

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
December 11, 2018

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 7:03 p.m.

Commissioners present: Ben Haight, Chairman; Michael LeVine, Nathaniel Dye, Dan Miller, Andrew Campbell, Carl Greene

Commissioners absent: Percy Frisby, Paul Voelckers

Staff present: Jill Maclean, CDD Director; Laura Boyce, Senior Planner; Amy Liu, Planner I; Tim Felstead, Planner II, Robert Palmer, Municipal Attorney; Teresa Bowen, Assistant Attorney III

Assembly members: Wade Bryson, Assembly Liaison to the Planning Commission

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

III. APPROVAL OF MINUTES

November 13, 2018 Draft Minutes – Planning Commission Committee of the Whole Meeting and the November 13, 2018 regular Planning Commission meeting.

MOTION: *by Mr. LeVine, to approve the Planning Commission November 13, 2018, Committee of the Whole meeting and the November 13, 2018 regular Planning Commission meeting minutes with any small modifications by staff or Commission member.*

The motion passed with no objection.

At the recommendation of Ms. Maclean, the order of “Unfinished Business” and “Regular Agenda” was switched.

The Commission approved this agenda change.

IV. **PUBLIC PARTICIPATION ON NON-AGENDA ITEMS** - None

V. **ITEMS FOR RECONSIDERATION** - None

VI. **CONSENT AGENDA**

Mr. LeVine noted that he had a conversation with the planner regarding USE2018 0017 and that a single word in condition number seven be added prior to “building”, and that word is “remaining”, to clarify the meaning of the condition.

The above suggestion was approved by the Commission.

USE2018 0017: A Conditional Use Permit for a Tlingit and Haida Cultural Immersion Park
Applicant: Jensen Yorba Lott Architects
Location: Old Thane Ore House Property

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow the development of a Native Cultural Immersion Park on land owned and managed by CBJ Docks & Harbors.

The approval is subject to the following conditions:

1. The applicant will execute a lease with the CBJ. This Notice of Decision does not authorize any development without an executed lease and any required building permits.
2. The applicant will receive an approved Land Use Permit from the Alaska Department of Natural Resources that will allow the canoe exhibit and launch to be located on state property.
3. Any heavy construction activity shall be limited to 7:00 am to 10:00pm Monday through Friday, and 9:00am to 10:00pm Saturday and Sunday.
4. In order to ensure the health and safety of travelers along Thane Road, any driveway improvements required by the Alaska Department of Transportation must be installed prior to the issuance of a Certificate of Occupancy.
5. Prior to the issuance of a Certificate of Occupancy, the applicant must receive Department of Environmental Conservation approval for the on-site septic system.

6. Prior to the issuance of a building permit, an exterior lighting plan, to be evaluated by the CDD, showing light fixture type and location should be submitted in order to demonstrate that lighting will be directed away from surrounding properties.
7. If substantial improvements to the remaining building are required, an engineer or architect licensed in the state of Alaska must inspect and certify that the building is properly anchored and safe to be in a flood zone.
8. Prior to issuance of a building permit, the applicant shall submit a revised site plan showing all parking spaces and clearly marking the ADA space and the spaces reserved for roadside fishing.
9. To the greatest extent possible, the existing vegetation should be maintained in order to minimize the visual impact of the project on adjacent state land.
10. A barrier to vehicular traffic no less than 2 feet high shall be constructed along the border of the parking area, so as to define areas for vehicle traffic. This barrier may consist of a vegetated berm, fence, planter box, or other structures/improvements approved by the CDD. This barrier is intended to protect pedestrians and screen the parking.
11. If the applicant anticipates the site generating more traffic than is anticipated at this time, the applicant may be required to submit a traffic impact analysis for review through a new or modified conditional use application at the Director's determination.

ADP2018 0002: An Alternative Development Overlay District Permit for a reduced side setback

Applicant: Jill Ramiel and Kenneth Alper

Location: 526 Seward Street

Staff Recommendation

It is recommended that the Board of Adjustment adopt the Director's analysis and findings and grant the requested Alternative Development Permit. The permit would allow a reduced southeast side setback to accommodate 3 feet x 10 feet projection with windows

The approval is subject to the following conditions:

1. Prior to issuance of the certificate of occupancy, the applicant shall submit a stamped as-built survey to Community Development Department.

ADP2018 0003: An Alternative Development Overlay District Permit for a reduced rear setback

Applicant: Jill Ramiel and Kenneth Alper

Location: 526 Seward Street

Staff Recommendation

It is recommended that the Board of Adjustment adopt the Director's analysis and findings and grant the requested Alternative Development Permit. The permit would allow a reduced rear yard setback to accommodate a seven-foot cupola.

