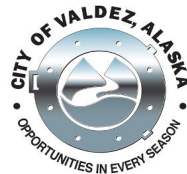


# **City of Valdez**

**212 Chenega Ave.  
Valdez, AK 99686**



## **Meeting Minutes – Draft**

**Wednesday April 22, 2020**

**7:00 PM**

**Regular Meeting**

**Council Chambers**

**Planning and Zoning Commission**

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

Chair Gondek called the meeting to order at 7:00 p.m. in Valdez City Council. Some commissioners joined the meeting via telephone, in order to facilitate social distancing, due to the COVID-19 pandemic. Chair Gondek reviewed the protocol for conducting the meeting via telephone.

**II. ROLL CALL**

Present: 7 Chair Jess Gondek (in Council Chambers)  
Commissioner Don Haase (telephone)  
Commissioner Brandon Reese (telephone)  
Commissioner Steve Goudreau (telephone)  
Commissioner Rhonda Wade (telephone)  
Commissioner Harold Blehm (telephone)  
Commissioner Roger Kipar (telephone)

Also Present: 2 Director, Kate Huber (in Council Chambers)  
Administrative Assistant, Debbie Roberts (in Council Chambers)

**III. PUBLIC BUSINESS FROM THE FLOOR**

There was no public business from the floor.

**IV. PUBLIC HEARINGS****1. Public Hearing for Conditional Use Permit #20-03 Application from Geeks in Valdez for Operation of Rental Cabins at 5445 Cummings Way, Lot 1A, Block 3, Robe Lake Wilderness Estates.**

Ms. Kate Huber, Planning Director, said staff had not received any public comments prior to the meeting. Commissioner Haase noted that he has a potential conflict of interest because he was a property owner in the area, outside of the 300' notification radius. Chair Gondek asked Commissioner Haase if he had a substantial financial interest in the agenda item decision. Commissioner Haase said he did not. There being no further discussion, Chair Gondek closed the public hearing.

**2. Public Hearing for Conditional Use Permit #20-02 Application from Mega Trucking, LLC for Gravel Extraction on a Portion of the City of Valdez Owned Parcel, Tract A, ASLS 79-116.**

Ms. Huber spoke to the two public comments received in writing. She said one was received prior to publishing the agenda, and was included as an attachment. She said staff had also received an additional comment that afternoon from Mr. Roger Kipar, and was emailed out to the Commissioners. All Commissioners confirmed they had received the additional comment. Since Commissioner Kipar was a commenter on the agenda item, he was required to recuse himself from the discussion as a Commissioner.

Mr. Jesse Passin, applicant, said he had been extracting gravel from Glacier Stream for a few years, and had worked with former Community Development staff in the past

on gravel extraction options. He said extraction from the river was financially burdensome, and said his company needed a long term sustainable gravel extraction source. He said he had worked with Ms. Huber on the application, and they had identified this as a suitable location for extraction. Mr. Kipar asked if Mr. Passin had received a copy of his written comments. Mr. Passin said he did not. Ms. Huber said she could provide Mr. Passin with Mr. Kipar's submission.

Commissioner Haase asked if Mr. Passin had seen staff's recommended conditions, and if they were acceptable to him. Mr. Passin said he did, but that he felt they were arbitrary and unnecessary. Chair Gondek said they could modify the conditions during the decision discussion later in the agenda.

There being no further discussion, Chair Gondek closed the public hearing.

## **V. NEW BUSINESS**

### **1. Approval of Temporary Land Use Permit #20-03 for Copper Valley Telecom for Six Months, for Lot 20, Block 7, Alpine Woods Subdivision.**

MOTION: Commissioner Kipar moved, seconded by Commissioner Haase, to approve temporary land use permit #20-03 for Copper Valley Telecom for six months, for Lot 20, Block 7, Alpine Woods Subdivision. The motion carried by the following vote after the following discussion occurred.

