

DRAFT MINUTES

Agenda

Planning Commission

Regular Meeting

CITY AND BOROUGH OF JUNEAU

Michael LeVine, Chairman

November 22, 2022

I. LAND ACKNOWLEDGEMENT – Read by Mr. Pederson

We would like to acknowledge that the City and Borough of Juneau is on Tlingit land, and wish to honor the indigenous people of this land. For more than ten thousand years, Alaska Native people have been and continue to be integral to the well-being of our community. We are grateful to be in this place, a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. Gunalchéesh!

II. ROLL CALL

Michael LeVine, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in Assembly Chambers of the Municipal Building, virtually via Zoom Webinar, and telephonically, to order at 7:00 p.m.

Commissioners present: Commissioners present in Chambers – Michael LeVine, Chairman; Paul Voelckers, Vice Chair; Travis Arndt, Clerk; Matthew Bell (joined 7:11 p.m.); Joshua Winchell; Mandy Cole; Erik Pedersen

Commissioners present via video conferencing –

Commissioners absent: Dan Hickok, Deputy Clerk

Staff present: Jill Maclean, CDD Director; Teri Camery, Senior Planner; Irene Gallion, Senior Planner; Ilsa Lund, CDD Administrative Assistant; Lily Hagerup, CDD Administrative Assistant; Sherri Layne, Law Assistant Municipal Attorney

Assembly members: Waahlaal Giidaak/Barbara Blake

III. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA – None

IV. APPROVAL OF MINUTES

A. October 25, 2022 Draft Minutes, Regular Planning Commission

MOTION: *by Mr. Arndt to approve the October 25, 2022 Planning Commission Regular Meeting minutes.*

V. **BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION** by Chair LeVine

VI. **PUBLIC PARTICIPATION ON NON-AGENDA ITEMS** – None

VII. **ITEMS FOR RECONSIDERATION** – None

VIII. **CONSENT AGENDA** – None

IX. **UNFINISHED BUSINESS** – None

X. **REGULAR AGENDA**

USE2022 0011: Development of condominiums with up to 21 dwelling units

Applicant: Bayhouse Properties LLC

Location: 11445, 11465, & 11485 Auke Bay Harbor Road

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and **DENY** the requested Conditional Use Permit. The permit would allow the development of condominiums with up to 21 dwelling units, zoned Waterfront Commercial.

Director's Report

The applicant requests a Conditional Use Permit for up to 21 apartment-style condominium units at the site in the Auke Bay harbor area. Access has evolved through the Statter Harbor parking lot. Access history is complex, and includes a past Planning Commission decision to allow the subdivision that created the lot to proceed without access to a public right-of-way. CBJ Docks and Harbors and CBJ Capital City Fire and Rescue have expressed safety concerns with condominium access through the parking lot.

Staff recommends the Planning Commission adopt the Director's analysis and findings and deny based on safety concerns expressed by departments, no formal agreement to use the parking lot for access, and the availability of frontage onto Glacier Highway.

STAFF PRESENTATION –

Director Maclean presented USE2022 0001 and recommended DENIAL of the permit

QUESTIONS FOR STAFF

Mr. Voelckers asked for some background on the current permitting of the parking lot. Ms. Maclean explained when the PC originally approved the subdivision permit, CDD Staff had recommended denial because of the lack of access to a public right of way. Staff had further recommended if the permit was approved, it should be conditioned that no further development could occur without access to a public right of way. The PC allowed the subdivision to proceed without the recommended condition and the area developed into what is there now.

APPLICANT PRESENTATION

Mitch Faulk, owner of Bayhouse Properties, explained the history of the property and their plan for the development.

NOTE: Mr. Bell joined the meeting during the applicant presentation and was not permitted to participate in this item.

