

Minutes
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
June 14, 2016

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 7:07 p.m.

Commissioners present: Ben Haight, Chairman; Michael LeVine, Percy Frisby, Nathaniel Dye, Matthew Bell, Kirstin Shelton-Walker (telephonically)

Commissioners absent: Bill Peters, Paul Voelckers, Carl Greene

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Teri Camery, Senior Planner; Tim Felstead, Planner II; Allison Eddins, Planner I;

Assembly members: Debbie White, Loren Jones

I. APPROVAL OF MINUTES

- May 10, 2016 Regular Planning Commission Meeting

MOTION: *by Mr. LeVine, to approve the minutes of the May 10, 2016 Regular Planning Commission meeting with any minor modifications by Commission members or by staff.*

The motion passed with no objection.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Assembly Liaison to the Planning Commission Debbie White reported that there was some confusion about Assembly rules. As an example she said on the Consent Agenda for the Assembly are included ordinances for introduction. Those items will then appear for public

hearing on the next Assembly meeting agenda, she explained. The Assembly cannot take action on items during their first reading before the Assembly, she clarified.

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**

USE2016 0010 Conditional Use Permit for the Re-development of the old Thane Ore House into a restaurant and cultural immersion park.

Applicant: Jensen Yorba Lott Inc.

Location: 4400 Thane Road

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 and 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 DEC 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 Community Development Department, 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 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. 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. Per 04 CBJAC 050.020 all open storage shall conform to the 10 foot front yard setback requirement for a Waterfront Industrial zoning district and shall be enclosed by a sign obscuring fence or vegetation at least six feet high.

Ms. Eddins told the Commission that this item is a Conditional Use Permit request for the redevelopment of the Thane Ore House. The applicant, the Central Council Tlingit and Haida Indian Tribes of Alaska (CCTHITA) wants to develop a Native cultural immersion park at the location of the old Thane Ore House, said Ms. Eddins. Ms. Eddins clarified that this hearing is just to evaluate whether the uses that are proposed are suitable for the zoning district. The details of the lease will come back to the Commission as part of a CSP case, she noted.

Commission Comments and Questions

Mr. LeVine asked for the benefit of the new Commission members if Ms. Eddins could provide a brief summary of what is currently before the Commission and what the future CSP would cover.

Ms. Eddins explained that whenever the City leases or disposes of land it must first come to the Planning Commission as a CSP case, which stands for City State Project, she explained. The details of the lease such as its length and particulars are part of the CSP case, she said. It would then proceed to the Assembly which would either approve or deny the lease, she said.

She explained that the CBJ owns the property, with the land managed by Docks and Harbors. Tract B-1 and Tract B-2 combined total 1.28 acres, she said. The future land use for this parcel in the Comprehensive Plan is designated as Waterfront Commercial Industrial, said Ms. Eddins. The land is currently zoned Waterfront Industrial, said Ms. Eddins. There are no City utilities at the site, she said. It uses an on-site well water system and an on-site septic system, said Ms. Eddins. Access is via Thane Road, and the existing land use is a vacant commercial building and property, she said. Vacant land surrounds this property, owned by either the State or the AJ Mining Company, she said. There is also a small lot owned by AEL& P, she said.

Lots close to the property are zoned D-1 and all property to the east is zoned Rural Reserve, she said. In the spring and the summer they would like to use the land as a salmon bake style restaurant with a dance floor for Native dances. There would be a small gift shop with light manufacturing taking place on site, said Ms. Eddins. The light manufacturing would include hand woven baskets, and traditional masks, which would take place outside in the summer under a crafts pavilion, and moving to the indoor space in the closed restaurant and gift shop in the winter, she explained.

There would also be a canoe exhibit and launch which requires a Department of Natural Resources (DNR) permit, she said. The canoe exhibit and launch would be located on the beach state land, she added.

The existing building already resembles a traditional long house, said Ms. Eddins, which the architect will modify along those lines.

The three uses for the lot are light manufacturing, a restaurant and a gift shop, she said. The light manufacturing component meets the criteria of a water related use, said Ms. Eddins. Although the carving of canoes and totem poles, and production of other handmade goods are not directly dependent upon access to the water, the cultural component of their production would be diminished if it were not located near the water, she said.

The salmon bake style restaurant is part of the larger and fully planned development which incorporates the water related use which is the light manufacturing and a water dependent use which is the canoe exhibit and launch, said Ms. Eddins. They do believe that the restaurant is necessary to the overall success of the project. The restaurant will be located in the former Thane Ore House, converted to resemble a traditional long house, she said.