Commissioner Kipar had no comments. Commissioner Haase asked if there were any public complaints as a result of Copper Valley's TLUP site in Robe River the prior year. Ms. Huber said she did not believe so. Ms. LeRoy, Planning Technician, confirmed staff had not received any complaints. Commissioner Kipar spoke in favor of approval. Commissioner Reese was also in favor. Commissioners Goudreau and Commissioner Blehm also had no comments. Commissioner Wade said she hoped the hiking path that crossed through the property was kept clear. There being no further discussion, Chair Gondek invited a vote on the motion.

#### **VOTE ON THE MOTION:**

Yays: 7 Commissioner Chair Gondek, Commissioner Haase, Commissioner Reese, Commissioner Goudreau, Commissioner Wade, Commissioner Blehm, Commissioner Kipar

### **2. Approval of Conditional Use Permit Application #20-03 Submitted by Geeks in Valdez for Operation of Rental Cabins at 5445 Cummings Way, Lot 1A, Block 3, Robe Lake Wilderness Estates.**

MOTION: Commissioner Haase moved, seconded by Commissioner Kipar, to approve conditional use permit application #20-03 submitted by Geeks in Valdez for operation of rental cabins at 5445 Cummings Way, Lot 1A, Block 3, Robe Lake Wilderness Estates. The motion carried by the following vote after the following discussion occurred.

Commissioner Haase was in favor of approval, as was Commissioner Kipar. Commissioner Reese had no comments.

Commissioner Goudreau voiced concerns over the holding tank for sewage at the proposed cabins. He asked what conditions the Commission could place to ensure the storage tank was dumped. He was concerned about contamination in Robe Lake if the tank overfilled. He asked if the City could require the applicant to submit pumping

receipts.

Ms. Huber said the Commissioners could put conditions on the permit to safeguard public health and safety as they saw fit. Ms. Huber added as an aside that she had received additional information from DEC since publishing the agenda statement which concluded that DEC had all of the required information to complete an approval to operate the holding tank.

Commissioner Goudreau said he was still concerned over enforcement of pumping the tank. He asked if they had a level alarm on the system and reiterated that he would like the City to receive receipts to verify the tank was being pumped.

Chair Gondek said he thought pumping receipts might be difficult to enforce.

Commissioner Blehm said he agreed with Commissioner Goudreau regarding requiring tank pumping.

Commissioner Wade said she wasn't concerned about the tank overflowing, as she thought the Geeks in Valdez were running a well thought out operation. She asked if any of the neighboring properties had holding tanks, or if they had septic systems.

Ms. Huber said that staff would have to research, and they would have to come back to the Commission with more information.

Chair Gondek said if they were going to include the pump receipt requirement, it would be a challenging condition to enforce. Commissioner Reese agreed.

Ms. Huber said she thought it was a condition staff could enforce, if the Commission wanted to amend the motion to include such a condition.

**MOTION TO AMEND:** Commissioner Haase moved, seconded by Commissioner Kipar, to approve conditional use permit application #20-03 submitted by Geeks in Valdez for operation of rental cabins at 5445 Cummings Way, Lot 1A, Block 3, Robe Lake Wilderness Estates with the amended condition requiring the CUP holder to inform the city every month whether or not they have pumped out the septic holding tank, and if they had, provide the receipt to show it was done. The motion failed by the following vote after the following discussion occurred.

Commissioner Kipar said he was not in favor of approving the amendment because if it was an engineered hold tank system, there would be a high water alarm notifying Geeks in Valdez when the tank needed to be pumped. He added that if the tank were to overflow, it would overflow into the rental cabins, and not into Robe Lake, and the CUP holder would have a significant interest in pumping the tank to avoid property damage.

Commissioners Blehm, Wade, and Chair Gondek were also not in favor of the amendment and thought the high water alarm should be sufficient.

