

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
January 8, 2019

I. ROLL CALL

Ben Haight, 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 7:02 p.m.

Commissioners present: Ben Haight, Chairman; Michael LeVine, Nathaniel Dye, Ken Alper, (new member) Shannon Crossley, (new member) Dan Hickok, Andrew Campbell

Commissioners absent: Paul Voelckers

Staff present: Jill Maclean, CDD Director; Laura Boyce, Senior Planner; Allison Eddins, Planner II

Assembly members: Wade Bryson, Assembly Liaison to the Commission

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

III. APPROVAL OF MINUTES

- A. November 27, Regular Meeting Minutes; December 11, COW and regular meeting minutes

MOTION: *by Mr. LeVine , to approve the Planning Commission November 27, 2018, regular meeting minutes, the December 11, 2018 Committee of the Whole minutes and the December 11, 2018 regular meeting minutes with any minor changes by staff or Commission member.*

The motion passed with no objection.

IV. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

V. ITEMS FOR RECONSIDERATION - None

VI. CONSENT AGENDA – None

VII. UNFINISHED BUSINESS

USE2018 0016: A Conditional Use Permit to allow a 32-unit residential condominium development

Applicant: The Jetty

Location: 11798 Glacier Highway

Staff Recommendation

Staff's recommendation remains unchanged. Staff recommends the Planning Commission adopt the Director's analysis and findings and APPROVE the requested Conditional Use Permit with the following six conditions.

1. Prior to the issuance of a Building Permit, the applicant must provide a detailed landscape plan for the parking area.
2. Prior to a Certificate of Occupancy being issued for the building, the landscaping must be installed or bonded for.
3. Prior to the issuance of a Certificate of Occupancy, the parking spaces must be striped and properly signed.
4. Prior to issuing a Temporary Certificate of Occupancy for the first dwelling, a Homeowners' Association (HOA) Agreement shall be submitted for review by Community Development. The HOA agreement shall specify how common facilities such as the parking area, pedestrian walkway, and required landscaping and vegetation will be properly maintained.
5. Prior to the issuance of a Building Permit, the applicant shall submit a detailed drainage and snow storage plan.
6. Prior to the issuance of a Building Permit, the applicant shall submit a parking and site circulation plan that has been prepared by a licensed engineer or architect.

Ms. Eddins told the Commission this item is a reconsideration of a Conditional Use Permit for a 32-unit condominium development in Auke Bay. This item first appeared before the Commission on October 23, 2018. At that meeting, a seventh condition was added by Mr. Campbell which stated the applicant must work with the neighboring development to potentially construct a flat roof and limit the maximum height of the structure.

At the November 27, 2018 meeting, there was a motion for reconsideration of this item. This item is appearing as a reconsideration, which means the public comments and conditions will all be heard as if this item was never before the Commission previously.

This lot is zoned General Commercial and is surrounded by other property zoned Light Commercial and multifamily residences.

The plans are to construct the building on fifteen-foot-high pilings with lattice work, said Ms. Eddins. Title 49.25.420 dictates methods to figure the height of a building, said Ms. Eddins. There is a 9.8-foot slope from the front to the rear of the lot, said Ms. Eddins.

With current engineer's drawings now available, the overall height of the structure was estimated at 45 feet, but now with current engineer's drawings it is estimated at 50 feet. The maximum height of a structure in the General Commercial district is 55 feet, said Ms. Eddins. To meet the 10 percent vegetative cover that is required, the applicant's plan on leaving a steep back portion of the lot vegetated to meet those requirements, she said.

The parking area is to be attractively landscaped with a 24-foot wide driveway with two-way lanes provided to access the property, she said. While 58 parking spaces are required, the applicants plan on providing 64 parking spaces, with 15 of those spaces uncovered and the remainder of the parking spaces covered beneath the condominiums. The Department of Transportation had no concerns about the project and are working with the applicant to widen the driveway which will be a paved access, said Ms. Eddins.

Staff cited examples of similar developments in the surrounding area including Spaulding Meadows condominiums and Cannery Cove condominiums. Both of these examples are four stories high as is the proposed development. The staff believes this 32-unit condominium development will be in harmony with the neighboring area and that it conforms to the adopted plans of the CBJ, said Ms. Eddins. The Director approves this project, she said.

There have been some comments from neighbors expressing concern over the additional traffic in the area created by the project, but the main concerns are the protection of views in the area, said Ms. Eddins. The staff feels this project will not endanger public safety or health and that it will be in harmony with the neighboring area, said Ms. Eddins. The staff also finds that this project is in compliance with the adopted plans of the CBJ.

