

MINUTES
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
January 24, 2017

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 7:06 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman;
Percy Frisby, Nathaniel Dye, Dan Hickok,
Kirsten Shelton-Walker, Carl Greene

Commissioners absent: Mr. Miller, Mr. LeVine

Staff present: Beth McKibben, Planning Manager;
Teri Camery, Senior Planner;
Jill Maclean, Senior Planner;
Robert Palmer, Assistant Attorney II

Assembly members: Debbie White, Loren Jones

II. APPROVAL OF MINUTES

December 27, 2016, Draft Minutes – Regular Planning Commission Meeting

MOTION: *by Mr. Dye, to approve the minutes from the December 27, 2016 Planning Commission regular meeting with any minor corrections by staff or Commission member.*

The motion passed with no objection.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIASON REPORT

Assembly liaison to the Planning Commission Debbie White reported that next Monday, January 30, (2017) at 6:30 p.m. there will be a joint meeting between the Assembly and the

Planning Commission. Next Wednesday, February 1, the Assembly will hear the SEAL trust (Southeast Alaska Land trust) appeal. Last night was a long meeting for the Assembly with two items on the agenda: an ordinance banning camping in downtown Juneau and the reaffirmation by the Assembly of a Juneau access road and the protection of state funds allotted for that project. The resolution for the access road past six to three, said Ms. White.

Commission Comments and Questions

Mr. Voelckers asked if the Assembly has discussed any items that will be addressed at the joint meeting of the Planning Commission and the Assembly and if there were any topics which Commission members should be exploring for that meeting.

Ms. White replied that she has not seen an agenda posted yet.

Ms. McKibben said she believed the CDD (Community Development Department) Director was hoping there would be time during the mutual meeting to discuss the access and frontage ordinance as well as legislative priorities. There are items within Title 49 which would be ripe for discussion between the two bodies which could be prioritized at that meeting, said Ms. McKibben.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA - None

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

AME2016 0007: A request to rezone 23 acres of an 83 acre parcel from Rural Reserve to Industrial zoning.

Applicant: Bicknell Inc.

Location: Honsinger Pond Area

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and recommends that the rezone request to change 23 acres to Industrial be approved with the following condition:

1. Prior to a zone change from Rural Reserve to Industrial, the property owner shall obtain and develop legal access to the subject parcel from Maplesden Way or an alternate access approved by the CBJ Community Development Department Director, in conformance with CBJ

Code 49.15.424.

Mr. Hickok said he is personal friend of Mr. Bicknell and that Mr. Bicknell has a fuel account at his business.

Mr. Greene said he has a personal relationship with the individual presenting the item before the Commission.

The Commission members voiced their opinion that there was no conflict perceived with either Commission member remaining on the Commission for this item.

Ms. Camery told the Commission the staff review of rezones is strictly focused on code requirements. She said while the staff recognizes that there may be broader issues with this property held by some members of the public, that the staff focuses only on the relevant code requirements.

The property is located across Egan Drive from Fred Meyers and access is gained from a driveway located on Yandukin Way that is on the Egan onramp, said Ms. Camery. The total property is almost 83 acres and it is currently zoned as Rural Reserve (RR). The Comprehensive Plan land use designation is for resource development, said Ms. Camery. The property has city water and sewer, she said. The existing use is an old dredge pond, and is now essentially vacant property, she said.

The staff has reviewed Title 49 and the portion addressing restrictions on rezoning. Rezoning must be for a property over two acres or an expansion of an existing zone, explained Ms. Camery. The 23 acre parcel up for rezone is obviously more than two acres, and it is also adjacent to an Industrial zone, she noted. A rezone request cannot have been considered 12 months previous to the current request, and this rezone request has not been made within 12 months, noted Ms. Camery.

A rezone can only be approved based upon a finding that the proposed zoning district and the uses allowed are in substantial conformance with the Land Use Maps of the Comprehensive Plan, said Ms. Camery. This land was initially used in the 1960's as a gravel pit to support construction of Egan Drive, said Ms. Camery. There was a previous rezone request for this land to be rezoned to a mix of Industrial, Light Commercial and Rural Reserve in 2013, she noted. The Planning Commission denied that request and that ruling was subsequently upheld by the Assembly, she said. The previous proposal called for 26 acres of General Commercial, 20 acres zoned Industrial, with the remaining acreage remaining as Rural Reserve, she said.