Tlingit and Haida has applied for a driveway permit from the Department of Transportation (DOT), said Ms. Eddins. This will allow DOT to examine the existing driveway for conformance, she said.

The project conforms to the remaining criteria which is to contribute to a diverse and healthy downtown core, said Ms. Eddins. Although the project is not located in the downtown core area, it would diversify the types of experiences that are offered to visitors and residents, and it certainly would not detract from the downtown core, she said.

The retail portion of the project could be considered as an accessory use to the restaurant and the light manufacturing, she said. The restaurant and gift shop would only take up about 28 percent of the building space, she said. The retail portion of the project would only operate from May through September, as would the restaurant, said Ms. Eddins.

A neighborhood meeting was conducted on this project in March and about 15 members of the Thane Neighborhood Association were in attendance, said Ms. Eddins. At that meeting, residents did express concern about the potential impacts of traffic, said Ms. Eddins. To alleviate these concerns, Tlingit and Haida proposes to use two busses to carry visitors to and from the site for lunch and dinner. They also plan on bussing the seasonal employees to the site as well, said Ms. Eddins. They anticipate a total of 14 – 26 round trips per day on average, said Ms. Eddins.

In the fall and the winter, when the restaurant, dance floor and gift shop are closed, light

manufacturing would continue to take place on site with an estimated 12 roundtrips daily. Projects that average 250 average daily trips or less do not require a traffic impact analysis, said Ms. Eddins.

A total of 20 parking spaces are required, with one ADA accessible space, said Ms. Eddins. At the request of Docks and Harbors, Tlingit and Haida agreed to set aside five additional parking spaces for recreational use for public access to the beach, said Ms. Eddins.

It is recommended that the applicant submit a site plan detailing the location of all of the parking spaces including the five public access spaces and the one ADA space, said Ms. Eddins. AJ Mining Company actually owns some land where the driveway is located and where some of the parking will be located, said Ms. Eddins. CBJ has access easements for that portion of the property, she said.

They do not feel that the surrounding area will be negatively impacted either by noise or by exterior lighting, said Ms. Eddins. The nearest residence is 1,700 feet away, and since the manufacturing will be performed using traditional techniques, there will be no loud noises, she said. They do require that any construction noise be limited to 7:00 a.m. to 10:00 p.m. Monday through Friday, and from 9:00 a.m. to 10:00 p.m. on Saturday and Sunday, noted Ms. Eddins. Most activity will take place in the spring and the summer, which would require minimal lighting. They will be illuminating the parking lot, and it has been requested that the applicant submit a site plan showing the type and location of the exterior lights, said Ms. Eddins.

They also recommend that all outdoor storage meet the requirements of Title IV, said Ms. Eddins. Tlingit and Haida wants to remove as little vegetative cover as possible, said Ms. Eddins. They also request that this be shown on the site plan as a condition of approval, she said.

This land is shown by FEMA as having a 1% probability of flooding each year, said Ms. Eddins. The majority of the building is located outside of the flood zone, she said.

The application is complete, said Ms. Eddins, and the uses that are proposed are allowed within the zoning district. The development does comply with all of the requirements of Title 49, she said. The proposed development will not materially endanger public health or safety, she said. There is no evidence to suggest that the development would be out of harmony or substantially decrease the value of the surrounding neighborhood, said Ms. Eddins.

Commission Comments and Questions

Mr. LeVine asked if there is a reason that the restaurant, retail and manufacturing, and canoe construction were presented in separate parts rather than being presented as one consolidated water-oriented use.

The reason was in part to provide the Commission with the opportunity to approve of the uses separately if it desired, said Ms. Eddins.

Ms. McKibben clarified that in order for no “N” to apply that the use needed to be either water oriented, water related, or water dependent. She said it did not have to be all three.

Applicant

Myrna Gardner, Manager for Economic Development for Central Council, Tlingit and Haida Indian Tribes of Alaska, said she would like to answer any questions the Commission may have.

Mr. LeVine said he appreciated the accommodations that CCTHITA was making for public access to the water on the site by providing parking spaces. He asked if there would be a marked path for the public which would not intrude on CCTHITA activities for those who wished to use the site for fishing or picking berries, for example.

Ms. Gardner responded that they have actually been looking at the site to identify a good means of public access.

She told the Commission that this is historic T’aaku Kwa’an and A’akw Kwa’an land. She added that the Douglas Indian Association has ties to this land. Their identity is tied up with this water and this land, she said. There was a time when their people had 50 and 60 foot canoes which would travel down south as far as Mexico, she said. They are by definition water people, said Ms. Gardner.