QUESTIONS FOR APPLICANT

Mr. Winchell asked Mr. Faulk if he resides on the subject property and is aware of the traffic patterns there. Mr. Faulk explained that over the 20 years he has owned the property, the traffic flow and access has changed significantly. What was originally a two-way access to the property has become a one-way access. Over time, the development did not address access issues and now he is facing that. He asked if he is not allowed to develop this, then what would he be able to do there? Mr. Winchell clarified his question was regarding the speed and safety of the road above. Mr. Faulk explained it is a 40-mph road but vehicles come speeding around the corner there.

Mr. Voelckers asked if there has been any legal research done to clarify the right of way issues. Mr. Faulk explained he has not consulted a lawyer but has hired surveyors and they have confirmed there is a DOT right of way there.

Mr. Faulk commented he knows how staff feels about this permit request and said he would like to know how the PC feels before moving forward. Ms. Maclean clarified that staff has no 'feelings' regarding the permit. Rather, staff relies on code when making decisions.

Mr. Voelckers asked how the housing would be age restricted. Mr. Faulk explained it will not be affordable housing. His goal is to build the nicest condos in Juneau. He was considering restricting it to age 55 and older.

COMMISSIONER DISCUSSION/QUESTIONS FOR STAFF

Mr. Pedersen asked if the primary utilities run through the city parking lot. Ms. Maclean was not certain and said she would look into this.

Ms. Cole asked if the denial was based on the type of development or would any request be denied. Ms. Maclean confirmed any development would be denied. She explained the development that has occurred so far was all under the pre-2015 code revision and would not have been allowed under current code without the required frontage and direct and practical

access through that frontage.

Mr. LeVine noted the original variance was granted without limitations and asked how that would not eliminate the access requirement under discussion now. Ms. Maclean explained the variance in place predates the 2015 code change. What is in place is allowed under that variance but if what currently exists there changes, then the variance does not stand. If it were to change, it would then be considered nonconforming for access and parking.

Ms. Cole asked if there are other remedies, besides the secondary access to Glacier Highway, to the access problem. Ms. Maclean said she did not see much flexibility in the code.

Mr. Winchell asked if the applicant could access the other harbor entrance, would that serve as a permissible second access. Ms. Maclean said direct and practical access through the frontage would still be required.

Mr. Pedersen asked if a parking deck built on the highway side would qualify as direct access. Mr. LeVine suggested the requirement was that the property must have access but it does not have to be the only access.

MOTION: *by Mr. Pedersen to approve **USE2022 0011***

Mr. Pedersen spoke against his motion based on staff's findings, analysis, and recommendations, and deny **USE2022 0011**.

Mr. Winchell spoke in support of the motion.

Ms. Cole and Mr. Arndt spoke to say they prefer to approve housing and would like to find a way to approve it with a condition to access. Mr. Voelckers agreed but he did not think this item is at a point yet where it can be approved.

Mr. LeVine spoke to say he also would like to see this development and hopes the developer can bring it back with some solutions.

ROLL CALL VOTE

YEA: Arndt; Winchell

NO: Pedersen; Cole; Voelckers; LeVine

Motion FAILED 2-4 on Roll Call Vote

VAR2022 0002: A Non-administrative Variance to remove vegetation within the Jordan Creek streamside setback to address public safety issues

Applicant: City & Borough of Juneau

Location: Teal Street

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and **DENY** the requested Non-administrative Variance. The Non-administrative Variance would allow

the JIA to remove vegetation within the Jordan Creek streamside setback to address public safety issues.

Director's Report

The applicant requests a non-administrative variance to remove vegetation within the Jordan Creek stream setback to address public safety issues, within the Industrial and General Commercial zoning districts.

The applicant has not demonstrated hardship; the subject properties are used for their intended purposes. The property has unusual or special conditions not caused by the owner due to the stream setback, and a grant of the variance is not detrimental to public health, safety or welfare.

Staff recommends the Planning Commission adopt the Director's analysis and findings and deny the requested non-administrative variance.

STAFF PRESENTATION –

Director Maclean presented **VAR2022 0002** and recommended DENIAL of the permit. She added Finding #2 should read the conditions have NOT been met.