The motocross park has nothing to do with this rezone request and will be addressed as its own issue at another time, said Ms. Camery. The primary focus of the code requirements is a

conformance with the Comprehensive Plan Land Use maps, said Ms. Camery. The Comprehensive Plan land use map designation is resource development, defined as:

Resource development is described as land to be managed primarily to identify and conserve natural resources until specific land uses are identified and developed. Such specific uses may include, where appropriate, resource extraction and development, recreational and visitor oriented facilities and residential uses.

The Comprehensive Plan Resource Development designation indicates that “as resources are identified or extracted from these lands, they should be redesignated and re-zoned appropriately”, said Ms. Camery. Gravel extraction has been completed on this site, she noted. Therefore, a rezone from Rural Reserve to Industrial is appropriate and is in substantial conformance with the Comprehensive Plan, said Ms. Camery. Chapter 11 of the Comprehensive Plan Land Use Map states that in considering a rezone request they should aim to promote the highest and best use of the land, said Ms. Camery.

The requested rezone to Industrial would allow for the increased use of the property which is a centrally located area adjacent to Egan Drive and the Airport, said Ms. Camery. The staff concludes that the rezone of this land to Industrial is in compliance with the Comprehensive Land Use Maps, she noted.

This property does have a high scenic value to the residents, noted Ms. Camery. Staff did also study the Comprehensive Plan Scenic View Shed Corridor maps, she noted. This property is adjacent to a scenic view shed corridor, she said, but it is not within such a corridor. The definition for a scenic view shed corridor indicates that it is a designation for public land, not private land, said Ms. Camery. Therefore the scenic corridor designation does not apply to the property in question, she noted.

There are many Comprehensive Plan policies which apply to this property, said Ms. Camery. Several chapters address the need for additional Industrial zoned land, she said. Old gravel sites are specifically named as areas for future development, said Ms. Camery. Chapter 5 on area development stipulates that areas around gravel extraction sites can convert to Industrial districts once the land is leveled and gravel extraction is complete, she said. Ms. Camery read a portion of the Comprehensive Plan which states that other land that had previously been designated for future park use near the airport and for resource development is expected to be available for development in the long term.

Ms. Camery noted that Chapter 8 in the Transportation section in the Comprehensive Land Use Plan contains an extensive section on the Juneau International Airport:

Typically, land surrounding an airport is placed in an industrial use designation, which is more compatible with the impacts of aircraft and the shipping functions of the airport: industrial

tenants are more tolerant of noise, dust, fumes, and traffic associated with airports than are residential neighbors. With a very limited number of buildable sites for residential and commercial uses in the borough, those uses have encroached into industrial buffers surrounding the airport, making vacant land for aviation related businesses more expensive and hard to find.

The 2015 Juneau Economic Development Plan is incorporated into the Comprehensive Plan within Title 49, noted Ms. Camery. It states that there should be an adequate supply of appropriately zoned land available for commerce and industry. This includes access to the land needed to support commercial, industrial, and other development, noted Ms. Camery. An appendix to this document also refers to the need for more industrial property, she added.

Staff also addressed compliance within the Title 49 Land Use Code, said Ms. Camery. The Rural Reserve zoning district is intended for land primarily in public ownership managed for the conservation and development of natural resources and for future community growth, said Ms. Camery.

The CBJ Land Use Code describes the Industrial zone in part as: the industrial district is intended to accommodate industrial activity which includes manufacturing, processing, repairing and assembly of goods. The rezone request does substantially comply with the Comprehensive Plan land use designation, noted Ms. Camery. Land zoned Rural Reserve (RR) is intended for large, public, vacant tracts of land outside the urban service area, she distinguished. The subject property is privately owned, not public, said Ms. Camery, and is within the urban service area boundary.

Ms. Camery showed the Commission a chart with a sample of uses from the Table of Permissible Uses (TPU) in the Land Use Code which shows in part what services may be included in the Rural Reserve zoned land and in Industrial zoned land. A number one on the chart indicates that a use may be allowed with a building permit and a three indicates that the use requires a Conditional Use Permit, she explained. A blank space indicates that a use is not allowed.

