

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Michael LeVine, Chairman
April 26, 2022

I. **LAND ACKNOWLEDGEMENT** – Read by Commissioner Winchell

II. **ROLL CALL**

Michael LeVine, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in hybrid fashion with members and public attending in person and virtually via Zoom Webinar and telephonically, to order at 7:02 p.m.

Commissioners present: Commissioners present in Chambers – Michael LeVine, Chairman; Nathaniel Dye, Vice Chairman; Travis Arndt, Deputy Clerk; Ken Alper; Mandy Cole; Joshua Winchell; Erik Pedersen

Commissioners present via video conferencing – Paul Voelckers, Clerk; Dan Hickok

Commissioners absent:

Staff present: Jill Maclean, CDD Director; Jennifer Shields, CDD Planner II; Adrienne Scott, CDD Planner I; Joseph Meyers, CDD Planner I; Breckan Hendricks, CDD Administrative Officer; Chelsea Wallace, CDD Administrative Assistant II; Sherri Layne, Law Assistant
Municipal Attorney

Assembly members: Alicia Hughes-Skandijs, Mayor Beth Weldon

AT EASE 7:03 p.m. – 7:08 p.m.

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

IV. **APPROVAL OF MINUTES** – None

V. **BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION** – Chair LeVine explained the rules and procedures for participating via hybrid Zoom/in-person format.

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

VII. **ITEMS FOR RECONSIDERATION** – None

VIII. CONSENT AGENDA

~~USE2022 0004: A Conditional Use Permit for construction of an awning in a required side yard setback~~

~~Applicant: George C. Schrader & Susan E. Schrader~~

~~Location: 2611 John Street~~

Staff Recommendation

~~Staff recommends the Planning Commission adopt the Director's analysis and findings and APPROVE the requested Conditional Use Permit. The permit would allow the development of construction of an awning in a required side yard setback in a D18 zoning district.~~

~~The approval is subject to the following conditions:~~

- ~~1. The applicant shall not conduct any grading work, including cutting or limbing of trees on CBJ property.~~
- ~~2. Within 180 days of issuance of a Building Permit, the applicant will submit an as-built survey proving that the completed structure is located entirely on the applicant's lot. No further permits will be issued for the site until this documentation is provided to CDD.~~

SMF2022 0001: A proposed subdivision of one (1) lot into three (3) lots with one (1) standard lot and two (2) bungalow lots

Applicant: Southeast Endeavors, LLC

Location: 8284 Garnet Street

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings to **APPROVE** the requested final plat. The permit would allow the final plat approval for the proposed subdivision of one (1) lot into three (3) lots with one (1) standard lot and two (2) bungalow lots.

The approval is subject to the following conditions:

1. Prior to final plat approval, the applicant has constructed all required improvements or provided a financial guarantee in accordance with CBJ 49.55.010.
2. Prior to final plat approval, the applicant shall submit to a joint-use and maintenance agreement for the access and utility easement to be recorded with the plat.

MOTION: *by Mr. Pedersen to accept staff's findings, analysis and recommendations and approve SMF2022 0001.*

The motion passed with no objection.

IX. UNFINISHED BUSINESS – None

X. REGULAR AGENDA

USE2022 0004: A Conditional Use Permit for construction of an awning in a required side yard setback
Applicant: George C. Schrader & Susan E. Schrader
Location: 2611 John Street

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and APPROVE the requested Conditional Use Permit. The permit would allow the development of construction of an awning in a required side yard setback in a D18 zoning district.

The approval is subject to the following conditions:

1. The applicant shall not conduct any grading work, including cutting or limbing of trees on CBJ property.
2. Within 180 days of issuance of a Building Permit, the applicant will submit an as-built survey proving that the completed structure is located entirely on the applicant's lot. No further permits will be issued for the site until this documentation is provided to CDD.

AT EASE 7:15 p.m. – 7:17 p.m.

STAFF PRESENTATION by Planner Scott

QUESTIONS FOR STAFF

Mr. Pedersen asked whether the as-built survey required in Condition #2 was to be completed prior to or after the awning is constructed. It is to be completed after construction. The purpose of the survey is to confirm there is nothing built into the CBJ lot.

Mr. Winchell asked if there are any large trees that would need to be cut in order to place the awning. Planner Scott did not think there were.

Mr. Hickok asked if the applicant would be able to limb trees from CBJ property that overhangs their property. Ms. Scott said the condition states they cannot limb any trees on CBJ property.

APPLICANT PRESENTATION

Susan Schrader, applicant, explained she and her husband want to install the awning to protect their sidewalk from ice and snow. She said it would enhance the livability of their home and would make the walk from the driveway to the front door safer. They do not have any objection to the conditions.

