

MINUTES

Regular Planning Commission Meeting CITY AND BOROUGH OF JUNEAU Mike Satre, Chairman

May 12, 2015

I. ROLL CALL

Dennis Watson, Vice 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 7:01 pm.

Commissioners present: Mike Satre, Chairman (telephonically);
Dennis Watson, Vice Chairman; Bill Peters, Ben Haight,
Michael LeVine, Paul Voelckers, Gordon Jackson

Commissioners absent: Nicole Grewe, Dan Miller

Staff present: Hal Hart, Planning Director; Beth McKibben, Planning Manager;
Chrissy McNally, Planner I; Jonathan Lange, Planner II;
Allison Eddins, Planner I

II. APPROVAL OF MINUTES - None

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Hidden Valley developer Zack Worrell, said he was curious why changes have not taken place within the Subdivision Code regarding remote subdivisions. The purpose of a remote subdivision is to be remote; public access is not necessary, said Mr. Worrell. The ordinance was approved five weeks ago, and his continued attempts to meet with the CDD staff have proved fruitless, he said. Mr. Worrell said he feels this is a positive project for the community and that he does not understand why it has not been passed.

Mr. Voelckers, Chair of the Subdivision Review Committee, responded that there are issues they are working through, and that there is still some lack of resolution and consensus. He said it should be on the agenda for the May 26, (2015) Planning Commission meeting for review.

Juneau resident Benjamin Wilcox said fire safety seems to be an issue for the Marijuana Review Committee. He said these issues are almost all related directly to butane hash oil extraction. He said there are many safe ways to extract the hash oil which would enable small businesses

such as a small bakery to remain within the city core area. He said the relevant entity may want to make a specific conditional use permit relevant only to that process.

Mr. Wilcox added that he hoped that marijuana businesses would not be pushed out of the waterfront commercial areas of town due to the zoning restrictions. He said many tourists will be coming to Juneau to enjoy marijuana as an activity that is available and that it should be centrally located for the tourists.

V. PLANNING COMMISSION LIAISON REPORT

Assembly Liaison Loren Jones reported that the Assembly has not met since the last Planning Commission meeting. The Committee of the Whole reviewed the Subdivision Ordinance. It will be back before the Committee of The Whole on June 1, (2015) reported Mr. Jones.

The Haven House appeal is public and should be finalized on Monday, said Mr. Jones. Also at Monday's Assembly meeting the capital budget, school district budget, the mill rate and the overall budget, will be finalized, said Mr. Jones.

The Lands Committee forwarded to the Assembly a recommendation for a land swap to provide better access to Pederson Hill subdivision, said Mr. Jones.

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

At the motion of Mr. Peters with no objection, CSP 2015 0006 was moved on the agenda to after those items on the Board of Adjustment.

CSP2015 0006:	Planning Commission review of Fiscal Year 2016 Capital Improvement Program.
Applicant:	City and Borough of Juneau
Location:	Borough-wide

The Capital Improvement Program (CIP) is prepared by the CBJ yearly, and it encompasses the six year Capital Improvement Program, said Mr. Lange. The CIP guides the investment of funds in the maintenance, repair, and acquisition of public infrastructure, facilities and equipment, explained Mr. Lange.

The CIP was presented to the Assembly in April with the draft fiscal year budget, and it included priorities of the City Manager for the 2016 fiscal year, said Mr. Lange. The purpose of the CIP is

to establish project funding for high priority projects in a timely and cost-effective fashion, said Mr. Lange.

On its list presented to the Assembly for the CIP in 2014, the Commission had requested that sidewalk and stair repair and snow removal equipment for safe routes to schools be moved up in priority on its list. Those items remained in their current location on the list, said Mr. Lange.

The second Douglas crossing over Gastineau channel and the Lemon Creek neighborhood park were moved to the CIP list for 2018, said Mr. Lange.