There are a number of significant uses such as manufacturing that have an additional requirement in Rural Reserve, said Ms. Camery. Footnote "T" in the Table of Permissible Uses requires association with a unique site-specific feature, she explained. In general, Industrial zoned properties provide more development opportunities than properties zoned rural reserve, she added. There is a 45 foot height limitation in land zoned Rural Reserve and no height limitation in land zoned Industrial, said Ms. Camery.

The staff has received one public comment against the proposed rezone, noted Ms. Camery. The project has received positive reviews from the CBJ Engineering Department, and the Wetlands Review Board stated it will comment when a specific project comes up on this land in the future. The property owner does have an Army Corps of Engineers permit to fill the

extraction pond, said Ms. Camery. They did receive extensive comments from both the Alaska Department of Transportation and Public Facilities and from representatives from the Juneau International Airport, said Ms. Camery.

The Juneau International Airport has concluded that the rezone is premature because some forms of development may interfere with aircraft safety. Ms. Camery noted that the staff observes that this is not relevant to the rezone itself and instead has to do with potential future development. The Community Development Department (CDD) already has a protocol in place to inform the Juneau International Airport of the development plans so that they may work with the applicant and the Federal Aviation Administration (FAA) as needed, she said.

The airport has noted that granting access to Maplesden Way may require reimbursement to the Federal Aviation Agency, said Ms. Camery, since the road section granted to the property owner would not be used exclusively for aviation. The road was initially built to access Temsco helicopters and it was later realigned with FAA funds, explained Ms. Camery.

The DOT (Department of Transportation and Public Facilities) has explained that any change or use or expanded use of the property will require an alternate access point because the Yandukin driveway access is not safe, said Ms. Camery. DOT considers the small point of access to the property that currently exists as part of the on ramp to Egan Drive, said Ms. Camery. DOT has stated that if the land use changes or the driveway is modified, that the property owner would be required to obtain a new driveway permit, said Ms. Camery. The on-ramp is controlled access and private drives are not allowed according to DOT, said Ms. Camery. DOT has noted that there is alternate access to the property via Maplesden, said Ms. Camery. DOT provided a list of safety issues which Ms. Camery read to the Commission:

- Left-hand turning vehicles from Egan northbound into the property could be stopped by southbound Yandukin traffic which may result in vehicles backing up across Egan
- Left-hand turning vehicles from the property onto Yandukin would have to watch northbound Egan traffic (those turning left to Yandukin) as well as southbound Yandukin traffic
- Right hand turning vehicles on to the Yandukin on-ramp would have to speed up to Egan speed
- Right hand turning vehicles from Yandukin into the property would stop those trying to gain speed to Egan

Without some form of alternative access the property owner would most likely be denied development on the property regardless of the zoning district, said Ms. Camery. Ms. Camery

explained that the staff recommends that Maplesden Way serve as the dedicated access to the parcel and recommends that the rezone be approved with the following condition:

- 1) Prior to the zone change from Rural Reserve to Industrial, the property owner shall obtain and develop legal access to the subject parcel from Maplesden Way or alternate access approved by the CBJ Community Development Department Director, in conformance with CBJ Code 49.15.424

The condition refers to the above portion of the code because that section of the code sets the standards for designating a public right-of-way to a subdivision, explained Ms. Camery.

The Planning Commission options are to approve the request as submitted, deny the request as submitted, or recommend an alternative to the Assembly, explained Ms. Camery. She read through the three required staff findings, as follows:

1. The proposal meets the submittal requirements and the rezoning initiation, zone change restrictions, and procedural requirements of the CBJ Land Use Code.
2. Rezoning approximately 23 acres to the Industrial zoning district is in substantial conformance with the Land Use maps of the Comprehensive Plan, specifically Map G.
3. The proposed condition to require access from Maplesden Way or an alternative access approved by the CDD Director ensures that the rezone will protect public health, safety, and welfare.

