

City and Borough of Wrangell, Alaska

WRANGELL PLANNING AND ZONING COMMISSION REGULAR MEETING AGENDA

June 12, 2014

7:00pm

Agenda

A. CALL TO ORDER/ROLL CALL

B. AMENDMENTS TO THE AGENDA

C. APPROVAL OF MINUTES: May 8, 2014

D. PERSONS TO BE HEARD

E. CORRESPONDENCE

1. Emails from Liz Bunes regarding residential and industrial development, building and zoning restrictions, and other guidelines.

F. OLD BUSINESS

1. Comprehensive Plan review and evaluation (defer)

G. NEW BUSINESS

- | | |
|---------|---|
| Pub Hrg | 1. Conditional Use permit request for the permanent location of a sun tanning salon on Lot 15B, Block 3, USS 1119, requested by Laura Massin, owned by Lawrence Bahovec. |
| Pub Hrg | 2. Variance permit request for a variance to the off-street parking requirements for the sun tanning salon on Lot 15B, Block 3, USS 1119, zoned Multi-Family Residential, requested by Laura Massin, owned by Lawrence Bahovec. |
| | 3. Potential discussion and decision pertaining to the appeal of a variance request for a three foot variance to the height requirement on Lot 7B, McCay Subdivision, zoned Single Family Residential, requested by James Brenner, owned by Bert and Tammy McCay. |

H. PUBLIC COMMENT

I. COMMISSIONERS' REPORTS AND ANNOUNCEMENTS

J. ADJOURNMENT

City and Borough of Wrangell, Alaska

WRANGELL PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES

May 8, 2014

7:00pm

A. CALL TO ORDER/ROLL CALL

Chairperson Terri Henson called the regular meeting of the Wrangell Planning and Zoning Commission to order at 7:00 pm on May 8, 2014 in the Wrangell Borough Assembly Chambers. Commissioners' Mark, Mitchell, Kipha Valvoda, Rudy Briskar, Stan Schnell were present; Commissioners Betty Keegan, Don McConachie were absent.

Recording Secretary Lavonne Klinke and Zoning Administrator Carol Rushmore were present. Conference call established at request of Mr. James Brenner, attending by phone.

B. AMENDMENTS TO THE AGENDA

Additional items were added by James Brenner for Item G1, Maps for Item G6 provided, Copy of Email received from Traci Davidson regarding Item G4 animal ordinance.

C. APPROVAL OF MINUTES: March 13, 2014 and April 10, 2014

Valvoda moves to approve the minutes of March 13, 2014 and April 10, 2014 Mitchell seconds, all approved.

D. PERSONS TO BE HEARD

Various persons signed up to speak when their item comes up for discussion

E. CORRESPONDENCE

1. Public Notice from the Corps of Engineers for application POA-2014-029 for fill on Lot 1, Block 3, USS 1593 on Evergreen, submitted by Todd White.
2. Public Notice from the Corps of Engineers for application POA-2014-109 for fill submitted by Mark Mitchell (included as part of Agenda Item G5)
3. Letter from Zoning Administrator to Jacquie DeMontigny re. chickens on neighboring property.

F. OLD BUSINESS

1. Comprehensive Plan review and evaluation (defer)

G. NEW BUSINESS

1. Variance permit request for a variance to the front yard setback requirements and a three foot variance to the height requirement on Lot 7B, McCay Subdivision, zoned Single Family Residential, requested by James Brenner, owned by Bert and Tammy McCay.

Open public hearing.

Tim Murray, 522 Zimovia Ave., has a home across the street from the proposed new home of Mr. Brenner. Stated he has talked to Mr. Brenner regarding his concerns with the proposed the size of the home and the 5/12 pitch of the roof. The home will be two floors, 3600 sq. feet, this will be much larger than other homes in the area. Feels this will impact the area, especially during the winter when the sun sets lower.

Mr. Brenner having issues with hearing testimony over the phone, calling back Mr. Brenner to a land line.

Unable to make contact with Mr. Brenner via phone number provided, meeting recessed until contact with Mr. Brenner is re-established.

Meeting resumed.