The approval is subject to the following conditions:

1. Prior to issuance of the certificate of occupancy, the applicant shall submit a stamped as-built survey to Community Development Department.

ADP2018 0004: An Alternative Development Overlay District Permit for a reduction of the north side setback for a window projection

Applicant: Jill Ramiel and Kenneth Alper

Location: 526 Seward Street

Staff Recommendation

It is recommended that the Board of Adjustment adopt the Director's analysis and findings and grant the requested Alternative Development Permit. The permit would allow a reduced side setback to accommodate 3 feet x 19 feet projection with windows

The approval is subject to the following conditions:

1. Prior to issuance of the certificate of occupancy, the applicant shall submit a stamped as-built survey to Community Development Department.

MOTION: *by Mr. Levine, to approve USE2018 0017, ADP2018 0002, ADP 2018 0003 and ADP2018 0004 including the one-word amendment provided in USE2018 0017.*

The motion passed with no objection.

VII. UNFINISHED BUSINESS

AME2018 0015: A text amendment to Title 49, the Land Use Code, CBJ 49.35.240, regarding improvement standards

Applicant: City and Borough of Juneau

Location: Borough-wide

Staff Recommendation

Staff recommends that the Planning Commission review and consider the proposed change to the Land Use Code and forward a recommendation for approval to the Assembly.

This recommendation should include that the associated ordinance include a provision that any financial guarantees provided under the auspices of the 2015 code revision for temporary cul-

de-sac removal and stub street construction be returned to the appropriate developer.

Mr. Felstead said at the last Commission meeting they had discussed an amendment to the stub street requirements and temporary cul-de-sacs, and put off any action until the Commission could speak with a representative from the CBJ General Engineering Department. That individual spoke with the Title 49 Committee instead since it was a convenient opportunity and the Commissioners who had questions were also on the Title 49 Committee, said Mr. Felstead.

The outcome of those discussions was that temporary cul-de-sacs should be removed, but could remain upon recommendations of the Director the CDD, said Mr. Felstead. It was also noted in the discussions that there have been issues in the past when temporary cul-de-sacs were removed, and there was subsequent difficulty extending driveways through the streets. The construction plans for the subdivision requiring the temporary cul-de-sac should be able to demonstrate that driveways can also connect to a straight through street when the cul-de-sac is removed.

Mr. Felstead noted that CBJ Law had drafted the proposed code language in Attachment A into ordinance form – this had been circulated to the Commission that evening. There were some very minor differences in the words but the intent was exactly the same. It did not have the recommendation for existing financial guarantees to be returned added but this would be addressed through the Commission's final recommendation.

Commission Comments and Questions

Mr. LeVine said he wanted to thank Mr. Felstead for all of the work that has gone into this ordinance.

Chairman Haight said the ordinance version has been written based upon the attachment in the packet.

Mr. Campbell said he had a chance to read the ordinance, and that it seemed like good, sound work to him.

Mr. Dye said he did not recall losing the area in the temporary cul-de-sac to the dedicated lot size.

Mr. Felstead said previously when it was required that the temporary cul-de-sac would come out, that they had some assurance that at some point in the future the area in the easement would be returned to the property. Now that there is a chance that the temporary cul-de-sacs could remain, there is no guarantee that those lots would become conforming.

Mr. Dye asked if the owner would still be paying property tax on that portion of land even

though it was an easement.

The assessor would normally consider a discount any area that is subject to an easement if it wasn't in the required setbacks, said Mr. Felstead.

MOTION: *by Mr. LeVine, to accept staff's findings, analysis and recommendations and to advance AME2018 0015 to the Assembly.*

The motion passed with no objection.

VIII. REGULAR AGENDA

Mr. Campbell recused himself from this item due to a conflict.

USE2018 0021: Modification of a Conditional Use Permit for a 23 dwelling unit condominium development
Applicant: R & S Construction
Location: 3005 Clinton Drive

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and **APPROVE** the requested Conditional Use Permit. The permit would allow the development of a 23 dwelling unit, multi-family development in a Light Commercial zoning district.

