

MINUTES
PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU
Mike Satre, Chairman

REGULAR MEETING
August 13, 2013

I. ROLL CALL

Mike Satre, Chairman, 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 7:03 p.m.

Commissioners present: Mike Satre, Chairman; Marsha Bennett, Jerry Medina, Ben Haight, Nathan Bishop, Dennis Watson

Commissioners absent: Nicole Grewe, Karen Lawfer, Dan Miller

A quorum was present

Staff present: Hal Hart, Planning Director; Beth McKibben, Interim Planning Manager/Senior Planner; Ben Lyman, Senior Planner; Teri Camery, Senior Planner; Laura Boyce, Senior Planner; Eric Feldt, Planner II

II. APPROVAL OF MINUTES

- July 9, 2013 – Regular Planning Commission Meeting
- July 23, 2013 – Regular Planning Commission Meeting

MOTION: *by Mr. Medina, to approve the regular meeting minutes of July 9, 2013, and July 23, 2013, with any corrections or modifications provided by any commission members or by staff.*

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

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Ms. Patricia Nordmark, who resides in Healy, Alaska, spoke at this point on the agenda because her issue did not make it onto the regular portion of the agenda, and she will not be in town two weeks hence when it will appear on the regular agenda. Her family is constructing a new home on the existing structure's site in Juneau located at 620 Seater Street at the north side of the cemetery.

They wish to construct a home with an accessory apartment on a 5,000 square foot lot instead of on the required 7,000 square foot lot once the existing structure is torn down. Ms. Nordmark said she has contacted most of the surrounding home owners in the area and they have voiced no objections to the plan. She said there is one bed and breakfast in the area.

Ms. Bennett commented it would be helpful if those neighbors could submit those comments to the Commission in writing.

IV. PLANNING COMMISSION LIAISON REPORT

Mr. Carlton Smith, the Assembly Liaison, could not be present for the meeting. Mr. Satre said he would give a brief summation of Mr. Smith's report later in the evening.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

CSP2013 0017: Pavement resurfacing and guardrail rehabilitation on Egan Dr. from Tenth St. (Juneau-Douglas Bridge) to Mendenhall Loop Rd.
Applicant: State of Alaska
Location: Egan Drive

Staff Recommendation

Staff recommends that the Planning Commission find that the proposed project, to resurface Egan Drive with related guardrail and sign replacement, is consistent with CBJ 49 and the plans adopted therein, with one condition:

1. Bicycle route and way-finding signs and striping meeting the requirements of the *Manual on Uniform Traffic Control Devices (MUTCD)*, as amended and adopted by DOT&PF, shall be installed as specified in the MUTCD throughout the project area. Final sign placement shall be subject to Community Development Department staff review and approval, consistent with the MUTCD and the *Non-Motorized Transportation Plan*.

Furthermore, staff recommends that two advisory conditions be placed on the finding of consistency in order to provide all possible notice to the applicant and the project contractor that a construction noise permit will be required for heavy equipment work during night-time hours as provided in CBJ 42.20.095(b), and that the project area contains Orange Hawkweed, an invasive species subject to Best Management Practices under DOT&PF policy.

CSP2013 0018: Resurface North Douglas Highway from the roundabout (Juneau-Douglas Bridge) to Fish Creek Road. Replace guardrail and signs. Complete minor drainage repairs at five locations.
Applicant: State of Alaska

Location: North Douglas Highway

Staff Recommendation

Staff recommends that the proposed project, a preventative maintenance project that will replace all guardrails and signs on North Douglas Highway from the roundabout (Juneau-Douglas Bridge) to Fish Creek Road, with drainage improvements in select locations, be found consistent with Title 49 and the plans adopted therein.

Staff further recommends that three advisory conditions be placed on the finding of consistency in order to provide all possible notice to the applicant and the project contractor that a construction noise permit will be required for heavy equipment work during night-time hours as provided in CBJ 42.20.095(b); that a variance to allow development within 330 feet of eagle nest #48 may be required depending on the timing of construction and whether or not the nest is in use at that time; and, that notice of any street closure must be provided to both JPD and CCF/R.

CSP2013 0019: Pave the entire length of Amalga Harbor Road, replace Peterson Creek Bridge and replace two Peterson Creek Tributary Bridges with large diameter pipe arches.

Applicant: State of Alaska

Location: Amalga Harbor Road

Staff Recommendation

Staff recommends that the proposed project, to pave Amalga Harbor Road and to replace three bridges along that road, be found consistent with Title 49 and the plans adopted therein.