Mr. James Brenner didn't hear much of what was said by Mr. Murray, he knows Mr. Murray is concerned about the light hitting his property, and sent information regarding the sun effects during the year. That the walls of the home not the roof would be blocking the sun's impact, and there wouldn't be much difference on the sun effect with the roof at 25' or 27'. He is not building an extravagant home with high walls. Size of the home shouldn't be an issue.

Jaqueline Demontigny, 400 Block of 1st Avenue. When Mr. Murray mentioned the structure and impacts it would have with regards to the sun, didn't realize how important the sun was until Bruce and Nancy McQueen built their addition on their house, and the new addition blocks the morning sun on her home. 4 minutes of sun loss is a big issue. Feels Mr. Murray's home fits nicely into the landscape area of this subdivision. Had previously owned land in the area, and appreciates Mr. Murray's house in the area. The lots in this area are small and not meant for large homes. The new home will change the character of this subdivision.

James Brenner, calculations of 180 degrees of travel by the sun and this is based on where sun sets this calculation is based in Wrangell were at the equator and feels he was being generous on his calculation. The southern southeast exposure of the sun will still be there. Doesn't believe the impact is there.

Lucy Robinson, 900 Block of Ash Street, states that sun is an important thing. Wrangell is wanting the younger generation to stay here in Wrangell, and this family is wanting to stay and build here. There are other options to get sun, go for a walk, states she lives in an area that is blocked by power lines and trees and houses. Schools are impacted by low student population.

Tim Murray steps up, not denying the option to build for the Brenner's. Sun is low in the winter. Chose this property due to the views of the area and mountains, does not want to deny anyone to build a home, but is concerned with the size of the home.

Mr. Brenner is unable to hear the hearing, Carol re-establishes contact with Mr. Brenner.

Clay Hammer 690 Evergreen, familiar with Mr. Murray's home, with the timber around the home, feels that this adds to the character to the home. Feel's that anyone who would purchase land and build a home behind Mr. Murray's home would have the same issues that Mr. Murray is concerned with of Mr. Brenner's proposed home.

James Brenner, the lot has been available to build on since subdivision around 1986 and has had the potential to be purchased that if someone had concerns of structures being built in front of them they could have been proactive about maybe purchasing the parcel. Feels that Mr. Murray's home is maybe 26' to the roof line also. Sizes of home are increasing. Commission should look at changing the building codes because of the tight parameters for constructing.

Close the public hearing.

Valvoda moves to dis-approve the Variance permit request for a variance to the front yard setback requirements and a three foot variance to the height requirement on Lot 7B, McCay Subdivision, zoned Single Family Residential, requested by James Brenner, owned by Bert and Tammy McCay, Mitchell seconds.

Valvoda as if the square footage of the proposed house within the Zoning allowances for the community. Staff states this is within the requirements of the Wrangell ordinance structures cannot cover more than 50% of the lot.

Mitchell asks if the roofline was dropped to a 4/12 pitch this would drop the roof line by 2 feet and this would give Mr. Brenner the right to build. The house roof were even dropped to a 4.5/12 pitch this would be below Mr. Murray's view. Want to allow construction, but must be within our guidelines.

Mr. Brenner states where the house is located is bedrock in this location, if had to move the house back he would be concerned with the structures integrity. Did want the house to go to the right more, wanted 20' feet on both sides of the home and have structures near the house. This has been a tough lot to work with. The further he went to the right cars would not be able to access the property. Staff states he is meeting the side yard setback requirements.

Mr. Murray had asked Mr. Brenner if the house could be smaller, but he seemed to have no options.

The Commission was discussing the height requirement issue and changing the roof pitch options

The 10' setback was only for the living room, this is for the eaves, was wanting a little wiggle room. Wanting to avoid issues later in construction.

Mitchell asks if he could go to a 4/12 pitch? Mr. Brenner states this is possible, but would have to beef up the trusses and would add considerable costs.

Schnell quotes section 20.52.110: Zero setbacks and other setbacks not conforming to the minimums set forth for each zone above may be allowed where the planning and zoning Commission determines that the structure:

1. Will not negatively impact adjacent property, existing or future views, road expansion, or the passage of sunlight to adjacent property;

Schnell states that this property owner is complaining about the sunlight and his views being affected, and how can the Commission approve if this when the property owner is stating his concern will negatively affect him.