The Commission gave its input for this CIP list in the fall, said Ms. McKibben. The reason for this is so there is time for the Commission's input to be considered by the Assembly when it considers the CIP list. This will come back to the Commission in the fall for its input, with the adopted FY 16 list, said Ms. McKibben. The Commission is to find whether the items on this list are consistent with the Comprehensive Plan, said Ms. McKibben.

Mr. Peters said he did not understand the flow of certain stipulated funds in the CIP. He also asked for the specific location of bus shelter construction and repairs.

Ms. McKibben said the Public Works and Engineering Department representative could not make it to the meeting this evening, and they would be the ones to answer Mr. Peters' first question. In answer to his second question about bus shelter construction and repairs, Mr. Hart replied he did not think there were specific areas identified at this time.

Mr. Peters said he did not understand why there were not funds available to make necessary repairs on the Dimond Park swimming pool when as he understood it there appeared to be over \$500,000 in funds available on the CIP list. He asked whether or not those pool improvements were going to be made and if there was a time frame for those improvements. Mr. Peters said he saw \$29,000 available for Auke Bay School, and he wanted to know why those funds are not being used for playground equipment.

Mr. Voelckers asked for the feasibility of funding the unscheduled funded projects on the list.

Mr. Jones answered that the unscheduled funding requests are made to both federal and state agencies. Absent any funding coming through from state and federal agencies none of these projects will happen, said Mr. Jones. For any of these projects to take place the funding must be identified and separately approved by the Assembly, said Mr. Jones.

Mr. Watson said he would really like to see the Lemon Creek plan move ahead. He said he feels the area has been neglected, and that it is time that it be given attention.

Chairman Satre said he concurred with the comments of Mr. Watson regarding the importance of the Lemon Creek plan. He said he recognized that it did not make the top five priorities of

funding this year, but that he felt it was a mistake. He said he felt the area project plan needed to be prioritized and funded immediately.

Mr. LeVine said he was going to abstain from a vote on the CIP list since he did not have enough background on the projects to make an adequate determination.

MOTION: *by Mr. Peters to approve CSP2015 0006 as presented.*

ROLL CALL VOTE:

Yeas: Voelckers, Jackson, Haight, Peters, Satre, Watson

Nays:

Abstention: LeVine

The motion passed.

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

X. BOARD OF ADJUSTMENT

VAR2015 0011:	Request to reduce the side yard setback from 10 feet to 4 feet to construct home
Applicant:	Nathan Overson
Location:	9043 Lupine Lane

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **deny** the requested Variance, VAR2015 0011.

Ms. McNally told the Commission that in the D5 zoning district the applicant is proposing the construction of a 1260 sq. ft. addition to the front of their common wall residence. She said aside from not meeting all of the criteria necessary for this variance, that the neighbor objects to the proposal because they believe it will reduce the value of their property.

For staff to be able to recommend approval, said Ms. McNally, all six criteria must be met. The variance does not meet criteria number One, Two, Five or Six, said Ms. McNally. Criterion One calls for the relaxation applied for, or a lesser relaxation specified by the Board of Adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Adjoining properties meet the required setbacks. A variance would be required on these lots to build within four feet of the side yard lot line. Therefore, if the side yard setback were reduced to four feet it would not be consistent with justice to other property owners, stated the staff report.

She reported that Criterion Two was not met because the adjoining property owner protested the variance request.

Criterion Five was not met, said Ms. McNally, because the addition could be built within the required setbacks. She said there are no unique physical features of the property which would make adhering to the required setbacks unreasonably expensive. There are no nonconforming pre-existing conditions on the parcel, she added.

Criterion Six was not met because there are no perceived benefits to the neighborhood if the variance were to be granted, said Ms. McNally.

Commission Comments and Questions

Mr. Voelckers asked why Criterion Three was met when there is a letter from the adjoining owner stating that authorization of the variance would injure his nearby property.

