

Agenda

**Planning Commission Special Meeting
City and Borough of Juneau
Mike Satre, Chairman**

October 22, 2013
Assembly Chambers
5:00pm

I. ROLL CALL

II. REGULAR AGENDA

INQ2013 0016: Amend the Rules of Procedure for Appeals to the Planning Commission and to take the necessary steps to administer certain pending appeals.

Applicant: City and Borough of Juneau

Location: Boroughwide

III. OTHER BUSINESS

IV. REPORT OF REGULAR AND SPECIAL COMMITTEES

V. ADJOURNMENT

DATE: October 22, 2013
TO: Planning Commission
FROM: Beth McKibben, Senior Planner
SUBJECT: Appeal Procedures consideration of Hearing Officer
Appointment of Hearing Officer -APL 2013 0003 –Twelker
Scheduling of Appeal and Appointment of Hearing Officer – APL 2013 0004 -Yankee

HEARING PROCEDURES RELATING TO APPEALS

At the September 10, 2013 Planning Commission meeting, the Planning Commission adopted new rules of procedures for appeals of director's determinations, because this process is not specifically outlined in CBJ Code.

Under these adopted procedures, all appeal related Director's decisions must come before the full Planning Commission for review, including relatively straightforward decisions such as approval of the appeal record. In appeals of the Planning Commission decisions, reviewed by the Assembly, such routine decisions are handled by a Hearing Officer appointed by the Assembly.

In the current appeal, APL2013 0003, the Planning Commission needs to make a decision regarding acceptance of the record, and may need to make other minor decisions before the appeal hearing. Currently the only process for addressing these issues is to schedule a meeting of the full Commission. In the interest of streamlining the process for straightforward issues, CDD recommends that the Commission appoint a hearing officer, to be clear, the full Commission would participate in the hearing. The hearing officer would decide routine issues only.

CDD has confirmed with the CBJ Law Department that appointment of a hearing officer is allowed under Code. Specifically, the role of a hearing officer is described in CBJ Code 01.50.040 and 050, as follows:

01.50.040 Appointment of hearing officers.

The assembly may assign a qualified, unbiased and impartial hearing officer to conduct hearings under this chapter. The hearing officer may perform other duties in connection with the administration of this chapter.

01.50.050 Prehearing conference.

(a)

The presiding officer of the appeal agency or the hearing officer shall, unless the parties agree otherwise, conduct a prehearing conference with the parties to consider and issue orders related to the following:

- (1) Intervention by additional parties;
 - (2) Simplification or settlement of the issues;
 - (3) Preparation and distribution of the record;
 - (4) Preparation and submission of stipulations, admissions, depositions, subpoenas, affidavits, exhibits and other forms of prefiled evidence to the extent permitted by subsection 01.50.110(e);
 - (5) Briefing schedule;
 - (6) Submission of witness lists;
 - (7) The date for the hearing;
 - (8) The order and time limits for presentation of the appeal; and
 - (9) Any other matter that may assist in the disposition of the appeal.
- (b) The presiding officer or the hearing officer shall issue a prehearing order setting forth the time and place of the hearing and such other information as may aid in the disposition of the appeal. The order shall be delivered to all parties no more than five days after the prehearing conference.

Recommendation

CDD recommends the Planning Commission adopt identical wording, changing only the references of “assembly” to “Planning Commission” to ensure a similar process. Staff further recommends this language be incorporated into the recently adopted Hearing Procedures Relating to Appeals. Attached to this memorandum is a copy of the Hearing Procedures with the recommended new language incorporated and shown as **Bold Underline**.

APPOINTMENT OF HEARING OFFICER -APL 2013 0003 –TWELKER

Recommendation

CDD recommends The Planning Commission appoint a hearing officer to address issues associated with APL2013 0003 to ensure that APL2013 0003 proceeds in a timely manner.

SCHEDULING OF APPEAL AND APPOINTMENT OF HEARING OFFICER – APL 2013 0004 –YANKEE

The Planning Commission will need to set a schedule with the appellants, CDD staff, and affected property owners for submittal of materials and written arguments, appoint a hearing officer and set the hearing date for the appeals.

The Commission will need to schedule the following dates for appeal case APL2013 0003:

- (1) Motions for intervenors to enter;
- (2) motions to supplement the record;
- (3) responses to each party's motion to supplement the record;
- (3) Planning Commission's receipt of the entire record;
- (4) date of the appeal itself.

For the Commission's information in considering dates for the hearing:

Bill Yankee

Out of town 12/13 through 12/23

Out of town 12/31 through 1/8

Mr. Gilberto

Laura Boyce