Henson agrees if 2' will make that big of difference. She states that Mr. Brenner is within his rights to build the size of home he wants. The yard setback, not sure if that will make a difference or not. Would like to see a 4/12 pitch if it can be done to keep it within the guidelines already set in place and keep it within the height conforming code.

Henson states that the Commission has to follow the guidelines already in place and this structure is going to negatively impact an individual, Mr. Brenner asks if the Commission believes if this will impact this one individual. Mitchell responds that is something written in our code and must follow, and this is adversely affecting another.

Commission asks Mr. Brenner if he can build with the 4/12 pitch to get the lower roof line. Mr. Brenner states this is going to be financially expensive to change. He would have to research the cost difference between the different roof lines.

Person from audience asks how long Mr. Murray is here during the year, Chairperson states that Public Hearing is now closed.

Secretary Klinke re-reads the motion. Administrator Rushmore clarifies that if you vote YES on the motion, it will deny both variance requests. A NO vote is in support of the variance request.

Motion passes to dis-approve the Variance permit request for a variance to the front yard setback requirements and a three foot variance to the height requirement on Lot 7B, McCay Subdivision, zoned Single Family Residential, requested by James Brenner, owned by Bert and Tammy McCay with Briskar voting no, and Schnell, Mitchell, Valvoda, and Chairperson Henson voting yes.

Mitchell moves to approve Variance permit request for a variance to the front yard setback requirements, but to deny the three foot variance to the height requirement on Lot 7B, McCay Subdivision, zoned Single Family Residential, requested by James Brenner, owned by Bert and Tammy McCay, Briskar seconds.

Schnell clarifies the meaning of the motion with the Commission, that he can build with his requested front yard setback, but denies the height request of 27'.

Motion passed by unanimous vote.

2. Conditional Use permit request for the temporary placement of mobile home on Lot 7, Block 1, USS 2127, zoned Single Family Residential, requested by Sara and Charles Gadd.

Open public hearing

Person from the audience requesting a map of the location

Henson states the property is out on the airport road.

Close public hearing

Reopen public hearing due to property owner wanting to speak, and Chair missed the raised hand.

Sara Gadd, 922 Case Avenue, Wrangell Alaska

Wanting to move a mobile home to recently purchased property trying to save money as they build their new home.

Staff asks if the mobile home and the house going to be on the same lot? Mrs. Gadd states that the lots are subdivided currently and are looking at combining all the lots into one.

Will the mobile home be removed when the house is constructed?

Mrs. Gadd states that this is temporary and the trailer will be removed when the home is built.

Close public hearing.

Briskar moves to approve the Conditional Use permit request for the temporary placement of mobile home on Lot 7, Block 1, USS 2127, Zoned Single Family Residential, requested by Sara and Charles Gadd subject to the following conditions.

- Utilities must be installed to the property prior to inhabiting the mobile home.
- Building permit will be required and the mobile home must be set upon a permanent footing and be skirted (WMC 20.52.190 (D))
- The mobile home location on the lot must meet the required setbacks of 20 foot from all property lines.
- The mobile home will be removed once a permanent structure is constructed.

Schnell Seconds

Mitchell asks why the temporary home have to be placed on a permanent footing. Staff states that code requires that mobile home not within a mobile home park needs to be skirted within a year, and the construction will be longer than a year.

Henson asks Mrs. Gadd how long they anticipate construction of the new home. Mrs. Gadd responds they are wanting to start as soon as possible.

Lupe Rogers, 911 Graves Avenue, wanted to ask a question and Chair granted permission. She doesn't have a problem with them moving in, but concerned with possible impacts, asks owner if they have boats stored on property or will they be impacting her property, what about water and sewer. Mrs. Gadd states they will be installing their own water and sewer.

Briskar asks about the permanent footing? Staff states just remove the wheels and skirt the trailer, trailer can be blocked up.

Motion passes with unanimous vote.

