

MINUTES

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

March 10, 2015

I. ROLL CALL

Mike Satre, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:02 pm.

Commissioners present: Mike Satre, Chairman; Dennis Watson, Vice Chairman; Bill Peters, Michael LeVine, Ben Haight, Nicole Grewe, Gordon Jackson, Paul Voelckers, Dan Miller

Commissioners absent:

Staff present: Hal Hart, Planning Director; Beth McKibben, Planning Manager; Chrissy McNally, Planner I, Jonathan Lange, Planner II, Allison Eddins, Planner I, Gary Gillette, Port Engineer, Docks and Harbors

II. APPROVAL OF MINUTES

- February 10, 2015 – Planning Commission Committee of the Whole Meeting
- February 10, 2015 – Regular Planning Commission Meeting

MOTION: *by Mr. Miller, to approve the February 10, 2015, Regular Planning Commission meeting minutes and the February 10, 2015, Planning Commission Committee of the Whole meeting minutes with any minor modifications by any Commission members or by staff.*

The motion was approved with no objection.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT - None

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

Mr. LeVine asked that Item A (CSP review of Glacier Highway Pavement Rehabilitation from Lena Cove to Tee Harbor State Project #67564) be removed from the Consent Agenda and placed on the Regular Agenda for purposes of discussion.

VAR2015 0003: Variance request to work within 330 feet of an eagles nest for the
 Glacier Highway Pavement Rehabilitation Project #67564.
Applicant: State of Alaska
Location: Glacier Highway from Lena Cove to Tee Harbor

Staff Recommendations

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2015 0003. The Variance permit would allow for road rehabilitation within 330 feet of active Bald Eagles nests along 1.5 miles of Glacier Highway, beginning at Lena Loop Road and ending at Point Stephens Road. After reviewing the Eagle Take Permit conditions mandated by USFWS (See Attachment F), staff has determined that no additional conditions are necessary.

CSP2015 0001: CSP review of Glacier Highway Pavement Rehabilitation from Lena
 Cove to Tee Harbor State Project #67564.
Applicant: State of Alaska
Location: Glacier Highway from Lena Cove to Tee Harbor

Staff Recommendations

Staff recommends that the Planning Commission adopt the findings in this staff report and recommend to the Assembly that CSP2015 0001 is consistent with adopted local plans and policies, as required by CBJ 49.15.540 and AS 35.30.010.

Staff further recommends that two advisory conditions be placed on the finding of consistency in order to provide all possible notice to the applicant and the project contractor that a construction noise permit will be required for heavy equipment work during night-time hours as provided at CBJ 42.20.095(b) and that notice of any street closure must be provided to both JPD and CCF/R.

Advisory Conditions:

1. CBJ 42.20.095(b) Construction of buildings and projects. It is unlawful to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or similar heavy construction equipment, before 7:00 a.m. or after 10:00 p.m., Monday through Friday, or before 9:00 a.m. or after 10:00 p.m., Saturday and Sunday, unless a permit shall first be obtained from the City and Borough of Juneau Building Official. Such permit shall be issued by the Building Official only upon a determination that such operation during

hours not otherwise permitted under this section is necessary and will not result in unreasonable disturbance to surrounding residents.

2. At least three business days prior to any traffic revision or road closure of any public street or portion thereof, the contractor shall provide written notification of the traffic revision plan to the CBJ Fire Marshall and Chief of Police. Failure to provide such notice may result in suspension of any CBJ-issued permits for such work, and is punishable by fine as an unlawful street closure under CBJ 72.17.010.

CSP2015 0002: A City Project review for an expansion of the Southeast Alaska Food Bank on leased City owned land.
Applicant: City and Borough of Juneau
Location: 10020 Crazy Horse Drive

Staff Recommendations

Based upon the proposed plan (identified as Attachments A and B), and the findings and conclusions stated above, the Community Development Department Director recommends the Planning Commission **RECOMMEND APPROVAL** to the Assembly for the request.

MOTION: *by Mr. Watson, to approve Consent Agenda Items B., VAR2015 0003; C., CSP2015 0001; D., CSP2015 0002 with staff's findings, analysis and recommendations, and asked for unanimous consent.*

The motion was approved by unanimous consent.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

VAR2015 0002: A Variance request to dredge and reconstruct the southern portion of Douglas Boat Harbor within 330 feet of an eagle nest located on Mayflower Island.
Applicant: City and Borough of Juneau
Location: 115 Dock Street

Staff Recommendations

It is recommended that the Board of Adjustment adopt the Director's analysis and findings and **APPROVE** the requested Variance, VAR2015 0002. The Variance permit would allow for the renovation of Douglas Harbor within 330 feet of an eagle nest on public land. The permit would be subject to the following advisory condition:

1. Hours of operation shall comply with CBJ § 42.20.095(b) *Construction of buildings and projects*.

Mr. Haight stepped down from discussion and action on this item.

Mr. LeVine said that he understands this is an extension of a variance which has been granted in the past. He said that his first question is in reference to the conditions based upon the variance. The variance in the past had conditions placed upon it where this time the variance has no conditions placed upon it, said Mr. LeVine. Since there are no conditions placed this time he said he was interested in the staff's confidence in the conclusion that the eagles would come to no harm due to the construction activity. His second question was that based upon the fact that the City had applied for a Fish and Wildlife Service permit if the City should grant a variance before the Fish and Wildlife Service permit had been granted.

