

NOTICE OF PUBLIC HEARING

PLANNING AND ZONING COMMISSION VARIANCE REQUEST 16-08-01

AGENDA PLANNING COMMISSION FOR THE CITY OF THORNE BAY September 6, 2016 6:00 p.m.

The public is invited and encouraged to attend

1. CALL TO ORDER:
2. PLEDGE TO FLAG:
3. ROLL CALL:
4. APPROVAL OF AGENDA:
5. PUBLIC HEARING:
 - A. Public Hearing Sean McRae, Variance Application, 16-08-01, Lot 7, Block 5, Finney Drive, discussion and action item: Variance application request for permitting a 6.795-foot setback from road right-of-way; where City Code requires 10-foot setback from road right-of-way, PUBLIC HEARING
6. NEW BUSINESS:
 - A. Resolution 16-09-06-01-PZ, a resolution of the Planning Commission for the City of Thorne Bay, acting on the Variance Application 16-08-01 – McRae Variance, discussion and action item:
8. COMMISSION COMMENTS:
9. PUBLIC COMMENTS:
10. ADJOURNMENT:

Posted: August 30, 2016

City Hall (2), Alaskan & Proud, Thorne Bay School, Forest Service, The Port, Riptide Liquor, SISD and Tackle Shack, www.thornebay-ak.gov

CITY OF THORNE BAY - PLANNING COMMISSION
RESOLUTION 16-09-06-01-PZ

A RESOLUTION OF THE CITY COUNCIL ACTING AS THE THORNE BAY PLANNING COMMISSION FOR THE CITY OF THORNE BAY, ALASKA, ACTING UPON THE VARIANCE REQUEST, FILE NUMBER 16-08-01 FOR Permitting a 6.795-foot setback from road right-of-way, where City Code requires a 10-foot setback from road right-of-way

WHEREAS, the Planning Commission serves city-wide functions of planning, platting and zoning for the city, and to advise the chief executive officer and city council of them; and

WHEREAS, the City Council, acting as the Thorne Bay Planning Commission, held a public hearing on September 6, 2016 at 6:00 p.m., to consider a request by Sean McRae for a Variance to permit a setback of 6.795-feet from road right of way, where the Thorne Bay Municipal Code 17.04.024-Residential/Commercial I Zone, requires a setback of 10-feet from road right of way, file number 16-08-01; and

WHEREAS, the City Council, acting as the Thorne Bay Planning Commission, has answered the following required criteria for approval (Thorne Bay Municipal Code 17.04.044 (A) of the Variance as follows:

- 1. That there are exceptional physical conditions or circumstances on the property or that would relate to its intended use or development that make the variance necessary;**
 - A. True, the rear portion of the lot has a drop of approximately 6 feet. The slope varies from 1:1 to 2:1
 - B. False, the physical conditions do not make this variance necessary, the building could be modified to fit within the setbacks.

- 2. That the particular conditions or reasons that require the variance are not caused by the person requesting the variance;**
 - A. True, the particular condition of the property does not allow for the construction of a reasonable sized home without encroaching into the setbacks.
 - B. False, particular reason for the variance request is in direct result of the person requesting the variance. The applicant could modify the proposed building footprint to fit within the setback requirement, or build a retaining wall

- 3. That the strict application of the provisions of this title would result in unnecessary hardship;**
 - A. True, the setback requirements will cause the applicant to build a retaining wall, increasing the cost of the proposed construction, resulting in unnecessary hardship.
 - B. False, strict application of this title would not result in unnecessary hardship. The building could be reduced in size and / or a retaining structure at the rear of the lot would reduce the hardship.

4. That approval of the variance would not be detrimental to the health, safety and welfare of other properties in the vicinity;

- A. True, the variance would not be detrimental to health, safety and welfare of other properties in the area.
- B. False, the approval of the variance would be detrimental to the safety of other properties in the vicinity. Reduction of front yard width would reduce the area for parking forcing parking onto the city owned right-of-way increases transportation congestion on Finny Drive.

5. That the variance will not allow a land use in a zone that prohibits that particular land use;

- A. True, the variance is not approval of land use. The proposed use is permitted within the Residential/Commercial I Zone, as long as the use conforms to the setback requirements, maximum building height and 50% maximum lot coverage.

