

Minutes
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Michael LeVine, Chairman
July 28, 2020

I. ROLL CALL

Michael LeVine, 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 7:08 p.m.

Commissioners present: All Commissioners present via video conferencing – Michael LeVine, Chairman; Nathaniel Dye, Vice Chairman; Paul Voelckers, Clerk; Travis Arndt, Assistant Clerk; Ken Alper; Dan Hickok; Weston Eiler; Josh Winchell; Erik Pedersen

Commissioners absent: None

Staff present: Jill Maclean, CDD Director; Emily Wright, Law; Allison Eddins, CDD; Laurel Christian, CDD

Assembly members: None

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA - None

III. APPROVAL OF MINUTES

A. June 23, 2020 Draft Minutes – Planning Commission Meeting

MOTION: *by Mr. Voelckers to approve the Planning Commission June 23, 2020, Planning Commission Committee of the Whole Meeting minutes.*

The motion passed with no objection.

IV. BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION – Mr. LeVine explained the rules and process for public participation.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

VI. ITEMS FOR RECONSIDERATION - None

VII. CONSENT AGENDA

Mr. Pedersen announced a conflict of interest as he is employed by the Applicant and has worked on the project. He did not participate in the vote for CSP2020 0005.

CSP2020 0005: Asphalt rehabilitation and reconstruction of the Juneau Douglas Bridge, roundabout, and a portion of the South Douglas Highway
Applicant: State of Alaska Department of Transportation & Public Facilities
Location: Juneau Douglas Bridge, Douglas Roundabout, a little ways south on Douglas Highway

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and **APPROVE** the proposed asphalt rehabilitation and reconstruction of the Juneau Douglas Bridge, roundabout, and a portion of South Douglas Highway.

MOTION: *by Mr. Dye to accept staff's findings, analysis and recommendations and approve CSP2020 0005. Mr. Dye recognized a comment had been received regarding new construction of bicycle facilities. Mr. Dye felt comfortable with the motion since new construction was outside of the scope of the project.*

The motion passed with no objection.

CSP2020 0006 moved to Regular Agenda by Mr. Dye

~~**CSP2020 0006:** Land disposal and sale of land to Taku Terrace Condos~~
~~**Applicant:** City & Borough of Juneau~~
~~**Location:** 1220 Glacier Avenue~~

Staff Recommendation

~~Staff recommends the Planning Commission adopt the Director's analysis and findings and forward a recommendation of **APPROVAL** with one advisory condition to the CBJ Assembly for the sale of CBJ-owned land (1-C03-0-J01-000-1) to the Taku Terrace Condo Association.~~

~~Advisory Condition:~~

- ~~1. If any human remains are discovered during development activity, the individual responsible for managing the property should immediately notify the State Historic Preservation Officer at the Department of Natural Resources and all work should cease~~

~~until work is authorized by the agency with jurisdiction. Destruction or removal of human remains may be a crime.~~

SMF2020 0001: Final Plat approval for a phased major subdivision creating 14 lots and 1 large tract for future development (15 total parcels)
Applicant: William & Michael Heumann
Location: 4506 Hillcrest Avenue

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and APPROVE the requested final plat. The final plat approval allows for the Chilkat Vistas Subdivision Phase I – a phased major subdivision – creating 14 lots and 1 large tract for future development (15 lots total). This approval allows the applicant to record the final plat with the State Recorder's Office.

MOTION: *by Mr. Dye to accept staff's findings, analysis and recommendations and approve SMF2020 0001.*

The motion passed with no objection.

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

CSP 2020 0006 moved from Consent Agenda by Mr. Dye

CSP2020 0006: Land disposal and sale of land to Taku Terrace Condos
Applicant: City & Borough of Juneau
Location: 1220 Glacier Avenue

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and forward a recommendation of **APPROVAL** with one advisory condition to the CBJ Assembly for the sale of CBJ-owned land (1-C03-0-J01-000-1) to the Taku Terrace Condo Association.