3. Request from Sea Level Seafoods to lease additional tidelands, an unsubdivided portion of ATS 81 adjoining Tract B, ATS 1114, and modify tidelands lease.

This is only a recommendation to the Assembly. Sea Level is wanting to build an additional building on the lot. This has been discussed with Staff in the past and he is now acting on this item.

Henson asks about the vans on the pavement, Staff states this area is leased from the Harbor Department.

Valvoda moves to recommend to the Assembly the Request from Sea Level Seafoods to lease additional tidelands, an unsubdivided portion of ATS 81 adjoining Tract B, ATS 1114, and modify tidelands lease. Briskar seconds.

Motion passes by unanimous vote.

4. Discussion regarding chickens/roosters and potential changes to the Zoning Ordinance regarding "animals".

Staff addresses Commission about complaints received regarding

- Chickens, damages to neighbors yards and property
- horses, regarding animal waste not being cleaned up
- roosters in single family neighborhoods with regards to noise

Code Review Committee is looking at possible changes to Chapter 7, there is a copy of a working draft regarding the Code in your packet, but this is only a draft item. Staff states that the Commission may need to review this issue in the zoning section of the Code, and possible changes regarding animals.

Regarding the chicken complaints – animals are not to be roaming free, covered in Chapter 7.

Definitions of Animal Establishments, if a person has over 9 chickens, over 20 dogs and cats, you become an animal establishment and may need to apply for a Conditional Use Permit.

Mitchel asks what is Staff is wanting from the Commission? Commission may need to review the code to determine if the current zoning is still appropriate.

Currently there is no rule regarding roosters, and there is a current rooster issue in a neighborhood. Where do you want to Roosters to be allowed?

Where and what animals and how many/should be allowed in different Zones within the Borough?

Schnell comments that he deals with animals, and feels chickens are ok, but that Rooster's should not be allowed, but in discussions with his wife, Roosters should be allowed in the rural area.

What is the definition of rural and City Limit – usually zones are established for density. Service area is road system, remote properties are outside of the service area.

Horses, Schnell has horses, regarding complaints, if the complaints had been taken to the owner, the problems with horses would have been remedied.

Open public testimony.

Jackie Demontigny regarding issues with horses, would like to know what the issues are and where can a person ride in beach areas. Mitchell states he has tidelands leases and that he still has to leave access to this area. She is wanting to know what the issues with horses, Staff states that it's been more questions from the public with horses about if they ride where they are riding, rather than actual complaints. This is a discussion to review the ordinance.

Clay Hammer, 690 Evergreen, has chickens at his residence. Looked at the ordinances, and what is currently in place, feels the ordinance covers and addresses the animal issues.

Lucy Robinson, 932 Ash Street, feels that owners try to work together to maintain their chickens.

- Sustainability is a big thing
- Promoting the Community Garden
- Fishing and Hunting
- Wrangell is a rural community.

Briskar asked about city limits because some persons were under the impression roosters were allowed past City limits. Why can't roosters be allowed from a certain point to McCormack's Creek, and allow roosters to be rented for services.

Staff states that the Zoning Ordinance does not deal with Roosters specifically, so it would have to come from the Animal Ordinance.

Clay Hammer points out that noisy dogs are an issue also, and this seems not to be addressed, and why are roosters being singled out?

Lupe Rogers, 805 Lemieux, hears a rooster, doesn't bother her, and feels there are other issues more important items to deal with. Rooster is just doing what roosters do. Living in the country.

Jackie Demontigny, Mission Street. Previously had Roosters at her residence on the hill. Had a neighbor who reports her chickens to the police for noise. Her chickens now get reported to the police about going into a neighbor's yard. Unable to contain her chickens, recently lost her chicken due to roaming dogs. She has cats going to the litter box in her gardens, this not anything different than her chickens. If a person is having a problem with a chicken it's a joke to say they are destroying a garden, you can train them, if you don't want them to go someplace, spray them with a hose twice, and they won't go back. Wrangell needs to be animal friendly and allow chickens, roosters are not a big deal, maybe if its right outside someone's yard with kids, but the ordinance can't deal with it.