Ms. McNally responded that she was addressing more the drainage issue of the adjoining property and not the value being affected. Once the materials had gone out to the Commission, Ms. McNally said she did receive a letter from a realtor stating that authorization of the variance would significantly affect the value of the neighboring property. Had she received this letter in time, she would have adjusted her report accordingly, she said.

Applicant

Applicant Nathan Overson said the main purpose he was requesting the variance was for the purpose of affordable housing. This would be the most cost effective way to expand their living space, he told the Commission. He said all of the adjacent properties do have a five foot setback for their side yards, and that he was not asking for any more than that. Even though he had asked for a four foot side yard setback, he said he was willing to construct in accordance with a five foot side yard setback.

Mr. Overson said there are drainage issues on the property which should help meet Criterion One. It would be an additional financial burden, said Mr. Overson. He said the primary concern as expressed to him by the neighboring property owner was that the neighbor's door faced the applicant's side yard. He said he planned to build a large privacy fence to deal with that problem.

In answer to Criterion Two not being met, Mr. Overson said a similar variance for dwelling on Parkwood Drive was granted by the Planning Commission in 2013. This variance allowed for both a side yard and a front yard setback variance, he added. He also quoted the Code of Ordinances which stated if a lot was substandard in size that the side and/or front yard setbacks could be reduced.

In answer to Criterion Five which was not approved, Mr. Overson answered that he could build within the required setbacks, but that the size of his dwelling would subsequently be smaller. It would also cause additional financial burden to build within the required setbacks, said Mr. Overson.

In answer to Criterion Six which stated that no identifiable benefit could be identified for the variance, Mr. Overson stated that any time the value of one property rose, that it lifted up the value of other properties within the vicinity.

Public Comment

Realtor Joann Birt spoke in favor of the neighbor's protest against the variance. She said the entry to the neighbor's home faces the side yard, as well as the only windows in the home. Because of how the neighbor's property is positioned, granting of the variance would negatively impact the value of his property, she said.

Ms. Birt said she did not understand why the applicant did not build out from the other half of his duplex. That portion of the duplex is located on the corner, she said.

Commission Comments and Questions

Mr. Haight asked the applicant to identify the location of the poor drainage on his property.

Mr. Overson showed on the map that it was towards the front of his property near the road.

Mr. Haight asked why Mr. Overson proposed to build on the side of his duplex near the neighboring property rather than the side of his duplex which is not adjacent to another property.

Mr. Overson said one of the reasons was because he did not want to displace his current tenant, and that the side he proposed to build on faced a cul-de-sac rather than a busier street.

Mr. Haight asked why the applicant felt he needed to build beyond the allowable setback.

The applicant responded that this is the amount of addition that his family needed for their residence.

Mr. Watson asked if there was a slope from on the side yard from the neighbor's property to the applicant's property.

The applicant responded that there was a slope in the property.

MOTION: *by Mr. Voelckers, that the Commission adopt the analysis and findings of the staff and deny approval of VAR2015 0011.*

In support of his motion, Mr. Voelckers said the applicant had already been allowed substantial relief in the width reduction of the property. He added that he did not see any compelling site criteria that would normally form the basis of a variance such as a steep grade or cliff, for example.

Roll Call Vote:

Yeas: Voelckers, Jackson, Haight, LeVine, Peters, Satre

Nays: Watson

The motion passes.

VAR2015 0009:	Variance extension request for VAR2013 0017 to reduce the 20 foot front-yard setback to 1 foot for construction of a single family home with a two car garage.
Applicant:	Bern Savikko and Wendy Marriott
Location:	0 1 st Street

Mr. Voelckers recused himself from this item due to a conflict of interest.

Staff Recommendation

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance extension, VAR2015 0009. The Variance permit would allow for an 18 month extension of VAR2013 0017, a Variance to reduce the 20 foot front yard setback requirement to one foot to allow for the construction of a single family residence.

The front line of the property lies along First Street in Douglas, said Ms. Eddins, and the back lot line lies along Gastineau channel. Title 49 does not require a rear yard setback for property that lies against tidewater, said Ms. Eddins.

