

MINUTES

**PLANNING COMMISSION**  
CITY AND BOROUGH OF JUNEAU  
Dennis Watson, Vice Chair

REGULAR MEETING  
July 9, 2013

**I. ROLL CALL**

Dennis Watson, Vice Chair, called the regular meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:01 p.m.

Commissioners present: Dennis Watson, Vice Chair; Dan Miller, Nicole Grewe, Marsha Bennett, Ben Haight, Karen Lawfer

Commissioners absent: Michael Satre, Chair; Jerry Medina, Nathan Bishop

A quorum was present.

Staff present: Hal Hart, Director; Teri Camery, Senior Planner; Laura Boyce, Senior Planner; Eric Feldt, Planner II; Jonathan Lange, Planner I; Michelle Elfers, Architectural Assistant II; Beth McKibben, Interim Planning Manager/Senior Planner; Alan Steffert, Engineering Assistant II

**II. APPROVAL OF MINUTES**

- May 28, 2013 – Regular Planning Commission Meeting
- June 11, 2013 – Regular Planning Commission Meeting

**MOTION:** *by Mr. Miller to approve the May 28, and June 11, 2013, regular PC minutes with no changes by staff or fellow commissioners.*

There being no objection, the minutes from above meetings were approved.

**III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None**

**IV. PLANNING COMMISSION LIAISON REPORT**

Mr. Watson noted that Carlton Smith, the liaison from the Assembly, was not present, but had passed his notes on to the Vice Chair for summation. He said that at the Land's Committee meeting that Mr. Smith attended last week, that they considered the presentation from the Land's Committee on smaller lots of 3,600 foot lots. It was met with real enthusiasm from the Land's Committee. They have asked Greg Chaney to get back to them with further information, and that will be taking place fairly soon.

Director Hart verified that Greg Chaney will bring that information back at a later meeting as part of the overall housing agenda.

**V. RECONSIDERATION OF THE FOLLOWING ITEMS - None**

**VI. CONSENT AGENDA**

CSP2013 0012: A City Project Review to construct a street sweeper dump site next to the Juneau Douglas Wastewater Treatment Plant.

Applicant: CBJ Engineering Dept.

Location: 1540 Thane Road

Staff Recommendation

Staff recommends that the Planning Commission find that the proposed city project, to develop a vactor dump at the Juneau Douglas Wastewater Treatment Plan, is consistent with adopted plans of the CBJ, and to endorse the city project as required by CBJ Code 49.15.540 and AS 35.30.010.

USE2013 0017: New 12-unit Apartment Building at the end of Delta Drive.

Applicant: Delta Park, LLC

Location: 4090 Delta Drive

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of a 12-unit, two-bedroom apartment building. The approval is subject to the following condition:

1. Prior to Temporary Certificate of Occupancy, the applicant shall install Fire Lane - No Parking signs along the driveway which are designed and located as approved by the CBJ Fire Marshal.

**MOTION:** *by Mr. Miller, to remove CSP2013 0015 from the Consent Agenda.*

There being no objection, the item was moved to the Regular Agenda.

**MOTION:** *by Mr. Miller, to approve the Consent Agenda with the removal of CSP2013 0015 as read with staff's findings, analyses and recommendations.*

There being no objection, the motion passed.

Before moving on to the regular agenda, Mr. Watson noted that two items were to be removed from the agenda at the request of the U.S. Forest Service.

These two items involved the storage of snow near the Mendenhall Glacier, (CSP2013 0014 and USE 2013 0020), and will be on the agenda at the next regular Planning and Zoning Commission meeting on July 23.

**VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS – None**

**VIII. UNFINISHED BUSINESS – None**

**IX. REGULAR AGENDA**

APL2013 0001: An appeal of a Director's Determination requiring an electrical easement for a proposed subdivision that would result in two lots.

Applicant: Larry Dietrick

Location: 17305 Point Lena Loop Road

Staff Recommendation

While the appeal was filed in a timely manner, staff recommends that the Planning Commission not hear the appeal, as it does present only minor or routine issues. If the Commission decides to hear the appeal, it must choose whether to hear the appeal as de novo or on the record.

Staff Report

The issue before the Planning Commission is whether they want to hear the appeal before them.

Ms. Boyce reminded the Commission that this item was continued from the last meeting in order for staff to provide answers as to whether an easement on the property exists today, and whether Alaska Electric Power and Light (AEL&P) requires an easement.

