

CITY OF CRAIG PLANNING COMMISSION AGENDA

Meeting of June 24, 2010
7:00 p.m., Craig City Council Chambers

Roll Call

John Moots (chair), Sharilyn Zellhuber, Lonnie Walters, Bill Russell, Mark Beardsley

Approval of Minutes

1. Approval of June 7, 2010 Meeting Minutes

Public Comment

1. Non-Agenda Items

Public Hearing and New Business

1. Resolution 524-10, Rezoning Request, Shaan-Seet request to rezone Raven Woods Subdivision from Forestry to Residential – Low Density
2. Resolution 525-10, Variance 100624, Gary Ellison encroachment into the side yard setback on Lot 3, HS 790

Old Business

1. Discussion of Planning Commission Member attendance by teleconference

Adjourn

CITY OF CRAIG
PLANNING COMMISSION MINUTES
Meeting of June 7, 2010

Roll Call

Present were John Moots (chair), Sharilyn Zellhuber and Bill Russell. Lonnie Walters and Mark Beardsley were absent excused.

Also present was Brian Templin (City Planner), Kim Patotzka and Tyna Soule.

Approval of Minutes

1. Approval of February 25, 2010 Meeting Minutes. A motion was made and seconded to approve the meeting minutes of February 25, 2010.

MOTION TO APPROVE RUSSELL/MOOTS APPROVED

2. Approval of March 30, 2010 Meeting Minutes. A motion was made and seconded to approve the meeting minutes of March 30, 2010.

MOTION TO APPROVE ZELLHUBER/RUSSELL APPROVED

Public Comment

1. Non-Agenda Items. There was no public comment on non-agenda items.

Public Hearing and New Business

1. Resolution 522-10, Variance 100527, Kim Patotzka encroachment into the side yard setback on Lot 4, Block 12, USS 1430. Brian reported that Kim Patotzka had applied for a variance to the sideyard setback on Lot 4, Block 12, USS 1430 for a building that he had placed there. Brian reminded the commission that they needed to pass a resolution either approving or denying the variance and could not just vote down the approving variance. Brian also reminded the commission that if they felt that certain criteria weren't met then it would be helpful if they could specifically call out the unmet criteria and why they felt it was unmet so that Brian could publish a statement of findings if the request was disapproved. Kim shared what he wanted to accomplish and why he felt a variance was justified. There was discussion about the seven criteria. The commission had concerns that criteria 1, 5 and 7 were possibly not met. Bill Russell felt that there were other possible placements and that minimal trees had to be removed in order for the building to be placed on the property outside of the setback. Sharilyn Zellhuber commented that if Kim were to build a similar building from scratch that he could place it elsewhere on the lot and that the choice to use a pre-built building limited its placement more than just the size of the building. The commission also discussed the fact that Kim owns the lot adjacent to the property line that he is seeking the variance for and that give additional options. The commission felt that Kim could replat the property to also make the structure comply. The commission discussed the required criteria and asked Brian if they

could add a condition so that the variance wasn't permanent, but would be resolved in the future. Brian said that there was nothing prohibiting the commission from adding conditions to the resolution that called for some fix by a certain date or by some event such as transferring the property. There was some discussion about how long or what event would be appropriate to allow the variance to continue. Bill proposed that the approving resolution be amended to include a provision that Kim had twenty-four months to take some action to resolve the encroachment. The actions could include moving or modifying the structure; removing the structure; or replatting the property so that the building meets the code requirements. Kim asked if it was possible to replat the two properties to remove the property line between them. Brian said that if the replat meets the city code, and it looked like there was enough square footage to accomplish a replat, then it could be replatted. A motion was made and seconded to approve Resolution PC 522-10 as amended.