Chairman Haight asked both new Commission members if they have had the opportunity to thoroughly review this case. Both Ms. Crossley and Mr. Alper confirmed they have studied this item.

Mr. LeVine clarified that the motion for reconsideration brings this project before the Commission as if it has never been before the Commission before.

Ms. Mores confirmed that the motion for reconsideration completely cancels any previous action by the Commission as if it had never happened.

Mr. Alper asked for an explanation on how the height of the project was calculated.

Ms. Eddins explained that the project height is 125.3 feet above elevation zero. That's calculating the height of the building starting from the water and moving up the slope, she said.

They are starting at 72 feet, not at water level zero, said Ms. Eddins.

Mr. Alper said the difference between 72 feet and 125 feet was 53 feet. He said he didn't understand why the height of the building was calculated at 50 feet instead of 53 feet.

The elevation of 125.3 is calculated from the tip of the roof, and the way the staff measures the height is from the midpoint of the roof, explained Ms. Eddins.

Applicant (Garrett Schoenberger and Paul Simpson of Alaska Legacy)

Mr. Schoenberger told the Commission both he and his partner, Paul Simpson, were born in Juneau, and have returned to the community to make significant contributions. This is their first project, he said.

General Commercial zoning has a 55-foot height restriction, he said. Their project is five feet lower than that limit, he added. He said their project conforms to the Auke Bay Area Plan, and they feel their project will offer a significant contribution to the community, he added.

In the development business, time is money, said Mr. Schoenberger, and they have been put on hold with this project since November. They have spent over \$20,000 just to get to this point, said Mr. Schoenberger. They purchased the former UAS bookstore building which sits upon three acres. He stressed they paid over the asking price to obtain this specific property. One of the main reasons they purchased this property was because of the zoning, said Mr. Schoenberger.

Both he and his partner are excited to pursue the development of this property. They held an open house within the building they purchased, and over 300 people attended that event, he said. The entire building has since been purchased by individuals who will use the building for a microbrewery, (Forbidden Peak Brewery) said Mr. Schoenberger, which they feel will be an exciting asset to the community.

The property behind the building is where they will be constructing the condominium development, he said. They have brought in new sewer and water pipes as well as AEL&P conduit and cabling. They have performed a full geotechnical study to understand the soil composition, he said. They were also able to obtain a permit from the Department of Transportation (DOT) for the driveway, he said.

The project will be supported by steel pilings drilled into bedrock, with the lower level used for parking. They want the first-floor residents to have views as well as the upper floor residents, said Mr. Schoenberger, so the first-floor units will be 77 feet in height so that first-floor residents can see over the existing building in front of the condominium project. They do not feel this project will adversely impact the value of the surrounding properties, said Mr. Schoenberger. The CBJ Assessor's office has also stated that it does not foresee negative impacts on surrounding properties, said Mr. Schoenberger. He said their development will impact some of the views of the condominiums behind them, but that the views of Auke Bay,

Islands and the Chilkats will be unimpeded. They would like the right to build within their zoning guidelines, he said.

They are not constructing towards the back of their sloped lot which would really impede the views of the development behind them, said Mr. Schoenberger. They are trying to stay near the bottom of the lot to have as little impact as possible on the development behind them, he said. The only time protection of view sheds is mentioned in the Auke Bay Area Plan is when it references public land, said Mr. Schoenberger.

They are building well within the height limit of 55 feet, said Mr. Schoenberger. Their project will provide a lot of value to the Auke Bay community, and is right in line with the Auke Bay Area Plan, said Mr. Schoenberger.

Commission Comments and Questions

Mr. Campbell asked how the height of the tank on the adjacent property was generated.

Mr. Schoenberger replied that they called AEL&P and asked what the height of the fuel tank in front of their property was.

Mr. LeVine said if the height of the Forbidden Peak brewery was 75 feet and the first floor of the condominium development was 77 feet, why they could not take off a few feet since the 77-foot height was at the floor and not at eye level.

Mr. Schoenberger said these heights were construed to make sure that the first-floor residents would have a view, and to leave room for unexpected construction issues. He said they purchased this site knowing they could build to 55 feet in height. They paid for this right, he said.

Mr. Dye asked for clarification on the podium style construction proposed by the applicants.

Mr. Schoenberger said they are driving piles into bedrock to create a secure foundation for their project.