Ms. Boyce stated that an easement does not exist today. She referenced a letter in the Commission packet from AEL&P noting that AEL&P does require an easement, and that service can be denied if an easement is not provided.

Mr. Miller commented that the letter in his packet from AEL&P satisfied any questions that he may have.

Ms. Bennett said that she agreed with Mr. Miller. She said that it was clear to her that an easement was required, and that she did not feel that the Planning Commission needed to be involved in this issue.

Appellant Larry Dietrick was present to state his case.

The crux of the matter, as stated by Mr. Dietrick, was whether or not he was required to provide an easement for the existing underground electrical line as a condition for subdividing his property which he had been attempting to subdivide since 2005.

He told the Commission that at the time the subdivided property changed hands he felt the easement would be required, and not before. He stressed that he felt that the requirement of an easement, and when an easement was required, was between AEL&P and the land owner, not the land owner and the City and Borough of Juneau.

Mr. Dietrick began the subdivision process of his Lena property in 2005, and expressed his frustration that after a lot of funds spent, including the hiring of a consultant and numerous city fees down the road, he still does not have his property subdivided into two lots. This was supposed to be a simple process that was to take ten days, he wrote in his appeal to the Planning Commission.

He stated it was his feeling that every time he submitted the required paperwork, that yet more paperwork was required of him, drawing out the process again and again. He stated that he had submitted multiple plats and as-builts, each requiring yet more modifications, until he finally resorted to hiring a consultant just to help him get through the process, adding yet more expense to what he initially thought was supposed to be a simple, straightforward procedure.

City records indicate that while a classic panhandle subdivision would have been simple and straightforward, because of the configuration of the property this was not possible. In 2005 Mr. Dietrick was informed by the City that since he had an existing power line which crossed one lot to serve the other lot, that a ten foot easement would be necessary. Mr. Dietrick did subsequently replace the overhead power line with an underground line and transformer, but he retained the same boundary-crossing pattern.

Therefore, in the City's view, the act of subdividing the property necessitated an easement. The City also notified Mr. Dietrick of this in 2007, 2009 and 2011, prior to the letter from the Director in May of 2013. The City interprets Title 49 of the Land Use Code as protecting the public through the use of utility easements when right-of-ways are not directly available. Title 49 explicitly states that easements must be shown on as-builts and plats.

Mr. Miller told Mr. Dietrick that he could understand his frustration with the process and the punch lists and the applications, having been through this process himself. But he said that it seemed to him that once the property was subdivided, that he would have a new plat, so he could not understand the downside of an easement. He said he could certainly see the upside.

He viewed this as the last hurdle in the process for Mr. Dietrick. He asked Mr. Dietrick to explain the downside of obtaining an easement.

Mr. Dietrick responded that with the installation of underground electricity and the transformer that his investment has been very large. He said that he did not feel his large cash outlay could be collected in a sale if it could not be negotiated with the buyer with the sale.

Mr. Watson stated that in his experience in real estate this was value-added property and easily collected.

Mr. Watson said that one of the requirements before real estate is sold is that everything on the property be disclosed. If everything about the property was not disclosed, then clear title insurance would not be obtained.

Mr. Dietrick remarked that he wanted to make sure that everything, including the power line, was factored into the purchase price.

**MOTION:** *Ms. Lawfer moved that the Planning Commission hear the appeal with regard to APL2013 0001 and that the information be presented with all of the necessary subject experts with all of the information that currently exists.*

Mr. Miller spoke against the motion, stating that he has properties with electrical and utility easements, stating that he thinks that whether the property has electricity or an easement on it, if there is the assurance that there will be electrical power, the value will be maintained.

Ms. Grewe spoke against the motion as well. She said that she felt the code is quite clear. She said that she feels that Mr. Dietrick can still negotiate with buyers to his benefit. She said that she does not see further involvement in this matter as a role of the Commission.

Ms. Bennett said that she agrees with Mr. Miller and Ms. Grewe. She said that she does sympathize with Mr. Dietrick and the process that he has undergone, but that she feels an additional appeal is unnecessary. She said she suspects that when the plat is finished that he will get his money out of it, and does not see the need of a long appeal process.

Mr. Haight added that an easement is required by AEL&P; that it is required so that it can serve both properties, and that there does not appear to be any way around it.