**VOTE ON THE MOTION TO AMEND:**

Nays: 7 Commission Chair Gondek, Commissioner Haase, Commissioner Reese, Commissioner Goudreau, Commissioner Wade, Commissioner Blehm, Commissione Kipar

**ORIGINAL MOTION:** Commissioner Haase moved, seconded by Commissioner Kipar, to approve conditional use permit application #20-03 submitted by Geeks in

Valdez for operation of rental cabins at 5445 Cummings Way, Lot 1A, Block 3, Robe Lake Wilderness Estates. The motion carried by the following vote.

**VOTE ON THE ORIGINAL MOTION:**

Yays: 7 Commission Chair Gondek, Commissioner Haase, Commissioner Reese, Commissioner Goudreau, Commissioner Wade, Commissioner Blehm, Commissioner Kipar

**3. Approval of Conditional Use Permit Application #20-02 for Gravel Extraction on a Portion of Tract A, ASLS 79-116 (2651 Richardson Highway) from Mega Trucking, LLC.**

MOTION: Commissioner Haase moved, seconded by Commissioner Reese, approve conditional use permit #20-02 from Mega Trucking, LLC for gravel extraction on a portion of Tract A, ASLS 79-116 (2651 Richardson Highway.) with recommended conditions provided by staff. The motion carried by the following vote after the following discussion occurred.

Commissioner Haase said he was in favor of approval, and thought the location was suitable for gravel extraction. Commissioner Haase asked staff about the recommended conditions. He asked why they wanted to limit the conditional use permit to five years.

Ms. Huber said staff had concerns about upland gravel extraction, with regard to potential flooding risk resulting from Glacier Stream. Ms. Huber said staff was hoping to have a gravel management plan in place over the next five years to better inform the risks associated with gravel extraction operations in the area.

Mr. Passin said that the five year time limit on the CUP proposed by staff did not work for their operation due to the enormous upfront investment in developing the property for gravel extraction.

Commissioner Reese said he agreed with staff, but that he also sympathized with the applicant, and felt that they needed an option to move forward with gravel extraction operations in Valdez. Commissioner Reese asked Mr. Passin how he planned to handle storage of diesel associated with the production of asphalt on the property.

Mr. Passin said the production of asphalt on the property would be part of the long term plans and said Mega Trucking would be storing any hazardous materials safely and according to applicable regulations.

Commissioner Goudreau said he was in favor of approval. He asked Mr. Passin to speak more to his concerns with staff's recommended conditions.

Mr. Passin said the five year time limit was not a good option for them, due to the upfront investment he would need to put in on developing the property for extraction. He added that requiring the extraction options to be confined to the north portion of the lot was unnecessarily cumbersome and would negatively impact their operations due to the access being from Airport Road, and movement through the property. He said he was curious where the 60' buffer zone requirement was substantiated from and thought it was unnecessary regulation. Mr. Passin said Mr. Comstock suggested they keep their gravel extraction operation at least 200' from Glacier Haul Road which he felt was reasonable and they could accommodate.

Ms. Huber said the 60' buffer zone on all sides of the property was a state recommendation submitted as a public comment from a local representative of DOT.

Commissioner Wade said she was in favor of gravel extraction in the river as part of the City's flood mitigation efforts, and she said she understood that five years was too short of a time period to invest in a business enterprise of that type. Commissioner Wade suggested that the length of time of the use could be looked at as part of the lease agreement and clarified that they were just voting on the particulars of the gravel extraction and asphalt production use, not the details of the potential lease.

Ms. Huber, said it was important to put any safeguards in place as part of this use, and said the applicant would be required to pursue a gravel lease application if the CUP was approved.

Mr. Passin reiterated that the five year time limit would not work for them. He added that he had been hearing about the potential development of a gravel extraction master plan for the past nine years, and thought it would continue to be delayed. He said he was in favor of the renewable resource of extracting gravel from the rivers, however, it was extremely costly and inconvenient with the potential for flooding out of the extraction operation in an outburst event.

Commissioner Blehm said he was not in favor of approval of the CUP and said he did not think issuing a permanent CUP requested by the applicant was a good option. He suggested they could allow him to pursue a ten year option. Commissioner Blehm asked if Mr. Passin could speak to the air quality standard requirements.