Dorianne Blatchley 405 Zimovia, feels there are plenty of dogs in town that make noise, and Alaska Marine Lines near her makes noise. Feels chickens are not as bad as the roaming dogs. If chickens need to be penned so do the dogs.

Kevin Bylow 209 St. Michaels St. hears the sandblasting from the boat yard more than chicken should be looking at all noise issues. Should not single out one issue.

Lupe Rogers, she has had roosters, these are good guard animals. Should be no more rules.

Traci Davidson, 936 Ash Street, lives about 50 yards away from a rooster. Daughter and Granddaughter's bedroom are on the same side of the house where the neighbor's rooster is. The rooster begins crowing about 5:30 am and only is going to get earlier as the sun gets earlier, it crows for about 15 minutes every hour. Doesn't mind chickens, chickens will lay eggs without a rooster, the noise affects her children and grandchild. Feels that this problem will get worse.

Jessica Rooney 404 Ash Street, has lived in this area for many years, and her neighbor had a rooster, didn't have a problem with it. Doesn't mind the rooster. Brings up issues regarding enforcement of the animal quota. What about dogs barking, should there be an ordinance about barking dogs, feels that if an ordinance is put into place, would be a bigger problem with regards to enforcement. Currently has chickens, but no rooster at this time.

Jamie Townsend 855 Lemieux St., asks Schnell wanted to know where the information regarding cities not allowing chickens. The rooster is crated at night and not released from this crate until 7 or 8 am in the morning. Asked if she moved the rooster to another location in the neighborhood three houses down, and if this would this be a workable solution to be able to get chicks. She stated Ms. Davidson would not work with her, has a petition that states the other neighbors in the area do not hear or are bothered by the rooster.

Mitchell there are a lot of pro-chicken persons in the audience. The question of enforcement is not the jurisdiction of the Planning and Zoning. P&Z sets what you can or can't have and types of uses. Enforcement belongs to another entity.

Staff states this a land use issue, what use is appropriate from a land use standpoint. Is the animal zoning code what people want or should there be changes made.

If there is an issue, residents needs to contact the police for enforcement.

Jessica Rooney asks the Planning & Zoning Commission where the number of animals allowed came from. Henson states these numbers were based on the population areas within Wrangell. Staff responds states these numbers were from the Commission, Henson states theses were based on closeness of neighbors, Ms. Rooney states she currently has more than 9 chickens at her residence, and half the neighbors in her area didn't know she had chickens, and wouldn't want to get rid of them. They are penned and cleaned, neighbors don't complain, Staff states that now Mrs. Rooney needs to come in and get a conditional use permit for the chickens.

Mitchell moves to leave the ordinance as is, Valvoda seconds.

Individual steps up to ask about horses, and designated areas. Staff states if a person is living in a single family district horses are not allowed. If living in a Rural Residential area (beyond City Park) you are allowed a horse based on square footage of the property and other conditions.

Motion still on the floor to leave the Ordinance as is.

Mitchell asks if Commission wants to reopen this item back up as public hearings would be required. Henson states that this item can be discussed at another time. Doesn't need to be resolved tonight.

Schnell would like to table the issue until the rest of the Commission is available for input and revisit some of the issues.

Secretary Klinke Restated the motion: Mitchel moves to leave the Ordinance as is, seconded by Valvoda.

Motion fails with Mitchell and Valvoda voting Yes, and Briskar, Schnell and Henson voting No.

Item is designated to be on next Planning and Zoning meeting that Staff will be attending, in July.

5. Request from Mark Mitchell to lease city tidelands, Lot 3, USS 3534.

Mitchell steps down due to conflict.

Requesting this to begin the process for obtaining Corp Permits. This is a recommendation to the Assembly.

Valvoda moves to recommend to approve the Request from Mark Mitchell to lease city tidelands, Lot 3, USS 3534. Briskar seconds.

Jackie Demontigny asks if a person can access this lease areas. Staff reports that in this case Mr. Mitchell owns the tidelands and there is no public access easement across his tidelands. Ms. Demontigny then questions why is the City giving approval to this, and Staff states Mr. Mitchell is requesting filling out past his tidelands lease into City Tidelands for business development. - Development of Borough tidelands requires lease or sale.