Mr. Dye asked the applicant if he was sure that the podium height could not be reduced and still preserve their view plane.

The bottom line, said Mr. Schoenberger, is that if they can make it lower during the construction phase, then they will, because that would be saving them a lot of money. There are 56 piles on this project, he said. If they could shave two feet off of each pile, and still preserve the view, then they will do so because that would save them money, he said.

Mr. Dye asked the applicant if they felt the value of their property would be drastically reduced if they could not monetize the asset of the view.

Mr. Schoenberger said that is correct, considering what they paid for the site.

Ms. Crossley asked why a flat roof was not an option. She said a lot of flat roofs have elevator towers protruding above the flat roof of the building.

Mr. Schoenberger said as they got into the actual building plans, if a flat roof was a possibility as they proceed then they would still consider it as an option.

Mr. Alper asked if it was the intent of the Auke Bay Area Plan to preserve public views and not private views.

Ms. Maclean verified that the view sheds to be protected in the Auke Bay Area Plan are public views and not private properties.

Mr. Campbell asked the applicant if they have an agreement with the brewery owners in front of them curtailing building height.

Mr. Schoenberger confirmed that they did have such an agreement with the brewery owners.

Mr. Hickok asked the applicant if he anticipates the numbers changing.

Mr. Schoenberger responded that they will not be constructing above 55 feet in height. He said his point is that once the construction process is entered that any developer would ascertain that there will always be minor adjustments necessary during the process. He said at this point he cannot predict what those might be.

Mr. Alper asked how they would be able to implement lowering the podium height.

Mr. Schoenberger said they need room for utilities and a 10-foot clearance for cars. He said they need to have enough room underneath and enough height for the views, and that if they can shave off a foot or two and still have clearance for the cars they will do so because that would save them money.

Public Comment

Mr. Kemp said this development would have a serious negative impact on his condominium development which rests above the proposed site and that they are concerned about the elevation. He said they set their views so that their residents would have a view of the top of the boat launch ramp. He said this project will affect his development's views all the way to Battleship Island, with no views of the boat harbor which are very desirable for residents. Mr. Kemp said the Comprehensive Plan mentions building heights constructed to maintain views.

Commission Comments and Questions

Mr. LeVine asked Mr. Kemp what he would like to see.

Mr. Kemp responded that for every degree reduction in height they can see another 1500 feet further out into the channel.

Mr. Dye asked Mr. Kemp if he views this as a financial hardship for his development.

Mr. Kemp said this would definitely cause a financial hardship for his project. He said they are trying to preserve views on the top floor. Their lower floors will have no views at all as a result of the proposed development, he said. They have conducted three open houses for their condominiums, and the main concern expressed by potential buyers was the preservation of views. This would have a grave impact on their project, he added.

Mr. Kemp said he disagreed that only public views should be protected. He said panoramic views were from privately owned buildings and that these should be protected as well. He said this proposed development has an artificially raised foundation for views. He said the proposed development could be 15 feet lower than it is now.

Commission Comments and Questions

Ms. Crossley asked Mr. Kemp if when they began construction in 2016 if they were aware of the height dimensions of the property in front of them.

Mr. Kemp said they were concerned about the building height in front of them. They asked the Planning Director at that time about the 55-foot height that could be attained by a building in front of them. He said they were reassured by the Planning Director that those building heights would be adjusted. That never happened, said Mr. Kemp.

Ms. Crossley asked Mr. Kemp if he felt that since they constructed their condominiums first, that it overrode the legality of the allowed height of the property in front of them.

Mr. Kemp said the Planning Commission has the authority to make changes and do the reasonable thing. The gabled roof of the top structure adds eight feet to the height of the building, said Mr. Kemp. He said this is not reasonable. The parking was initially in the back of the building, said Mr. Kemp. They did not hear until September that plans had been changed and that the structure would be 15 feet higher, said Mr. Kemp.

Mr. Dye asked Mr. Kemp if he had a suggestion of a maximum elevation of the proposed development that would allow them to retain third tier property views.

They would like to see an elevation of 110 feet, said Mr. Kemp, just as they were the last time, when the project had a flat roof. Their project will have views from all of the units and his project will only have views from the back row, said Mr. Kemp.

Mr. Dye asked if 113.5 feet would be amenable to Mr. Kemp.

Mr. Kemp said they thought that was a fair height since each developer gave a little bit to accommodate the other.

Mr. Dye asked Mr. Kemp if there is a number above 113.5 feet which was still reasonable to him.