Staff further recommends that two advisory conditions be placed on the finding of consistency in order to provide all possible notice to the applicant and the project contractor that a construction noise permit will be required for heavy equipment work during night-time hours as provided in CBJ 42.20.095(b), and that both JPD and CCF/R must be notified prior to any street closures.

CSP2013 0020: A City consistency permit to lease part of Eaglecrest Ski Area for a new cell tower.

Applicant: GCI Communications

Location: Eaglecrest Ski Area

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's findings and analysis and recommend the CBJ Assembly approve the City lease for GCI's proposed 50-foot tower and associated equipment.

MOTION: *by Mr. Medina, to approve the Consent Agenda with staff's findings, analyses and conditions.*

There being no objection, the motion was approved.

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

VIII. **UNFINISHED BUSINESS** - None

IX. **REGULAR AGENDA**

APL2013 0003: Initial Hearing to determine whether the Planning Commission will hear the Appeal of the Director's determination to issue BLD2013 0302, a building permit to construct a detached garage with living space.

Applicant: Eric Twelker

Location: 10471 Dock Street

Staff Recommendation

While the appeal was filed in a timely manner, staff recommends that the Planning Commission not hear the appeal, as it presents 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 recommends a de novo hearing if the appeal is heard.

Appellant Mr. Twelker spoke to the Commission, stating that he felt that a de novo hearing was appropriate in this instance. He said that in his opinion, a variance was a promise by the Planning Commission to the owners in the area that they would be protected if someone did something outside of the rules.

In this particular instance, there were no rules being broken, but what Mr. Twelker perceived as an application of the rules outside of the planning department sphere back in 2006 which he wanted the Planning Commission to remedy. Mr. Twelker claimed that staff changes were made at that time which affected setbacks and lot configuration affecting his property which were never presented to the public for review.

Mr. Twelker told the Commission that while his neighbor has already started construction on his garage on the contested setback, that he wanted to emphasize that it was very clear in the code that it was at his neighbor's own risk, although he added that should this issue go against his neighbor he was sure that some resolution could be reached.

Mr. Watson asked Mr. Twelker why he did not appeal the first decision if he was not satisfied.

Mr. Twelker responded that he was very satisfied; that he would not have appealed what he had perceived as the initial plat.

Mr. Watson asked Mr. Twelker if he was objecting to the structure, or the variance, or both.

Mr. Twelker responded that he was not objecting to the variance.

Mr. Twelker said he did object to the new plat which has a 30 foot width and is interpreted to have a 7.5 foot setback. Mr. Twelker said those findings would not have been in the staff report. He said he would have been upset. He said the neighbors would have been upset.

Mr. Watson said that he appreciated all of the most current information provided by Ms. Camery, and of the planning staff.

Ms. Bennett asked Ms. Camery to comment on the discrepancy between the current map and the map that Mr. Twelker showed the Commission. Ms. Camery said that she could only speak about it briefly because it got too close to the merits of the case, but that it was her understanding that it was worked out with the fire department and other relevant parties.

Mr. Haight asked staff to refresh the Commission's memory with the definition of "*de novo*".

Ms. Camery said the Planning Commission can accept the appeal "*on the record*". She said they may need clarification, but that it may include looking at strictly the building permit file and/or the previous variance. "*De Novo*" would offer up additional evidence such as email messages and items not included in the official record.

Mr. Satre added that the staff would have the chance to provide additional briefs to the Commission, as would the appellant. Upon further questioning from Ms. Bennett, Ms. McKibben added that the Code does allow for commentary from additional parties such as the neighbors of the parties.

MOTION: *By Mr. Watson, that the Commission hear the appeal de novo per staff's recommendation.*

Mr. Satre commented that he believed the appellant had raised just enough possibility that there may be a policy error so that he, too, would like to hear some additional information, and that he would like to give the appellant as much leeway as possible to make their case, so he concurred with Mr. Watson's motion to hear the appeal de novo.

There being no objection, the above motion passed.

APL2013 0004 Initial hearing to determine whether the Planning Commission will hear the appeal of the Director's determination to allow fences within the 20' no-disturbance greenbelt/visual buffer and 30' no-build structure setback in the Montana Creek subdivision.