They want to use this immersion park as a way to share their culture and at the same time bring their children into better acquaintance with their own culture, said Ms. Gardner. This is a long-term commitment of the tribe to teach those trades and expand education by building totem poles and canoes, she said. They are proud of who they are and of what they do and they want to share their culture, she said. This is a long-term commitment, and one that they are willing to make, said Ms. Gardner. They will be providing employment and training through this endeavor as well as adding to the tax base of the community, she said. They are a federally recognized tribe, said Ms. Gardner. This is just one component of their overall commitment to the big community of Southeast Alaska, she said.

Thane resident Peter Naoroz said he is an eight minute walk up the beach from the Thane Ore House location. He said that he supports the application. He said he was very thrilled to hear that Central Council was the winner on who was to use the site. He said he feels they have a very thoughtful plan and a very capable architect to help them implement their vision for this project. He said currently this is an empty and unoccupied space which has led to people firing off automatic weapons in the area. They cannot afford to have this location vacant and it has been empty for a while, said Mr. Naoroz.

He said he is thrilled to hear that a restaurant will be part of the experience. He said it will be a nice option for the neighborhood who may not want to drive into town. There is great sponsorship for this project, he said. There is great financial capability behind his project, he said. He said he felt the staff has placed reasonable conditions on this project and that it is important to support businesses so that they can be successful in their endeavors. Mr. Naoroz said he felt this project would substantially improve the value of any property in the area. This project should have no negative impacts to the surrounding area, he said, unlike many other projects in industrial zones. This project will be very conducive to local hire, said Mr. Naoroz.

Commission Comments and Questions

Chairman Haight asked Mr. Naoroz how he felt the characteristics of this immersion park proposal weighed against the previous Thane Ore House located at the site in terms of use.

Mr. Naoroz said the Thane Ore House, especially when it was leased out to the local hunters and fishermen who had all-night parties at the site, had substantially more traffic than this new proposal. He said he hoped to find signs written in languages that he would have to learn as part of the experience.

Marcelo Quinto, President of Camp 70, Alaska Native Brotherhood, said he is in support of the business plan that Tlingit and Haida is undertaking. He said he looks at this as an opportunity for their people to be educated, and to provide opportunities for them to learn how to live in the business world and to learn how to deal with people other than those living within our own community. This endeavor will also provide income to the City as well as enrichment for the community, he said. They are people who are finally advancing and this is but a step in that direction, he said.

Larri Spengler, secretary of the Thane Neighborhood Association, said they have been delighted with the outreach and inclusion that Tlingit and Haida have offered to them. They are highly in favor of the development of the cultural immersion center occupying the former Thane Ore House space. They initially had three main concerns about the project:

1. The sharp left-hand turn that vehicles have to make leaving the immersion center
2. Traffic on Thane Road - a bus on that route going slowly could back up all of the other vehicles
3. Continued public access to the shore

Annette Ulmer, an employee of Central Council, said this project will result in new employment for the community. They will be shopping locally for their business, and hiring local people for employment will keep those funds within Juneau, she said. The area will be secured by their Village Public Safety officer, she said. This project will enable their children and their children's children to learn about their culture and pass on that knowledge to future generations, she said.

Tina Wright, of CCHITA, said her work is to assist TANIF families by helping them to become self-sufficient and to build careers. This project will provide meaningful employment to their people, she said.

Ms. Gardner told the Commission that they are very excited to become a part of the Thane neighborhood with this project. They have millions of dollars to invest in this project, she said, which will create employment in many different areas for the community. This will have a significant positive economic impact on the community featuring local hire, she said.

Commission Comments and Questions

Mr. Bell commented that this is an exciting project. He said it is evident that they have a tremendous amount of support, and that he was anxious to watch as the project progressed.

Ms. Gardner said that Allison Eddins and the Planning Department as a whole have been very responsive and helpful with this process. She said the City has really great people within the Planning Department.

MOTION: *by Mr. Frisby, to approve 2016 0010 and to adopt the staff's findings, analysis and recommendations.*

The motion passed with no objection.

Mr. LeVine had to leave the meeting at 8:32 p.m.

USE2016 0016 Conditional Use permit to establish an asphalt plant at an existing contractor storage and service yard for two construction seasons.