Mr. Kemp said it is very important for buyers to see the Auke Bay harbor from their units.

Mr. Hickok asked Mr. Kemp if there were any concerns from properties behind them about their project obscuring views.

Mr. Kemp said the only views they are blocking are the buses from the bus barn building and that no concern was expressed about that.

Mr. Hickok commented that the bus barn property could change hands in the future.

Mr. Kemp agreed with the comment of Mr. Hickok.

Auke Bay resident Dave Klein said he supports this project as presented by the applicant and as recommended by CDD staff.

Applicant

Mr. Schoenberger said this is a tough situation and they understand it is complicated. However, they paid a premium price for their lot because of the zoning of General Commercial and the views they could obtain. Limiting the views from their first floor would matter very much, he said. They have been working their tails off, he said, and it would be a huge catastrophe for their partnership if they cannot fully monetize the site.

Ms. Crossley asked if the project was raised 15 feet to protect the views or to meet the vegetation requirement of the code.

Mr. Schoenberger said it was a combination of factors. Even though it is much more expensive to build on pilings, they decided this was the best course to follow. That feeling was only enhanced when they saw the positive effect building on pilings could have for their views. For this project to work for them, they have to have those views, said Mr. Schoenberger. That is why they paid what they paid for the land, he said.

Mr. Dye asked if the height were set at 125.3 feet if that would be of concern to the applicant.

Mr. Schoenberger said it would be of concern. He said he hopes everything works perfectly. But if it doesn't, and they have to make a tweak here or there, they may need that room. They are five feet under the maximum height now, and that is their buffer, said Mr. Schoenberger. He said he does not anticipate them going over the 125.3-foot height, but sometimes there are issues which come up.

Mr. Alper asked if they could construct a flat roof on the top portion of the building instead of a gabled roof, thus saving off a few feet from the height of the structure.

Mr. Schoenberger replied that their contractor is most comfortable with a gabled roof and they are trying to construct the best building possible.

MOTION: *by Mr. LeVine, to accept staff's findings, analysis and recommendations and approve USE2018 0016 subject to the six conditions proposed by staff and an additional seventh condition stipulating that the applicant is encouraged to reduce the overall height of the building as much as is practicable including the use of a flat roof and lowering the garage.*

Speaking in favor of the motion, Mr. Campbell said that this has been an extremely difficult case for him. He said he has given this issue a lot of thought, and that he apologizes to the applicant for the delays they have experienced. For him the real issue is determining what is the impact of the obstruction of the view from the rear property. It is difficult to monetize the impacts of the view reductions, said Mr. Campbell. Mr. Campbell said he was the Commissioner who brought up the height limitation to begin with and at this point, he feels that is not the right way to proceed. He said he also likes the language in the motion that encourages the Jetty project to minimize its height if at all possible.

Mr. Hickok asked Mr. LeVine if the recommendation is that the applicant does reduce their height or if the applicant should reduce the height if possible.

Mr. LeVine said he has come to the same conclusion as Mr. Campbell; that the Commission not try to pick a height limitation. He said there are zoning rules and regulations for a reason and that they should follow them in this instance. The intent of the language in the seventh condition is to encourage the applicant to reduce the height of the project as much as possible.

In answer to a question posed by Mr. Hickok, Ms. Maclean said her understanding of the motion is that the applicant is to work with the abutter and that this would not involve the staff. Their job on the staff would be to ensure that the applicant does not exceed the 55-foot height maximum, said Ms. Maclean.

Mr. Alper asked if there were any "teeth" to the seventh condition or if it was an advisory condition.

Conceding that he is not typically in favor of advisory conditions, Mr. LeVine said this is an advisory condition. He said he made this advisory condition because the applicant has demonstrated that he is amenable to reducing the height if possible and that it would make monetary sense for him to do so if possible.

Ms. Crossley asked if it was always a 55-foot height maximum for the property in question.

Ms. Eddins said that lot has been zoned General Commercial since 1987 carrying that height maximum.

Mr. Dye said in the most recent draft of the Auke Bay Plan they were proposing 35 foot height restrictions with bonuses to get to 55 feet to encourage development that encourages view sheds.

Ms. Eddins concurred that this was correct.

Mr. Dye asked if the Commission would be amenable to placing a height restriction of 125.3 feet on the project.

Mr. Campbell said he felt the new information and architectural and engineering work the applicant has done was quite informative as to very specific impacts the height limitation would have on their project from a cost point of view. The specific impacts the applicant has cited to their project due to the height limitations are more concrete than the percentage of reduction in value to the rear property with a partial blockage of their view. Mr. Campbell said he would not support that height restriction.