Applicant: William Yankee
Location: 8019 Poppy Court

Staff Recommendation

It is staff's recommendation that the Planning Commission hear the appeal, as it does not present only minor or routine issues and it is not clear from the notice of the appeal and any evidence offered at the consideration thereof that the decision appealed was supported by substantial evidence and involved no policy error or abuse of discretion, per CBJ 49.20 110(a). Staff requests a *de novo* hearing be considered if the Planning Commission chooses to hear the appeal.

Ms. Boyce, CBJ Planner, explained to the Commission that the issue before them is not about a specific fence in the Montana Creek subdivision, but about fences in Montana Creek in general. These plat notes refer to all exterior lots in Montana Creek. They encompass 20 feet which is a "no disturbance natural greenbelt area", and a 30 foot area which includes the 20 foot area, which is a 30 foot no-build setback.

She said she created an inquiry case to see if fences were to be included as structures, and that her findings were that fences were not to be included as structures. She explained that the planning department has allowed fences to be built in the area as long as only hand tools have been used to build the fences, and as long as the vegetation has been replaced.

Mr. Yankee appealed this decision.

Mr. Yankee told the Commission that there is a definition of a greenbelt and it refers to natural vegetation. He said in his opinion the stress should be on the word "natural" and he did not see anything natural about a fence.

He showed the Commission slides of the fence behind his home in the area going across water, and voiced his concerns about its negative effect on the wildlife in the area, especially during the season when baby ducklings were present, which could not navigate the fences. He said that while he has been able to get neighbors to cut some fence portions so that the water fowl could pass through, that he felt it was only a matter of time before they would once again be closed. He added that there are a lot of other animals using the area besides waterfowl, and said that it is a natural corridor for wildlife such as deer, snowshoe hare and bears.

Mr. Yankee said that he was opposed to the staff recommendation of a *de novo* hearing

because he felt that it would take months of preparation. He added that he was opposed to the two plat notes.

On the other hand, Mr. Yankee said that if there was a *de novo* hearing, he would need some of his own time for preparation, and requested to be notified by the planning department of any information they may have, and be given adequate time to formulate a response.

Mr. Watson asked Mr. Yankee what the Montana Creek property was like prior to development.

Mr. Yankee responded that it is largely flat land, with ponds and marshes.

Mr. Medina asked if a property owner could apply for an Army Corps of Engineer permit to fill in any of his property.

Ms. Camery said they would have the right to apply for a permit.

MOTION: *by Mr. Haight, to follow the staff's recommendation and hear the appeal de novo.*

The motion passed with no objection.

CSP2013 0016: Widen and rehabilitate separated shared use path along Mendenhall Loop Rd.
Applicant: State of Alaska
Location: Mendenhall Loop Road

Staff Recommendation

Staff recommends that the Planning Commission find the proposed project, widening the separated shared-use path and making improvements to ADA compliance and drainage in the project area, consistent with CBJ 49 and the plans adopted therein, with the following condition:

1. The applicant shall construct a pad for a future bus shelter where the proposed ADA accessible ramps access the road. A permit allowing the CBJ to construct a shelter over the pad at a future date, when funding allows, shall be issued prior to the commencement of construction on this project. If the bus stop must be relocated in order for this permit to be issued, the ADA accessible ramps and bus stop location shall be modified so that a permit for the shelter's placement in the vicinity of its current location can be issued; any relocation of the bus stop must be agreed to by Capital Transit.

Staff further recommends that two advisory conditions be placed on the finding of consistency in order to provide all possible notice to the applicant and the project contractor that a

construction noise permit will be required for heavy equipment work during night-time hours as provided at CBJ 42.20.095(b), and that notice must be provided to JPD and to CCF/R prior to any street closures.

Planner Ben Lyman told the Commission that this project is to widen and rehabilitate the separated shared use path along the Mendenhall Loop Road between the Mendenhall River Community School and the turnoff on the Glacier Spur Road to the Mendenhall Glacier.

It is an eight foot wide path in need of repair. It should be a ten foot wide path to meet state and national standards. It will be widened and will also meet ADA requirements. There is a concern about the bus stop. The CBJ had applied for a right-a-way encroachment permit to install a bus shelter at the Mint Way/Glendale Street bus stop in 2011. That permit has still not been issued by the Department of Transportation and Public Facilities (DOT&PF).

To ensure that this permit be issued to the CBJ by DOT&PF, Planning staff requests that this permit be issued prior to the installation of the ADA-accessible ramps by DOT&PF.