QUESTIONS FOR APPLICANT

Ms. Cole asked if the awning would abut the CBJ property line. Ms. Schrader did not believe it would. Mr. Arndt asked the width of the sidewalk. Ms. Schrader said it is about 4-feet wide.

Mr. Dye asked if the Schraders had pursued changing the designation of the CBJ parcel from retain/dispose to restricted. They had not. Mr. Winchell asked if they had discussed the slope of the lot and the potential for slides as a basis for restricting the designation. She said that she is concerned with landslides, especially after seeing the damage in Haines last year, but they had not discussed it as a means for restricting the parcel. Mr. LeVine asked Ms. Schrader if she had been aware of any potential issue with the land designation prior to this morning. She was not.

ADDITIONAL QUESTIONS FOR STAFF

Ms. Cole asked what would give the PC the right or authority to grant the permit if the code says otherwise. Ms. Maclean explained the classification retain/dispose is sort of a 'generic' designation considering the size of the lot. Ms. Maclean said she had read and interpreted the code flexibly and said the topography of the section of the parcel in question is steep and rocky and very unlikely to ever be developed.

Mr. Hickok asked why this is a conditional use permit and not a variance request. Ms. Maclean explained a CUP has a lower threshold to be met. Mr. Arndt asked if it is possible to add a condition that CBJ retains this portion of the land. Ms. Maclean said this would be akin to an advisory condition. Mr. LeVine asked if it would be possible to condition the CUP on a change in designation of the adjoining parcel. Attorney Layne said she thought it *could* be a condition but she was not sure it would be practical.

Mr. Winchell asked if the PC could achieve findings that would state this is to be restricted as a retain parcel. Ms. Maclean said that would require an amendment to the land management plan with approval of the assembly.

Mr. Voelckers asked if this issue has been raised with the Lands Department. Ms. Maclean said he is aware but they have not discussed changing the designation.

Mr. Dye asked if the only inappropriate designation would be dispose. Mr. Maclean explained she had considered the steep rocky terrain as unusable and, therefore, likely not subject to disposal. Mr. Dye followed up asking whether the parcel in question has a plat note designation for park space. Ms. Maclean was unsure.

Mr. Arndt asked who makes the decision of which portions are retained or disposed in retain/dispose designated lands. Ms. Maclean said it is up to the PC and the Assembly to decide. Mr. Dye asked if they are usurping Assembly authority if they make this decision. Attorney Layne said yes. However, if the commission chose to make that decision, they should be sure to make detailed notes explaining their process and reasoning.

COMMISSIONER DISCUSSION

Mr. Winchell felt the record shows that the parcel of land in question is probably not buildable and they had heard and seen enough to support if this portion of the parcel hadn't been designated dispose/retain then it would have most likely been restricted to retain.

Mr. Pedersen and Mr. Alper spoke in agreement with the Director's findings and recommendation and in support of the permit. Ms. Cole said she agrees that a common-sense approach would be good. However, she would be more comfortable if they could add verbiage to the findings to say "similarly restrictive land management code may be retained/dispose with a recommendation from the lands manager, that the particular piece of property would be retained."

AT EASE 8:02 p.m. – 8:10 p.m.

MOTION: *by Ms. Cole to accept staff's findings, analysis and recommendations and approve USE2022 0004 with the addition of finding "similarly restrictive land management in CBJ 49.25.430 (4)(n) can apply to land designated retained/dispose with a recommendation from the lands manager, that the particular parcel would be retained in any plausible circumstance."*

Mr. Winchell spoke to support the motion.

Mr. Dye expressed worry that this finding could set an unintended precedent and will be voting against the motion. Mr. Arndt similarly likes the finding but cannot support the motion.

Mr. Alper said they are not getting rid of the setback in this situation. The house still meets the setback requirement. They are voting on a limited attached structure.

Mr. LeVine said he believes the applicant should be allowed to build the awning. However, he does not think the code will allow it.

Roll Call Vote

Yes: Cole, Pedersen, Hickok, Alper, Winchell, Voelckers,

NO: Arndt, Dye, Levine

The motion passed 6-3.

USE2022 0005: A modification (extension) of a Conditional Use Permit (USE2021 0011) for a cold weather emergency shelter at Resurrection Lutheran Church

Applicant: Resurrection Lutheran Church

Location: 740 W. 10th Street

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and APPROVE the requested Conditional Use Permit modification repealing condition #9:

1. This permit will expire on ~~May 1, 2022~~ **June 1, 2024**. (Condition #9).

STAFF PRESENTATION by Planner Shields

QUESTIONS FOR STAFF

Mr. Winchell asked if removing the condition expiration date would make the permit perpetual. Ms. Shields said if the PC does not set a new date, then it would be permanent. Mr. Arndt asked if the intention for removing the expiration date was so it could go on in perpetuity or was it so the shelter can operate in the case of additional cold weather days this year. Ms. Maclean said the applicant is only looking to strike the expiration date. This would not extend the dates of operation as the shelter is working under a contract for certain dates. It would only remove the expiration date of the permit so the applicant would not have to come back each year to renew the permit.