Ms. Crossley said she would not support that either. She said she felt it would be detrimental to the project to give it a proposed cap when the applicant was well within their maximum height allowance.

Roll Call Vote:

Yeas: LeVine, Hickok, Dye, Crossley, Alper, Haight, Campbell

Nays:

The motion passed by unanimous vote.

VIII. REGULAR AGENDA - None

IX. BOARD OF ADJUSTMENT - None

X. OTHER BUSINESS

A. Election of Officers and Planning Commission Committee Assignments

The Commission approved Chairman Haight as Chairman.

The Commission approved Mr. Voelckers as Vice Chairman.

The Commission approved Mr. LeVine as Clerk.

The Commission approved Mr. Dye as Vice Clerk.

B. Committee Assignments:

Chairman Haight said he would accept from Commission members their choice of committee upon which they would like to serve and that he will provide a complete list of the committees and members later in the week.

Ms. Maclean suggested that the Title 49 Committee take over the role of working with the staff on the downtown zoning for Juneau.

C. Adoption of 2019 Planning Commission Calendar

The Commission agreed to delete the proposed December 24, 2019 meeting date from the 2019 Planning Commission calendar.

XI. STAFF REPORTS

Ms. Maclean said looking forward to February the Commission has some sizable applications to address. She will be out of town February 12, 2019. She suggested that the Commission hold meetings February 19, and February 26, 2019, instead of the first Tuesday in February.

The Commission voiced no objection to the schedule change for February.

Ms. Maclean said she wanted to give the Commission advance notice once again that it has some complex applications coming up before it.

There are several neighborhood meetings coming up this month, and two in early February, she said. On January 16, 2019, there is a meeting on the Tlingit and Haida transitional housing application. There are two walking tours left for Saturdays for Blueprint Downtown Juneau.

There are also three neighborhood meetings scheduled for downtown zoning, said Ms. Maclean. Those meetings will be held at the end of January and the first week of February, she added.

They are planning on scheduling interviews for Planning Manager for the week of January 21, 2019. Commission members may be asked to participate in their presentation for that position, she said.

Chairman Haight said the Blueprint Juneau Committee has walking tours on January 12 and 19, with a committee meeting on January 17, 2019.

Ms. Maclean added the last public meeting for the visioning piece for Downtown Juneau is February 24, 2019.

Chairman Haight said there is a Committee of the Whole meeting with the Assembly on January 22, 2019. That meeting will be at 5:30 p.m.

XII. COMMITTEE REPORTS

I. LIAISON REPORTS

Mr. Bryson said there was a regular Assembly meeting on December 17, 2018. The ARS (Alternative Residential Subdivision) ordinance passed, he said. The Sherwood rezone did not pass, said Mr. Bryson. The land trade for the Rogers passed. The archipelago project was tabled.

That same night the Assembly had a Board of Equalization meeting, and it approved several LID's: the Eagle Edge Subdivision basketball court was removed, and several lots were corrected.

At the Assembly meeting on January 7, 2019, the Brotherhood Trail Bridge improvement was approved, and the Assembly went into Executive Session to discuss the Harris appeal. There is an ordinance that the City Attorney is drafting on that matter.

The Human Resource Committee met and appointed new Planning Commission members and also new members to the Hospital Board. Human Resource Committee Chair Loren Jones did a phenomenal job steering the committee through the interviews, said Mr. Bryson.

Mr. Bryson wanted to know what the process is for an individual who is not a part of the application but who is unhappy with a decision reached by the Planning Commission.

Ms. Mores said they generally have liberal appeal rules. In general, she said, the individual needs to show standing as an aggrieved party.

Ms. Crossley asked if there is a protocol Commission members should follow when an aggrieved party confronts them directly about the issue.

Chairman Haight said it is no longer on the agenda and Commission members cannot address the issue with aggrieved parties once it has been voted upon.

Mr. Bryson said Assembly members have to address this issue often. While they cannot comment on the issue, he said he tries to at least send the aggrieved party in the right direction where they may be able to voice their complaints.

Ms. Maclean commented that it is always placed at the bottom of the Notice of Decision what the appeal process is.

XIII. PLANNING COMMISSION COMMENTS AND QUESTIONS - None

XIV. EXECUTIVE SESSION - None

XV. ADJOURNMENT

The meeting was adjourned at 9:19 p.m.