Ms. Camery read staff's recommendation:

Staff recommends that the Planning Commission adopt the Director's analysis and findings and recommends that the rezone request to change 23 acres to Industrial be approved with the following condition:

1. Prior to a zone change from Rural Reserve to Industrial, the property owner shall obtain and develop legal access to the subject parcel from Maplesden Way or an alternate access approved by the CBJ Community Development Department Director, in conformance with CBJ Code 49.15.424.

Commission Comments and Questions

Mr. Frisby asked what the significance was on the Permissible Use Table of a “3” as opposed to a “3T” designation.

The “3” indicates that a Conditional Use Permit is required, said Ms. Camery. The “T” indicates a special association with a specific feature, she explained. The “T” applies only to the Rural Reserve zone, she explained.

Mr. Voelckers asked for the distinction of an RD designation (Resource Development) and its relevance for both an RR and an Industrial zone.

Ms. Camery read that Resource Development land is managed primarily to identify and conserve natural resources until specific land uses are identified and developed. The other key element in the definition is that as resources are identified or extracted from these lands they should be redesignated and rezoned appropriately. She said it is unusual to have Resource Development property and Rural Reserve property centrally located.

Mr. Voelckers asked what the underlying zoning was for the land in Lemon Creek.

Looking at the maps, Ms. Camery said it appears that upper Lemon Creek and some land along Egan still retains an RD designation.

Mr. Voelckers said he wanted to make sure they did not create a situation where they approved a rezone and then the Comprehensive Plan had to be updated to comply with the rezone.

Mr. Hickok asked if even though there is not a development proposal and they do not know what the land will be used for that they were supposed to decide whether the land be rezoned or not. He asked why this was to happen before the access component.

Ms. Camery explained that the rezone was setting the stage for a substantial amount of expanded development. The access presents a significant public safety concern, she added. DOT has determined that the current driveway access is not safe, said Ms. Camery. Without alternative access the applicant is essentially deprived of the use of his property, she said.

Mr. Hickok asked if the rezone could be approved without the access condition.

Ms. Camery replied that the Planning Commission certainly had the option to recommend against the proposed condition by the staff.

Ms. McKibben said if the comments from DOT are read it is clear that any other activities than what is currently occurring on the parcel will not receive a new driveway permit from DOT under the existing conditions, even if the current RR zoning remained in place.

Mr. Frisby asked if FAA would be willing to sell back the access road which is currently in place.

Ms. Camery said that the entire length of Maplesden Way is not needed for access to the property, only a portion of it. She said presumably the access would be established at a mutually agreed-upon location, with as little impact on the area as possible. There is a federal process to follow, she said.

Mr. Frisby he said he felt that theoretically access was already available for the property.

The applicant only has access to the property if there is no change of use, said Ms. Camery. If the applicant wants to modify his property at all either under RR or Industrial zoning then continued use of the driveway access would not be allowed, she said

Applicant

Attorney Dan Bruce spoke on behalf of the applicant. Mr. Bruce said the one item they did disagree with in the staff report is conditioning the rezone upon obtaining the alternative access. He said he felt that condition was premature as well as the concerns outlined by airport representatives. Any development that occurs after it is rezoned will have to have an approved access at that point. He said he would like to see the Commission adopt additional findings which are:

- The rezone is in substantial compliance with the Comprehensive Plan Land Use map designations
- That RD is an inappropriate land use designation for this property because it exists within the urban service area boundary
- The surrounding uses are consistent with an industrial zone designation
- The property is not within the scenic view shed
- The land not rezoned on this parcel acts as a buffer between the public and any development that may take place on the land zoned Industrial
- The property is ideally located for industrial development since it is within the urban service area boundary with utilities and a transportation infrastructure already in place
- There is a scarcity of Industrial zoned property within the urban service area

Mr. Bruce said that filling in the Honsinger pond is actually a benefit to the public and will act as a detriment to attracting wildlife to the area. The pond has no habitat value, said Mr. Bruce. He said that his client understands that any use of the property has to be compatible with the airport. The property lies outside of the current runway protection zone, said Mr. Bruce.

Commission Comments and Questions

Mr. Voelckers said it was his understanding from reading the applicant letter that only the 23 acres would need to be rezoned now and in the future. He said it appeared to him from the testimony of Mr. Bruce that there may be additional rezone requests in the future for more of the land parcel.