MOTION TO APPROVE

RUSSELL/ZELHUBER

APPROVED

2. Resolution 523-10, Variance 100607, Kenneth and Tyna Soule encroachment into the side yard setback on Lot 6, Block 10, USS 1430. Brian reported that Kenneth and Tyna Soule had applied for a variance to encroach up to 10' into the side yard setback on Lot 6, Block 19, USS 1430 to construct a deck that was more than 30" above grade. Brian explained that they were replacing a deck that was in bad shape and were expanding the footprint of the deck to accommodate Kenneth's wheelchair. Brian said that Kenneth was confined to a wheelchair due to Lou Gehrig's Disease and the larger deck would make it easier for him to spend time outside. Bill asked if there was a difference in code between a structure and a deck in terms of the setback. Brian said that the municipal code really considers them the same if the deck is more than 30" from grade. Brian also said that the Soules owned the property adjacent to the proposed encroachment. Bill asked if the grade could be brought up around the deck to make it less than 30" above the ground. Brian said that would eliminate the need for the variance but would be difficult and require a great deal of fill because of the height of the deck and the slope of the ground. The commission discussed the required criteria and found that the criteria were met for the current owner because of the hardship and circumstances created by Kenneth's illness, but that the criteria wouldn't necessarily be met for future property owners. Sharilyn proposed adding a condition similar to the one that was added to Mr. Patotzka's approval earlier that would allow for the variance but require it to come into compliance within a certain amount of time or when some event like a transfer of property happened. The commission discussed how much time would be appropriate. After the discussion the commission determined that the encroachment should be resolved by modifying or removing the deck; or replatting the two adjacent properties to bring it into compliance within forty-eight months or before any future property transfers. A motion was made and seconded to amend the resolution to include a provision to require compliance within the agreed time or triggering events and to approve the resolution as amended.

MOTION TO APPROVE

ZELHUBER/RUSSELL

APPROVED

3. Discussion of Planning Commission Member attendance by teleconference. Brian reminded the commission that when Mark Beardsley was appointed to it was with knowledge that he would be out of town for most of the summer. At that time the commission said it wanted to talk about the possibility of teleconferencing in to meetings. Brian said that currently teleconferencing was not specifically prohibited but that if the commission wanted it to become a regular part of the meeting then he would like to see some clear parameters outlined in code. Brian also said that if the commission wanted to pursue it as a regular option then it would also be good to see if there was interest by the city council to incorporate any rules about teleconferencing into other municipal meetings, such as city council meetings. Brian said that he had discussed the issue a little bit with Jon Bolling and there were two major concerns that they had with teleconferencing. The first concern was that the person calling in missed the opportunity to see and use non-verbal cues and reactions when discussing a matter. Secondly there was a concern about who else was on the caller's end. Brian said that it would be easy to violate the ex parte communications prohibition if the caller was getting input from someone else at their end who might be out of speaking range of the telephone so that the rest of the commission couldn't hear that part of the discussion. Brian also said that despite those concerns it was becoming more and more common to see board meetings and other business routinely done by teleconference including the Interisland Ferry, Southeast Conference and State Boards and Commissions. John Moots suggested that we could possibly allow participation and discussion but no voting for members calling in. Sharilyn added that it was also more difficult for commissioners to see sites being discussed for variances, subdivisions, conditional use permits, etc. if the commissioner was gone by the time the packets were distributed. Brian said that he could increase the amount of information that was provided to include more photos and drawings to make up for some of that. It would definitely be more work but could be accommodated. Bill said that he was in favor of being able to teleconference in and that even the courts were using it regularly for legal matters. Sharilyn suggested that we continue the discussion at the next meeting and work to teleconference Mark in to participate as well.

4. Planning Commissioner Training. Brian reminded the commission that Nicole Grewe from the Division of Community and Regional Affairs will be on the island June 14th to conduct planning commission training in Thorne Bay. Brian said that the training was during the day and that he would be happy to drive if anyone was interested in going.

Old Business

There were no old business items on the agenda.

Adjourn

A motion was made and seconded to adjourn the meeting at approximately 8:45 pm.

MOTION TO ADJOURN

ZELHUBER/RUSSELL

APPROVED

John Moots, Chairman

Attest: Brian Templin, City Planner

CITY OF CRAIG MEMORANDUM

To: Craig Planning Commission

From: Brian Templin, City Planner

Date: June 10, 2010

RE: Rezone request by the Shaan Seet Inc. to rezone a portion of ANCSA Lots 1 and 3, Section 16, T74S, R81E, Copper River Meridian shown as Lot 1-10, Raven Woods Subdivision (Preliminary Plat) from Forestry to Residential – Low Density

The commission recently approved the preliminary plat for Raven Woods Subdivision, a ten lot subdivision on Port St. Nicholas road. Currently the area is zoned Forestry. This rezone action will rezone the area encompassed by the lots to Residential – Low Density (RL).

The following seven conditions must be met for a rezone request to be approved.

