

**BEFORE THE MUNICIPALITY OF ANCHORAGE
BOARD OF ADJUSTMENT**

In Re:) Planning & Zoning Commission Resolution No.) 2015-041, a resolution approving the Draft Design) Study Report, reviewed through the Context) Sensitive Solutions Process, for the Northern Access) To the University and Medical District, connecting) Bragaw Street to Elmore Road, in Anchorage.)) CITIZENS FOR RESPONSIBLE DEVELOPMENT,) Appellant,) v.) STATE OF ALASKA DEPARTMENT OF) TRANSPORTATION & PUBLIC FACILITIES,) Appellee.) _____)	P&Z Commission Resolution No. 2015-041 Case No. 2015-0057
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RESOLUTION ON MOTION FOR RECONSIDERATION

WHEREAS, the Order of Dismissal was issued on May 20, 2016, and by motion dated May 23, 2016, Appellants requested reconsideration to include vacatur of the P&Z Commission decision on appeal, in keeping with practice of the Alaska Supreme Court and the United States Supreme Court; and

WHEREAS, in response to Appellant's Motion for Reconsideration, the Board of Adjustment met on June 14, 2016 and by majority vote, the Board of Adjustment agreed to reconsider the Order of Dismissal dated May 20, 2016;

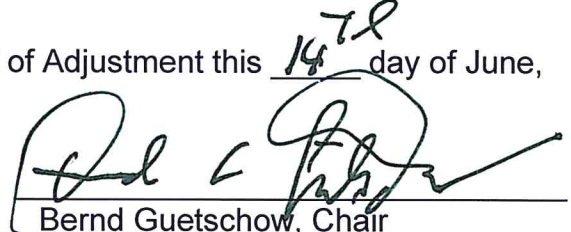
WHEREAS, as described in *City of Valdez v. Gavora*, 692 P. 2d 959 (Alaska 1984) and *Peter A. v. State*, 146 P. 3d 991, 995 (Alaska 2006), the Alaska Supreme Court has adopted the practice used by federal courts of vacating the decision of the lower body in the order of dismissal, when a prevailing party voluntarily moots a case, without the appellant's acquiescence, and through no fault of its own, the appellant is prevented from obtaining appellate review of appellant's claim; and

WHEREAS, happenstance, including the unilateral actions and inactions of the Appellee and developments by Appellee outside the litigation, has frustrated the appeal through no fault or acquiescence on the part of Appellant, preventing appellate review of Appellant's claims; and

WHEREAS, vacatur does not preclude Appellee State of Alaska, Department of Transportation Public Facilities from resubmitting the application, or a modified application, and does not preclude the Planning & Zoning Commission from reaching the same determination in a process the Planning & Zoning Commission deems due under future circumstances; it is

NOW THEREFORE RESOLVED, that the order of May 20, 2016, be supplemented by vacation of Planning & Zoning Commission Resolution No. 2015-041, retroactive to MAY 20, 2016.

PASSED AND APPROVED by the Board of Adjustment this 14th day of June, 2016 at Anchorage, Alaska.


Bernd Guetschow, Chair
Board of Adjustment
Municipality of Anchorage

Certificate of Service:

I hereby certify that on the 14th day of June, 2016
A true and correct copy of the foregoing document
Was served by electronic mail upon each of the following:

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Municipal Clerk's Office