6. That approval of the variance is consistent with the comprehensive plan;

- A. True
- B. False, approval of the variance is not consistent with the comprehensive plan. The comprehensive plan discusses development that reduces transportation congestion through zoning and by reducing required front yard setbacks reduces the area for off street parking.

7. That the variance is not requested because of monetary considerations or inconvenience;

- A. True
- B. False, the variance is being requested for reduction in setback requirement from road right of way, due to slope of rear lot, when A retaining wall could be constructed to reduce the need to move the building toward the front property line or the building could be reduced in size.

8. That the variance request is for work yet to be performed.

- A. True, the variance request is for work yet to be performed. Only site prep and utility work has been done on the site.

NOW, THEREFORE, BE IT RESOLVED, that the City Council acting as the Planning Commission of the City of Thorne Bay approves/denies Variance Application #16-08-01-PZ, based on the responses given for the criteria for approval #1-7 (A) or (B) and #8 (A) listed above.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL ACTING AS THE PLANNING COMMISSION ON September 6, 2016.

James Gould, Mayor

ATTEST:

Teri Feibel, City Clerk/Treasurer



CITY OF THORNE BAY

P.O. BOX 19110
THORNE BAY, ALASKA 99919
(907) 828-3380
FAX (907) 828-3374
www.thornebay-ak.gov

4-6-16

Sean McRea
PO Box 19571
Thorne Bay, AK 99919

RE: Development Plan

ATTN: Sean

Thank you for submitting the development. The proposed building in the Mixed Residential - Commercial I Zoning has been reviewed for compliance with the zoning. The proposed building as shown meets the setbacks of 10 feet from the road Right-of-Way and 5 feet from the property lines. The proposed building square footage is just under the 50 percent lot coverage requirement. Section 17.04.024. F. 3., of the Thorne Bay Municipal Code requires that "to the maximum extent possible all parking will be off-street and on the premise".

Sincerely,

Wayne Benner, City Administrator
Cell: (208) 290-2564
Email: administrator@thornebay-ak.gov

THORNE BAY DEVELOPMENT PLAN APPLICATION PH. 805-223-339

Thorne Bay Municipal Code 15.04.020

PO BOX 19571, THORNE BAY, AK 99919

OWNER (Please Print)

SEAN MCRAE

ADDRESS/LEGAL DESCRIPTION

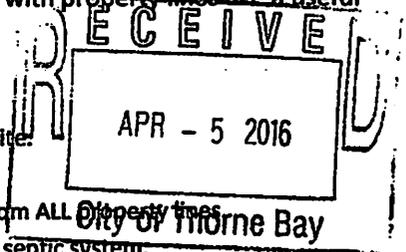
ASLS 82-139, BLOCK 5, LOT 7.

ZONING AND SETBACKS

RESIDENTIAL - COMMERCIAL 1,

SET BACKS - FIVE FEET FROM ALL LOT LINES, TEN FEET FROM RIGHT OF WAY

Use the space below to draw a map of the site, providing the following information as listed below and in Thorne Bay Municipal Code 15.04.020. The State of Alaska Department of Commerce aerial maps with property lines are a useful tool to assist with developing the map.



- All boundary lines (lot lines) of the site, including the dimensions.
- All roads and easements – public and private – that provide access to or through the site.
- All easements, utilities, bodies of water, existing drainages.
- All existing structures and proposed structures, their dimensions and their setbacks from ALL property lines.
- All other information if applicable such as, sewer and water hookup, water meter and septic system.

