



**AGENDA**  
**PLANNING AND ZONING COMMISSION**  
**CITY COUNCIL CHAMBERS**  
**September 26, 2012**  
**7:00pm**

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. APPROVAL OF MINUTES OF THE REGULAR MEETING OF September 12, 2012**
- IV. PUBLIC BUSINESS FROM THE FLOOR**
- V. PUBLIC APPEARANCES**
- VI. PUBLIC HEARINGS**
- VII. UNFINISHED BUSINESS**
- VIII. NEW BUSINESS**
  - 1) Approval of Recommendation To Approve Gravel Lease Renewal for Haltness Construction, Inc**
- IX. REPORTS**
  - 1) E-Notes**
  - 2) Staff Report (Verbal at Meeting)**
  - 3) Abatement Report (Verbal at Meeting)**
- X. COMMISSION BUSINESS FROM THE FLOOR**
- XI. ADJOURNMENT**

VALDEZ PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
SEPTEMBER 12, 2012

**I. CALL TO ORDER**

The regular meeting of the Valdez Planning and Zoning Commission was called to order at 7:00pm by Chairman Delozier.

**II. ROLL CALL**

Chairman Delozier, Commissioners Haase, Ragan, and Fannin were present; Commissioners Malone, Hogarth and Swierk were absent and excused.

Staff present included Lisa Von Bargen, Director; Janine Vadeboncoeur, Planning Technician and Wendy Farlin, Senior Office Assistant of the Community & Economic Development Department.

Lindsay Hobson attorney at Walker and Richards, Wayne Haerer of GCI, Bonnie Cudnohufsky, Nita Street, Jacob Focht, Frank Cook, David Daniels and Chris and Rebecca Walker were in the audience.

**III. ELECTION OF CHAIR PRO TEMPORE**

Chairman Delozier stated that at the previous meeting, Chairman Malone stepped down as the Chair. As Chair Pro Tempore, Commissioner Delozier is now the Chairman, requiring an election for a new Chair Pro Tempore. Commissioner Fannin volunteered until the end of the year and Commissioner Haase moved to close nominations.

**VOTE ON THE MOTION: 4 Yeas, 3 absent and excused (Commissioners Malone, Hogarth and Swierk); motion carried to elect Commissioner Fannin as the new Chair Pro Tempore.**

**IV. APPROVAL OF MINUTES – August 22, 2012 Regular Meeting Minutes**

**MOTION: Commissioner Haase moved and Commissioner Fannin seconded approval of the August 22, 2012 regular meeting minutes.**

**VOTE ON THE MOTION: 4 Yeas, 3 absent and excused (Commissioners Malone, Hogarth and Swierk); motion carried.**

**V. PUBLIC BUSINESS FROM THE FLOOR - None**

**VI. PUBLIC APPEARANCES - None**

**VII. PUBLIC HEARINGS**

**1) (VAR # 12-04) Variance for a 184 Foot Communications Tower on Lot 1, Bock 4, Robe Lake Subdivision. Applicant: GCI**

Lisa Von Bargen stated that the City attorney has determined that no height variance or any other type of requirement is necessary. A tower can be constructed without City

approval. A tower is considered a utility installation, which is a permitted principal use in the Rural Residential zoning district and there is a section of the code that exempts towers from height restrictions. This means that no public hearing and no approval from the City is required. Since the public hearing had already been published, staff determined that the public hearing would still be held for public input.

Wayne Haerer, Acquisition Real Estate Representative for GCI, thanked staff for their help and assistance throughout the course of the project. Wayne stated that the proposed tower will be a 184 foot self-support lattice tower. GCI is proposing an exact replica of the Copper Valley Telecom tower on West Egan and has spent a considerable amount of time researching possible areas. The proposed site gives the maximum optimization of signal and propagation strength as you come out of the Canyon all the way to town. In addition, it will reach the current antennae on the grain elevator which will alleviate dropped calls and provide for a microwave signal. Wayne further stated they are sensitive to the concerns to the extent they can be, but the future is not just phone service anymore; it's 4G communication signal for tablets, smart phones and laptops as well as access to E-911 calls and internet research for students, which residents in the 10 mile area have expressed interest.