Advisory Condition:

1. If any human remains are discovered during development activity, the individual responsible for managing the property should immediately notify the State Historic Preservation Officer at the Department of Natural Resources and all work should cease

until work is authorized by the agency with jurisdiction. Destruction or removal of human remains may be a crime.

Staff Presentation

Ms. Eddins presented CSP2020 0006.

Questions from Commissioners

Commissioners and staff discussed concerns that the CBJ would have no way to enforce the Advisory Condition regarding human remains. Mr. Voelckers asked why the CBJ had added the Advisory Condition regarding human remains. Ms. Eddins explained that adding it as a Condition allows it to be displayed on the first page of the packet and ensures applicant awareness that there may be unknown or unmarked graves on the property.

Mr. Dye asked whether a replat of the lot would be an option to get rid of the nonconforming situation as the property is nonconforming for setbacks. Ms. Eddins explained that the property is nonconforming for several items including density, parking and access as well as setbacks and a replat would not correct all of those. Overall, she said, nonconforming for setback is not a big deal.

Commissioners noted the 2016 Lands Management Plan map is mislabeled. Mr. LeVine had concerns that since the Land Management plan was mislabeled, they could not actually say it is in accordance with the Comprehensive Plan. Ms. Wright confirmed that in order to make things as clear as possible, the Commission should make a two-part recommendation to correct the Plan and then to approve the CSP.

Applicant Testimony

Mr. Bleidorn, CBJ Lands Manager, spoke to Commission concerns regarding an easement for the utilities on the property and explained that there would be one when the land sold. Mr. Dye asked whether CBJ would be willing to sell more land with this parcel to remove the nonconforming setback situation. Mr. Bleidorn said he could look into that but did not know if it would encroach on any graves. He added that there would likely be resistance from the Parks department if they did attempt to enlarge the parcel.

Public Testimony

Tom Locher, 933 C Street, told the Commission he has served on the Home Owners Association Board and he said he thinks they have covered the subject well.

Martin Stepetin, W Juneau, urged the Commission to take care to ensure any remains are protected.

Questions for Staff

Mr. Dye asked for clarification as to why the Advisory Condition was included and asked what was CBJ intent in including it. Ms. Maclean explained that it was included as a notice to inform the purchaser of the process to be followed in case human remains or undocumented gravesites were discovered. Mr. Dye felt that the notice was made by including it in the staff report and by documentation of the discussion in the minutes of this meeting.

Mr. Pedersen asked whether the sale would be accomplished via quit-claim deed or a warranty deed. Ms. Wright answered that would be a decision made by the Lands Department. She added the Lands Department tends to use quit-claim deeds.

At approximately 8:00 p.m. it was noted that Mr. Winchell was no longer in the Zoom meeting and it was unclear when the connection had been lost.

MOTION: *by Mr. Voelckers to accept staff's findings, analysis and recommendations and approve CSP2020 0006 with 2 recommendations the first being to correct the 2016 Lands Management Plan and the second to approve the sale of the property.*

MOTION to Amend Original Motion: *by Mr. Dye to amend by removing the Advisory Condition and make it a Condition.*

Mr. Voelckers asked for Legal advice from Ms. Wright who explained that it is cleaner to leave it as an advisory condition.

Roll Call Vote: Yes: Mr. Dye, Mr. Alper, Mr. LeVine; No: Mr. Hickok, Mr. Pedersen, Mr. Eiler, Mr. Arndt, Mr. Voelckers

The motion to amend failed.

MOTION to Amend Original Motion: *by Mr. LeVine to amend the finding to read: In accordance with CBJ 49.15.580, staff finds the proposed land sale to the Taku Terrace Condo Association complies with the Title 49 Land use Code and is in general conformity with **the intent of** adopted plans, specifically the 2013 Comprehensive Plan and the goals and objectives in the 2016 Lands Management Plan. **Based on staff assurances, the Planning Commission is confident that the retain designation for the subject parcel is in error.***

Roll Call Vote: Yes: Mr. LeVine, Mr. Arndt, Mr. Eiler, Mr. Pedersen, Mr. Hickok, Mr. Alper, Mr. Voelckers, Mr. Dye

The motion to amend passed.