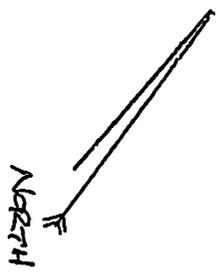
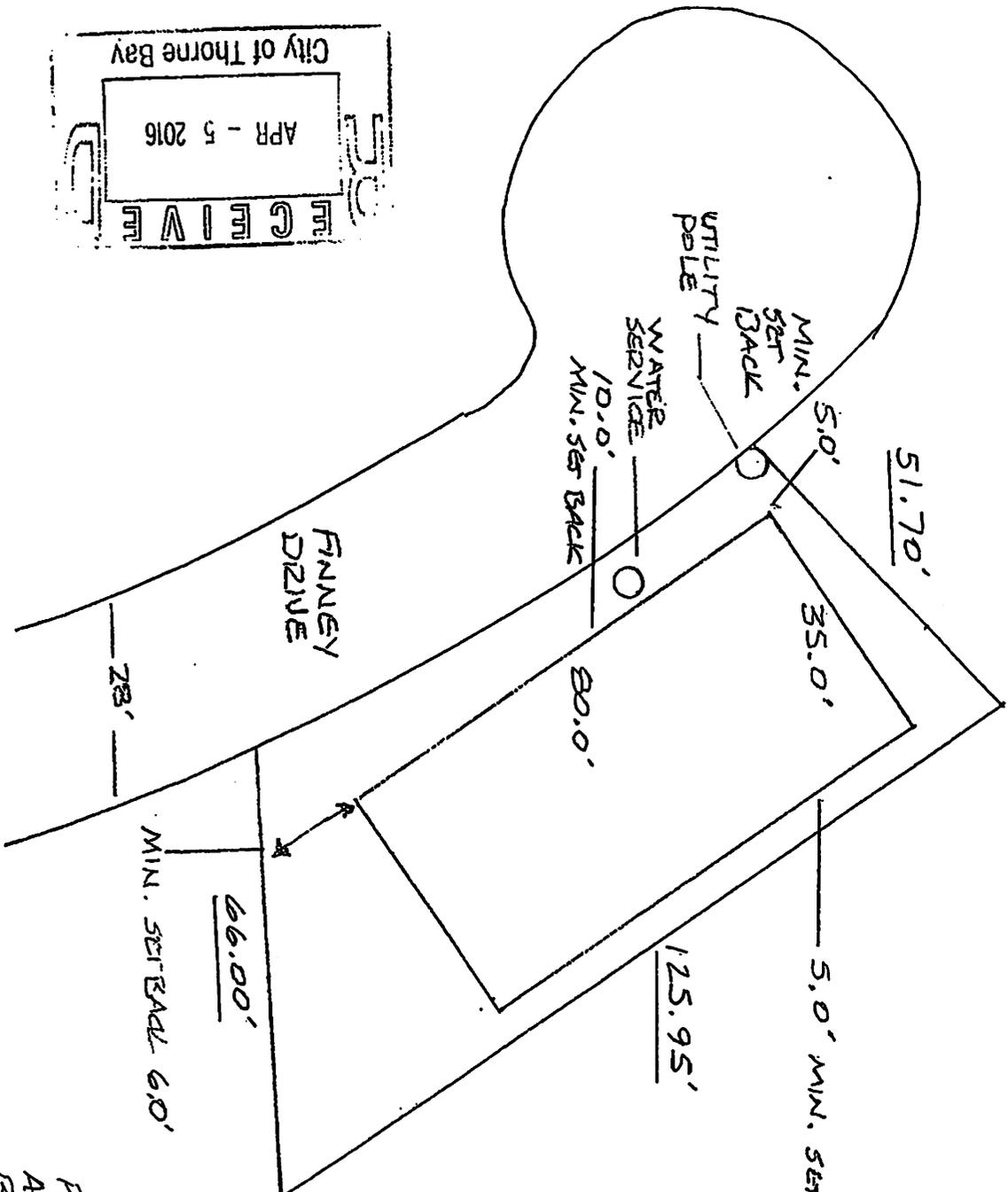
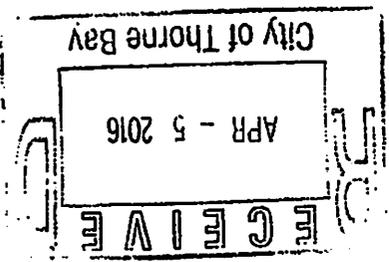
PLEASE REFER TO ATTACHMENT 1

Owner (Signature)

Sean McRae

04/05/2016

Date



LOT 7 = 5619.24 sq ft
BUILDING = 2800 sq ft

PLAT
A.S.L.S. 82-139
BLOCK 5, LOT 7

17.04.044 Variance procedure. A variance is a tool that gives an applicant relief from the strict application of the zoning title. It will permit a justifiable exemption or exception to the development requirements of the title when their imposition would result in unnecessary hardship or practical difficulties.

Zoning limits the use of property and structures. A variance can lessen some of the limits that zoning imposes. To be granted a variance, the applicant must show how the zoning title impedes development on his/her property more than it would on other property within the same zone. In other words, the applicant is responsible for showing how the strict application of the zoning title will hurt him/her more than other land owners within the same zone. The applicant must meet with the planning official and address the "Criteria for Consideration in Establishing Approval" prior to being scheduled for a hearing.