Valdez resident Chris Walker stated that he and his wife own two lots on Deep Lake Drive on the hill above where the proposed tower would be and bought them primarily because they were more rural and didn't have cell towers. Chris further stated that while no one is going to argue that 4G speed and cell phones are the wave of the future, whether or not it is true, there is a perceived danger in the radio frequency (RF) emitted. Chris felt his property value would decrease if the tower were erected in the proposed location and encouraged GCI to co-locate on Copper Valley Telecom's (CVT) tower. Chris felt that it wasn't fair that property owners on the road shoulder the burden of a tower to serve everyone while GCI makes money. Chris was also concerned with possible warning lights placed at the top of the tower and felt they would not be necessary as the tower is below the 200 feet that the FAA requires. In addition, the road supplying Deep Lake Drive is privately owned and if GCI goes through with erecting a tower, Chris hoped they would contribute to road maintenance. Chris thanked the Planning and Zoning Commission for allowing public comment even though it is now a moot point and asked that the code be looked at to avoid future towers being erected.

Valdez resident Frank Cook stated that he owns the two lots next to the proposed site on Deep Lake Drive and feels that his view will be substantially blocked by the tower. He felt that at 184 feet the tower does need a light because of low flying aircraft. Frank felt that co-location would be a good idea; but felt an even better location would be across the river. Across the river would be away from residents and could have a flashing light that wouldn't affect anyone.

Valdez resident Jacob Focht spoke on behalf of his brother Jason and said he agrees with what the others have said and stated that there has to be other options.

Valdez resident Bonnie Cudnohufsky spoke on behalf of her son Henry Cook. Bonnie stated that Henry is a young man who saved to buy property with a beautiful view and

build his first home and was distressed to learn that a 184 foot tower would be erected. Bonnie encouraged CGI to look at other properties.

Wayne Haerer from GCI stated that he spoke with Chris Mishmash, representative of CVT, on several occasions regarding possible co-location on the CVT tower in town. GCI asked CVT to submit a quote for placing GCI antennas on the tower. The quote was not cost effective, which led GCI to contract with AT & T. In addition, the TV tower location is remote, requiring equipment to be brought in by helicopter which would be cost prohibitive and not effective as GCI needs to have direct access.

Wayne also stated that he's not speaking on behalf of any of the other carriers, but the GCI tower would afford the ability of co-location to the other carriers. Wayne stated that if a person could step away from the concern of this particular tower, the concern of many towers could be eliminated by co-locating on this tower. This tower is designed to accommodate three more carriers.

Wayne stated that there will not be lights on the tower, as the FAA doesn't require them at that height. As an alternative, GCI has installed reflectors in lieu of lights on other towers and that could be an option. Wayne also stated that he had done a five year property value study in Kenai approximately four years ago and found that there was no reduction in value by the AT & T tower to the residential areas nor was there any obstruction of the view shed to the Kenai River. In addition, GCI had two appraisals done on a piece of property in the Juneau area and they indicated no valuation affect to the property because of a tower.

Wayne stated that he will not say there won't be some concern, but as far as obstruction of view, the tower tapers off dramatically after 60 feet and would be similar to looking at a pen at any distance so the concern of blocking out mountains is not true. Additionally, Wayne took pictures from Mr. Bennett's driveway at 5990 Deep Lake Drive and doesn't believe the impact will be too great.

Wayne thanked the residents for their input and indicated that he will bring their comments back to the Chief Engineer and Vice Presidents of GCI for discussion. Wayne further stated that they understand that they no longer have to go through the public hearing process but will still stay sensitive to the concerns.

Commissioner Fannin asked if GCI had a certificate of convenience or is considered an agency which is a requirement of qualifying under a utility installation under 17.04.1510. Lisa responded that that was her understanding and asked Lindsay Hobson, attorney at Walker and Richards, to speak to the question. Lindsay stated that she believes that GCI falls into the utility installation under city code 17.04.1510 and qualifies for an exemption. Wayne Haerer of CGI responded that they do have a certificate of convenience.

Wayne reiterated that GCI went through the process of due diligence in asking for a variance and even though it's been declared moot, GCI still wants to work with staff and report their findings and what they are proposing. In addition, as stated previously there

will not be any lights; and if something comes up GCI will try to work with the City in good faith if they go forward with the project.

Chairman Delozier asked Wayne if the tower had the capability of handling more than one companies' antennae and Wayne responded yes, that it can handle up to three more carriers, which could potentially eliminate the need for more towers to be erected.

**VIII. UNFINISHED BUSINESS - None**

**IX. NEW BUSINESS**

**1) (EXCPT # 12-03) Approval of Exception for an Existing 14.3 Foot Encroachment of the Carport into the 20 Foot Front Yard Setback on a Lot 7A, Block 7, Mineral Creek Subdivision. Applicant: Bonnie Cudnohufsky.**

**MOTION: Commissioner Haase moved and Commissioner Fannin seconded approval of the Exception for an Existing 14.3 Foot Encroachment of the Carport into the 20 Foot Front Yard Setback on a Lot 7A, Block 7, Mineral Creek Subdivision.**

Bonnie Cudnohufsky stated that she was present to support her request. There was no discussion.

