

# City of Valdez

212 Chenega Ave.  
Valdez, AK 99686



## Meeting Minutes

Wednesday, July 27, 2016

7:00 PM

Council Chambers

**Planning and Zoning Commission**

**REGULAR AGENDA - 7:00 PM****I. CALL TO ORDER****II. ROLL CALL**

- Present** 7 - Chair Pro Tempore Jess Gondek  
Commission Member Brandon Reese  
Commission Member Harold Blehm  
Commission Member Steven J Cotter  
Planning Technician Keri Talbott  
Director of Community & Economic Development Lisa Von Bargaen  
Sr. GIS Planning Tech AnnMarie Lain
- Excused** 3 - Chair Donald Haase  
Commission Member Kristian Fagerberg  
Commission Member Roger Kipar

**III. APPROVAL OF MINUTES****1. [Approval of Regular Meeting Minutes of June 22nd, 2016.](#)**

**MOTION:** Commission Member Cotter moved, seconded by Commission Member Reese, to approve of regular meeting minutes of June 22<sup>nd</sup>, 2016. The motion carried by the following vote after the following discussion occurred.

- Yays:** 4 - Chair Pro Tempore Gondek, Commission Member Reese, Commission Member Blehm, and Commission Member Cotter
- Excused:** 3 - Chair Haase, Commission Member Fagerberg, and Commission Member Kipar

**IV. PUBLIC APPEARANCES****V. PUBLIC BUSINESS FROM THE FLOOR****VI. PUBLIC HEARINGS**

1. [\(EXCPT #16-01\) Exception for an Existing House Encroachment into the Western Side Yard Setback by 2 Feet for Lot 9A, Block 7, Mineral Creek Subdivision. Applicant: Myrna Dahl.](#)

Community member, Jim Sheppard, spoke at the Public Hearing about Lot 9A. He lives at an adjoining lot on Block 7. He said he has no objection to the requested Exception of Ms. Dahl's.

No other members of the public spoke after Mr. Shepard.

**VII. NEW BUSINESS**

1. [Approve \(SUBD 16-04\) Final Plat of ATS 621 Subdivision. Applicant: Jason C. Wells](#)

**MOTION:** Commission Member Reese moved, seconded by Commission Member Cotter, to Approve (SUBD 16-04) Final Plat of ATS 621 Subdivision if the approval is in conformance with the recommendation of the Ports and Harbor Commission and the Public Works Department. Applicant: Jason C. Wells. The motion carried by the following vote after the following discussion occurred.

Yays 4 - Chair Pro Tempore Gondek, Commission Member Reese, Commission Member Blehm, and Commission Member Cotter.

Excused 3- Chair Haase, Commission Member Fagerberg, and Commission Member Kipar.

No discussion occurred.

2. [\(Rezone #16-04\) Approve Recommendation to City Council to authorize the rezone of Lots 1, 2 & 3, Tract D, Port Valdez Subdivision, from R-A \(Single-Family Residential\) to C-R \(Commercial Residential\) with a condition. Applicant: Todd Wegner](#)

**MOTION:** Commission Member Reese moved, seconded by Commission Member Cotter, to Approve recommendation to City Council to authorize the rezone of Lots 1, 2, & 3, Tract D, Port Valdez Subdivision, from R-A (Single-Family Residential) to C-R (Commercial Residential) by removing condition number 2.. The motion carried by the following vote after the following discussion occurred.

Community Development Director, Lisa Von Bargen, said the staff agrees the Rezoning should be allowed to take place. However, she said because the applicant is requesting a rezoning to a type of district that has potential to have uses under a permitted nature that could be incongruent with residential development (which is taking place next door to the property in question). Therefore, Ms. Von Bargen

requested that a condition be placed on the rezone that states that any future change in use of the property must come before the planning and zoning commission as a conditional use, even as permitted, because the range of things that are permitted under the requested Commercial Residential rezone could have a significant impact on residential development.

As a second condition, Ms. Von Bargen stated that the Commission indicated some concern about road access, and the inability of emergency vehicles to access the property during winter months. She mentioned how the Planning and Zoning Commission has previously issued a similar condition on another application where the owners of cabins were required to inform their guests that emergency vehicles may not be able to access their property. She said the current applicant will need to apply for a conditional use permit for the cabins because it's a CUP in the zoning district.

Commissioner Reese said he was the one who brought up the concerns regarding the inability of emergency vehicles to access the property in question, because of the welfare of potential renters. He asked Mr. Wegner if he planned on notifying potential renters about the limitations of emergency vehicles. Applicant, Mr. Todd Wegner replied, "Yes." He said the cabins aren't set up to be rented out during the winter, but it's possible they might be.

Commissioner Reese said that as long as Mr. Wegner's future clients were notified about the limitations of emergency vehicles entering his property, he doesn't see a problem with going forward.

Chair Pro Tempore, Jess Gondek, asked Mr. Wegner if he had any issues with the conditions of the rezone. Mr. Wegner replied, "No."

Ms. Von Bargen said upon further thought, she'd like to add that condition two is much more appropriate for the CUP, for the process they have to go through-specifically for the rental cabins. I perfectly comfortable with striking condition two from that and going with condition one.