A. Criteria for Consideration in Establishing Approval or Denial the following criterial must be considered. After a public hearing, the planning commission must develop a resolution which addresses each of the criterial and base their decision on whether the criterial are in the affirmative or not:

1. That there are exceptional physical conditions or circumstances on the property or that would relate to its intended use or development that make the variance necessary;

2. That the particular conditions or reasons that require the variance are not caused by the person requesting the variance;

3. That the strict application of the provisions of this title would result in unnecessary hardship;

4. That approval of the variance would not be detrimental to the health, safety and welfare of other properties in the vicinity;

5. That the variance will not allow a land use in a zone that prohibits that particular land use;

6. That approval of the variance is consistent with the comprehensive plan;

7. That the variance is not requested because of monetary considerations or inconvenience.

Variance = 1 of 3

8. That the variance request is for work yet to be performed.

B. Application Procedure.

1. Applications must be initiated by the property owner or by an authorized representative. The required fee must be paid and an application on city forms must be filed no less than twenty-one days prior to the hearing date.

2. Applications must be accompanied by a site plan that includes:

- a. North point arrow, date and scale;
- b. Exterior property boundaries and dimension;
- c. Access;
- d. All easements on the property;
- e. Location of all existing and proposed buildings on the property and their approximate distance from the lot lines;
- f. Sewer and water lines and power poles serving the property.

C. Notification.

1. Notification of variance application shall be made by first class mail to surrounding property owners which will consist of adjacent property owners and property owners located across rights-of way or alleys, no less than ten calendar days from the planning commission hearing.

2. The notice shall contain:

- a. The name of the applicant;
- b. Date, time and place of hearing;
- c. A description of the location of the property and the legal description of the property if available;
- d. A description of the character and purpose of the variance;
- e. The reference number of the sections of the title which pertain to the application;
- f. An explanation of the appeal process.

3. Notices shall be sent to the most current address on the city's utility listing or city records, and if no address can be found, the most current property owner listed in the State Recording Office. The failure

of a property owner to receive a notice shall not void a planning commission decision if a good faith attempt to contact the current property owner was made.

4. A copy of the property owner notification list shall be kept in the file along with a notarized affidavit that letters have been sent.

5. A copy of the resolution approving or denying the variance shall be sent to the applicant and to any other person who requests a resolution in writing.

Resolutions denying an application shall be mailed within five days of the date of the decision and will explain the appeal process.

D. Reviewing Body.

1. The reviewing body will be the planning commission.

2. All formal actions of the reviewing body shall be made by a resolution conforming to the standards of Section 2.48.080 and shall address all required criteria for approval.

E. Appeals.

1. Appeals of the planning commission decision may be made to the city council within thirty days of the postmark of the notification of the decisions. Appeals must be made in writing. (Ord. 93-23 § 6(part), 1993)

Variance 3 of 3

17.04.024 Mixed residential/commercial I. The purpose of this zone is to maintain property values and to provide for aesthetically pleasing neighborhoods by permitting single-family houses, duplexes and modular homes with a limited range of compatible uses. Section 15.04.020 stipulates that "Development Plans" are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties. (Ord. 16-01-05-02)

A. Permitted Uses. Permitted uses are uses allowed in the zone without special permitting.

1. Single-family houses or duplex;
2. Modular homes or modular duplex;
3. Home occupation or business;
4. Office in home;
5. Accessory buildings for private/residential uses such as garage, shed, private storage of a recreational vehicle, travel trailer, recreational boat, truck;
6. Visiting travel trailer or motor home occupied by guests accessory to a residence up to forty-five days;
7. Basic services (services and facilities which are necessary for development. They include power lines, water lines, sewer lines, pump/lift stations, power/telephone poles and other low impact facilities of the same character to provide for utilities).
8. Up to two living units, not to exceed 1500 square feet each, attached to a permitted or conditionally approved commercial uses, and one living unit not to exceed 1500 square feet, detached but not used in association with permitted or conditionally approved commercial uses.

B. Permitted Commercial Uses.

1. Gunsmiths, locksmiths and other sales and business services;
2. Professional, finance, real estate and brokerage offices;
3. Community recreation;
4. Computer and office equipment sales and rentals.