1. That the proposal is consistent with the policies of the Craig Comprehensive Plan, the Craig Coastal Management Program, the Craig Municipal Code and other applicable ordinances.
2. That the proposed designation is compatible with other existing or proposed designations in the area affected by the proposal. Compatibility is evaluated based on the permitted uses and their effects on the following:
 - a. The level of noise, odor, smoke, dust, or other objectionable pollutants that would be created and their effects on surrounding areas;
 - b. The health and safety of persons or property;
 - c. The land, air, and water or habitat quality;
 - d. Property values in the area;
 - e. Volume and type of traffic generated and the effect alterations in traffic volumes and patterns would have on health and safety;
 - f. Availability of adequate off-street parking for the uses permitted in the land use or zone designation;
 - g. Trees or shrubs designated for: habitat protection; wind, noise, sediment, or pollution buffers; recreation or open space; protection from natural hazards, watershed protection, or visual considerations.
3. That additional utilities required by the proposed designation will be made adequate by the applicant at no additional expense to the City and will not interfere with utility capacity to serve other areas of the City.
4. That the land use or zone change does not create a shortage of land in the current land use or zone designation.
5. That there is a community need for the change.
6. That the proposed designation will not interfere with the efficiency of, the planned expansion of, or access to water dependent or water related uses unless:
 - a. There is a documented public need for the proposed use,
 - b. there is no alternative site, and

- c. the public good will be served better by the proposed use than by a water dependent or water related use.
- 7. That other relevant objections made evident at the public hearing are addressed.

Conditions 1 – 6 are met and condition 7 can be met at the conclusion of the public hearing. The rezone request was publicly advertised per the municipal code.

Recommendation: Approve PC Resolution 524-10-PC recommending that the City Council approve the rezoning of a portion of ANCSA Lots 1 and 3, Section 16, T74S, R81E, Copper River Meridian shown as Lots 1-10, Raven Woods Subdivision (Preliminary Plat).

**CITY OF CRAIG
PLANNING COMMISSION**

RESOLUTION 524-10-PC

RECOMMENDING APPROVAL OF A REQUEST BY SHAAN SEET INC. TO REZONE A PORTION OF ANCSA LOTS 1 AND 3, SECTION 16, T74S, R81E, COPPER RIVER MERIDIAN (SHOWN AS LOTS 1-10, RAVEN WOODS SUBDIVISION PRELIMINARY PLAT) FROM FORESTRY TO RESIDENTIAL – LOW DENSITY (RL) ZONE

WHEREAS, the Planning Commission held a public hearing on June 24, 2010; and,

WHEREAS, public notice was given in accordance with Section 18.06.004 of the Craig Land Development Code; and,

WHEREAS, the Planning Commission finds that the specific criteria of Section 18.06.004 of the Craig Land Development Code are met as follows:

1. That the proposal is consistent with the policies of the Craig Comprehensive Plan, the Craig Coastal Management Program, the Craig Municipal Code and other applicable ordinances.
2. That the proposed designation is compatible with other existing or proposed designations in the area affected by the proposal. Compatibility is evaluated based on the permitted uses and their effects on the following:
 - a. The level of noise, odor, smoke, dust, or other objectionable pollutants that would be created and their effects on surrounding areas;
 - b. The health and safety of persons or property;
 - c. The land, air, and water or habitat quality;
 - d. Property values in the area;
 - e. Volume and type of traffic generated and the effect alterations in traffic volumes and patterns would have on health and safety;
 - f. Availability of adequate off-street parking for the uses permitted in the land use or zone designation;
 - g. Trees or shrubs designated for: habitat protection; wind, noise, sediment, or pollution buffers; recreation or open space; protection from natural hazards, watershed protection, or visual considerations.
3. That additional utilities required by the proposed designation will be made adequate by the applicant at no additional expense to the City and will not interfere with utility capacity to serve other areas of the City.
4. That the land use or zone change does not create a shortage of land in the current land use or zone designation.
5. That there is a community need for the change.

6. That the proposed designation will not interfere with the efficiency of, the planned expansion of, or access to water dependent or water related uses unless:
 - a. There is a documented public need for the proposed use,
 - b. there is no alternative site, and
 - c. the public good will be served better by the proposed use than by a water dependent or water related use.
7. That other relevant objections made evident at the public hearing are addressed.

NOW, THEREFORE, BE IT RESOLVED That the Craig Planning Commission recommends that the Craig City Council approve the request to rezone that portion of ANCSA Lots 1 and 3, Section 16, T74S, R81E, Copper River Meridian shown as Lot 1-10, Raven Woods Subdivision (Preliminary Plat).

Approved this 24th day of June, 2010.