The approval is subject to the following conditions as previously approved by the Planning Commission under USE2018 0007; with an amendment to Condition 2, (amended part of this condition is underlined):

1. A revised landscaping plan shall be reviewed and approved by CDD staff prior to the first Temporary Certificate of Occupancy or Certificate of Occupancy for any dwelling in the development. Prior to a Certificate of Occupancy, a minimum of 15% of the lot shall be planted with landscaped vegetation or the installation of landscaped vegetation must be bonded.
2. The landscaping plan shall include strategically placed vegetative areas along Clinton Drive and Vintage Boulevard planted with vegetation that matches other street side plantings of trees and/or shrubs at other developments in the immediate vicinity. Any additional space between the subject property line and edge of sidewalk on Vintage Boulevard, including the curved property line at the intersection of Vintage and Clinton, shall be landscaped with grass. A 6-inch raise curb or similarly effective barrier or fence shall be provided along the paved parking lot on the property along Clinton Drive to prevent vehicles driving from the parking lot directly onto the sidewalk except for where it is intended to access the lot.

3. Prior to the first Temporary Certificate of Occupancy or Certificate of Occupancy for a dwelling in the development, the applicant shall submit a lighting plan by a professional engineer or architect illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed, located, and installed to minimize offsite glare. Approval of the plan shall be at the discretion of the CDD Director, according to the requirements at CBJ 49.40.230(d).
4. Prior to issuing a Certificate of Occupancy for the first dwelling unit on the subject lot, a Homeowners' Association Agreement shall be submitted for review and approval by CDD. The Homeowners' Association agreement documents shall specify how common facilities shall be operated and maintained. The documents shall require that the governing body of the association adequately maintain common facilities including snow removal, approved landscaping, and signage and striping.
5. Prior the first Temporary Certificate of Occupancy or Certificate of Occupancy for a dwelling in the development, a revised parking plan showing no fewer than 49 parking spaces on the exterior of the buildings shall be submitted and approved by CDD.

Mr. Felstead told the Commission this property is located across the street from Safeway, with Egan Drive to the south and offices zoned light commercial to the north.

He explained the applicants want Condition 2 altered, which pertains to landscaping and vegetative cover. It had originally been recommended that a strip within the right-of-way be vegetated with grass to match the rest of a recommended vegetative strip on Clinton Drive. The applicants site plan when first reviewed showed a three-foot strip on private property but staff had recommended a five-foot buffer with any area in the right-of-way between the private property line and the paved side walk covered with grass to match the strip. When the Commission reviewed this condition, it determined that strategically placed landscaping along Clinton Drive could supplant the continuous grass strip requirement. However, that portion of the condition was not mentioned in the Commission's motion, so the grass strip in right-of-way requirement remained in the condition, said Mr. Felstead.

That is why the applicant is before the Commission again this evening, he explained.

One of the purposes of the vegetative buffer or a curb around the parking lot is to provide separation between the parking lot and the point of entry into the development. It guides drivers and keeps them out of the right-of-way, said Mr. Felstead. Where vegetative cover is not in place, a curb or other barrier is encouraged, he said.

The applicants have received approval from the CBJ Streets division to pave the right-of-way portion. There was concern by the CBJ Streets staff and CDD staff that there would not be a physical separation between the paved parking lot surface and the paved sidewalk. The concern was that vehicles could use the sidewalk for maneuvering their vehicles in the parking

lot or even drive over the curb instead of using the driveway entry. Staff has amended Condition 2 to allow removal of the vegetative strip in Right-of-way but for some sort of physical barrier to be placed on the property line, said Mr. Felstead.

Commission Comments and Questions

Mr. Hickok asked if the applicants agree with the recommendations.

Mr. Felstead said they are present to answer questions. He said that he has not heard from the applicants whether they are for or against the recommendations.

Applicants

Mr. Jenkins said they are present to clarify Condition 2. He said that what the Commission voted on, and what they thought the Commission voted on, are two separate things, since the portion of Condition 2 which was to be removed stipulating that grass be planted in the right-of-way was not removed when the Commission approved the strategically placed plantings which were the substance of that motion.

Mr. Jenkins noted that in addition to this, that an additional item has been added to the condition, which did not exist previously. He said there was no barrier requirement or mention of it until this most recent iteration of Condition 2.

Mr. Jenkins said they did meet with Mr. Watts, of the CBJ Streets, and that his recommendation was not to vegetate the right-of-way strip. He added that they have already exceeded the fifteen percent vegetation requirement on their property by the planting of trees, which are on site, and not on CBJ property. He added that Shaune Drive was just completed in Lemon Creek, with back-out driving from the drive right onto the street, and that this was done with taxpayer dollars.

Mr. Dye noted that he did not think that an industrial area should be compared with a light commercial area.

Mr. Jenkins said he felt both zones should be safe.

Mr. Miller asked about the new requirement to landscape the corner, which was not previously addressed.