Note: See page 2 - 17.04.024 (F) * Pg 3 (F) (4)
zone = 1 of 3

C. Conditional Uses. The purpose of a conditional use is to provide for uses that may be suitable in certain locations within this zone but not all locations. Conditional uses must meet certain criteria before obtaining approval by the planning commission.

1. Religious assembly;
2. Electrical utility substations;
3. The keeping of animals for profit or for more than personal use, the keeping of more than four dogs with the exception of puppies;
4. Day care center or facility;
5. Bed and breakfast;
6. Parking a truck or other equipment over two tons;
7. Home occupation or business in accessory building;
8. Triplex;
9. Apartment (four units or more);
10. Structure or fence built above the maximum height limit.

D. Conditional Uses-Commercial.

1. Administrative services and offices;
2. Banks and other financial institutions;
3. Building material retail and supply;
4. Lodges and resorts;
5. Hotels and motels;
6. Laundromat, laundries and dry cleaning;
7. Lodges of fraternal orders, labor and social organizations;
8. Restaurants and other eating establishments;
9. Restaurants, bars and taverns that serve alcoholic beverages;
10. Retail sales outlets (stores);
11. Mini-storage units;
12. Marine sales.

E. Uses Prohibited.

1. Subdivision.

F. Property Development Standards.

1. Minimum lot size: four thousand five hundred square feet.
2. Minimum lot width: forty feet.
3. Parking: to the maximum extent possible, all parking will be off-street and on the premises.

Dwelling units, including new apartments, duplex, triplex or multifamily completed after the adoption of this title shall provide off-street parking as required in Section 17.04.041.

4. **Setbacks:** five feet from all lot lines and ten feet from road rights-of-ways. In addition, development on corner lots shall not impede vehicular visibility.

5. Building heights: thirty-five feet.

6. Density:

a. For separate single-family dwellings:

i. Four thousand five hundred square feet for each single-family dwelling structure.

ii. No more than one single-family dwelling structure permitted per lot without the submission of a plot plan conforming to the applicable standards of Section 16.20.010, Preliminary plats.

iii. For uses other than residential, no more than one principal structure.

iv. No subdivision allowed.

b. For duplex and multifamily dwelling structures:

i. Four thousand five hundred square feet for each multifamily dwelling structure or duplex, and four thousand five hundred square feet for each additional single-family structure.

ii. Four thousand five hundred square feet for each additional multifamily structure.

iii. No more than one single or multifamily dwelling structure permitted per lot without the submission of a plot plan conforming to the applicable standards of Section 16.20.010, Preliminary plats.

c. Maximum lot coverage: fifty percent of the lot area.

d. Temporary structures are not subject to Section 17.04.024(F)(6)(c).

7. Fences, Walls and Hedges. Property line fences, walls and hedges may occupy a portion of a yard and be built up to the property line with a six foot maximum height limit. Fences shall not obstruct vehicular visibility. (Ord. 99-26 § 6(part), 1999; Ord. 93-23 § 6(part), 1993)

Zone = 3 of 3

Chapter 2.48
PLANNING COMMISSION

Sections:

- 2.48.010 Established-Purpose.
- 2.48.020 Commission membership.
- 2.48.025 Compensation of Planning Commission Officials
- 2.48.030 Commission officials.
- 2.48.040 Vacancies.
- 2.48.050 Meetings.
- 2.48.055 Voting-Quorum.
- 2.48.060 Order of business.
- 2.48.070 Office and staff.
- 2.48.080 Formal commission acts.
- 2.48.090 Funds.
- 2.48.100 Planning commission duties.

2.48.010 Established-Purpose. There is established the planning commission for the city to constitute a department of the city and to perform the city-wide functions of planning, platting and zoning for the city, and to advise the chief executive officer and city council of them. The City Council may perform any one or all of the city-wide functions of planning, platting and/or zoning. The Chief executive officer or his delegate shall serve as the city planning official until such time as he appoints and the City Council confirms another to perform that function. (Ord. 92-18 § 4(part), 1992: Ord. 85-02-14-01 § 10, 1985)(Ord. 12-04-03-01)

2.48.020 Commission membership.

A. The planning commission shall consist no more than 11 and no less than five qualified city voters from the community. (Ord. 12-04-03-01)

B. Members of the commission must keep current any accounts held with the City (i.e., utilities, lease payments, rents, sales tax, etc...) any member whose accounts fall into delinquency may be removed from the commission by the chief executive officer. City Council will consider financial or other hardship.