Motion passes to recommend to approve with unanimous vote.

Mitchell steps back up to the Commission.

6. Discussion regarding final selection of municipal entitlement lands

When became a Borough, were allowed to select a percentage of State land in the Borough formation.

9006 acres of certain classified lands, 849 acres remaining to select.

Mitchell asks if Staff wants the Commission to select the lands. Staff states that she wants the Commission to review the priority of selection of the Economic Development Committee and prioritize land areas for selection.

EDC has been working on these lands selections for a while.

Meeting recessed for Commission to take a break 8:44 pm

Meeting resumed 8:48 pm

Need lands that will provide economic benefits to the Borough.

Lands selected already are:

- Crittenden Creek along the shoreline
- South of Mill Creek
- Earl West Cove area
- Thoms Place
- Olive Cove
- Sunny Bay
- Wrangell Island East
- Wrangell Island West
- St. Johns Harbor

Briskar suggests take the St. Johns area.

EDC Prioritized List: Thom's Place near USFS roads, St. John's Harbor, Wrangell East along road, Earl West Cove.

State called encouraging us to select an area in Wrangell East and St. Johns. This area is available now that it has been logged. There is an unmaintained road in this area of Wrangell east. State had proposed a subdivision at St. Johns. There is mining near St. Johns., currently is used for hunting, logging and other recreation.

Thoms Place section 31 is 160 acres

St. Johns Harbor (could select all remaining amount here) but some is steep terrain

Earl West area – some is steep, some muskeg

Valvoda mentions to maybe follow what the EDC has suggested.

Staff apologizes on the time crunch to select this remaining acres.

Earl West possible RV parks and recreation areas? Earl West log transfer facility belongs to the Forest Service, but the land around it belongs to the Borough. We can get to Earl West by car and boat.

Demontigny states that the timber near Earl West may be available for harvest.

State Division of Timber is reluctant to release any lands potential harvestable timber on it and part of the SE State Forest. Commission is in favor of what the EDC suggests for selection. But could be economic recreational use from Earl West Cove area.

Briskar feels better about St. Johns area, but there is no standing timber at this location.

If the borough picks an area and doesn't get it, will Borough get to select again? Yes

1. Earl West Cove
2. St. Johns Harbor

H. PUBLIC COMMENT

I. COMMISSIONERS' REPORTS AND ANNOUNCEMENTS

Apologizes for late packets.

J. ADJOURNMENT 9:13 pm

DRAFT

Lavonne Klinke

From: Kim Lane <clerk@wrangell.com>
Sent: Monday, June 09, 2014 8:36 AM
To: Carol Rushmore
Cc: Lavonne
Subject: FW: Planning & Zoning Agenda Item

Hi Carol,

Liz sent this email to me this morning.

Kim

*Kim Lane, CMC
Borough Clerk
City & Borough of Wrangell
P.O. Box 531
Wrangell, AK 99929
Ph: 907-874-2381
Fax: 907-874-2304
clerk@wrangell.com
www.wrangell.com*

From: Buess, Elizabeth A (DOT) [<mailto:elizabeth.buess@alaska.gov>]
Sent: Monday, June 09, 2014 7:51 AM
To: Kim Lane
Subject: RE: Planning & Zoning Agenda Item

Hi Kim.

It's early Monday morning and I have been "held-over" for another work week, so I won't be making it to the Thursday meeting unless something changes between now and Wednesday. Could we please have it put on the next meetings agenda?

Thank you and sorry for the inconvenience.

Liz B

From: Buess, Elizabeth A (DOT)
Sent: Friday, June 06, 2014 9:36 AM
To: Kim Lane
Subject: RE: Planning & Zoning Agenda Item

Thank you, Kim

From: Kim Lane [clerk@wrangell.com]
Sent: Friday, June 06, 2014 8:04 AM
To: Buess, Elizabeth A (DOT)
Cc: msliz61@yahoo.com
Subject: RE: Planning & Zoning Agenda Item

Good morning Liz,

I forwarded your email message requesting that an item of discussion be added to the next P&Z Meeting to Carol Rushmore as she is the one who sets the agenda. She is currently out of town. You should hear from her or Recording Secretary Lavonne Klinker with regards to this.