Ms. McNally said they had typically relied upon the Fish and Wildlife Service to guide them in their approval of variances for eagle nests. She said in review of this particular variance that she did speak to the Fish and Wildlife Service and she did speak with Fish and Game, and was told that the conditions applied to the two previous variances do not apply to the eagle nest but to anadromous streams. She added that the City does not have the ability within its department to enforce Fish and Wildlife Service conditions. They do rely on the Fish and Wildlife Service permit for the protection of eagles, said Ms. McNally.

Mr. LeVine clarified that the City is not first required to obtain a Fish and Wildlife Service permit.

Ms. McNally verified that this was so.

Mr. LeVine asked on what conclusions in the report was it based that the eagles would not be harmed.

Ms. McNally responded it was based upon the advisory conditions that the City is able to enforce. She added those were the restriction of the hours of operation.

Mr. LeVine said while he is not particularly concerned about this particular pair of nesting eagles, that he is concerned about the assertion that these eagles will not be harmed based upon no actual information to make that judgment. Making the assertion that there are not funds available to protect the eagles is not the same thing as saying they are not going to be harmed, said Mr. LeVine.

Mr. Gillette said they were told it could take about 90 days to obtain the Fish and Wildlife Service permit they have applied for. They will have to abide by whatever conditions are on that permit for the project, he said. Fish and Game does not require a permit for the nesting eagles, he said. He added that it is unclear whether the City has the authority to issue any conditions relative to protections of the eagles.

Mr. Voelckers asked if there was any practical possibility that pile would be driven between 7:00 p.m. and 10:00 p.m. in the evening.

Mr. Gillette responded that it is stipulated in the Ordinance that work can be done between 7:00 a.m. and 10 p.m.

MOTION: *by Mr. Watson, to approve VAR2015 0002 accepting staff's findings and recommendations, and asked for unanimous consent.*

The motion was approved by unanimous consent.

X. **BOARD OF ADJUSTMENT** - None

XI. **OTHER BUSINESS** - None

XII. **DIRECTOR'S REPORT**

Ms. McKibben reported that reviewing the eagle variance process is on the staff's list of projects to review. Ms. McKibben said that she and Ms. Camery have worked with the Fish and Wildlife Service and have some draft language to bring to the Title 49 Committee. That will come before the Title 49 Committee when Fish and Wildlife Service staff are available to attend a meeting.

Next Tuesday (March 17, 2015) a Title 49 Committee meeting is scheduled to discuss childcare, said Ms. McKibben.

Mr. Hart announced that Ms. McKibben has been promoted to Planning Manager.

In April Mr. Hart said they would like to bring Sue Douglas before the Commission to discuss senior housing.

The Auke Bay Plan should be adopted next week, said Mr. Hart. The next step will be implementation of that plan, he added. One thought is a public-private partnership involving financial contribution by developers, said Mr. Hart.

Chairman Satre said he is glad to see progress being made on the eagle's nest ordinance because it is badly needed.

Access to Planning Commission and Community Development Department information is now terribly difficult to find on the CBJ website, said Chairman Satre. He said it has been changed and hopes that this is simply a part of a process and that it will be remedied soon. He added this is a big hindrance to imparting information to the public.

Ms. McKibben responded that she believes this may be part of a new process of uploading staff reports to the website.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Commission on Sustainability and Wetlands Review Board

Mr. Haight said there will be a meeting tomorrow (March 11, 2015) with The Commission on Sustainability followed by a Wetlands Review Board meeting on Thursday night (March 19, 2015).

Public Works and Facilities Committee

Mr. Watson said the Public Works and Facilities Committee met on Monday (March 2, 2015). It listened to a presentation by a representative from AEL&P on the electrification for certain locations around the community for electric cars. There is a small City paving project in the McGinnis subdivision. One small portion which was under contention will remain unpaved, said Mr. Watson.

Lands Committee

The Lands Committee met last week, said Mr. Peters, and the bulk of the meeting was spent discussing the parcel of land in the back of Lemon Creek. It was decided to move that project forward to the Assembly for full consideration, he said.

Subdivision Review Committee

The subdivision Review Committee is scheduled to meet next week, said Mr. Voelckers, and it was scheduled to discuss PUD's (Planned Unit Developments) he said, but instead it is going to discuss the amended Subdivision Ordinance.

Marijuana Committee

The Marijuana Committee met two weeks ago, said Mr. Chairman Satre, for an overview of federal guidelines for states and municipalities on implementing legalization of marijuana. They will hold another meeting Thursday night (March 12, 2015). They will be conducting meetings every other Thursday night, said Chairman Satre.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Miller said he appreciated the fresh perspective brought by Mr. LeVine regarding the eagle's nest ordinance issue.

Mr. Miller said to him it was telling that during the joint meeting with the Assembly tonight those Assembly members who had either served on the Planning Commission or who were associated with the housing industry were anxious to implement the Subdivision Ordinance. It will simply take some education for those members who have not already been exposed previously to those avenues, said Mr. Miller.

Mr. Jackson said he found it extremely helpful to sit down and talk with the Assembly face-to-face.

Mr. Peters said he would like to know when the issue of public notice would be brought back to the Commission for discussion.

Chairman Satre explained under questioning for clarification from Ms. McKibben that while the current public notice requirement is met there are instances where it is inadequate, and the question is how should those needs be met.

Ms. Grewe suggested this be deferred to the Title 49 Committee and that public notice requirements from neighboring communities such as Ketchikan and Sitka be reviewed as well. She added that the current written public notice should be reviewed and new ways of issuing that notice be considered.

Mr. Voelckers said that as he recalled from work with the wireless ordinance that different types of functions called for different types of notice. Identifying the parties in circumstances when they could be affected 15 miles down the channel could call for different types of notice, he said.

XV. ADJOURNMENT

The meeting was adjourned at 8:07 p.m.