

# City of Valdez

212 Chenega Ave.  
Valdez, AK 99686



## Meeting Minutes

Wednesday, January 8<sup>th</sup>, 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 the Valdez Civic Center Conference Room.

**II. ROLL CALL**

Present: 7 - Commission Chair Jess Gondek  
Commissioner Don Haase  
Commissioner Brandon Reese  
Commissioner Steve Goudreau  
Commissioner Rhonda Wade  
Commissioner Harold Blehm  
Commissioner Roger Kipar

Also Present: 3 – Director, Kate Huber  
Planning Technician, Nicole LeRoy  
Administrative Assistant, Danae Gilfillan

**III. APPROVAL OF MINUTES**

**1. Planning and Zoning Commission Regular Meeting Minutes of July 10, 2019.**

MOTION: Commission Member Haase moved, seconded by Commission Member Reese, to approve the Planning and Zoning Commission regular meeting minutes of July 10, 2019. The motion carried by the following vote after the following discussion occurred.

There was no discussion on the item.

VOTE ON THE MOTION:

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

**2. Planning and Zoning Commission Regular Meeting Minutes of July 24, 2019**

MOTION: Commissioner Haase moved, seconded by Commissioner Goudreau, to approve the Planning and Zoning Commission regular meeting minutes of July 24, 2019. The motion carried by the following vote after the following discussion occurred.

There was no discussion on the item.

VOTE ON THE MOTION:

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

**3. Planning and Zoning Commission Regular Meeting Minutes of September 25,2019**

MOTION: Commissioner Haase moved, seconded by Commissioner Reese, to approve the Planning and Zoning Commission regular meeting minutes of September 25, 2019. The motion carried by the following vote after the following discussion occurred.

There was no discussion on the item.

VOTE ON THE MOTION:

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

**4. Planning and Zoning Commission Regular Meeting Minutes of October 23, 2019**

MOTION: Commissioner Haase moved, seconded by Commissioner Reese, to approve the Planning and Zoning Commission regular meeting minutes of October 23, 2019. The motion carried by the following vote after the following discussion occurred.

There was no discussion on the item.

VOTE ON THE MOTION:

YAYS: 7 Commissioner Gondek, Commissioner Haase, Commissioner Reese, Commissioner Goudreau, Commissioner Wade, Commissioner Blehm, Commissioner Kipar

**IV. PUBLIC BUSINESS FROM THE FLOOR**

City Manager Mr. Mark Detter announced that Ms. Kate Huber had been hired as Planning Director. He said Administration was confident in her abilities and was looking forward to working with her.

**V. NEW BUSINESS**

**1. Approval of Conditional Use Permit Application #19-07 from Dunning Enterprises for a Towing, Salvage, Recycling, and Scrap Yard with Associated Structures for 10 years on the City of Valdez Owned Parcel Located at 596 Hobart Street (Lot 1, Block 1, Airport Industrial Subdivision)**

MOTION: Commission Member Haase moved, seconded by Commission Member Reese, to Approve conditional use permit application #19-07 from Dunning Enterprises for a towing, salvage, recycling, and scrap yard with associated structures for 10 years on the City of Valdez owned parcel located at 596 Hobart Street (Lot 1, Block 1, Airport Industrial Subdivision) with the following conditions:

1. Phase I environmental site assessment is required to be completed prior to lease or sale of the property for conditional use. A Phase II ESA may be required, depending on the results of a Phase I Assessment.

2. Applicant required to install security cameras and signage to deter trespassing.
3. Applicant must maintain all conditional use activities at a 50' setback from the Hobart Street right-of-way. (VMC 17.38.040G)
4. Applicant must maintain an enclosure, no more than six feet in height, surrounding the conditional use area.
5. Applicant required to maintain a hazardous material disposal plan to ensure no contamination from vehicles and materials to be recycled.
6. The deconstruction of materials to be recycled, including the removal of fluids or any toxic or hazardous substances shall be restricted the shop structure.
7. Applicant required to install an approved septic system, appropriate for planned building that maintains compliance with Alaska Department of Environmental Conservation (ADEC) regulations and the City of Valdez municipal code.
8. Applicant required to maintain compliance with State of Alaska Department of Environmental Conservation by securing an Alaska Pollutant Discharge Elimination System (APDES) Multi-Sector General Permit (2015-MSGP), establishing an appropriate Storm Water Pollution Protection Plan (SWPP).
9. Conditional use permit #19-07 will only be valid, upon the approval by City Council of a lease or negotiated sale application from Dunning Enterprises.
10. Use of the conditional use permit must commence within twelve months after the effective date of the approval. (VMC 17.06.070). The motion carried by the following vote after the following discussion occurred.