Applicant: Walsh Planning & Development Services

Location: 2500 Sherwood Lane

Staff Recommendation

Staff recommends 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 temporary, two-year asphalt plant at an existing contractor storage and service yard. The approval is subject to the following conditions:

- 1) *Prior to issuance of a building (grading) permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting proposed for the development. Exterior lighting shall be designed and located to minimize offsite glare.*
- 2) *Prior to the issuance of a building (grading) permit, the applicant shall provide CDD with the final Stormwater Pollution Prevention Plan, in conformance with ADEC requirements, to ensure protection of the adjacent anadromous stream.*

Ms. Camery told the Commission that they have received additional information on this project. One item was from the applicant which provided additional information on asphalt plant emissions, waste treatment and dust control, she explained. The second item which arrived late was received in the office that afternoon which is a petition signed by 11 individuals stating their opposition to the location of an asphalt plant on Sherwood Lane, said Ms. Camery.

Ms. Camery said that an adjustment was needed in her staff report on the first page under "Existing Use", and that it should read that the rock crusher should be removed. She said that the Background section notes that the rock crusher application was withdrawn. The applicant requests a Conditional Use Permit to operate an asphalt plant for two years at an existing contractor storage and service yard on Sherwood Lane. This parcel is located in the Industrial zoning district, she said, and the Comprehensive Plan designation is Heavy Industrial. The plant is proposed for two construction seasons, she said. The hours of operation would be Monday through Friday 7:00 a.m. to 8:00 p.m. The applicant indicated that weekend use would only be for special circumstances, she said.

There have been no written comments received by the staff regarding this proposal, said Ms. Camery, except for the petition signed by the 11 individuals.

The applicant estimates 170 truck trips per day with a maximum of 246 truck trips per day, said Ms. Camery. A Traffic Impact Analysis is not required by CBJ Code for trips under 250 trips a day, she noted.

The applicant has proposed traffic mitigation by using a flagger for left-hand turns onto Glacier Highway, noted Ms. Camery. This proposal has been accepted by DOT&PF, noted Ms. Camery. The plant is anticipated to operate with electricity rather than a generator, said Ms. Camery, except for the first month before electricity is installed. Anticipated noise from the operation complies with the CBJ Noise Ordinance requirements, she said, within this established industrial area.

The plant has an approved Department of Environmental Conservation (DEC) air quality permit, said Ms. Camery. The Fire Department has expressed no issues with this permit, she noted. The DEC air quality permit does require a 330 foot buffer from occupied structures for a temporary plant, noted Ms. Camery. The distance is estimated at 345 to 355 feet from the exhaust pipe, she said. This distance does not need to be exact in order for the CBJ to find compliance with health and safety, she said.

Adjacent uses include the State of Alaska Department of Motor Vehicles office to the north, the CBJ Fire Training Center and a vacant CBJ parcel to the east, and a vacant parcel to the south, said Ms. Camery. All of those parcels are zoned Industrial, she noted. There are two single family homes located to the west in the D-1 zoning district, she added.

The staff finds that the predicted noise from the proposed plant would be typical and reasonable for an industrial area, with low traffic impacts upon an established industrial route, said Ms. Camery. There are no adverse impacts expected upon neighborhood harmony or retail value, she noted.

There has been previous wetland fill on the proposed site, noted Ms. Camery. The area was established as a contractor storage yard and no new wetland fill is proposed, she noted. The development is outside of the 50 foot buffer for Pederson Creek, she said. Fish and Game stated they anticipate no negative impacts to the creek, said Ms. Camery, and they do not anticipate negative impacts to the pond at the northern end of the parcel.

Applicant

Speaking on behalf of the applicant, Murray Walsh said that asphalt is a key item in the development and maintenance of a community. It is the best material that can be used for road surfaces, he said. This site is only being proposed as a temporary measure until a permanent site can be found, he said. Permanent sites require an 800 foot setback from buildings that are occupied by people, said Mr. Walsh. It is hard to find a site which meets those requirements in Juneau, he said. They can see that the area is changing towards more commercial development, which is another reason why they are seeking a permanent site for the plant, he said.

The left turning traffic onto Glacier Highway will use flaggers every time such turns are made, noted Mr. Walsh. Most of their work will engender right-hand turns however, he noted. Regarding truck trips, said Mr. Walsh, as a practical matter truck trips could amount to three to six trips per day. A huge job could generate 90 truck trips a day, he added. This plant will be preparing asphalt for smaller jobs such as driveways and parking lots, he noted.

Neighbors had expressed concern about dust being picked up by the truck tires, said Mr. Walsh. The owners of the plant are going to pave their driveway all the way through the truck route by the plant so there will be no dust generated by gravel, he said.

