



CITY OF WASILLA

290 E. HERNING AVE.

WASILLA, ALASKA 99654-7091

PHONE: (907) 373-9050

FAX: (907) 373-9085

COUNCIL MEMORANDUM NO. 95-21

From: City Planner

Date: February 22, 1995

Subject: Ordinance No. 95-15, amending Title 16 (Wasilla Development Code) of the Wasilla Municipal Code, to regulate the use of land for the purposes of Adult Oriented Entertainment and Adult Oriented Retail Sales, within the City of Wasilla.

BACKGROUND

The Wasilla Planning Commission considered the above referenced issue at two (2) worksessions last Fall, and, at the regular meetings on January 27, and February 14, 1995. At the regular meeting on Feb. 14, Commission Resolution No. 95-02, was adopted to forward Ordinance No. 95-15 to the Wasilla City Council with a recommendation for approval.

The Commission has closely followed the recent controversy surrounding the adult video store near the Shennandoah Subdivision, along the Palmer-Wasilla Highway. In examining the Wasilla Development Code, the Commission determined that the code does not distinguish between adult businesses and other forms of retail trade.

In response to this issue, staff and the Commission have jointly developed a definition of adult business that would distinguish between a retail business that deals in a range of different products or services and one that deals exclusively in adult oriented entertainment, books, videos and other materials.

The recommendation of the Commission is to limit adult oriented businesses to the CA--Core Area and IND--Industrial zoning districts as conditional uses. Under the present code procedures, a conditional use permit is reviewed by staff before a development permit is issued. The surrounding land owners within 600 feet are notified by mail, however, and have an opportunity to comment on the request before a development permit can be issued by staff. This process will make staff aware of the concerns of surrounding land owners when considering what conditions of approval should reasonably be required of the proposed adult business.

There are no fixed or mandatory development standards recommended by the Commission in Ordinance 95-15. It is the intent of the ordinance that each request will be considered in relation to its own unique set of circumstances. Conditions of approval will be developed to address each request to develop an adult business based on the merits of the developer's proposal, the surrounding development context, the concerns of surrounding property owners and the recommendations of staff. If a proposal is found to be inconsistent with surrounding permitted development, such that no reasonable conditions of approval can be placed on the request to make it consistent, then staff has the option of denying the request outright.

In the future, the Commission has considered the possibility of making the conditional use permit procedure similar to the existing major development permit process. This would require a public hearing before the Planning Commission prior to issuance of a development permit by staff. The Commission, with the recommendations of staff, would make the decision and determine what conditions of approval are appropriate to each request. This would bring any potential controversy directly to the Commission, however, and would reduce the chain of appeal by one level.

The Commission believes that the language recommended in Ordinance No. 95-15 can serve as the basis for further regulation of this land use, if needed in the future. For the present, Ordinance 95-15 would at least provide for public notification and limit the zones where such a land use could possibly be developed.

RECOMMENDATION

The Wasilla Planning Commission recommends approval of Ordinance No. 95-15.



Duane Dvorak,
City Planner



CITY OF WASILLA

290 E. HERNING AVE.

WASILLA, ALASKA 99654-7091

PHONE: (907) 373-9050

FAX: (907) 373-9085

Item 7-B

PLANNING COMMISSION MEMORANDUM - 95-04

Date: February 10, 1995

To: Wasilla Planning Commission

From: Duane Dvorak, City Planner

Re: Introduction of language to amend Title 16, the Wasilla Development Code, to address Adult Businesses.

The Commission reviewed language to address the above issue at a work session on November 29, 1994, and at the regular meeting on January 24, 1995. At the last meeting, the Commission requested that this issue be brought back for further discussion as an unfinished business item at the February 14, 1995 regular meeting.

Since the last meeting, staff has placed this issue in a separate memorandum from the "halfway house" issue. This was done to facilitate the discussion and to allow each issue to be handled independently by the Commission. Based on the discussion at the last meeting, staff has made several changes requested by the Commission. The proposed language is shown in the attached draft ordinance 95-X1.

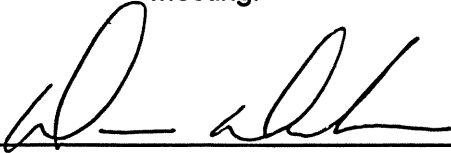
RECOMMENDATIONS

Staff recommends that the Commission consider where the uses defined in Ordinance No. 95-X1 should be permitted, the appropriate permitting procedure and whether to include any absolute conditions or standards of approval.

APPROPRIATE MOTION

Should the Commission agree with the definitions and code amendments recommended by staff (or as may be further amended by the Commission), the following motions are appropriate.

Move to approve, in concept, the definitions and code amendments addressing adult businesses referenced in the staff report dated February 10, 1995, and direct staff to schedule Ordinance 95-X1 for public hearing and consideration by the Commission at the February 28, 1995 regular meeting.