Commissioner Haase said he was trying to separate two related concerns. He clarified that the first question at hand was whether or not the use was appropriate on the particular parcel. The next was related to if the City was going to authorize sale or lease of the property to the applicant. He said he was in favor of the conditional use permit being approved. He added that although there had been many negative comments during the public hearing, staff's proposed conditions addressed many of the public's concerns.

Commissioner Blehm asked if staff was prepared and capable of enforcing all of staff's proposed conditions. He said he felt they were good recommendations, but that it was imperative they were enforced. He asked who was going to be responsible for enforcing the proposed plan.

Ms. Huber said a code enforcement officer was hired in the Police Department for nuisance abatement. She added that the scope of enforcement for that position had not expanded to conditional use permits. She said staff understood the scope of the enforcement for conditional use permit conditions would be with the Planning Department and accomplished by the Director and Building Inspector.

Commissioner Blehm asked if staff was prepared to take enforcement action if necessary. Ms. Huber said staff was comfortable with following up on the proposed conditions.

Commissioner Reese said he was in favor of approval. He said he hoped to see vehicles moved from the applicants other lot but added that he wanted to see follow up and enforcement on the proposed conditions as well.

Commissioner Goudreau said he didn't have a lot of faith that Dunning Enterprises would be able to follow through on code compliance for their operation, but said he was willing to give them the opportunity. He expressed concern that the agenda statement indicated that the applicant had 12 months to comply with the conditions of the permit, rather than being forced to comply immediately.

Ms. Huber clarified that this was a code requirement that applied to all CUPs and indicated that the applicant had to show some progress towards completing the project within 12 months of the CUP approval, otherwise the CUP would be null and void. She clarified that this requirement was standard across the board.

Commissioner Goudreau said the applicant hadn't followed up on requirements in the past, and questioned what resources the City had to enforce the recommended conditions. Ms. Huber said that if any of the conditions of the CUP were not met, the City would be able to enforce clean up and revoke the permit.

Commissioner Kipar said he thought the recycling services were needed in Valdez, but felt the operation was not financially feasible. He said they would end up with contamination in the ground and expressed concern over adjacent drinking water wells. He asked what measures the City would have to protect from liability for cleanup, and what pollution insurance would be required.

Ms. Huber said those issues would be discussed if and when the applicant brought forward a lease application. She added that the Legal department would weigh in on what provisions should be included in the lease to sufficiently protect the City against environmental contamination and liability.

Commissioner Kipar said that other people, including himself, had applied or expressed interest in development in Airport Industrial Subdivision and had been turned away by staff.

Chair Gondek asked Commissioner Kipar if he felt he could discuss the item from an un-bias perspective.

Commissioner Kipar said he felt he could, and had changed his plans since he had previously been interested in development in Airport Industrial Subdivision.

Chair Gondek said he appreciated what Commissioner Kipar was contributing, but cautioned that going forward he should make sure he was keeping his comments relevant to the conditional use permit application.

Commissioner Kipar said he was simply trying to tell the history of all the people who tried to lease or buy land in Airport Industrial Subdivision but were turned away by staff.

Chair Gondek said he understood, but asked Commissioner Kipar keep his comments relevant to the application at hand.

Commissioner Kipar said he felt his comments were relevant, and said he wanted to make sure staff had a plan for follow up and compliance.

Commissioner Wade said she agreed with Commissioner Kipar. She added that there was a great public outcry against the project during the public hearing, and that the City already had contaminated properties to deal with. She questioned why they would risk contamination at a new site. She said that while yes, the area was zoned for industrial use, they were still working on what they were going to do with long term planning in the area. She said she was in favor of the applicant using a property that was already contaminated.

Chair Gondek asked the Commissioners if they had a chance to read the additional comments that were submitted after the packet had been published. All commissioners had. Chair Gondek said he felt the property was appropriately zoned for the intended use, and that the proposed use was in conformance with the Valdez Comprehensive Plan.

Commissioner Blehm asked about a performance bond, and inquired if one would be required of the applicant. He said years ago, there was an individual given a site on Copper Street, and required conditions were not followed up on. He said he was hesitant to go down the same road.

