permit, the 8 Best Management Practices above-listed, and staff recommends the following additional 2 conditions:

1) The conditional use permit shall terminate no later than 10 years after the effective date of Ordinance No. 14-001-Z-1;

2) There shall be a mandatory review by the Planning and Zoning Commission of the CUP five (5) years after the effective date.

Any changes, alterations or deletions of the intended uses, must receive prior approval of the Planning and Zoning Commission.

(See packet pp 16-21 for full staff report and itemization of proposed conditions)

Chairman Madar opened the public hearing at 7:15 p.m.

Steve Agni, representative of Applicant, **Alaska Demolition, LLC,** spoke in support of the request to continue the conditional use which it is their intention to complete. The staff report is extensive and gives the detailed findings of why they meet the legal requirements of a CUP. Also presenting will be **Matthew White**, professional engineer and environmental hygienist, who will be able to answer any technical questions that may arise during discussion. The applicant has operated a mono-fill that includes both construction demolition inert waste that is regulated and exempt waste that is not regulated. The void or hole that they are refilling to reclaim this land is approximately two-thirds of the exempt waste and one-third of the regulated materials. Alaska Demolition is inspected annually by the DEC and has a good record of compliance pursuant to their inspections. Best Management Practices have been added to the conditional use which are the business rules and operations by the applicant which it has followed and will continue to follow. In his report that accompanies the application, he has recommended "acceleration options" that they intend to work with community development staff to increase the pace to finish the project. He pointed out that they have been a good neighbor of the Alaska State Fair and they are committed to reclaiming this land hopefully for the Fair's purchase and use. They employ members of this community and they make the facility available to residents of Palmer for the disposal of their yard waste. They look forward to continuing to work with staff in completing the job they set out to do 10 years ago.

Matthew White, Professional Engineer and Certified Industrial Hygienist, testified that a lot of his work involves inspecting project sites and facilities for hazards, including hazardous gases. He spoke about gases that can evolve during the decomposition of C&D waste, which are primarily water vapor, carbon dioxide, methane, and sulfide compounds—predominately hydrogen sulfide and sulfur dioxide. In looking at the topography of this landfill, it has berms all the way around it, is generally sloped, and there are two pits in excess of 50 feet deep, so any of the gases that evolve there should remain within the confines of the site.

Matthew Beck, speaking for himself who lives about a half-mile from the mono-fill site, and as a member of the MSB Assembly speaking on behalf of his constituents in the area, believes that Alaska Demolition has been a good neighbor and has met the terms of its parameters as described, but he would like to encourage them with the terms of the permit to do a better job of communicating with the neighbors about how they conduct their testing and informing when the tests are to take place and the results. He voiced concerns of some of the neighbors about the berm built up across from their houses destroying the view of the surrounding area and allowing weeds to grow on it. There are also sulfur smells, more particularly, Majestic Hills, where every resident in the

neighborhood will say they've smelled extreme gases from the mono-fill site.

There being no others coming forward to speak, the public hearing was closed at 7:20 p.m.

Commissioner Kerslake, spoke in support of continuation, although in the long term if some of the issues raised can be mitigated, it is in the best interests of the community to get the hole filled in as soon as possible.

Commissioner Lucas concurred, that is better in long run to just finish it, with mitigations to deal with the issues raised.

Commissioner Kircher spoke in favor of approval under certain conditions suggesting: 1) the 2004 CUP conditions remain in force, incorporating the Best Practices as part of the CUP, and if it can be done, incorporating the "accelerated options" with some sort of requirement that they be vigorously pursued, 2) the CUP should not be any longer than five years, and 3) he would like to see no gravel extraction as a condition (which in and of itself would provide another accelerated condition).

Further questions and discussion ensued at length among the applicant representatives and the Commission to address and explain some the issues raised regarding gravel extraction, qualification of the site as a revitalization site under the LEEDS program in terms of filling the site faster, encouraging volume on the exempt side which includes clean concrete will fill the pit quicker. There was discussion whether grinding of the concrete first would be a requirement.

Shane Durand, with Central Recycling Services in Anchorage, clarified that grinding of the concrete is not a requirement of LEEDS; the facility is not a LEEDS facility. LEEDS is a program to get efficient and better-designed buildings and structures. For LEEDS certification, the points the contractors get are for waste diversion. Example, if a building is torn down or during the construction process, if the contractor diverts 50 percent, they get a point; if they divert 75 percent, they get a point. At the facility in Anchorage, the material comes in and is sorted out. One of the steps in the process is grinding up what is left, which goes to landfill as a cover product. LEEDS has nothing to do with grinding of the material. He further explained the LEEDS certification program.

Amendment 1:
Commissioner Kircher moved, seconded by **Commissioner Kerslake,** to amend the conditions to 1) move the 10-year extension back to five years, and 2) no gravel extraction.

Commissioner Kircher explained that it is way overdue from the pit being filled more than 35 percent and we should see a lot more progress in five years; that if not, it should totally be re-evaluated by the Commission at that time. Prohibiting gravel extraction will at least reduce the possibility that at some point the applicant may pull gravel out, referring to the 2004 conditions which allow for gravel extraction.