Duane Dvorak, Planner

MEMORANDUM

To: Duane Dvorak, City Planner via Fax # 373-9085

From: Dick Deuser

Date: March 14, 1995

Re: Suggested Revision of "Adult Business" Definition

This memorandum is intended to follow up on the public hearing at last night's Council meeting. The ordinance defining adult businesses was discussed. Consider the following definition. My intention is to a) stay within the conceptual approach recommended by the Planning Commission (adoption of a definition of "adult businesses," combined with a requirement that such businesses apply for a conditional use permit) and to stay within the subject that was presented for public hearing on March 13, 1995. Therefore, since the subject matter remains the same and the rewrite only clarifies, there should be no need to start the introduction/public hearing process over again.

Adult Businesses. Adult businesses mean businesses whose primary activity, at a particular location, is the retail or wholesale display, sale, rental, or provision of adult-oriented entertainment, goods, merchandise, or activities. For purposes of this definition, the following applies to assist in illustrating and further defining "adult businesses."

Primary activity, as used herein, refers to a business where at least 51 percent of its interior floor area, or where at least 51 percent of its retail merchandise, is devoted to the display, sale, viewing, or rental of adult-oriented entertainment, goods, merchandise, or activities.

Adult-oriented entertainment, goods, merchandise, or activities refers to books, magazines, films, videos, photographs, or other such similar materials whose dominant content or theme is the actual or simulated depiction of sexual activities, display or exhibition of specified anatomical areas,

removal of articles of clothing to display specified anatomical areas, or total nudity. **Adult-oriented entertainment, goods, merchandise, or activities** is intended to include goods, merchandise, or activities depicting, describing, or pertaining to human sex acts or that include an emphasis on the display or depiction of male or female genitals, male or female buttocks, or female breasts. Typical examples of such adult businesses would include, but not be limited to, adult motion picture theaters, adult mini-motion picture theaters, adult motion picture arcades, adult video rental stores, adult bookstores, and nude or partially nude dancing establishments, commonly referred to as "exotic dancing" or strip tease dancing businesses, and otherwise including dancing performed to emphasize the display of nude or partially nude aspects of the human anatomy referred to herein.

For purposes of the definition of adult businesses, establishments found not to be subject to or found not to be regulated by Chapter 13.20 (lewdness) but otherwise within the definition of adult businesses, as provided for herein, are to be included as within the meaning of adult businesses.

Of course, the rest of the proposed ordinance would remain the same. Again, I am attempting to stay within the conceptual and subject matter framework of the existing ordinance to avoid the necessity of starting again the introduction/public hearing process. Please call with your thoughts.

Sincerely yours,



Richard Deuser

RD:lll



CITY OF WASILLA

290 E. HERNING AVE.

WASILLA, ALASKA 99654-7091

PHONE: (907) 373-9050

FAX: (907) 373-9085

WASILLA PLANNING COMMISSION RESOLUTION NO. 95-02

A RESOLUTION OF THE WASILLA PLANNING COMMISSION OF THE CITY OF WASILLA, ALASKA, RECOMMENDING THE APPROVAL OF ORDINANCE NO. 95-15, AMENDING TITLE 16, THE WASILLA DEVELOPMENT CODE, TO REGULATE LAND USE FOR THE PURPOSES OF ADULT ORIENTED ENTERTAINMENT AND ADULT ORIENTED RETAIL SALES WITHIN THE CITY OF WASILLA.

WHEREAS, the Wasilla Planning Commission (WPC) has considered the issue of Adult Oriented Entertainment and Adult Oriented Retail Sales at several public meetings; and

WHEREAS, the WPC recognizes that Title 16 (Wasilla Development Code) of the Wasilla Municipal Code, does not regulate land use for the purposes of Adult Oriented Entertainment and Adult Oriented Retail Sales; and

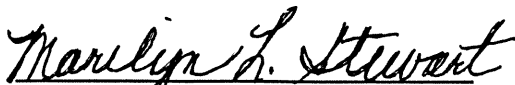
WHEREAS, the WPC now wishes to recommend that the Wasilla City Council adopt certain amendments to the Wasilla Municipal Code to address this issue;

NOW, THEREFORE, BE IT RESOLVED, that the Wasilla Planning Commission of the City of Wasilla, hereby recommends that the Wasilla City Council approve Ordinance No. 95-15, to amend Title 16, the Wasilla Development Code, to regulate land use for the purposes of adult oriented entertainment and adult oriented retail sales within the City of Wasilla.

I certify that a resolution in substantially the above form was passed by a majority of those voting at a duly called and conducted meeting of the Wasilla Planning Commission this 10th day of January, 1995.

RESPECTFULLY SUBMITTED:

APPROVED:


Marilyn L. Stewart, Planning Clerk


John A. Cannon, Chair