Mr. Gondek agreed. Mr. Reece moved to strike condition two. Mr. Cotter seconded the motion. Mr. Gondek asked if there was any public input or further discussion needed before they took a vote. Being none, they voted on the motion. Senior Administrative Assistant, Keri Talbott, read the votes; Four yea's, three absent; Commissioner Fagerberg, Commissioner Kipar, Commissioner Haase, motion carries.

Mr. Gondek asked the council to vote on the main item (the amended motion). Just Condition one.

Yays 4 - Chair Pro Tempore Gondek, Commission Member Reese, Commission Member Blehm, and Commission Member Cotter

**Excused:** 3-Chair Haase, Commission Member Fagerberg, and Commission Member Kipar

3. [CUP #16-03: Approval of Conditional Use Permit for Four \(4\) Rental Cabins on Lot 9, USS 5670 and Two \(2\) Rental Cabins on Lot 10, USS 5670. Applicant: Josh Swierk.](#)

**MOTION:** Commission Member Cotter moved, seconded by Commission Member Reese, to Post pone meeting until August 24th. CUP #16-03: Conditional Use Permit for Four (4) Rental Cabins on Lot 9, USS 5670 and Two (2) Rental Cabins on Lot 10, USS 5670 with the conditions outlined in the Findings & Conclusions, with four items to be brought back to Commission . The motion carried by the following vote after the following discussion occurred.

Mr. Gondek said he believes the City attorney said it all in terms of quashing the issue that came up with the CC and R's. "It seems cut and dry that we don't have a place to judge in that regard," Gondek said.

Ms. Von Bargaen said she had a lengthy meeting with Mr. Dean Cummings yesterday, and provided him with a copy of the attorney's letter. However, she said and he is still concerned that somehow the City should still be able to enforce the covenants, she said she advised him that was not the case. She said Mr. Cummings expressed concern about the commissions willingness to approve the use of these cabins when they've been operated illegally (as they've been rented out prior to the permit being issued), and he was concerned about other violations that are happening on the property, according to Mr. Cummings.

Ms. Von Bargaen pointed out that Mr. Cummings is present, and said she'd let him discuss his concerns. Von Bargaen added that during her meeting yesterday, she told Mr. Cummings that traditionally the City has been advised by their attorney that our enforcement and permitting has to be separate, as there are many things that the City (specifically the Community Development Department) deals with, and therefore there is a need to deal with enforcement issues separately.

Ms. Von Bargaen said although she is not defending the Swierk's renting the cabins before their permits were issued, it has taken an inordinately long time to get the permit process through the Community Development Department and the Commission. "The timing of that process is not excusable, so I understand their desire to be able to use the cabins for the summer season," Ms. Von Bargaen said. "But it is also not acceptable for them to be doing stuff prior to their permit being issued."

**Yays:** 4 - Chair Pro Tempore Gondek, Commission Member Reese, Commission Member Blehm, and Commission Member Cotter

**Excused:** 3-Chair Haase, Commission Member Fagerberg, and Commission Member Kipar.

**4. [Discussion Item | Airbnb and VRBO's](#)**

Mrs. Lain explained that the way people have been utilizing and renting out rooms has been shifting for the last ten years or so. Traditionally people have operated bed and breakfasts out of their homes. Now there has been an exponential increase of VBRO's and Airbnb by owners and essentially those are found online. The City of Valdez Municipal Code does not address this type of use. This does not allow staff to determine where this type of use is allowed or appropriate. She stated that there has been a lot of discussion on how the City is going to address these rental uses. Discussion has been around the Public Accommodation Tax and whether it should apply to these places.

Mrs. Lain explained she was bringing this item to the Commission to address so that the code can be changed. Commissioner Cotter asked if staff had any examples of Cities the same size as Valdez and their codes in regards to Airbnb. Mrs. Lain explained there are examples, but they are all over the board. The city of Seward has grouped theirs into the Bed and Breakfast code and combined it as one. The Municipality of Anchorage is addressing it a little differently. Other entities collect the tax for the City.

Ms. Von Barga explained that there have been two requests this year for vacation rentals of the entire home. Defining regulations will not be that hard.

The group discussed differences between Airbnb, Vacation rentals, and types of rentals. Ms. Von Barga suggested that Valdez utilize a third party to collect bed tax like the City of Anchorage does. Code enforcement is challenging right now, and adding another item on the list of things to enforce by trying to collect bed tax from organizations is not optimal right now.

Mrs. Lain questioned the Commission if they wanted to regulate the Airbnb quota so that the housing market stays intact and that they don't face the same issues Denver is. Commissioner Cotter stated he did not think that Valdez would have the same issues, but the important thing was to get it so that the bed tax was being collected.

The Commission discussed how Denver's regulations would make sense for the City of Valdez. Mrs. Lain stated that it is not something they had to address right now, but could be addressed at a later time.

**VIII. COMMISSION BUSINESS FROM THE FLOOR**

Ms. Von Barga explained how the discussion by the Commission has brought them to a much better place. The in depth discussion and postponing of the action will help and be to the benefit of everyone.

**IX. ADJOURNMENT**

There being no further business, Chairman Haase adjourned the meeting at 8:34 P.M.