Mr. Bruce said they do not know at this time if additional land would be up for rezoning to Industrial. There are currently negotiations underway for a portion of the property to be sold to the SEAL (Southeast Alaska Land) Trust, he said. If there were to be additional rezone requests for a portion of the parcel they would be years down the road if at all, said Mr. Bruce.

Public Comment

Juneau resident Amy Paige said she had testified at the previous round of public hearings regarding this property rezone and said she was disappointed that all of the comments on that rezone request were not made available for this rezone request. Ms. Paige said she is opposed to the rezone request. She said she felt that industrial development in that area would seriously impact the appeal of the community for visitors arriving from the airport and would negatively impact the daily experience of Juneau residents who traveled by the property to town every day. She said she felt the rezone of this property would result in a significant rise in property value for the land owner. The applicant purchased the property knowing what the zoning was, said Ms. Paige.

Juneau resident Susan Erben said she is on the steering committee for the Lemon Creek Area Plan. She said she is learning a lot through this process. She told the Commission she felt that it was extremely important that the benefits of the land in its current state be judged by the positive visceral effect that its beauty has on Juneau residents and visitors. It is an uplifting experience for all residents to drive by that expanse of land every day and be touched by its beauty, she said. It is Juneau's natural beauty which appeals to tourists, said Ms. Erben. She said if Juneau eliminates its natural appeal it will lose its tourists.

Juneau resident Ken Nichols said he is an aviation airport consultant and has a contract with the Juneau International Airport for consultation. He said one very important point is that the Juneau International Airport is part of the City and Borough of Juneau. He said the airport provides a huge service for the community and has a great impact on the community. When the airport receives federal aid for its capital projects, the CBJ signs off on those grant assurances, said Mr. Nichols. There are a lot of different aspects involved in compatible land use around the airport such as wildlife, airspace and noise, he said.

Maplesden is not a right-of-way or a public road, said Mr. Nichols. In order to go through the process of disposing land there is a detailed process which includes federal registry notice from the headquarters Department with FAA, said Mr. Nichols. It can be and probably is a very

lengthy process, he said, to release a portion of Maplesden way for public access or for private access to an individual land owner. The staff recommendation to have access to the property via Maplesden may be misleading to the public and the applicant because the City does not have the final decision on release of any of that property, he said. That decision is up to the FAA, he said.

Commission Comments and Questions

Ms. Shelton-Walker said as she read a letter on this issue submitted by the Airport that there is a list of access choices to the property listed by the airport. One of those items is an updated appraisal on the property. She asked if Mr. Nichols could explain in more depth what this was and what it would accomplish.

Part of the process the FAA undergoes for the acquisition or disposal of property involves an appraisal of the property question, explained Mr. Nichols. The appraisal would allow a fair market value assessment of the property, he said.

Ms. Shelton Walker asked for elaboration on other points raised in the letter regarding necessary studies. The suggested study would provide an outline in addition to the comments that are provided to compile a list of requirements for proposed uses on the property and how they might be compatible, said Mr. Nichols. For example there are some items on the Table of Permissible Uses which are simply not compatible with an airport, said Mr. Nichols.

Ms. Shelton-Walker asked at what point in the process these requirements should be identified.

Mr. Nichols said from his point of view it would be valuable to have the compatible use study completed and in conjunction with whenever the proposed development came along.

Mr. Hickok asked if the FAA has to approve all of the buses which visit the Temsco helicopter site during the tourist season.

“Absolutely”, responded Mr. Nichols. The buses that go to Temsco are serving an aviation use. The road was actually constructed to accommodate bus parking along one side, he said.

Mr. Hickok asked if Mr. Nichols felt the FAA would make any alterations to the road such as widening the road or creating an access.

They have not had those discussions with FAA, said Mr. Nichols.

Mr. Voelckers said looking at the road in question it is hard to imagine that its drivability and safety would be affected by other adjoining uses.

Chairman Haight asked if going through the compatible land use analysis would also be required were the land to be maintained in its current zoning of Rural Reserve.

The recommendation to do a compatible land use analysis would help to define what could be done in the Rural Reserve, said Mr. Nichols.