Have a great day,

Kim

Kim Lane, CMC
Borough Clerk
City & Borough of Wrangell
P.O. Box 531
Wrangell, AK 99929
Ph: 907-874-2381
Fax: 907-874-2304
clerk@wrangell.com
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From: Bunes, Elizabeth A (DOT) [<mailto:elizabeth.bunes@alaska.gov>]
Sent: Friday, June 06, 2014 6:26 AM
To: clerk@wrangell.com
Cc: msliz61@yahoo.com
Subject: Planning & Zoning Agenda Item

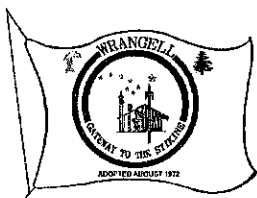
Good morning,

I would like to have an item added to the planning and zoning meeting scheduled for the 12th of this month. I am not sure if there is a specific request form or not, but I would like to see a discussion open on the topic of residential and industrial development, building and zoning restrictions, and other guidelines.

If there is anything further I need to do than this, please let me know as soon as possible. I am working out of town right now (on the ship) until Monday and have limited internet or phone service until then. This is the best email to reach me at if you have any questions or need me to do anything further.

Thank you,

Liz Bunes
PO Box 485
Wrangell, AK
907-305-0014



CITY AND BOROUGH OF WRANGELL
INCORPORATED MAY 30, 2008

Office of the Borough Clerk

P.O. Box 531 907-874-2381
Wrangell, AK 99929 907-874-3952

June 10, 2014

Planning and Zoning Commission

Re: Clerk's Certificate regarding Brenner Appeal

Commissioners:


To comply with WMC 20.80.010 (C) (8), I am required to do the following:

"the clerk of the board of adjustment shall, not later than 10 days of the final decision, certify the motion to the zoning administrator and planning commission. In addition, a certified copy of the motion shall immediately be mailed to the appellant(s) by certified mail, return receipt requested, or hand delivered".

Therefore, enclosed is the Clerk's Certificate that states that at the Board of Adjustment meeting that was held on Monday, June 9, 2014 @ 6:20 p.m., the board unanimously approved your appeal for the three (3) foot variance to the height requirement on Lot 7b, McCay Subdivision, zoned Single Family Residential.

The Certificate has been forwarded to the Zoning Administrator (Carol Rushmore) and Mr. Brenner as well.

Best Regards,


Kim Lane, CMC
Borough Clerk

encl.: Clerk's Certificate

City and Borough of Wrangell

Agenda G1 and G2

Date: June 9, 2014

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

1. Conditional Use permit request for the permanent location of a sun tanning salon on Lot 15B, Block 3, USS 1119, requested by Laura Massin, owned by Lawrence Bahovec.
2. Variance permit request for a variance to the off-street parking requirements for the sun tanning salon on Lot 15B, Block 3, USS 1119, zoned Multi-Family Residential, requested by Laura Massin, owned by Lawrence Bahovec.

Back ground: In 2011, Laura Massin requested a temporary use permit for her tanning salon business to be located in the Bahovec's residence on Church Street. She was being forced to move her business from its downtown location. The Commission granted her a one year Temporary Use permit to operate out of the Bahovec's residence and a variance to the off-street parking requirements.

Review Criteria:

Multi- Family District: Chapter 20.20
Standards: Chapter 20.52
Conditional Uses: Chapter 20.68
Variances: Chapter 20.72

Findings:

Needing to move out of her previous location, the applicant sought to set up in a former retail area of the Bahovec's resident on Church Street in 2011. . The Commission granted her a one year Temporary Use permit to operate at the location and a variance to the off-street parking requirements.

In July of 2012, the applicant called Zoning Administrator Rushmore and said that they were still looking for a new location and were hopeful that a site they were looking at was going to come through. In May of 2014, as staff was reviewing Planning and Zoning documents, it was discovered that more time had elapsed and a final location had not been approved. Staff contacted Ms. Massin to let her know she needed to apply for a permit to continue to operate at this location.