Mr. Jenkins said they would have done that regardless.

Mr. Dye asked if curb stops would be considered a curb.

Mr. Jenkins said they would have changed their elevations and made their site plan different if they would have known about the new condition elements.

Mr. Miller asked if the installation of curb stops would attract parking where it was not wanted.

Mr. Jenkins said he felt this would be the case.

Mr. LeVine asked when they first noticed that there was a change in the language.

Mr. Jenkins noted that it was just recently they noticed there was a new element added to the condition for a curb. He added their site plan was approved with asphalt going to the property line and a strip of dirt going to the sidewalk.

He said they paid \$750 just to appear before the Planning Commission and clarify the original condition.

Mr. LeVine clarified that since this case has been reopened, that the applicants are once again open to amended conditions.

Mr. Dye said he is sympathetic to the concerns of the applicants, but that he did not think that using Shaune Drive with a substandard right-of-way as an example made any sense. He said he saw no reason for "bad to allow bad".

Ms. Maclean suggested that perhaps the applicants could put in some additional trees to act as a barrier between the parking lot and the street, and to help prevent people from parking where they should not park.

Mr. Dye noted that complaint-oriented enforcement was not always the best way to improve neighborhood harmony.

Speaking of the Commission vote the last time this item was before the Commission, Mr. Miller said in his mind when he voted the strip vegetation requirement on both private property and in the right-of-way was out.

Mr. Greene said he felt a vegetative strip was the minimum needed just to keep people from driving their vehicles over the right-of-way.

Mr. Miller asked what the distance was between the trees.

Mr. Jenkins said he thought there was about 25 feet between the trees. (STAFF NOTE: site plan showed ~40-50ft)

Mr. Hickok said they could put "no driving over the curb" in the HOA bylaws.

Ms. Maclean said the staff has reviewed the tape and that the staff is confident that the motion from the last meeting on this item was the motion that was made, whether content in the condition was inadvertently not removed in the motion or not.

Mr. Dye said if the intent of the motion was to allow the right-of-way to be paved, that he would have been of a different opinion at the time.

Mr. LeVine said he felt it would be equitable to allow the applicant to have a two-foot vegetative buffer if that is what they preferred, or to provide a barrier.

Mr. Felstead noted the right-of-way is one and a half to two feet wide.

Mr. Miller said he did not think it was necessary to provide a barrier. He said these situations work with everyone in the condominium association playing by the rules. He said he did not think this applicant should have to do things that others have not been required to do.

Chairman Haight stated that Option one is to leave the strip as it is, paved. Option two is to remove the pavement and plant with grass. Option three is to leave the strip paved and to add barrier features.

MOTION: *by Mr. LeVine, to accept staff's findings, analysis and recommendations, and to modify Condition two to allow the applicant the choice of erecting a barrier as defined by communication with the CDD staff, or reverting to the original condition in the CUP which was the vegetated strip.*

Mr. Hickok said he is in favor of option one, which is to leave it as it is.

Mr. Dye said he is in favor of the motion, and that it would be relatively simple to perform either of the options listed within the motion. He said he felt it was a fair compromise.

Mr. Miller said the applicants already had their 23-unit complex under construction without the benefit of a Conditional Use Permit prior to starting their project. He said he thinks the owners of the condominium units can be trusted as citizens to obey traffic laws and to use common sense within the traffic configurations. He said he felt the pavement on the two-foot strip in place today looks nicer than grass would look.

Mr. Hickok asked if parking was allowed on the street.

He was told that it was allowed.

Mr. Miller asked to make an amendment to the main motion that the last sentence of condition two be removed; "A 6-inch raise (sic) curb or similarly effective barrier or fence shall be

provided along the paved parking lot on the property along Clinton Drive to prevent vehicles driving from the parking lot directly onto the sidewalk except for where it is intended to access the lot”).

Speaking in favor of his amendment, Mr. Miller said the applicants did not receive a Conditional Use Permit prior to construction. They had decided at the last meeting that no grass strip and strategic landscaping were fine. There was no concern expressed at the last meeting about people driving off the parking lot over the strip, said Mr. Miller.

Mr. LeVine asked if it was the intent of Mr. Miller to leave the paved strip as it is.

Mr. Miller said that was his intent.

Mr. LeVine asked if it was the intent of Mr. Miller’s amendment that the existing paved strip remains in place and that no vegetative strip or barrier be required.

Mr. Miller said that was the intent of his amendment.

In answer to a question of Mr. LeVine, Mr. Felstead said if the last sentence was struck from Condition 2, that it would remove the requirement for the vegetative strip in the right-of-way along Clinton Drive.