Chairman Haight concluded the recommendation would be required whether the land remained zoned Rural Reserve or whether it was rezoned to Industrial.

Applicant

Mr. Bruce said the application for a rezone is an effort to raise this property to its highest and best use. That flows clearly out of the staff's analysis, he said. Industrial zoning is one of the most compatible uses for the area, he said. The applicant would welcome the opportunity to meet with representatives from the FAA or the airport to help guide them on incompatible uses for the land, said Mr. Bruce. Mr. Bruce said he did not see obtaining approval for the use or access of Maplesden Way as insurmountable.

Mr. Voelckers asked if Mr. Bruce could recap the options the City had explored for exchanging properties.

Mr. Bruce said there were settlement discussions between the applicant and the City during the prior proceedings. They were unable to come to an agreement as to the value of the property, he said. The idea of a land trade was eliminated very early in that process due to the City's position, said Mr. Bruce.

Mr. Bruce was asked if they had an access plan.

The only practical option is the negotiation of an agreement with the FAA to use Maplesden, he said.

Mr. Hickok asked if access had been addressed in the previous rezone application or if this was a new element with this rezone application.

Mr. Bruce said he did not think it was that big of an issue in the prior rezone process. The thrust of the public opposition in the previous rezone application had to do with preservation of a view shed, he said.

Ms. McKibben said they did not receive comments from DOT that were substantial during the previous rezone application process. They were not aware of the access issues at that time, she said.

Mr. Dye said after reading the material he was not clear why access was required for the rezone. The point from the airport was that future development was not part of the rezone, he said.

That was a key point, said Ms. Camery. Staff's position is that the proposed rezone is consistent with the requested condition. The condition is necessary because without that there is not adequate infrastructure in place to support increased development, she added.

Any development would trigger the need for access, said Mr. Dye, whether that development would be proposed for the land zoned Rural Reserve or for the land would it be zoned Industrial.

Access to the property through Maplesden Way is an option, said Ms. Camery, but there may be other options open to the applicant, she said. She said that the staff report notes the option of a road through the Mendenhall Wetlands, though that access may not be practicable. She noted that the condition states "Maplesden Way or an alternate access approved by the Community Development Department Director."

Outside of the rezone request, said Mr. Dye, access to the property would need to be provided via a building permit. He asked if this was a correct supposition. He said that access would need to be provided through the building permit process whether it was a condition for the rezone or not.

The Community Development Department has a very specific responsibility for public safety reasons to ensure an alternate access when they know the rezone is for increased development, said Ms. Camery.

Part of their analysis of the rezone request is to ensure that there is adequate infrastructure to serve the future uses of the rezone, said Ms. McKibben.

Mr. Dye asked if it is common to see this kind of condition placed on a zone change. He said he did not recall seeing similar conditions in past rezone requests.

Ms. McKibben said they did one off of Sherwood Lane just a few months ago which was a condition to transition once the access was addressed. There was also a rezone request on Lee Street about seven years ago which predicated a rezone upon access, said Ms. McKibben.

Mr. Frisby asked why this rezone is before the Commission now when it may have been better to deal with the access issue prior to the rezone request.

Ms. Camery said they have been working on the access issue for many months. CDD has made every effort to get an access location established before bringing this rezone before the Planning Commission, she said. CDD was not able to finalize an access location and did not feel

that it was appropriate to keep the rezone on hold until that access location could be confirmed, she said. The rezone complies with the Comprehensive Plan in every other aspect and CDD felt with access named as a condition that they could proceed with the rezone request. If CDD had waited until access had been determined, staff did not feel that would be fair to the applicant, she said.

Mr. Frisby repeated his question again. He asked why they would proceed with the rezone request when access had not been determined. He said to him it felt like they were putting the cart before the horse.

Ms. Camery said the legal guidance that CDD staff has received is that this is an option and it is a process. FAA has not been contacted at this point, she said.

Mr. Frisby asked if the staff recommendations were approved by the Commission what the result would be in terms of property values.

This is a question for the City Assessor's office, noted Ms. McKibben. She said in the past on other rezones the City Assessor has indicated that generally the zoning is not what affects the value of the property. It is the use that occurs on the property, she added.