**VOTE ON THE MOTION: 4 Yeas, 3 absent and excused (Commissioners Malone, Hogarth and Swierk); motion carried.**

**2) Discussion Item: Mobile Home to be Retained as a Storage Building on Light Industrial Zoned Lot at Lot 1, Parcel B, USS 3682 (Loop Road)**

Lisa stated that Mr. Daniels was present on behalf of his parents who are building a new home and have asked to have their existing mobile home remain on the property as a storage unit. The Daniels are willing to do whatever is necessary to make the mobile home uninhabitable. Lisa stated that the code deals with mobile homes on residential lots but does not address them on light industrial zoned lots so it is a gray area. Therefore, staff directed the Daniels to remove the mobile home as the code states that a property cannot have more than one dwelling unit. The discussion before the Commission is whether or not the mobile home, if made uninhabitable, can be considered a storage unit and therefore able to remain on the property. Commissioner Haase asked if there was a size limit on storage units without a permanent foundation and Lisa responded that if it is less than 200 feet then it doesn't require a permanent foundation, but mobile homes are allowed without a permanent foundation because they have a chassis. Lisa is concerned that the precedent will be set that anyone can move a mobile home onto a piece of property and call it a storage unit. Commissioner Haase agreed that the precedent would be set; however, connexes are brought in all the time and have not come before the Commission. Commissioner Fannin confirmed that a chassis is something on wheels and recited the portion of the code that states a mobile home must be suitable for long term habitation, having complete living facilities. Commissioner Fannin stated that if you rip

all of that out then it's no longer a mobile home and would be considered a trailer. Commissioner Fannin further stated that the issue will be that anyone driving by will see a mobile home; they will not know that it has been made uninhabitable.

Lisa stated that because the issue is coming before Planning & Zoning, the Commission has the ability to place stipulations on the request and/or record it to the property. Commissioner Haase stated that the Commission would be granting an exception to an oversized storage shed that is not on a permanent foundation and asked if that would be a correct assessment. Lisa responded that it wouldn't necessarily be an exception, even though there isn't a provision for it in the code, it would be something that is allowed because of the reasonableness of the request. Lisa agreed with Commissioner Fannin that it becomes an appearance issue. Commissioner Fannin stated that the best course of action would be to call it storage of a mobile home unit and leave it at that. Lisa responded that she would work with Lindsay Hobsen to make sure everything is in order.

David Daniels spoke on behalf of his parents. His father has had a small stroke and David appreciates the Commission allowing him to speak on their behalf and is willing to do whatever is asked in order to allow the mobile home to remain as a storage unit. Lisa responded that staff would work with Mr. Daniels to do what needs to be done.

**3) Approval to Go into Executive Session Regarding Abatement Litigation**

- a) Lot 11, Block 11, Robe River Subdivision
- b) Lots 4 & 5, Block 1, Robe Lake Subdivision

**MOTION: Commissioner Haase moved and Commissioner Ragan seconded approval to Go into Executive Session Regarding Abatement Litigation**

- c) Lot 11, Block 11, Robe River Subdivision
- d) Lots 4 & 5, Block 1, Robe Lake Subdivision

**VOTE ON THE MOTION: 4 Yeas, 3 absent and excused (Commissioners Malone, Hogarth and Swierk); motion carried.**

**X. REPORTS**

**1) E-Notes**

There were no additions to the E-Notes.

**2) Staff Report – Verbal at Meeting**

Lisa reported that the Alaska Planning Association Conference will be hosted November 11-13, 2012 in Anchorage and if anyone is interested in attending please contact Lisa as money is set aside for travel by Commissioners.

**3) Abatement Report – Deferred to Executive Session**

**4) Non-Conforming Use v. Exception Report**

Lisa stated that she reviewed the code regarding non-conforming uses and exceptions and agreed with Commissioner Fannin that non-conforming use should be the condition applied and will be used for future requests where something was built prior to 1983. Lisa further stated that the big difference between the two is, in a non-conforming use agreement if more than 50% of the original structure is damaged then it has to be re-built in compliance with current codes. In an exception, that isn't necessarily the case.

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

Commissioner Haase stated that he would like to discuss towers at a future meeting.