Ms. Huber reiterated that this would be addressed if the applicant chose to come back to the Commission for a lease application.

Chair Gondek invited input from the public.

Mr. Michael Dunning, applicant, said that in the last few years he knew there had been some issues regarding junk vehicles in town. Mr. Dunning said he wanted to be sure that everyone was aware of how many vehicles that had left the city safely. He said Dunning Enterprises had removed 66 cars that year. He added that he was available if the Commissioners had any questions about the proposal.

Ms. Huber said regarding some of the concerns regarding the distribution of this property, she had been working with the Clerk's office and Legal to understand how to administrate competing applications for the same parcel because other parties had expressed interest in the parcel since the Dunning conditional use permit application came forward.

Commissioner Reese said his support for approving the item was contingent on staff's ability to oversee and enforce required conditions.

Commissioner Kipar said he supported Commissioner Reese's comments. He said he felt it was important for Valdez to have a facility like the one proposed. He said he hoped staff could assure the Commission that the conditions would be followed up on and enforce to reduce risk of groundwater contamination. He said that before allowing the applicant to apply for the proposed use, he felt the City should have opened up the option to everyone in the community.

Commissioner Wade asked what the Commission was authorizing if they approved the item.

Ms. Huber said approve of the item would allow the proposed scrap yard use to be permitted by the applicant, at that site. She added that since it was a City-owned parcel, the approval was not promising use of the parcel for a scrapyard. She said the next step was for the applicant to submit an application to lease or purchase the land, which would be separate from the conditional use permit approval.

Ms. Huber explained those type of uses in the heavy industrial district were listed as conditional uses to allow the Commission the opportunity to place conditions on approval to safeguard against potential contamination and deleterious effects. She said that since it was City property they were requesting use of, the Commission would vote on a recommendation to approve a lease or sale application.

Commissioner Wade asked if the Commission could try to find an alternative location, even if they approved the application.

Ms. Huber said the approval was specific to that parcel.

Commissioner Reese asked if approval of the item meant that they could change sites if they wanted.

Ms. Huber said that if the applicant wanted to change locations, they would be required to apply for a new CUP at that location. She said the Commission was voting to approve whether the proposed use was appropriate at the proposed location.

Chair Gondek restated the question and invited a vote on the motion.

VOTE ON THE MOTION:

YAYS: 6 Commission Chair Jess Gondek, Commissioner Don Haase,  
Commissioner Reese, Commissioner Goudreau, Commissioner  
Wade, Commissioner Kipar

NAYS: 1 Commissioner Blehm

## VI. REPORTS

### 1. Interim Director's Report

Ms. Huber thanked Administration for their confidence in her, and said she was looking forward to working on the new Comprehensive Plan with the Commission as

Director. She announced January 22, 2020 at 6 p.m. as the next Commission goal setting work session. She said that if any Commissioners were unable to attend, they could meet with her prior to submit their comments for the work session. She also invited the Commissioners to attend an upcoming meeting on site selection for a new museum.

## **VII. COMMISSION BUSINESS FROM THE FLOOR**

Commissioner Wade had nothing to add.

Commissioner Kipar asked if the 2008 Comprehensive Plan was still valid. Ms. Huber said that until a revision to the current Comprehensive Plan was adopted, they were referencing the 2008 Plan.

Commission Goudreau said he wanted to make sure the Commission had another opportunity to look at Mr. Dunning's request before it was approved. Ms. Huber said a lease or sale application would come back to the Commission for a vote on a recommendation, and then would go on for a decision by City Council.

Commissioner Goudreau clarified that he had voted to approve the use on the particular piece of property.

Ms. Huber said the Commissioners had voted on the scrapyard use by the applicant, at the particular parcel. Commissioner Haase asked if land sale applications were reviewed by the Planning and Zoning Commission for a recommendation. Mr. Paul Nylund, Senior Planner, replied they were.

Commissioner Reese congratulated Ms. Huber's promotion to director and thanked the City Manager for hiring her.

Commissioner Blehm welcomed Ms. Huber to the Director position as well and thanked her for taking on the role.

Chair Gondek said he would not be able to attend the January 22, 2020 work session.

## **VIII. ADJOURNMENT**

There being no further business, Chair Gondek adjourned the meeting at 7:41 p.m.