MOTION: *by Mr. Voelckers, to approve AME2016 0007 and adopt staff's findings, analysis and recommendations.*

Speaking in favor of this motion, Mr. Voelckers said this was not an easy decision to make. However, he said he felt the staff has done a good job of illustrating that there is a very specific intent language particularly in areas of resource extraction with the intent that land be returned to an industrial zone. He added he felt it was an appropriate use surrounding the airport. He said this is a beautiful land parcel that has touched the community's heart for years and that there had been hope that a compromise could be worked out between the City and the applicant. That compromise could not be reached and they now have an applicant who states that they owned the land and that it is in line with the Comprehensive Plan. Mr. Voelckers said this rezone seems appropriate. The applicant understands that access to the site has to be provided before it can be developed, said Mr. Voelckers.

Mr. Dye asked to make a friendly amendment that the condition be removed since it has to be addressed regardless before the property is developed. He said that condition seemed redundant.

Mr. Voelckers said he would not accept the friendly amendment of Mr. Dye. He said he felt the staff has made a good case that this is necessary for any kind of safe utilization of the property given DOT's firm denial of the use of any other driveway.

Mr. Dye said he felt it was redundant and that he had nothing else to add other than what has already been said on this topic.

Roll Call Vote: *(on Mr. Dye's proposed amendment to the main motion to remove the condition that access to the property be obtained as a condition of the rezone)*

Yeas: Shelton-Walker, Greene, Dye, Hickok

Nays: Frisby, Voelckers, Haight

The amendment failed.

Ms. Shelton-Walker asked if this property was approved for industrial zoning that there may not be a public process for the actual development and that it could go straight to the CDD Director for a decision.

Ms. Camery stated that building permits do not go out for public review but there would still be a public safety review and it would go before the airport as an interested party. The public is not notified about building permits, only Conditional Use Permits, and other requests that go to the Planning Commission such as variances, she said.

Chairman Haight reminded the Commission that Mr. Bruce had raised a number of additional findings to be placed in the rezone.

Mr. Voelckers said those were all good points and that he did not recommend them to be included in his motion as findings because they are already strongly enumerated in the staff report.

Roll Call Vote On the Main Motion:

Yeas: Greene, Shelton-Walker, Dye, Voelckers, Hickok, Haight

Nays: Frisby

The motion passed.

B. AME2016 0013: Text amendment to Title 49 to provide for reductions in parking requirements borough-wide via waiver(s).

Applicant: City & Borough of Juneau

Location: Borough Wide

Ms. Maclean said in answer to a question posed by Mr. Dye earlier in the day that most of the parking such as for single-family homes, or the mobile parks and the Planned Unit Developments are directly addressed in Title 49. Those types of developments are not specified in the current proposed ordinance because they are not being changed, she said.

Parking districts one and two (PD-1 and PD-2) in the downtown area and the fee in lieu parking area are also not part of this ordinance, she said, because they already have parking requirements stipulated.

The required number of non-accessible parking spaces required by this section may be reduced if the requirements of this subsection (6) are met. The determination of whether these requirements are met, with or without conditions, deemed necessary for consistency with this title, shall be made by the Director in the case of a minor development, the Commission in the case of major development, and the Commission if the application relates to a series of applications for minor developments that, taken together, constitute major development as determined by the Director, read Ms. Maclean.

Any waiver granted should be in writing and should include any findings and conditions such as public amenities, imposed by the Director or the Commission that are consistent with the purpose of this title, she read.

The last time this ordinance was discussed they had discussed that the applicant reasonably demonstrate that these findings were met, said Ms. Maclean. After consultation with the Law Department it was determined that as long as the applicant meets the four standards outlined in the ordinance that those standards would be met, said Ms. Maclean. The Planning Commission or the Director can also add public amenities as a requirement if they feel that this is necessary for the public health, safety and welfare, or economic development, said Ms. Maclean.