Chairperson Ragan stated that there is a good chance she will miss the September 26<sup>th</sup> meeting and will not be present for the October 10<sup>th</sup> meeting.

Commissioner Fannin asked if the construction on Rich Long's property by Mark's Repair had the proper permits. Staff reported that construction is being done without permits. Rusty Hansen, the Building Inspector, did an inspection and asked that the permits be submitted, along with State Fire Marshal approval since it is on commercial property. Commissioner Fannin stated that when these types of situations arise, a stop work order needs to be applied and enforced rather than allowing construction to continue and trying to "make it fit" after the fact. In addition, it sets a precedence which needs to be avoided.

Chairman Delozier stated that he will also not be present for the September 26<sup>th</sup> meeting. Chairman Delozier further stated that he had just gotten off the plane from attending the Alaska Seismic Safety Hazards meeting and reported that it was very intense and enlightening and will share more information when he's gathered his thoughts. There were several items that will be of interest to the Commission, but one item in particular is the recommendation that professional engineers and surveyors be required to have continuing credits on seismic training. This item will be brought back to the Commission for their input.

Lisa stated that she will also be absent at the September 26<sup>th</sup> meeting.

#### **XII. EXECUTIVE SESSION**

The Commission adjourned at 8:48pm to go into executive session.

#### **XIII. RETURN FROM EXECUTIVE SESSION**

#### **XIV. ADJOURNMENT**

There being no further items, the meeting adjourned at 9:08 pm.

# PLANNING & ZONING AGENDA STATEMENT

AGENDA ITEM NO. \_\_\_\_\_

MEETING DATE: September 26, 2012

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**ITEM TITLE:**  
Approval of Recommendation To Approve  
Gravel Lease Renewal for Haltness  
Construction, Inc.

**SUBMITTED BY:** Janine Vadeboncoeur,  
Planning Technician

**DIRECTOR:**   
Community & Economic Development

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**REVIEWED BY:** Other Commission:

Finance:

Other:

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**EXHIBITS ATTACHED:**

Resolution \_\_\_ Ordinance \_\_\_ Plan \_\_\_ Map X Report \_\_\_ Minutes \_\_\_  
Plat: \_\_\_ Other: \_\_\_

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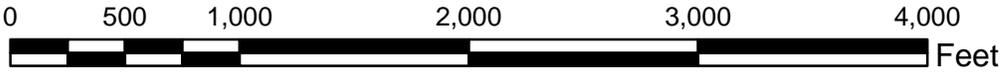
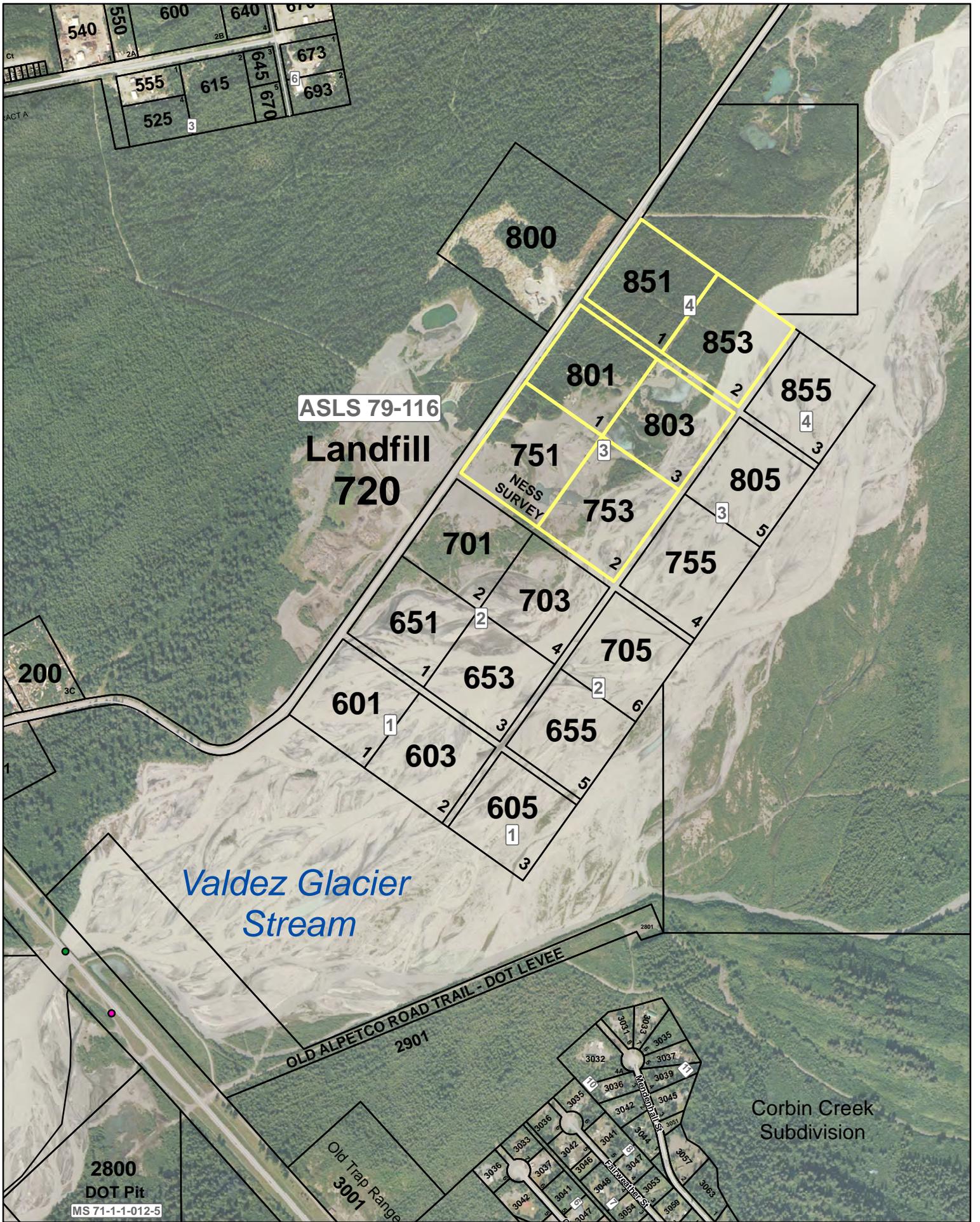
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**SUMMARY STATEMENT:**