The variance extension request meets all of the requirements, said Ms. Eddins. The Commission is allowed to grant up to two 18 month variance extensions, she said. This would be the first variance extension request for this property, she said.

If the Commission did recommend denial of the variance extension, said Ms. Eddins, then the applicant would have to resubmit their variance request as if it was a brand-new case.

Commission Comments and Questions

Mr. LeVine asked for clarification as to under what conditions the Commission could deny the variance extension.

Ms. McKibben responded that if an event has occurred which led the Commission to believe the variance extension should be denied, then it could deny the extension.

Mr. LeVine clarified that the Commission need not grant the extension even though all the conditions have been met.

Ms. McKibben said her understanding is the Commission could deny the extension if they deem that the applicant did not submit a sufficient justification for the extension.

Applicant

Bern Savikko, the applicant, said they are working diligently to build upon their property.

Public Comment

Neighbor James Skrzynski said he had submitted a written protest to the proposed variance extension, but that he has since come to an agreement with the applicant and that he withdrew his protest.

MOTION: *by Mr. Peters, that VAR2015 0009 be approved with the acceptance of the staff's analysis and findings, and he asked for unanimous consent.*

The motion was approved by unanimous consent.

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

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

- Notice of Protest for AME2015 0001
- Notice of Protest for AME2015 0005
- Notice of Protest for AME 2015 0002

Ms. McKibben explained that it was a month ago that the Planning Commission considered the rezone requests for the above three items. She explained that AME2015 0001 was a request to rezone Industrial to Mixed-Use, and AME 2015 0002 was a request to rezone from D5 to a mixture of Light Commercial and D18, and AME2015 0005 was a request to rezone Waterfront Industrial land to Industrial land. These properties are in the area of the rock dump.

The Planning Commission recommended denial for all three requests, said Ms. McKibben. All three applicants have provided a notice of protest which means that the Assembly will hear their cases. The Assembly could potentially approve the requested rezones or affirm the Planning Commission's recommendation for denial, she said.

Chairman Satre noted that this is not a new process but going back to how these requests by applicants were handled previously.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Subdivision Review Committee

Mr. Voelckers reported that they are on the home stretch. They have identified a few difficult issues, and have a final draft which hopefully will be presented before the Planning Commission at the May 26, (2015) regular meeting.

Title 49 Committee

Mr. LeVine reported that the Committee met and continued its review on the childcare ordinance.

Public Works Committee

Mr. Watson reported that the One Percent for Art which amounts to over \$500,000 made a presentation to the Public Works Committee. Their presentation will be forwarded to the Assembly, he said. The Director of Public Works and Engineering presented his concerns on the rock dump re-zoning request that was recently denied by the Planning Commission. Mr. Watson said there had been encouragement from members of the Public Works committee to appeal the Planning Commission decision.

Marijuana Committee

Chairman Satre reported that the Marijuana Committee met this past week and had a constructive teleconference with a Colorado city regarding implementation of Colorado's marijuana laws. The Committee is currently focusing on the development of planning and zoning regulations and Title 49 amendments which need to be made, said Chairman Satre. They need to determine where in the Borough they want the various facilities to be located, said Chairman Satre.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Voelckers asked what kind of filter process exists within the department to prioritize what items come before the Commission for action. He said to him the variance extension seemed to be a very low priority item to be on the agenda for action by the Commission. He asked if there is a threshold to be determined or if all variance requests came before the Commission.

The process is available to the community, said Mr. Hart. They discuss with the applicant if they do or they do not meet criteria, he said.

The applicants always have the right to apply, said Ms. McKibben. In some cases even though they have been told they may not meet all of the criteria, they still may choose to bring the request before the Commission, she said.

Mr. Jackson, who has accepted a position outside of Juneau, told the Commission his time on the Commission has been extremely rewarding. He said this is one of the most professional bodies he has ever served upon.

V. ADJOURNMENT

The meeting was adjourned at 8:48 p.m.