Public Comment

Larry Bauer said he represents the owner of the property, Sherwood LLC, near the proposed asphalt plant site. Mr. Bauer said the owners of Sherwood LLC are opposed to this project because of concerns about the dust being raised in spite of the additional paving proposed by the applicant. There also concerned about the odors from the plant and the noise from the trucks, he said. He said he did not know if the crushed aggregate would be part of the current estimate for the truck traffic or if it would comprise additional truck traffic. Mr. Bauer said he believed that heavy trucks trying to head out off of Sherwood Lane in either direction would be a big challenge considering the amount of traffic on Glacier Highway. He also expressed concern about young people leaving the Department of Motor Vehicles for a driving test amidst problematic truck traffic.

They are also concerned about the possibility of losing tenants within a building located next to an asphalt plant, said Mr. Bauer. The value of their building would then decline since it is based upon the income created by the tenants, he said. He also expressed concern that the asphalt plant could affect the success of the housing development in that area recently approved by the Commission.

Engineer's Cutoff resident Hillary Reynolds said that a bed-and-breakfast has been constructed directly across the street from the Department of Motor Vehicles and next to the proposed asphalt plant. She said she worried about their business being affected by the asphalt plant. Ms. Reynolds expressed concern about additional traffic generated by the asphalt plant in what she viewed as an already busy area with two churches across Glacier Highway. She said it is a "hairy" area. Ms. Reynolds asked if air quality included the odor of the air.

Ms. Camery responded that they defer to the DEC air quality permit.

Chairman Haight said that Mr. Walsh could address that question about odor and air quality when he came up to speak after the public comments.

Juneau resident Wayne Coogan said that although he sits on the Housing Commission, that his appearance this evening was not in that capacity. Mr. Coogan said the recently adopted Juneau Economic Development Plan states that the City promotes housing affordability. The Housing Action Plan also promotes the strengthening of housing availability in the community, he said. He added the lack of competition in the asphalt business makes housing prices rise. Mr. Coogan said if they had competition in the asphalt business for the paving of the area where he is building some apartments it would decrease the costs to pave that project which translates to about \$50 per month per unit for a year.

Glacier Highway resident James Sidney said that his family homesteaded the property of the proposed asphalt plant. Mr. Sidney said his property has been flooded since that land was filled. As a result of this his fence has been pushed over about 15 feet, said Mr. Sidney. This area of the Valley is a natural area for the air to pool and congregate, said Mr. Sidney. He expressed concern that odors from the plant would remain in the area. The DEC permit deals with dust, not odor control, said Mr. Sidney. For this plant to be adjacent to residential land there should be a very large buffer, said Mr. Sidney, of what he estimated to be a quarter mile.

Mr. Joe Meek said that he and his wife own the commercial office building located on Sherwood Lane close to the proposed asphalt plant. Although the land is zoned Industrial, the Table of Permissible Uses does allow commercial land on that property as well, said Mr. Meek. They pay a lot of taxes in this community, he said. They oppose the asphalt plant because of the increased truck traffic, health and safety issues, decrease in property values and not being in harmony with the neighborhood, said Mr. Meek. Traffic is a big factor, said Mr. Meek. He said if they ran the plant at capacity, it would put a truck on Sherwood Lane every three

minutes. It is not fair to shut the rest of the neighborhood down for Mr. Miller's operation, said Mr. Meek. He said he felt the analysis was flawed and that the Director was in error to recommend approval for the asphalt plant. He said the mention of the possibility of 246 trucks per day was only for the trucks loaded with asphalt as they came and went. He said there was no mention in the report of how the aggregate would be transported to the asphalt plant. Mr. Meek said his tenants have expressed a lot of concern with this operation. The airborne particles are a health hazard, said Mr. Meek. They have already lost one tenant because of the potential of this plant opening up, said Mr. Meek.

Engineers Cutoff resident Bob Savier said that his family has lived in Juneau for over a century. He said he has not seen any temporary plans for the asphalt plant. He expressed concern about the growth in this area in general and about possible added traffic on Pederson road. Mr. Savier said he is not in favor of a plant in the proposed location and that he had received no notice of the proposal.