Chairman John Moots

Attest: Brian Templin, Craig City
Planner

**CITY OF CRAIG
PLANNING COMMISSION**

Staff Report by Brian Templin

June 10, 2010

Applicant: Gary Ellison

Requested Action: Variance to set back requirement

Location: Lot 3, HS 790
1605 East Hamilton Drive

Zoning: High Density Residential

Surrounding Uses: North: Medium Density Residential/East Hamilton Drive
South: Port Bagial
West: Low Density Residential
East: Low Density Residential

Analysis

Gary Ellison Has applied to the Craig Planning Commission for a variance to the side yard setback on Lot 3, HS 790. The variance is to allow encroachment of approximately 5' caused by new construction of a 16'x32' detached outbuilding for enclosed storage and shop space.

The lot is a flag type lot with a narrow road frontage. The lot expands as it goes south toward the water. Gary purchased the property with the house already on site.

Criteria Analysis

Section 18.06.003 of the Craig Land Development Code lists the seven specific criteria that must be met before a variance may be granted.

Criteria 1. There are exceptional physical circumstances or conditions applicable to the property or to its intended use or development which make the variance necessary. The lot is a flag lot, which means that there is a narrow access way for some portion of the lot before it expands out to a wider, more usable shape. The lot also fronts on tideland so the original builder did not utilize the full lot area and constructed the house near the point where the flag lot opens out to a building area, leaving little buildable fill seaward of the house or access around the house to place the proposed structure elsewhere on the lot. The first 99' of the lot fronting on Hamilton Drive is only 42' wide and the driveway occupies the center of this 42' wide area. The house placement leaves few options for placement of an outbuilding of this size. The applicant has stated that the narrowness and irregular shape of the lot is an exceptional physical circumstance requiring the variance.

Criteria 2: The strict application of the provisions of this title would result in practical difficulties or unnecessary hardship. The strict application of the provisions of the setback would limit the applicant's ability to build an enclosed outbuilding for storage or other purposes. The applicant spends several months out of town each year and wishes to construct the building

to allow for storage to keep things out of the weather. The planning commission should discuss whether this criteria is met.

Criteria 3: Granting the variance will not result in physical damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety or welfare. The variance is requested within setbacks that will affect one property to the west (owned by Brant and Kim Baxter). The Baxter's have submitted a written letter of support for the variance. There are no improvements on the adjacent lot where the encroachment is requested. There are improvements on the adjacent lot north and south of the proposed improvement on the adjacent lot. The commission should discuss the impacts to the adjacent properties.

Criteria 4: Granting the variance is consistent with the objectives of the comprehensive plan. The proposed use, zoning and location are consistent with the Craig Comprehensive Plan. This condition is met on the basis of the application.

Criteria 5: The special conditions that require the variance are not caused by the person seeking the variance. The applicant has listed the configuration of the lot, placement of the fill for construction and placement of the house as conditions requiring placement of the outbuilding in this location and the need for the variance. As the commission knows, new construction is always a factor in variances since the applicant has more control of size and placement of the structure. The commission should discuss whether or not this condition is met.

Criteria 6: The variance will not permit a land use in a zone in which that use is prohibited. The proposed use and construction is allowed in the zone that the property is located in. This condition is met based on the application.

Criteria 7: The variance is not sought solely to relieve monetary hardship or inconvenience. The commission should discuss whether the applicant has looked at alternatives to the variance that will allow for reasonable improvements, even if they cause monetary hardship or inconvenience.

Recommendation

As the commission is fully aware granting the variance require a balance of what is reasonably expected in terms of construction footprint to meet an applicants needs and weighing that against public safety, property values and other considerations spelled out in the variance requirements.

Criteria 4 and 6 are met on the face of the application. All other criteria should be discussed by the commission to determine if the variance meets these criteria.

A copy of the application is attached.

**CITY OF CRAIG
PLANNING COMMISSION
RESOLUTION 525-10-PC**

APPROVING A REQUEST BY GARY ELLISON FOR A VARIANCE TO THE
SIDEYARD SETBACK REQUIREMENTS ON LOT 3, HS 790

WHEREAS, the Planning Commission held a public hearing on June 24, 2010; and,

WHEREAS, public notice was given in accordance with Section 18.06 of the Craig Land
Development Code; and,

WHEREAS, the Planning Commission finds that the specific criteria of Section
18.06.003 of the Craig Land Development Code are met.

NOW, THEREFORE, BE IT RESOLVED the Craig planning commission approves the
request for a variance to the setback requirements on Lot 3, HS 790 not to exceed an
encroachment of five feet (5') into the west side yard setback.

Resolution Approved this 24th day of June, 2010.

Chairman John Moots

Brian Templin, City Planner