In 1992 Haltness Construction, Inc. entered into a twenty (20) year lease with the City of Valdez for Lots 1, 2 and 3, Block 3 and Lots 1 and 2, Block 4, Gravel Lease Subdivision, recorded in the Valdez Recording District as Plat No. 92-5 for an area of 50 acres.

On November 18, 2002 Lease Amendment No. 1 was approved by the Valdez City Council for the assignment of the 10-acre parcel (Ness Survey) from Harris Sand & Gravel to Haltness Construction, Inc. on October 21, 2002. The expiration date on the Harris Sand & Gravel lease expired in 2016. The Lessor recommended that the expiration date of the new 60-acre parcel retain the current expiration date of 2012 which is on the Lessee's 50-acre lease. Council approved this new expiration date in Amendment No. 1.

The Haltness Construction, Inc. gravel lease expires on October 5, 2012. Staff received an email September 4, 2012 from Erik Haltness requesting the renewal of his gravel lease. Staff is working on drawing up a new lease which will be for a ten (10) year period expiring October 5, 2022. The rent will remain at \$3,000 per year plus \$.60 per cubic yard over 5,000 cubic yards extracted annually, which is due April 1<sup>st</sup> of each year.



## Wendy Farlin

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**From:** Laura Robertson  
**Sent:** Monday, September 24, 2012 12:00 PM  
**To:** Lisa Von Barga; 'Haase, Donald J.'; 'Fannin, John D.'; 'Keith.Hogarth@alaska-pipeline.com'; 'ickabod@cvinternet.net'; 'akmaritime@ak.net'; 'swierk@valdezak.net'; 'Mike Congel & Lea Ragan'; 'Scott Malone'  
**Cc:** Janine Vadeboncoeur; Wendy Farlin; Rusty Hansen  
**Subject:** P&Z E-Notes 9-24-12

Good morning Commissioners,

There will be a regularly scheduled meeting of the Planning & Zoning Commission this coming Wednesday, September 26<sup>th</sup> at 7pm in the City Council Chambers. There will be no work session preceding this meeting. Staff still requires some additional time before bringing the Subdivision Code revisions back for review (*It's almost there though!*). There is only one item on the agenda in addition to the regular reports. Under New Business there is action on a recommendation for City Council to approve a gravel lease renewal with Haltness Construction on Glacier Haul Rd. There will be a verbal abatement report at the meeting and if the commissioners are interested, staff can update them on everything that was going on during the flooding event this last week and a half (we dubbed it operation Watersheid).

We look forward to seeing you all Wednesday evening. The packets should be out early [this](#) afternoon. Have a great day!

Laura



**Laura Robertson**

Planning / GIS Technician  
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