Jane Svinicki said she was the owner of Juneau Rain Forest Gardens. She said she has been running this business for 22 years, which consists of a nature and ethnobotany trail. She owns four acres across Glacier Highway from Swampy Acres, she said. This is beautiful property with an anadromous salmon stream, she said. She said she serves 50 to 400 tourists a day. She said she felt the asphalt plant was a huge problem for the neighborhood. She said she was worried about the effects on the neighborhood from the emissions from the plant. She named numerous businesses and activities which were close to the proposed plant location. She said the only industrial activity she saw in the area which was even remotely related to the proposed asphalt plant was the fire training center. That is very lightly used, she said. The asphalt plant would affect her business very directly, she said. She presented a three minute video on asphalt plants to the Commission and the audience. Ms. Svinicki stated that upon her investigation that she discovered that the plant was dated back to 1975. She said she was told that it would not be up to current emission standards. She said she worried about the neighborhood, the value of her business and the experience of her guests should the plant be approved.

Comment [TC1]: Svinicki is correct

Speaking up for the plant a representative said that he has run asphalt plants and been involved in emissions tests. It is just steam coming out of the top of the stack, he said. It is a very stringent emissions test which must be passed, he said. It will be a small plant, he said.

Commission Comments and Questions

Chairman Haight asked when the plant was last in operation.

He was told that was in Sitka, last summer.

At the motion of Mr. Bell, with no objection by the Commission, the meeting was continued to 10:30 p.m.

Co-owner of Juneau Rain Forest Garden, Jeff Svinicki, referenced conditions to which the plant must abide to the Commission, such as causing any conditions which would prove injurious to human health, welfare, animals, plants or property or unreasonably interfere with the enjoyment of property. He added that there are no substantive monitoring or restrictions on odor. He said he felt the plant would be injurious to all surrounding property owners and that he was very concerned about it. He said he felt the Commission should deny the application because it was riddled with problems which would negatively impact many people.

Engineers Cutoff resident Kristen Kolden read to the Commission a hazard review of the health effects from exposure to asphalt from the CDC (Centers for Disease Control and Prevention). She asked what type of air quality monitoring control was in place and which entity would be overseeing that function. She added that she agreed that helicopters were noisy, but that was a transient source of noise as opposed to what would be a continuous noise which she surmised would probably be heard from an asphalt plant.

Area resident Jeremy Sidney told the Commission that he is the closest resident to the asphalt plant. There is a big inversion in the area, he said, which makes them very susceptible to odors such as burning. He said it is not regulated, and there is no way they will be able to know how bad odors emanating from the plant would be. His main concern is smelling the odors from the plant in his home, he said. He said he has learned there are three separate runs of salmon in the stream in the area. Mr. Sidney said there is no drainage installed on the property. He said he has seen a lot of temporary things in Juneau which turned out to be permanent.

Area resident Timothy Tong said he lives near Jeremy Sidney, and that he also has no desire “to choke on asphalt fumes”. He said he works in the asphalt business and that he knows how badly it smells and how far away one can smell the odor. He said the fumes from an asphalt plant can be smelled from 400 feet away and that the fumes are toxic. He said he would not want the asphalt plant next to his home.

Terry Miller, one of the owners of the property, said this is industrial property and they purchased it for an industrial lot. Regarding odors he said, anyone who runs an asphalt plant has to have numerous emission tests during the operation. The truck traffic will not be noticed by the residents, he said. He said the noise from the asphalt plant will not be an issue for the tourism business down the street.

Area resident Bobbi Epperly said she just had an apron put in near her driveway and that she could smell the asphalt odor all the way to her house. They could smell it in the area for hours, she said, and this was just a very small area which was covered. She said she was against the asphalt plant because of the odor.

Owner of land on Sherwood Lane, John Armstrong, said the area is Heavy Industrial and that he is in favor of the asphalt plant. He said he felt it was being located where it was zoned to be located, and that he felt it would be a benefit for the community.

Applicant

Speaking for the applicant, Murray Walsh said there is obviously a big misunderstanding about the off-site impacts of a plant such as this. He said he has interviewed businesses which are closer to the Secon temporary plant than the Bauer offices on Sherwood Lane. None of those businesses spoke of any ill effects while Secon has been running its plant, said Mr. Walsh. The exhaust from the plant is water vapor and heat, said Mr. Walsh. There will be no burning of fossil fuels on the site, he said. A plant similar to this one was run down Industrial Boulevard for about nine years and there were no complaints about its operation, said Mr. Walsh. The zoning for this area is meant to accommodate businesses such as the asphalt plant, said Mr. Walsh, which is why it is called Heavy Industrial. The permit has a two-year limit, he said. The trip estimates are for two trips, he said; a truck goes out with asphalt and it comes back with aggregate.