Mr. Voelckers said the staff report does not agree directly with the applicant documentation. He added the staff report addresses only the expiration date while the applicant packet notes they will be seeking to change several of the conditions. Mr. Voelckers remembered the original permit was fast tracked so they could get the shelter open quickly and the thinking then was that this might be a temporary shelter.

Ms. Maclean said her understanding is that the applicant is looking to repeal the expiration date and if they came in the future seeking other changes, they would still have this to fall back on if future requests for changes were denied.

Mr. Alper asked if repealing the expiration date was the preferred decision or if the CDD could have recommended another time-limited extension. Ms. Maclean said it is not usual for expiration dates to be set on permit approvals. It is preferable that they not have to come back every year for continuing extensions. Mr. Arndt asked if there is any need or desire to change the dates of operation to allow the applicant to open earlier or close later. Ms. Maclean explained the dates in the contract are agreed to by the applicant and the Manager's office and if the dates were to change, it would be at that level.

APPLICANT PRESENTATION

Pastor Karen Perkins, Pastor Resurrection Lutheran Church, said this CUP was put in place in a hurry to meet an immediate need. They are currently looking to remove the expiration date so that they will already have the permit in place in case they enter a contract with the CBJ again this coming winter. There is a need for emergency cold weather sheltering and they have the capacity to meet that need. In the last year, she said, they provided 3400 bed nights.

Randy Sutak, Church Council President, said the purpose of the church is to serve. He felt they did a good job providing the shelter service this year. Addressing the concerns expressed in comments received, he asked that they partner with the church and the city to find solutions.

QUESTIONS FOR APPLICANT

Mr. Winchell asked if the warming shelter was seeking to continue operating during the summer and fall seasons or the ability to provide other services with this permit. Pastor Perkins said they are not.

Mr. Arndt asked if the contract did not continue at this location, would the church be willing to do it in another location. Pastor Perkins had not considered that. She said they might consider it but did not have a definitive answer to that.

Mr. Dye asked if something has changed to make the church want to go into the business of sheltering for the long term. Pastor Perkins said it had not. Nevertheless, the need is there and they can meet it.

Mr. Alper asked what sort of calls they received via the phone line conditioned in the original permit. Pastor Perkins said most of the calls came from other service organizations and was used for communication and coordination of services. Neighbor comments were primarily received via email and the shelter staff responded timely. When a complaint came in, staff would work with patrons to mitigate and change the behavior.

Mr. Pedersen asked if there were any changes that would make sense with the times of operation. Pastor Perkins explained the first bus from the area leaves at 7:15 a.m. and waking patrons and requiring them to be outside at 6:30 a.m. was not ideal when there was not a bus or other transportation option for forty-five minutes.

Mr. Dye asked if they were asking for all nine conditions to be removed or which ones they would want to remove. Pastor Perkins said several of the conditions are more about the contract than the permit. For example, they would not run the shelter with less than two staff on duty. She felt some of them are not necessary as they would be provided anyway. She said if they were to ask for certain conditions to be removed, they would be conditions 5, 6, and 9. (These are the hours of operation, dates available for operation, and permit expiration date).

Mr. Voelckers recalled the 6:30 a.m. closure time was imposed out of concern for school children in the area and asked if she had any information on how that was working. Pastor Perkins is not aware of school children riding the 7:15 a.m. bus and she is not aware of any problems or conflict with the school. She added the principal of the elementary school had communicated to the Church that the shelter had not caused any problem with the school children. Additionally, the school used the shelter as an opportunity to teach concepts of housing, shelter and homelessness.

Mr. Voelckers asked if changing the time from 6:30 to 7:00 a.m. would increase possibility of negative impacts on the elementary school. Pastor Perkins said it would actually decrease the

possibility of negative interaction because it would make it easier for patrons to go to their next destination.

Mr. Winchell asked if there were any considered impacts from removing condition 6. Mr. Sutak felt that most of the conditions are common sense conditions and he appreciates them. However, conditions 5, 6, and 9 are better addressed as part of a contractual agreement. It would make sense to remove condition 6 and deal with the dates of operation in a contract.

Point of Order: Ms. Maclean pointed out this agenda item had been publicly noticed as a change to Condition 9 only and not that they would be looking at the other conditions. Ms. Layne agreed with the Director. Mr. LeVine said, in that case, they would cease discussion of the other conditions.