Mr. Passin said water trucks would keep particulates down, and that the air quality would be monitored. Commissioner Blehm said he was worried about dust being kicked up near the airport and impairing visibility for landing aircrafts.

Ms. Huber said she discussed the application with Public Works Director Mr. Rob Comstock and Mr. Nate Duval, Capital Facilities Director, and that Mr. Comstock based his 200' buffer recommendation on Commissioner Blehm's concerns regarding air quality and visibility.

Mr. Kipar commented that he had been denied sixteen months prior for an application for the same property. He noted that his application had been only for gravel extraction, and Mr. Passin's application was for gravel extraction and an asphalt and concrete plant, which was a more intensive use. He said he was confused as to why he was denied and this application was being considered. He said spill of diesel during asphalt production was almost impossible to avoid. Mr. Kipar agreed with Mr. Passin that five years was not enough time to develop the property and said he was in favor of the CUP term being extended to 10 years.

Chair Gondek asked if a gravel CUP has been issued for ten years in recent history. Ms. Huber said the code allowed for either a permanent CUP or a temporary CUP, and that there had been a variety of time options approved in the past.

Commissioner Reese asked the applicant what ten years would do for him. Mr. Passin said he did not want to be in a place of investing hundreds of thousands of dollars into a project to have the basis of his business, gravel, be unstable in a few years.

Commissioner Reese asked if they could place a clause in the lease agreement that would only require Mr. Passin to move if a more suitable location was identified after

ten years.

Ms. Huber said the gravel leases generally contained clauses allowing for lease modification and it could be addressed as part of the lease process.

Mr. Passin said that his concern was that they wouldn't be able to obtain a longer gravel lease than the CUP was for. He said that by limiting the gravel cup, they would be limiting the lease.

Commissioner Haase said it seemed short sighted to limit the option to five years.

Commissioners Reese had no further comments. Commissioner Goudreau asked if they could sell the property to Mr. Passin. Ms. Huber said she would have to come back with more information, as she was under the impression city property could not be sold for gravel extraction.

Commissioner Wade said she was happy addressing the time limit as part of the lease application.

Commissioner Haase asked if the application being discussed was for the same property the Commission had denied Mr. Kipar's previous application to extract gravel. Ms. Huber said the application denied in 2018 was for an adjacent parcel right on Glacier Haul Road. Ms. Huber said staff's position that gravel extraction should be done from the rivers had not changed.

**MOTION TO AMEND:** Commissioner Haase moved, seconded by Commissioner Reese, approve conditional use permit #20-02 from Mega Trucking, LLC for gravel extraction on a portion of Tract A, ASLS 79-116 (2651 Richardson Highway.) with recommended conditions provided by staff, striking condition #2 from the CUP. The motion carried by the following vote.

**VOTE ON THE MOTION TO AMEND:**

Yays: 6 Commission Chair Gondek, Commissioner Haase, Commissioner Reese, Commissioner Goudreau, Commissioner Wade, Commissioner Blehm

Recused: 1 Commissioner Kipar

Mr. Passin asked the Commission if they were proposing to vote on the item with condition number three included. He clarified that condition number three, to shift gravel extraction to the far north side of the property, would not work for their operation.

Chair Gondek clarified that it would be included unless they voted to remove it. He said the commission had already voted to remove condition two, that would have placed a five year expiration limit.

Ms. Huber explained that the Findings and Conclusions documents were directed by the Commission, and that they could amend them as they saw fit.

Mr. Passin said he thought condition number three should be removed as it was arbitrary and unfounded and would negatively affect their operations.

Commissioner Haase said he would be in favor of removing the first sentence of recommended condition number three. Commissioner Reese agreed.

Commission Goudreau asked Ms. Huber what the justification was for keeping the condition. Ms. Huber replied that condition had been proposed due to flooding concerns regarding Glacier Haul Road, and said staff made these conditions based on the data available.