**Roll Call Vote:**

Ayes: Lawfer

Nays: Miller, Bennett, Grewe, Haight, Watson

**MOTION FAILS**

CSP2013 0015: A City project to construct a vehicular swing gate and a pedestrian gate on existing road.

Applicant: City and Borough of Juneau

Location: 5669 Montana Creek Road

**Staff Recommendation**

Staff recommends that the Planning Commission recommend authorization of the project for construction of a vehicular gate, pedestrian “kissing” gate, two four foot tall chain-link fences, and grading/paving for three parallel parking spaces on Montana Creek Road.

This project is in response to the illegal dumping of trash and debris on Montana Creek Road.

The vehicular gate is proposed to be closed and locked the same hours as the Hank Harmon Rifle Range; primarily nighttime hours. A sign would be posted at the gate with the hours it would be closed.

Mr. Miller commented that the berm alongside the road could possibly be helping to attenuate sound generated by the range. He asked if it would need to be moved for the proposed parking spaces.

Ms. Elfers said berm would not need to be moved other than possibly a small piece of the toe.

Mr. Miller asked if the Archery Club had been consulted about the proposed gates.

Ms. Elfers told the Commission this was a Parks and Recreation project, that George Schaaf, CBJ Parks and Landscape Superintendent, has met with the Juneau Archery Club, and that it is in agreement that the gate be closed at night, and that the Archery Club seems to be satisfied with the plan.

Mr. Watson stated that it appeared that the Hank Harmon range will also be relied upon to monitor the gate. He expressed his concern over the consistency of this monitoring.

Ms. Elfers stated that a caretaker resides on the premises and should be able to monitor the gate. She stated there is currently a sign posted with range hours which she believes are currently 7 a.m. to 9 p.m. She added that while she is not sure if these hours are for the entire

year, they do plan on posting a sign with up-to-date hours.

Mr. Miller stated he would want a cleaner delineation of the hours of the range so that he would know for sure when it was open and closed. Also, on the archery range, it takes a certain amount of time to traverse the course. Mr. Miller questioned how an individual would know they would be able to finish the course before the gate was locked?

Ms. Lawfer and Ms. Bennett added additional ideas for improving the functionality of maintaining the gates. Ms. Lawfer suggested that individuals could log in and out at the gate so that the individual monitoring the gate could keep track of who was within the area. Ms. Bennett suggested that both winter and summer hours be posted.

Ms. Grewe expressed her concern over a project that cost \$40,000 which imposes large constraints on a large portion of the population which is not responsible for the dumping problem to begin with.

Ms. Elfers answered that the Parks and Recreation Department has been cleaning up the illegal dumping in this area for many years, which has been costing the city a lot of money. Ms. Elfers added the City has tried security cameras which have not proved helpful, and police monitoring which has not been of enough assistance.

Ms. Lawfer added that at times there have been as many as five refrigerators in that area at one time which have needed to be picked up.

Mr. Watson said that in the past this has been an ongoing issue with the public works committee.

Mr. Watson asked staff if the Commission could set hours of operation of the gates and expect volunteer groups to follow those hours of operation. Ms. McKibben responded that the Commission could make a recommendation on the hours if it desired. But as Mr. Watson clarified, this would only be a recommendation.

Mr. Haight said he could see the staff recommending the hours that would be acceptable to all the groups that would be using the gate.

Mr. Miller noted that in addition to Rifle Range users, that the Archery Club members were also heavy users of this area, and that it was important that they have access to this area independent of reliance on the caretaker to open the gate.

Mr. Miller commented that if the caretaker came down with the flu, for example, and was unable to open and close the gate, that Archery Club members should still be able to have access to the area.

**MOTION:** *Mr. Miller moved that CSP2013 0015 be approved, and recommended that staff develop some clear signage as to the hours of operation as a recommended condition, and as a second recommendation, that staff or Parks and Recreation work hand-in-hand with the Juneau Archery Club to see that it has access to the gate independent of the caretaker.*

Ms. Bennett commented she felt this could be perceived by the public as preference of one group in the community over another.

Ms. Lawfer responded she did not foresee this as a problem since the club has a long, established, history of use of the area.