Mr. Watson said that he thought the CBJ was not installing any more bus stops on the Back Loop Road.

Mr. Lyman said this is not a new bus stop. He said it already exists. He said it is a bus stop that is dangerous for passengers and that bus drivers also do not like the stop in its current state.

MOTION: *by Mr. Watson, to approve CSP2013 0016 with staff's findings, and recommendations.*

There being no objection, the motion passed.

X. BOARD OF ADJUSTMENT - None

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

Ms. McKibben gave a brief report to the Commission that the Spike Bicknell and the Honsinger Pond appeal of the map amendment decision has been dismissed. They will be applying for a rezone. The staff does not know at this point what that request for a rezone will look like. This stems from the discussion on map amendments undertaken by the Commission during its July 23, Richard Harris application.

At this point the Planning Department is not accepting or processing map amendments. Mr. Harris will also be submitting an application for a rezone of his Atlin Street property.

Mr. Medina stated that it was his understanding applications for rezones were only brought forward at certain times of the year. This was verified by the staff. Applications for rezones must be submitted to the Planning Department in January and July. However, Ms. McKibben said there is no stipulation that they come before the Planning Commission only in January and July.

Mr. Hart told the Commission that the volume of building permit requests is still very high. They have been meeting with Juneau businesses concerning DOT projects and their impact on area businesses. He said they are also trying to keep in touch with area businesses as day-to-day growth and change occurs and is reflected in the Comprehensive Plan such as residential growth starting to occur in commercial areas.

He has met with local investors who are interested in keeping investments in Juneau. He also has met with new businesses coming into the area. They are trying to encourage investors to come in and lay their project plans out ahead of time.

Mr. Hart and Ms. McKibben are meeting with the City Manager's office regarding housing possibilities. There are currently individuals who may be interested in developing senior housing in Juneau, as well as other issues involving Assembly items.

Mr. Hart has been meeting with Auke Bay stakeholders involved in an Auke Bay planning effort.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mr. Watson said the Public Works Committee briefly met last week. He said that Sealaska Heritage Foundation submitted a package to the Public Works Department for street vacations. However, Mr. Watson said that application was withdrawn, so he is not sure where that situation now rests.

Ms. McKibben said at the Commission on Sustainability meeting last week a draft scope-of-work for an energy plan will be forwarded to the City Manager's office, because the City Manager's office indicated there may be some funds in a reserve fund that may be used towards an energy plan. There will be a work session next week (August 21) in Room 224 at 5:30, in which Nathan Coffee and others will be speaking about the new Valley Library.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Ms. Bennett commented there has not been a meeting of the Subdivision Review Committee in a very long time.

Mr. Hart answered that the staff is working through the changes as quickly as possible and that they will notify the Commission as soon as they are released.

Mr. Satre reported to the Commission that last Monday, the Comprehensive Plan went before the Committee as a Whole. He said that for a two hour meeting, the Comprehensive Plan discussion was about fifteen minutes in length, which left very little time for Mr. Hart to address even the main points, much less any of the details of the plan.

There were concerns expressed by some Assembly members that they had just received the new Comprehensive Plan, and that they could not discern what the new changes were by the current Commission. Mr. Satre said he was not sure if it was the time crunch or exactly what was preventing the Assembly from identifying all of the new changes in the document.

Mr. Hart said it was a time crunch and that his approach was to cover the basic themes, but that he felt the Assembly understood those concepts. He said then it is a matter of focusing attention on the track changes of the document. He said they are identifying several ways to make these changes of this hefty document the easiest to digest.

Mr. Lyman told the Commission they have tried a myriad of ways to make the document as user friendly as possible, but that it is still not satisfactory to the Assembly for review purposes. He said that chapters four – eight and twelve of the Comprehensive Plan will be up for review before the Assembly at a Committee of the Whole meeting on August 26.

Mr. Watson said that he is not convinced that all Assembly members even want to see this Comprehensive Plan go forward. Mr. Watson said he felt that in the Willoughby district he felt there was a push-back from certain parts of the community who would just as soon leave it where it was. He said he would hate to see the Assembly get so discouraged with the Plan just because of the process used to inform them that they turned down the entire plan.

Mr. Medina asked if the Assembly decided they wanted more revision to the Plan if they could return it back to the Planning and Zoning Commission. He was told that it could be returned to the Commission.

XV. ADJOURNMENT

The meeting was adjourned at 8:45 p.m.