Commissioner Wade asked if Mr. Passin had a concern with the 60' buffer requirement.

Mr. Passin said he was fine with the 60' buffer requirement, but thought it was arbitrary.

Commissioner Blehm said he felt they should keep the first part of condition number three.

Chair Gondek clarified that they were voting on the motion on the floor to strike the first sentence in condition number three.

**SECOND MOTION TO AMEND:** Commissioner Haase moved, seconded by Commissioner Reese, to approve conditional use permit #20-02 from Mega Trucking, LLC for gravel extraction on a portion of Tract A, ASLS 79-116 (2651 Richardson Highway.), with recommended conditions provided by staff but removing condition #3 1st sentence restricting the gravel extraction operations to the north portion of the lot. The motion carried by the following vote.

**VOTE ON THE MOTION TO AMEND:**

Yay: 5 Commission Chair Gondek, Commissioner Haase, Commissioner Reese, Commissioner Goudreau, Commissioner Wade

Nay: 1 Commissioner Blehm

Recused: 1 Commissioner Kipar

The amendment having passed, Chair Gondek then circled back to the original motion on the floor for general approval of the conditional use permit application:

**VOTE ON THE ORIGINAL MOTION:**

Yays: 6 Commission Chair Gondek, Commissioner Haase, Commissioner Reese, Commissioner Goudreau, Commissioner Wade, Commissioner Blehm

Recused: 1 Commissioner Kipar

**4. Approval of Preliminary Plat for ASLS 2017-66. Applicant - State of Alaska Department of Natural Resources, Division of Mining Land and Water. A Depiction of ADL 232974.**

**MOTION:** Commissioner Reese moved, seconded by Commissioner Blehm, to approve preliminary plat for ASLS 2017-66. The motion carried by the following vote after the following discussion occurred.

Commissioners Reese and Blehm had nothing to add.

Commissioner Haase said he thought it was a pretty straightforward approval. He did have a question regarding the 50' easement between the sections on page 3 detail D,



on the right side of the plat. He asked the surveyor if the easement should continue through the property instead of stopping.

Mr. Hank Brinker, Senior Land Surveyor for R&M Consultants replied that section lines and easements didn't go into a US survey per federal law.

Commissioner Haase thanked Mr. Brinker for clarifying. No other Commissioners had comments.

There being no further discussion, Chair Gondek invited a vote on the motion.

#### VOTE ON THE MOTION:

Yays: 7 Commission Chair Gondek, Commissioner Haase, Commissioner Reese, Commissioner Goudreau, Commissioner Wade, Commissioner Blehm, Commissioner Kipar

## VI. REPORTS

### 1. Planning Director's Report

Ms. Huber said the Planning Department in full swing with building season. She said staff was still working remotely and reminded the listening public of their temporary new contact information. She added that she was pleased to report the FEMA CRS audit results had come back and Valdez had become a class eight community, which would result in an additional discount on flood insurance rates for residents. She closed by saying the Planning Department was working hard to keep all regular services available while working remotely, including inspections.

## VII. COMMISSION BUSINESS FROM THE FLOOR

Commissioner Haase thanked staff for putting such thought into the proposed conditions on the conditional use permit applications.

Commissioners Reese, Wade, and Blehm had nothing to add.

Commissioner Goudreau asked if Ms. Huber would be able to find out the holding tank size for Geeks in the Woods, and also if they have a level alarm. Ms. Huber said she would find that information for him and report it at the next meeting.

Commissioner Kipar said he supported the approval of Mr. Passin's CUP application because he thought it was important for business to grow in Valdez. He said it was upsetting that the same property had been denied over a year ago, but that he was glad to see things moving forward.

Commissioner Kipar asked Ms. Huber how the Planning Department was handling permit applications and inspection scheduling while working remotely. Ms. Huber replied with the details on the remote work plans in place that were keeping all Department services functional.

## VIII. ADJOURNMENT

There being no further business, Chair Gondek adjourned the meeting at 9:03 p.m.