APPLICANT PRESENTATION –

Patti Wahto, Airport Manager and Phil Adams, Deputy Airport Manager presented saying they are asking to limb trees in the Jordan Creek area greenbelt. Mr. Adams explained there are currently significant safety concerns stemming from incompatible use of the area due to illegal camping, drug use and other illegal activities. He said they are requesting the variance based on safety and health concerns in the area.

QUESTIONS FOR APPLICANT –

Ms. Cole asked if this would clear the view from Teal Street through to the airport. Ms. Wahto said she did not think it would be completely cleared but it would allow for sight lines through to make illegal campsites and activities apparent.

Mr. Voelckers said clearing has already been accomplished and asked if that is outside of the area being requested. Ms. Wahto said it is outside of the 50-foot area in this request.

Ms. Cole asked if the airport would still be responsible for clearing the area if it were limbed. Ms. Wahto confirmed it would remain the responsibility of the airport to maintain the area.

Mr. Voelckers asked whether airport staff had discussed this with the new Glory Hall development. Ms. Wahto said they had not spoken directly on this topic but they have had conversations about being a good neighbor.

Mr. Pedersen asked if it would make more sense to dispose of the property to another CBJ department. Ms. Wahto said once a piece of property becomes airport property it is extremely hard to dispose of it due to FAA regulations.

MOTION: *by Mr. Voelckers to approve VAR2022 0002 with new findings.*

- *A. There is a hardship that should be considered*
- *D. It is narrowly tailored*

Mr. Winchell and Mr. Bell spoke in support of the motion.

Ms. Cole spoke to oppose the motion saying she agrees with staff finding A. Mr. Arndt spoke against the motion saying even after limbing the area, it may not fix the problem. He expressed hope that there will be another option. Mr. LeVine spoke against the motion saying he hopes to find a legislative fix but this application cannot be granted.

ROLL CALL VOTE

YEA: Voelckers; Bell; Winchell

NO: Pedersen; Cole; Arndt; LeVine

Motion FAILED 3-4 on Roll Call Vote

*****AT EASE 8:06-8:15*****

XI. OTHER BUSINESS

a) 2023 Legislative Priorities

Mr. LeVine proposed reviewing the memo from last year and submitting that to Director Koester. The top priorities at that time were the Lemon Creek Multimodal Path, the Second Crossing, and Deferred Maintenance. They remain high priorities for the Commission. Mr. LeVine will submit the memo to Director Koester.

b) 2023 Planning Commission Priorities

As a result of the joint meeting with the assembly, and with Mr. Voelckers' help, a letter has been drafted listing the PC priorities to be forwarded to the Assembly. Ms. Cole commented that with current staffing shortages limiting committee activities already, she would rather see them finish current projects before adding to the list of items that they will not be able to complete. Mr. LeVine informed the PC that CDD is seeking to hire a contractor to assist with committee meetings to get them moving again. Ms. Maclean explained one important item is the review of the Comprehensive plan as it determines the direction of development and zoning for the CBJ. (Do we want to be a retirement community? Primarily a tourism-driven community? A community where persons live their whole lives? Etc.)

Mr. Pedersen asked if the review is required by city charter. Ms. Maclean said the plan must be reviewed every two years and can be updated every five years.

XII. STAFF REPORTS

Ms. Maclean reported they have hired an administrative officer and an admin assistant and she hopes to restart committee meetings by spring of 2023.

XIII. COMMITTEE REPORTS - None

XIV. LIAISON REPORTS – Waahlaal Giidaak was not in attendance but asked Mr. LeVine to inform the PC there was discussion of the Board of Equalization amendments to the rules of procedure and they will be on the consent agenda and will advance to the Assembly Committee of the Whole. From there, it will be before the full assembly for passage.

Additionally, applications for the vacant planning commission seats can be submitted through November 30th. Mr. LeVine asked members to encourage interested parties to apply.

XV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS – None

XVII. EXECUTIVE SESSION – None

XVIII. ADJOURNMENT – 8:26 p.m.
Next regular meeting December 13, 7:00 p.m.