MOTION to Amend Original Motion: ~~by Mr. LeVine to strike the advisory condition and make it a finding adding the clause~~ **the Planning Commission emphasizes the fact that** ~~to the beginning of it.~~

~~Mr. Arndt was concerned that removing the advisory condition would remove it from the letter. Ms. MacLean said that in this particular case, since it would be an amendment to findings, it would appear on the face of the letter. Normally, however, findings are not included in the letter of recommendation.~~

Mr. LeVine rescinded the amendment.

Mr. Voelckers asked if there was particular concern with the term ‘advisory condition’ that was causing them to struggle with CSP. Mr. Dye answered that advisory conditions often don’t work well because there is no enforceability and they can be ignored. If the Commission feels strongly that it should be stated then it should be a condition and it should be justified. Mr. Arndt added that the reasoning given for including the advisory condition was to inform the purchaser. However, the recommendation will go to the Lands Department as the applicant and to the Assembly but will not be given directly to the purchaser.

MOTION to Amend Original Motion: ~~by Mr. Arndt to amend to strike the advisory condition and to add~~ **The Planning Commission recommends notifying to the end user that if any human remains are discovered during development activity, the individual responsible for managing the property should immediately notify the State Historic Preservation Officer at the Department of Natural Resources and all work should cease until work is authorized by the agency with jurisdiction. Destruction or removal of human remains may be a crime** ~~as a third recommendation to the Assembly.~~

Roll Call Vote: Yes: Mr. Arndt, Mr. Eiler, Mr. Pedersen, Mr. Dye, Mr. Voelckers, Mr. Alper, Mr. Hickok, Mr. LeVine

The motion to amend passed.

AMENDED MOTION: to accept staff’s findings, analysis and recommendations and approve CSP2020 0006 with three (3) recommendations and a finding to read:

Finding: In accordance with CBJ 49.15.580, staff finds the proposed land sale to the Taku Terrace Condo Association complies with the Title 49 Land use Code and is in general conformity with the intent of adopted plans, specifically the 2013 Comprehensive Plan and the goals and objectives in the 2016 Lands Management Plan. Based on staff assurances, the Planning Commission is confident that the retain designation for the subject parcel is in error.

Recommendations:

- 1) *Correct the 2016 Lands Management Plan*
- 2) *Approve the sale of the property*
- 3) *The Planning Commission recommends notifying to the end user that if any human remains are discovered during development activity, the individual responsible for managing the property should immediately notify the State Historic Preservation Officer at the Department of Natural Resources and all work should cease until work is authorized by the agency with jurisdiction. Destruction or removal of human remains may be a crime.*

The motion as amended passed with no objection.

X. BOARD OF ADJUSTMENT – None

XI. OTHER BUSINESS None

XII. STAFF REPORTS

- Ms. Wright reported on the status of pending appeals.

Ms. Maclean reported:

- She is working to schedule Title 49 meeting.
- She will join the CBJ Chief Housing Officer in presenting to the Assembly Public Works Committee on August 10th.
- She will also be presenting to Lands Committee on August 10th.
- The next Blue Print meeting will be August 13th.
- Tim Felstead has resigned from CDD and interviewing for his replacement will begin in upcoming weeks.
- She will be scheduling to meet with the Governance committee soon.
- The next Planning Commission meeting will be August 11th and it will be a full agenda.

At 8:48 P.M., Mr. LeVine noted for the record that Mr. Winchell had contacted him and was been unable to reconnect with the Zoom meeting. Mr. LeVine stated this should not count toward the count of absences allowed.

XIII. COMMITTEE REPORTS – None

XIV. LIAISON REPORTS – None

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

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Voelckers complimented Mr. LeVine on another successful Zoom meeting.

Mr. Arndt spoke to the need to find an alternate way to convey information to applicants other than through the use of conditions. Mr. LeVine agreed with Mr. Arndt and suggested there could be other ways to inform applicants.

XVII. EXECUTIVE SESSION – None

XVIII. ADJOURNMENT – 8:55 P.M.