At the motion of Mr. Bell, the Commission agreed with no objection to continue the meeting until 10:45 p.m.

Drainage measures were taken and the land drains just fine, said Mr. Walsh. There will be no incompatibility with the residential development proposed next to the asphalt plant, said Mr. Walsh. He said he represents both entities and there are no issues. The Auke Bay project will take three to four days to accomplish, and that is the big project necessitating left turns onto Glacier Highway, said Mr. Walsh. The residential development will not be using Pederson Road for access, said Mr. Walsh. The plant components may have been built in 1975 but it has been continuously upgraded over the years and it has a current, valid, DEC air permit, said Mr. Walsh.

The Rain Forest Tour property is 1,700 feet away from the plant site, said Mr. Walsh. That distance is twice what DEC requires for a permanent plant, he added. That property will not be affected by the plant, said Mr. Walsh.

Ms. Shelton-Walker asked if the staff could explain about a traffic study for the project. She wanted to know if the trucks bringing the aggregate in to the project had been included in the truck traffic count.

The incoming trips are part of the high-end estimate, said Mr. Walsh. The traffic counts cover both the aggregate and the asphalt trips.

Chairman Haight asked the staff where the two year condition of operation had been imposed for the plant.

Ms. Camery responded that is established in the project description itself; that the plant could only operate for two construction seasons.

Chairman Haight said it may be appropriate to stipulate the two year limit within the conditions.

MOTION: *by Mr. Bell, to approve USE2016 0016 with staff's findings, analysis and recommendations.*

Mr. Dye asked to provide the friendly amendment that the project's permit expire December, 2017.

Mr. Bell accepted the friendly amendment.

Roll Call Vote:

Yeas: Dye, Frisby, Bell, Shelton-Walker, Haight

Nays:

The motion passed.

X. BOARD OF ADJUSTMENT

VAR2016 0006 and VAR2016 0007 were withdrawn from the agenda.

Chairman Haight changed the order of the agenda items by moving Board of Adjustment up on the agenda after the Planning Commission Liaison Report.

The Commission was adjourned as the Planning Commission and reconvened as the Board of Adjustment.

VAR2016 0004 Variance request for a reduction of the front yard setback for an addition to an existing dwelling.

Applicant: Hollis Handler

Location: 9831 Nine Mile Creek Road

Mr. LeVine said that the applicants were personal family friends and that he has had some business dealings with applicant Tyson Fick in the past. He said he consulted the Law Department as to whether he had a personal conflict and that he personally believed it was a close call.

Chairman Haight asked the other Commission members if there was any objection to Mr. LeVine remaining on the panel for this variance request.

The Commission members voiced no objection.

Ms. Shelton-Walker said that she also has a personal relationship with the applicants and that she has done some work with Mr. Fick in her position at the McDowell Group. She added that she has no personal or financial interest in the variance request before the Commission. She said that she also consulted the Law Department and they advised her to bring up this issue at the meeting for the record.

The Commission members voiced no objection.

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **DENY** on the requested Variance, VAR2016 0004.

If approved the variance would allow a reduction in the front yard setback to 17 feet for construction of a 14 foot by 14 foot addition to an existing dwelling unit as per the applicant's site plan.

The applicants propose to use the addition on their home as a dining area, said Mr. Feldstead. They want to locate the addition next to the existing kitchen, he explained. This parcel is located at Nine Mile Creek Road on North Douglas, said Mr. Felstead. The land is zoned D-1, said Mr. Felstead. The setbacks for this zone are 25 feet in the front and rear, and 15 feet for the side yard setbacks, said Mr. Felstead. A corner of this dwelling already encroaches into the setback, said Mr. Felstead, and received a de minimis variance in 2000. A second story to the structure was added in 2008 through a Conditional Use Permit, said Mr. Feldstead.

Mr. Felstead said in a letter that he received from the applicants' contractor today, that if an addition were placed on the east side of the lot, there is a steep hillside that borders a shared driveway, and that a retaining wall would be necessary to prevent erosion, doubling the price of the project.

The staff finds that the variance request does not meet the criteria listed in §49.20.250; specifically criterion one, five, and six are not met, said Mr. Felstead. Criterion two, three and four are met, he added.

Commission Comments and Questions

Mr. Dye asked Mr. Felstead if he could please explain further about the de minimis setback. Mr. Felstead explained that a de minimis variance is applied when a setback is encroached into by 25% of what is normally required. The Director then has to make the determination that it was essentially done by accident and not a deliberate attempt to evade the requirements of the setback, said Mr. Felstead.