**Roll Call Vote:**

Ayes: Miller, Grewe, Haight, Lawfer, Watson

Nays: Bennett

**MOTION PASSES**

USE2013 0021:           Permit to Modify USE2011 0017 to Extend Hours of Operation for Truck Hauling 7:00am - 5:30pm Monday - Friday; 9:00am - 5:30pm Saturday.  
Applicant:             Miller Construction Company  
Location:               13010 Glacier Highway

**Staff Recommendation**

It is recommended that the Planning Commission adopt the Director's analysis and findings and approve the requested Conditional Use permit with a modification that only allows truck hauling to occur on Saturdays only between 10am and 4pm. This approval would make the following change to the ten-year permit (USE2011 0017):

Modification to USE2011 0017 Condition 3:

•Condition 3: The hours, days and dates of operation shall be 8am – 4:30 p.m., Monday through Friday, all year and, **truck hauling 10am – 4pm on Saturdays only from July – October, 31, 2013 is allowed** except State holidays.

The staff decided to look at a compromise since this is a challenging endeavor considering all of the various hours presented by the applicant, the Department of Transportation (DOT), and the impact those hours of truck hauling would potentially have on the surrounding neighbors.

Ms. Lawfer asked if these times under consideration are just for the roundabout project.

Mr. Feldt answered that they were.



Mr. Miller commented that in the staff report it was stated that there was no way to monitor which trucks were transporting gravel just for the roundabout project.

Mr. Feldt answered the request was just for the roundabout project.

Mr. Watson said that his biggest concern with the noise was connected with the blasting of the rock from the quarry. He asked how much deeper the quarry was now since the last study.

Mr. Randy Sutak as one of the applicants came forward to answer that question. Mr. Sutak responded that he was aware of the concerns of the neighbors regarding the quarry. He said that as the floor of the quarry drops the sound generated by quarry activity travels further away from those affected on Oxford Street and Fritz Cove Road.

Mr. Sutak added that while it is less productive for the business to use the requested early hours of 7:00 a.m. and late hours of 5:30 p.m., that at times it would be good for the business to have that leeway to transport the 28,000 tons of product which needs to be extracted from the quarry for the roundabout project.

He said that the construction company had tried to think of alternatives, including stockpiling the material somewhere and then transporting it to the roundabout site. But it would still have to be retrieved and brought back to the site, thus tripling the transport hours and not making that alternative feasible.

Mr. Sutak added that truck hauling during rush hour traffic is less productive for the business, and is avoided whenever possible.

Mr. Miller asked if the company was asked to condense its hauling time from its forecasted need of 20 loads a day, if it would need to put more trucks on the road to meet its schedule.

Mr. Sutak said the ideal situation for the business would be to have a dump truck unload the material with another truck arriving just as that truck was leaving. He said the company would not like to have trucks waiting at the construction site to dump gravel, as that would cost the company money.

Mr. Sutak clarified that the request before the Commission was not for extra quarry hours for blasting, drilling or crushing, but just for hauling the material to the roundabout site.

Mr. John D'Armand, a resident living close the quarry site, commented that he had not been notified of this meeting, even though he had been notified of a meeting on a quarry issue several years before.

Mr. Feldt of the City staff said that public notice is a requirement for anyone living within 500 feet of the affected site. He assured Mr. D'Armand that he would be receiving notices in the future.

Mr. D'Armand stated that he was quite concerned about the early morning hauling hours requested of 7:00 a.m. He stated that with the truck traffic in addition to the rush hour traffic, it is quite difficult to exit off of Oxford Street. He added that one of the noisiest aspects of the operation was the loading of the trucks.

He suggested that perhaps trucks could be pre-loaded before the early morning hours.

However, Mr. Sutak responded that this was very hard wear and tear on the trucks.

Mr. Watson wanted to know which entity was in charge of cleaning up after the trucks, such as after rocks are left on the road.

Alan Steffert, Engineering Assistant II from the City, said that was the truck operation's responsibility. He added that it is the responsibility of the City to oversee the operation and make sure that all of the rules and regulations are in compliance.