C. Any person declaring candidacy for the planning commission shall not be considered until the persons accounts are made current. City Council will consider financial or other hardships. (Ordinance 06-02-21-01)

D. Members shall be appointed by the chief executive officer, subject to confirmation by the city council, for a term of three years. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the planning commission and its staff are paid as directed by the chief executive officer. (Ord. 02-06-06-02 § 4 (part), 2002: Ord. 92-18 § 4(part), 1992: Ord. 88-33 § 4, 1988; Ord. 85-02-14-01 (part), 1986: Ord. 85-02-14-01 § 20, 1985)

2.48.025 Compensation of Planning Commission Officials. Each member of the planning commission shall receive a compensation at the rate of twenty-five (\$25.00) dollars for each regular meeting attended to consider applications per the City Municipal Code. No compensation shall be paid for attending special meetings unless prior approval by City Council.

2.48.030 Commission officials. The commission shall elect a chairperson to conduct the affairs of the commission, a vice chairperson to serve as chairperson in his absence, a clerk to cause the preparation of the journal of the commission's proceedings, and an assistant clerk to serve as clerk in his absence. (Ord. 92-18 § 4(part), 1992: Ord. 85-02-14-01 § 30, 1985)

2.48.040 Vacancies. A. A vacancy shall be declared, and filled as provided in this chapter, under the following conditions:

1. If a person nominated and confirmed to membership fails to qualify and take office within thirty days following confirmation;
2. If a member is absent from the city for a period of ninety or more days, unless excused by the commission, or moves his residence from the city's voting precinct for a period of ninety or more days;
3. If a member's resignation is submitted and accepted by the commission;
4. If a member misses three or more consecutive regular meetings, unless excused by the commission;
5. If, after written notice to the commission, the city council, by motion and vote, determines that a member's removal and replacement is necessary for the efficient or effective functioning of the commission.

B. The clerk shall keep attendance records and notify the chairperson when vacancies occur. (Ord. 92-18 §4(part), 1992: Ord. 90-19 §5(part), 1990; Ord. 85-02-14-01 §40, 1985)

2.48.050 Meetings. A. A regular meeting shall be held to consider applications and scheduled per City Municipal Code. Special meetings and workshops may be called by the commission chairperson or at the request of two commission members, the chief executive officer or two city councilmember's.

B. The clerk shall keep the journal of commission proceedings, which shall be public record. Minutes, resolutions, written recommendations and other written records shall be filed with the city clerk.

C. Meetings shall be conducted under Robert's Rules of Order Newly Revised, or such modified or amended rules as may be adopted by the commission.

D. A proposed agenda of all regular meetings shall be posted at City Hall, in a place that is available for reading by the general public, at least forty-eight hours before the regular meeting.

E. Printed notices that announce workshops of the commission shall be posted at City Hall and in no less than five other prominent places within the city no less than twenty-four hours before the workshop is held. Proposed subjects to be discussed at the workshop shall be set forth in the notice. Other subjects not listed in the notice may be discussed at workshops. (Ord. 04-08-03-01 §4, 2004; Ord. 99-23 §6, 1999: Ord. 92-18 §4(part), 1992: Ord. 90-19 §§4(part), 5(part), 1990)

2.48.055 Voting--Quorum. A majority of commission members constitutes a quorum. A majority of affirmative votes are required for passage of a resolution or motion. No official action may be taken by the commission unless a quorum is present in a legally convened meeting of the commission. (Ord. 02-06-06-02 §4(part), 2002: Ord. 92-18 §4(part), 1992: Ord. 90-19 §5(part), 1990)

2.48.060 Order of business. A. The order of business at regular meetings shall be as prescribed by the commission clerk and approved by the commission.

B. The order of business at special meetings shall be prescribed by the chairperson. (Ord. 92-18 §4(part), 1992: Ord. 85-02-14-01 §60, 1985)

2.48.070 Office and staff. A. The commission shall be provided office space by the city council which is adequate for its needs and adequate to file its correspondence and materials, all of which shall constitute public records of the city.