Conditional Use Permit Requirements

The Multi-family district permits commercial enterprises as home occupations and cottage industries if a Conditional Use permit is obtained. When the applicant originally approached the Commission, cottage industries was not a defined allowable use. This use was added in January of 2013 when the code was updated to include the Remote Residential areas. (definitions following)

"Home occupation" means a profession or use conducted entirely within a dwelling or premises by the residents with no other employees, when such use is incidental and secondary to the home for dwelling purposes, and where there is no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than any permitted sign; and where such use does not manifest any characteristics which are essentially different than the use of the building for permitted purposes, such as increased traffic volumes, noise, vibration, glare, fumes, odors, or electrical interferences which create visual or audible interference in any radio or television receivers off the premises or cause fluctuations in line voltages off the premises

"Cottage industry" means a small-scale home-based business, similar to a home occupation, allowing up to two employees, involving the on-site manufacture and/or sale of goods or services or the retailing, wholesaling, and renting of real or personal property provided such activities are permitted uses and are not, in the determination of the planning commission, detrimental to surrounding properties. A day sightseeing trip to a remote piece of property is considered a cottage industry.

This proposal should be considered a cottage industry rather than a home occupation as the applicant does not reside at the residence. Lawrence Bahovec is the land owner and individual living in the home, and has signed off on both applications providing his consent.

According to the map, the structure of the Bahovec's appears to be located within the Church Street Right-of-Way. While the Planning and Zoning Commission and the City Council approved vacating that portion of the ROW to the Bahovec's in 2001, the land was never officially vacated as a final plat was never prepared and recorded. It was up to the landowners to prepare the ROW vacation plat and they have not yet done so. Staff will prepare information for the Clerk and the landowners regarding this previous decision and lack of action. They were waiting originally for the State to complete the asbuilt of the road work, but that should have been completed by now.

Criteria for Conditional Use approval (WMC20.68.020)

A. When the appearance, traffic generated, noise, or other characteristics of the use would have an adverse affect upon neighboring properties, additional yards, site area, uncleared buffer strips, fences, hedges or other safeguards shall be provided by the conditional use in a manner which is sufficient to prevent any such adverse effect: The business operates fully within the residence and services are provided by appointment only. There have been no known complaint regarding the operation of the business at this site.

B. Provisions for sewage disposal and water service shall be acceptable to all applicable health regulations: Sewer and water are provided to the residence.

C. Exits and entrances and off-street parking for the conditional use shall be located to prevent traffic hazards or congestion on public streets: Entrance to the business area is by its own access point. Off-street parking however is not available and a variance would need to be obtained.

Variance

The Commission also needs to approve a variance to the off-street parking requirements for the tanning bed business. If this request were for a home occupation, two off-street parking places would be required- one for the residence and one for the business. Unfortunately, there are no off-street parking places for most of the residences in this section of Church Street. For high volume retail stores, on parking space is required for every 400 sq ft. This is not a high volume business and the sq. footage is approximately 400 sq. feet.

There should be only one customer on site at a time, possibly two if they arrive and depart simultaneously. This should not significantly increase the traffic or parking situation on Church street. There have been no known complaint about the business at this location.

A Variance application must meet four criteria: (WMC 20.72.050)

1. Exceptional Physical Circumstances: When Alaska DOT widened Church Street, the width came from the private property facing Church Street and most residents lost off-street parking capabilities.
2. Strict application would result in practical difficulties. Strict application denying the business because no off-street parking can be provided would result in the applicant needing to seek an alternative location and possibly a longer term closure of her business. The business has been operating at this location for three years with no known complaints.
3. That the granting of the variance will not result in prejudice to others, or be detrimental to public health, safety or welfare: The granting of the variance should not prejudice others in the area. A small retail jewelry gallery was located here from 1997-2005. No complaints were received by adjoining properties.
4. Granting of the variance is not contrary to the Wrangell Comprehensive Plan approved June 22, 2010.

Recommendation:

The Commission should make two separate motions for this business.

Staff recommends approval of the Conditional Use Permit for a cottage industry for a tanning bed salon to be located on the above described lot.

Staff recommends approval of the variance application requiring no off-street parking places for the tanning bed salon business located on the above describe lot.