**MOTION:** *Ms. Lawfer moved to approve USE2011 0017 substituting "truck hauling" with "truck hauling operations only" and changing the time on Saturday from 4:00 p.m. to 4:30 p.m.*

The modification under Ms. Lawfer's motion now read:

*The hours, days and dates of the operation shall be 8 a.m. – 4:30 p.m., Monday through Friday, all year, and truck hauling operations only, on Saturdays, 10 a.m. – 4:30 p.m., from July – October 31, 2013 is allowed, except for state holidays.*

Ms. Lawfer explained that while she feels it is very important for residents affected by the truck hauling noise to have peace and quiet from the operation, she also felt that if the operation could continue a bit longer on Saturdays, that this would facilitate completion of the construction of the roundabout.

Mr. Miller asked for a clarification of the modification weekly hours, and it was verified that the weekly hours remained the same all year, at 8 a.m. – 4:30 p.m.

Mr. Haight said that he would like to offer an amendment reflecting the hours suggested by the Department of Transportation (DOT), primarily for the purposes of discussion.

**MOTION:** *by Mr. Haight, the Department of Transportation (DOT) proposed truck hauling hours of 8 a.m. – 5:30 p.m. (Monday – Friday) until school starts (August 20) with the Saturday hours of 9:00 a.m. – 4:30 p.m. until October 31.*

Ms. Grewe spoke in opposition to that amendment, stating that perhaps the amendment was favorable to the project, but not to the residents of the area. She added that there is opposition to the proposed changes in the truck hauling hours in the packet as well as a representative attending the meeting in person.

While saying that she was in agreement with Ms. Grewe, Ms. Bennett said as a point of order she felt they had to vote on the amendment first.

**Roll Call Vote:**

Ayes: Miller, Bennett, Haight, Watson

Nays: Lawfer, Grewe

**MOTION FAILS**

Ms. Lawfer moved to approve modification USE2011 0017 to modify condition number 3: with the days and dates of operation remaining 8 a.m. – 4:30 p.m. Monday – Friday all year, with truck hauling operations only, from 10 a.m. – 4:30 p.m. on Saturdays from July – October 31, 2013 except for state holidays.

Mr. Miller offered a friendly amendment to that motion extending the weekly truck hauling operation hours to 5:30 p.m. from July 9 until the start of school August 20, 2013. Mr. Miller stated he felt the extra five hours a week during the summer weeks would prove critical to the project and that they were not unreasonable given the extended hours that everyone in the community worked in the summer.

Ms. Lawfer responded that she was amenable to the friendly amendment.

**MOTION:** *Ms. Lawfer moved to approve the modification USE2011 0017 to modify condition number 3: the hours, days, and dates of operation shall be 8 a.m. – 4:30 p.m. Monday – Friday all year, and truck hauling operations may be extended to 5:30 p.m. July 9 – August 20, 2013, and additionally, truck hauling operations only, from 10 a.m. – 4:30 p.m. on Saturdays only, from July 9– October 31, 2013 is allowed, except for state holidays.*

**Roll Call Vote:**

Ayes: Miller, Bennett, Grewe, Haight, Lawfer, Watson

Nays: None

**MOTION PASSES**

X. **BOARD OF ADJUSTMENT** – None

XI. **OTHER BUSINESS** - None

XII. **DIRECTOR'S REPORT**

Director Hart told the Commission he spoke with the Assembly Monday night about the positive increase in building projects within the City and Borough of Juneau. He said he will be reporting to the Assembly this Monday night regarding the positive housing trend in Juneau. On July 25, Architect James Bibb will be speaking before the Chamber of Commerce at its luncheon regarding the implementation of the Willoughby plan. Mr. Hart said that he plans on attending more Chamber luncheons in the future.

XIII. **REPORT OF REGULAR AND SPECIAL COMMITTEES** - None

XIV. **PLANNING COMMISSION COMMENTS AND QUESTIONS**

Ms. Lawfer will be traveling to Anchorage and attending its open house presentation on a \$600,000 state grant it has received to develop Ship Creek.

Ms. Lawfer also wanted to comment on the subdivision being constructed at the end of Delta Drive. She pointed out that there is no pedestrian access in this area. It is either traverse the road or a really big ditch. She said that she would like to see pedestrian access as a priority in that area.

Mr. Hart concurred with Ms. Lawfer, stating this issue would be coming up in about a month.

Mr. Watson added that he has been having the same thoughts regarding the need for pedestrian access as Ms. Lawfer.

XV. **ADJOURNMENT**

**MOTION:** *Mr. Miller moved to adjourn the meeting at 9:33 p.m.*

With no objection, the meeting adjourned at 9:33 p.m.