Chairman Haight said that he recalled, as did Mr. Miller, that the intent of the motion at the last meeting was to remove the condition requiring a vegetative strip anywhere along Clinton Drive, and to instead plant strategically placed trees.

Speaking against the amendment, Mr. Dye said he went and looked at original photos of the Trilium Landing development, and that it had parking stops between the parking lot and the sidewalk. He said he felt there is some reason to encourage the parking stops or barrier.

Mr. LeVine said he concurs with the recollection of Mr. Miller and Chairman Haight as to the intent of the motion the last time this item was before the Commission. He said he did not think there was any discussion of a barrier in the absence of the vegetation.

Mr. Greene said he did recall looking at a photo of a grass barrier that did not look good. He said he thought that was one of the reasons they were in favor of strategic vegetation.

Roll Call Vote: *(on Mr. Miller’s amendment that the last sentence of Condition two in the CUP before them be struck)*

Yeas: Miller, Hickok, Haight

Nays: LeVine, Greene, Dye

Amendment fails.

Mr. Miller said he did not have a good understanding of what would constitute an adequate barrier.

Mr. Dye said he is satisfied the staff can determine what sort of barrier is necessary as the condition is written.

MAIN MOTION: *by Mr. LeVine, to accept staff's findings, analysis and recommendations, and to modify Condition two to allow the applicant the choice of erecting a barrier as defined by work with the CDD staff, or reverting to the original condition in the CUP which was the vegetated strip*

Roll Call Vote:

Yeas: LeVine, Miller, Haight, Greene, Dye

Nays: Hickok

The motion passes.

IX. BOARD OF ADJUSTMENT - None

X. OTHER BUSINESS - None

XI. STAFF REPORTS

Ms. Maclean said there will be the first meeting of the Blue Print Downtown Steering Committee on Wednesday, December 12, at 5:30 in the CDD offices.

On Thursday, December 13, the Assembly will be interviewing applicants for the Planning Commission.

The Auke Bay committee will be meeting December 20, 2018.

The next regular Planning Commission meeting will be January 8, 2019.

The Commission will have a joint meeting with the Assembly in January.

The Assembly has listed as one of its priorities opening up more land for industrial zoning, and looking at the TPU (Table of Permissible Uses). The Alternative Residential Subdivision and the Sherwood area rezone are on the agenda for the full Assembly at its regular meeting Monday, December 17, 2018.

One of the appeals will be before the Commission on February 19, 2019.

XII. COMMITTEE REPORTS

Mr. Dye reported that the Title 49 Committee met and discussed the Alternative Residential Subdivision and stub streets.

XIII. LIAISON REPORTS

On November 29, Ms. Maclean met with Mr. Bryson for two hours and schooled him on the planning department and issues.

Mr. Bryson expressed his gratitude for the time she spent with him.

There were concerns voiced to him from two Auke Bay residents about the Auke Bay school system, parking, the sewer system and police and first responder capacity.

On December 1, they had the Assembly retreat.

The waterfront purchase agreement passed. A purchase agreement for the Archipelago project will be drafted. The vote on that project funding has been delayed until January 10, 2019. The purchase price will be higher than anticipated due to a reconfiguration of property lines so the CBJ would be purchasing slightly more property.

They did go into executive session to discuss a lawsuit, said Mr. Bryson.

XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

XV. PLANNING COMMISSION COMMENTS AND QUESTIONS - None

XVI. EXECUTIVE SESSION

MOTION: *by Mr. Dye, to go into executive session on the motion to disqualify APL 2018 0003 on the basis that this involves deliberations in a quasi-judicial manner.*

The motion was approved with no objection.

MOTION: *by Mr. Miller, that all members of the Planning Commission can judge this case fairly and with open mindedness and that the individual members who were mentioned in the motion to disqualify as well as the other members of the Commission are all qualified.*

Speaking in favor of his motion, Mr. Miller said that the group of individuals that are on this Planning Commission is one of the finest groups of individuals that he has ever worked with in his eleven years of Planning Commission participation. He said he has no doubt that this case can be judged fairly on its merits.

Chairman Haight said he agreed with Mr. Miller and that the Commission remains impartial and makes fair recommendations. They can continue to judge this case in an unbiased and impartial manner, said Chairman Haight.

Mr. LeVine said he is fully confident in his impartiality and that of Mr. Voelckers and that any allegations of bias are not supported.

The motion passed with no objection.

XIV. ADJOURNMENT

The meeting was adjourned at 9:56 p.m.