Commissioner Kerslake concurred regarding the gravel extraction noting that at only 30 percent complete after 10 years, it makes no sense to continue to remove material when trying to fill it in; and also that five years is appropriate to evaluate status.

Further debate centered on prohibiting gravel extraction.

Mr. Agni was permitted to further address the commission addressing the concerns, that it is in their best interests to fill the pit as soon as possible as well. They can live with the prohibition of the gravel export, but they request to have the 10-year term remain, subject to the new survey requirement that was put in the conditions. He further explained this survey which will calculate on an annual basis the volume increase over the year before; that actual progress could be determined at the 5-year review condition.

Further discussion ensued. Commissioner Kerslake asked for a forecast as to completion in five years, his concern being if it is only 55 percent complete in five years, what guarantee will there be that it will be 100 percent complete in 10 years; he also inquired as to if there was a bond in place and for what amount. Mr. Agni requested to confer with Mr. Waddell for those answers.

[The Commission took a 5-minute break at 7:50 p.m.; the meeting was called back to order at 7:55 p.m.]

Mr. Agni stated that based on experience of what they have accomplished to date, Mr. Waddell is willing to make the commitment that within the 5-year term, they will be two-thirds done with the site, so that will achieve roughly another 35 percent from where they are today.

Further discussion ensued, followed by:

Modified Amendment 1
Commissioner Kircher moved, seconded by **Commissioner Kerslake,** to modify the conditions of Amendment 1 to state: 1) the site will be two-thirds complete within five years; 2) the term will be extended 10 years with a review by the P&Z Commission in five years; and 3) no gravel extraction.

VOTE ON MODIFIED AMENDMENT 1: CARRIED UNANIMOUSLY.

Amendment 2:
Commissioner Kerslake moved, seconded by **Commissioner Kircher,** to add as a condition to the Conditional Use Permit that there is in place a bond in the amount of $1 million for reclamation.

Following further discussion regarding verification of sufficient reclamation bonding:

Modified Amendment 2
Commissioner Kerslake moved, seconded by **Commissioner Kircher,** to modify

Amendment 2 to add as a condition that a reclamation bond be required in an amount sufficient to cover the total costs of reclamation.

VOTE ON MODIFIED AMENDMENT 2: CARRIED UNANIMOUSLY.

Amendment 3:
Commissioner Kircher moved, seconded by **Commissioner Kerslake**, to amend the main motion to adopt staff's analysis and findings of fact as stated.

VOTE ON AMENDMENT 3: CARRIED UNANIMOUSLY.

VOTE ON MAIN MOTION, AS AMENDED BY 1, 2, and 3: CARRIED UNANIMOUSLY.

H. UNFINISHED BUSINESS:

1. Continue discussion of the Central Business District.

Ms. Garley reported that staff has produced a series of maps (see packet pp. 89-101) showing an outline of and the land uses that lie within the existing Central Business District. The maps have been broken up into sections and reflect the majority of the uses in the core of the CBD but are not inclusive of all businesses and uses. She is still working on draft code language.

There was brief discussion and questions of staff.

I. NEW BUSINESS:

1. Discuss PMC 17.32.064, Setback requirements in the General Commercial District.

Ms. Garley gave a staff report, informing that in the General Commercial District, for nonresidential uses not abutting or immediately across an alley from R-1, R-1E, or R-2, there are no setbacks for nonresidential uses. There is concern about what happens when a structure changes its use. See example on p. 107 of the packet, which is a typical lot, 50' wide by 140' long. As the Commission is going through the Downtown Commercial District, she would like to revisit setbacks that were built into the code for unintended consequences.

Brief discussion ensued. This is a reminder for a future agenda item.

J. PLAT REVIEWS: None.

K. PUBLIC COMMENTS: None.

L. STAFF REPORT:

Ms. Garley reported:

- She will be here for the January 16, 2014 meeting, but out of town on January 21. The joint meeting with the City Council is being rescheduled to a date in February.

M. COMMISSIONER COMMENTS:

Commissioner Lucas expressed appreciation to staff for providing all the information on the Commercial District overlays around the country and particularly the report on the Central Business District goals from 1959 which he found very enlightening. Hopefully that will be part of our discussion.

Commissioner Kircher thanked Ms. McClure for the Google Earth maps, noting that it was very helpful. They brought to mind a question he asked about some time last year. At the time the Borough was promoting its lidar images and was told that they are very accurate. He would be interested in seeing lidar images of the area proposed for annexation. Ms. Garley said she would check with the Borough to see if we could utilize the account.

Commissioner Kerslake thanked staff for all their help this past year of 2013. Encouraged that it would be great to find a couple more commissioners to serve in the new year.

Chairman Madar wished everyone a Merry Christmas and Happy New Year.

N. ADJOURNMENT:

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

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Michael W. Madar, Chairman

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Kimberly A. McClure
Planning and Code Compliance Technician