B. The commission shall be furnished secretarial assistance at each meeting to assist in preparing its journals and resolutions, and as required to prepare its correspondence under the direction of the commission chairman and clerk. (Ord. 92-18 § 4(part), 1992: Ord. 85-02-14-01 § 70, 1985)

2.48.080 Formal commission acts. A. All formal actions of the commission shall be by duly approved motion or resolution. Resolutions shall be in the following format:

1. The heading "City of Thorne Bay, Planning Commission";
2. The space for the serial number to be assigned shall be headed by "Resolution No. ";
3. A short and concise title descriptive of its subject and purposes;
4. Short premises, or whereas clauses, descriptive of the reasons for the resolution, if necessary;
5. The resolving clause "BE IT RESOLVED"; and
6. Provision for signatures after the text, "ADOPTED (date)," and designated lines for the signatures of the commission chairperson and the commission clerk.

B. All resolutions adopted by the commission, whether at the instance of and presented by third parties, or on the motion of and instance of the commission, shall conform to that set forth in subsection A of this section. (Ord. 92-18 § 4(part), 1992: Ord. 85-02-14-01 § 80, 1985)

2.48.090 Funds. All funds the commission receives as fees and charges or otherwise shall be deposited in the general fund of the city as receipts of the activities of the commission. All costs of the commission shall be paid by the city and shall be an operating cost of the city and shall be included in each annual budget ordinance. (Ord. 92-18 § 4(part), 1992: Ord. 85-02-14-01 § 90, 1985)

2.48.100 Planning commission duties. The planning commission shall:

A. Subject to Title 17 of this code, prepare and submit to the city council a proposed comprehensive plan in accordance with AS 29.40.030 for the systematic and organized development of the city. Annually the commission shall review the comprehensive plan and shall recommend appropriate amendments, if any, to the city council.

B. Subject to the Alaska Coastal Management Act (AS 46.40) and Alaska Administrative Code; 6AAC50, 6AAC80, and 6AAC85, prepare and submit to the city council a proposed coastal management plan. Annually, the commission shall review the coastal management plan and shall recommend appropriate amendments, if any, to the city council.

C. Prepare, review, recommend and administer measures necessary to implement the coastal management plan and comprehensive plan, including measures provided under AS 29.40.040 and such other land use control measures as the planning commission deems necessary to supplement zoning regulations, land use permit requirements and measures to further the goals and objectives of the coastal management and comprehensive plans.

D. Prepare and recommend to the city council a subdivision ordinance and the official map of the city and any recommended modifications to these documents.

E. Publish notice of and hold at least one public hearing before submitting the commission's recommendations under subsections A, B and C of this section to the city council.

F. Upon adequate notice which shall be provided by the chief executive officer, review annually the capital improvements program of the city and submit the commission's recommendations thereon to the chief executive officer on or before the due date specified in the notice.

G. Investigate and prepare, upon city council or chief executive officer request, reports and recommendations on city land acquisitions, disposals and development. The report and recommendation shall be based upon the provisions of this chapter, the coastal management plan, the comprehensive plan and the capital improvements program.

H. Subject to and in accordance with the provisions of Titles 15, 16 and 17 of this code, act as the platting board, act upon requests for variances and act upon requests for conditional uses. No platting request, variance or conditional use may be granted which violates the provisions of AS Section 29.40.040 or Sections 16.36.010 and 16.36.020 of this code.

I. Act as an advisory commission to the chief executive officer and city council regarding planning, platting and zoning. (Ord. 92-18 § 4(part), 1992: Ord. 90-19 §§ 4(part), 5(part), 1990)

Chapter 2.40

BOARD OF ADJUSTMENT

Sections:

- 2.40.010 Designated.
- 2.40.020 Adjustment procedure.
- 2.40.030 Appeals.

2.40.010 Designated. A. The Thorne Bay city council is the board of adjustment for the area within the city boundaries of Thorne Bay, Alaska. Meetings of the board are held at the call of the mayor. The presiding officer or mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public and the board shall keep minutes of its proceedings as a public record.

B. The board of adjustment shall hear and decide:

1. Appeals regarding alleged errors in enforcement of zoning ordinances and building codes;
2. Appeals from the decisions of the planning commission on requests for conditional uses;
3. Appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinance which are not contrary to the public interest, when a literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the same district.

C. A variance shall not be granted because of special conditions caused by actions of the persons seeking relief or for reasons of pecuniary hardship or inconvenience. A variance shall not be granted which will permit a land use in a district in which that use is prohibited. (Ord. 83-05-18-02 § 1, 1983)