For granting of the waiver the applicant would need to prove the following four items:

- 1) The granting of the waiver would result in more benefits than detriments to the community as a whole as identified by the Comprehensive Plan
- 2) The development is located outside of the PD-1 parking district, PD-2 parking district, and downtown fee in lieu of parking district map areas
- 3) Granting the waiver shall not result in adverse impacts to property in the neighborhood area
- 4) The waiver will not materially endanger public health and safety or welfare

The fee remains at \$400 and if it is in conjunction with a major development permit it is reduced by twenty percent, said Ms. Maclean. All property within a 250 foot radius of the parking area would be notified, said Ms. Maclean. Approved parking waivers would expire upon a change in use, she said. The waivers would also be applied to nonconforming situations such as properties on Star Hill or in the flats where they are already nonconforming. They also felt that recreational vehicle parks should be able to apply for the waiver, said Ms. Maclean. They also recommended childcare homes and childcare centers be able to apply for waivers, said Ms. Maclean.

Commission Comments and Questions

Mr. Voelckers summarized that the purpose of this ordinance is to reduce parking in areas where it would otherwise be required, if the applicant could demonstrate the full number of spaces were not needed. He asked if the purpose of this ordinance was stated anywhere in the ordinance. He said he did not see language indicating that an applicant has to show a certain proposed use won't generate the required amount of parking.

Ms. Maclean stated if an applicant proves that they meet items one through four then they do not need the full parking.

Mr. Palmer said he believed that Mr. Voelckers has hit upon one of the critical issues with this project. It is a tricky issue to mandate that the applicant show that they did not need to meet the required parking specifications, said Mr. Palmer. It puts a significant burden on the applicant to prove that they do not need the required parking, said Mr. Palmer. It starts to look very similar to a variance or it starts to look like they may need to hire a traffic engineer to dictate use and to figure out if the specific use follows the parking standards or deviates above or below those standards, he said.

A good example is the Housing First project which due to its use does not need 78 parking spaces, said Mr. Voelckers; it needs six spaces.

Mr. Palmer said the ordinance with the four criteria was drafted to give a fair amount of discretion to the Director or the Planning Commission in order to make parking waivers easier to obtain than is currently available. If the Commission thinks the criteria are too loose then maybe they need to tighten them up, said Mr. Palmer, or conversely, if they think one of the criteria is excessive they can adjust accordingly, he said.

Mr. Voelckers said nowhere is it stipulated in the waiver that the use does not need the full parking requirement.

For background Ms. Maclean said there is a convenience store in Douglas which required three parking spaces on site. They had two apartments above the store which each required one

parking space, she said. That store would have met the criteria outlined in this ordinance, said Ms. Maclean.

Any realistic community models that they held up against this criteria fit well, said Ms. Maclean.

Mr. Greene asked about residences in the downtown area which had no parking at all.

This ordinance would apply to some areas within town but that it would not apply to those homes within the PD-1 and PD-2 or fee in lieu districts, because in effect they already had reduced parking requirements, explained Ms. Maclean.

Mr. Voelckers asked Mr. Palmer if he saw any danger in establishing a precedent with open ended criteria. He asked if there could be a potential problem with the City with an inconsistent application of justice.

Mr. Palmer said this is a very interesting point and that basically time would tell. This ordinance was drafted to give as much discretion as possible within limits, said Mr. Palmer. He said as this waiver process gets used there will be a digest of “case law” that will assist CDD in developing a thorough backlog of information. If this ordinance is perceived later to be too liberal, it can always be tightened up in the future, said Mr. Palmer.

MOTION: *by Mr. Voelckers, that they approve AME2016 0013 and adopt staff’s findings, analysis and recommendations and forward it to the Assembly.*

The motion passed with no objection.

X. **BOARD OF ADJUSTMENT** - None

XI. **OTHER BUSINESS** - None

XII. **DIRECTOR’S REPORT** – None

Ms. McKibben reported there are no items on the agenda for the February 14, (2017) regular Planning Commission meeting. She asked the Commission if they should remove this meeting from their calendar.

The Commission approved the dismissal of the February 14, meeting.

Ms. McKibben reminded the Commission that the Title 49 committee meets February 1, (2017) at 3:00 p.m.

Mr. Frisby asked for a review of the new committee assignments, which was provided by Mr. Dye.

Chairman Haight said the committee assignments are final.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES - None

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS - None

XV. ADJOURNMENT

Adjourned at 9:45 p.m.