Under further questioning from Mr. Dye, Mr. Felstead clarified that a de minimis setback applies only to the specific encroachment and the infraction that occurred.

Applicants

Mr. Fick said their dwelling was constructed initially in 1999. They purchased the home in 2007, he said. They moved into what was essentially a one bedroom cabin, and found out four months later that they were expecting twins, he said. Additional living space became a priority, he said. Through the permitting process to add the second story to their house, they discovered the de minimis encroachment into the setback, he said. Since that time they had added a garage, and are now addressing the kitchen which was original with the house, he said. They have discovered that it would be a hardship to move the existing plumbing, electrical system, fuel tank, and construct a retaining wall. It made much more sense and was financially not a hardship to add onto the forward portion of the house which would not negatively affect any neighbors, he explained.

Commission Comments and Questions

Chairman Haight explained that the Commission has six criteria which it must evaluate as to whether the variance requirements are met. He asked the applicant if he had any perspective on how criterion one, five and six could be met.

Applicant Holly Handler told the Commission that they have been unable to obtain an itemization of how much the financial hardship would be prior to the staff report. They had only just received the feedback from the contractor explaining the cost of the hardship which would be experienced should they construct their addition on the side of the home recommended by the City, said Ms. Handler. This would increase the construction costs of the project by 50 percent, said Ms. Handler. This would be a huge financial hardship, she said, which would mean they would have to abandon the project altogether.

While the staff found that the net effect of this project on the neighbors would be neutral, said Ms. Handler, she felt that the project would prove to be beneficial to the community by adding to the tax base. It would be extremely costly if they had to rip out all of their existing plumbing, electrical systems and oil tank and relocate them, said Ms. Handler.

Mr. Frisby asked if they have the current cost estimates from the contractor.

Mr. Felstead said this information has been provided in the updated blue folder handed out to the Commission this evening. He said the contractor has estimated that it would double the project costs if they were to build to the east of their existing dwelling.

Mr. Fick said he has an estimate from the builder based on the original construction costs. He said they could add 50% to that estimate for a construction figure.

Mr. Frisby said he does not feel comfortable moving ahead with a decision on this variance request without all of the complete information before them for consideration. He said he would like to postpone action on this item until all of the pertinent information was compiled.

Mr. LeVine asked if they had more time if the applicant could provide additional information to the Commission, and if that was so, why it was not prepared in readiness for their variance request before the Commission.

Ms. Handler responded that they have been awaiting this information from the builder, and that it has been a challenge.

Mr. Bell stated they have certain criteria and standards to which they must abide. He said that while staff has recommended denial of this variance request, he does not want to deny the variance if possible, especially since it impacts a family. He asked the applicant that if the Commission tables this issue, if the applicants could then come back to the Commission with the updated cost information from the contractor. Mr. Bell asked if this delay would present too much of a hardship cutting into the building time.

Mr. Fick said they could come back to the Commission with more information given a little more time.

MOTION: by Mr. LeVine, that VAR2016 0004 be continued to the next meeting.

The motion passed with no objection.

~~VAR2016 0006 Variance to Street Side Yard Setback along Martin Rd.~~

~~Applicant: Carl Brodersen~~

~~Location: 1309 Martin Road~~

Staff Recommendation

~~Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2016 0006, to allow for up to 1 ft. of exterior insulation siding to be added to the existing building façade, which would result in a minimum street side yard setback of 5 ft. from the corner of the structure closest to the Martin Road ROW.~~

~~VAR2016 0007 Variance to Side Yard Setback.~~

~~Applicant: Carl Brodersen~~

~~Location: 1309 Martin Road~~

Staff Recommendation

~~Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2016 0007, to allow for up to 1 ft. of exterior insulation siding to be added to the existing building façade, which would result in a minimum side yard setback of 4 ft. from the easterly property line.~~

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

Mr. Steedle reported that the final CIP report has been provided to the Commissioners, which was approved by resolution at the May 23, 2016 meeting.

The Commission has also been provided with the Housing Action Plan draft that was released by the Affordable Housing Commission, said Mr. Steedle.

Ms. McKibben said that the Housing Action Plan will be coming forward at a future meeting to the Planning Commission with a staff report recommending its incorporation as an element of the Comprehensive Plan. She said they are being provided with the draft now so they can have time to read it.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES – None

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Frisby wanted to thank the staff and said he voted for the asphalt project because of the zoning which carries the Heavy Industrial zoning jurisdiction.

XV. ADJOURNMENT

The meeting was adjourned at 10:41 p.m.