PUBLIC COMMENT

Brenda Knapp, spoke to say she does not support striking the expiration date completely. She feels one winter of operation is not enough to support allowing the permit to go on in perpetuity. She felt there needs to be better management of people not in the church and hanging around the building in the evenings. She has observed disruptive people around the building that were talking loudly or fighting when she walked her dog between 10:00 and 11:00 p.m. During those instances, she saw no lights on or activity inside the church and wondered why they were not open.

Mr. Dye noted some people may have not bothered to express concerns because they thought it would only be a one-year thing and asked Ms. Knapp if she had also withheld complaints for that reason. She said she had originally understood it was to be a limited program.

ADDITIONAL APPLICANT COMMENTS

Pastor Perkins spoke to Ms. Knapp's concerns stating the operating hours normally began at 10:30 p.m. unless there were extreme weather occurrences which necessitated opening earlier. As for people camping on the stairs, she said that speaks to the need for more hours of open operation.

COMMISSIONER DISCUSSION

Mr. Pedersen said he feels having the applicant come back year after year is onerous but he is not comfortable extending it indefinitely. Mr. Pedersen suggested May 1, 2025. Mr. Winchell agreed but said he felt there are issues that need to be resolved and he would be more comfortable allowing a one- or two-year extension to give them the opportunity to work with the community and solve some of the issues.

MOTION: *by Mr. Arndt to accept staff's findings, analysis and recommendations and approve USE2022 0005.*

Mr. Arndt spoke against his motion saying he does not want a yearly review process and would prefer to find a different location not in a neighborhood. The original permit was granted in an emergency situation. He had understood the original permit to be a stop-gap measure because they were out of time and winter weather was imminent. He expressed a desire to see the church continue to run an emergency shelter, but to run it in a nonresidential location. He could see a permit like that being granted without an expiration date.

MOTION TO AMEND: *by Mr. Voelckers to retain condition 9 and change it to May 1, 2024.*

Mr. Voelckers spoke to his motion saying this leaves the option for the church to continue the emergency shelter in the case there is not another location found.

Mr. Winchell spoke to support the motion to amendment.

Mr. Alper said extending the permit would not automatically mean it would operate in perpetuity. The applicant would still need to retain a contract from the City each year. For these reasons, he is in support of the motion to amend.

Roll Call Vote on Motion to Amend:

YES: Voelckers, Winchell, Alper, Hickok, Pedersen, Cole, Dye, LeVine

NO: Arndt

The motion to amend passed 8-1.

MOTION TO AMEND: *by Mr. LeVine to change the expiration date to June 1, 2024*

Mr. LeVine spoke to his motion saying it would make more sense for the permit to terminate a month after the shelter closing date to allow for lessons learned before coming before the PC again.

AT EASE 9:16 p.m. – 9:18 p.m.

The motion to amend passed with no objection.

AMENDED MOTION: *to accept staff's findings, analysis and recommendations and approve USE2022 0005 with a change to the expiration date to June 1, 2024.*

Mr. Dye spoke against the motion saying neighbors did not expect it to be an ongoing program and the applicant has expressed a desire to make other changes to the permit. Therefore, he believes it should be allowed to expire. Mr. Arndt also spoke against the motion saying the permit originally passed quickly and they should let this expire and take the time to properly go through the process.

Ms. Cole and Mr. Winchell spoke in support of the motion.

Roll Call Vote on Amended Motion

YES: Cole, Pedersen, Alper, Winchell, Voelckers, LeVine

NO: Arndt, Hickok, Dye

The amended motion passed 6-3.

XI. OTHER BUSINESS – None

XII. STAFF REPORTS

Director Maclean reported:

- The Assembly adopted the downtown parking ordinance. It goes into effect in 29 days.
 - The no parking required area was extended
 - The parking map related to street vendors is still in process and will be before the Assembly soon. The map had to be amended due to the change in the no parking required area.
- ADOD will be back before the PC next month
- CDD is posting to hire a position to oversee housing
- Stream ordinance is with staff and moving to Law again soon

Mr. Voelckers asked if the majority of staff are working in office or hybrid. The Director said staff has been working in office throughout most of the pandemic.

XIII. COMMITTEE REPORTS

- Title 49 – Mr. Arndt reported the committee met and has made progress on Coastal Management. They could use more members. The next meeting is scheduled for May 12.

Any PC members who would like to serve on the Title 49 Committee should contact Chair LeVine. Otherwise, he may appoint a member or two anyway.

XIV. LIAISON REPORTS – None

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

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. LeVine thanked staff for working through technical issues to run a smooth hybrid meeting.

XVII. EXECUTIVE SESSION – None

XVIII. ADJOURNMENT – 9:30 p.m.

Next regular meeting scheduled for May 10, 2022, 7:00 p.m.