

**SPECIAL ASSEMBLY MEETING
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Meeting Minutes - June 11, 2015

MEETING NO. 2015-18: The Special Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 5:00 p.m. by Mayor Merrill Sanford.

I. CALL TO ORDER / ROLL CALL

Assembly Present: Mary Becker, Maria Gladziszewski, Loren Jones, Jesse Kiehl, Jerry Nankervis, Merrill Sanford, Kate Troll and Debbie White.

Assembly Absent: Karen Crane.

Staff Present: Kim Kiefer, City Manager; Rob Steedle, Deputy City Manager; Amy Mead, Municipal Attorney; Laurie Sica, Municipal Clerk; Robert Palmer, Assistant Attorney; Hal Hart, Community Development Director; Beth McKibben, Planning Manager; Teri Camery, Senior Planner; Rorie Watt, Engineering/Public Works Director.

II. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

III. AGENDA TOPICS

A. Rezone Process

The Assembly reviewed the Law Department memo on process from Ms. Mead.

Ms. McKibben provided a presentation on how a request for rezoning occurs. She said that a rezone must substantially conform to the maps of the comprehensive plan. Mayor Sanford said the comprehensive plan was broad. What took precedence, the plan or the maps? Ms. McKibben said Title 49 was specific and called out the maps as taking precedence.

She said when a request for a rezone was submitted, the CDD staff scheduled a neighborhood meeting to take public comment and then provided a staff report to the Planning Commission for consideration. A rezone had to be reviewed with the idea in mind that any use in the spectrum of uses listed in the Table of Permissible Uses in the requested zoning designation could be developed on the property subject to rezoning. The Planning Commission heard all information, and either recommended approval or denial to forwarded the matter to the Assembly.

B. Planning Commission Minutes - April 14, 2015 (DRAFT)

The draft minutes of the April 14, 2015 Planning Commission meeting were provided to the Assembly for review, as all three rezoning requests on the agenda were heard by the Planning Commission at that meeting.

C. Protest of Planning Commission's Recommendation to Deny a Request to Rezone Tract B1 of USS 1568, Located at 7400 Glacier Highway.

Beth McKibben provided a staff report on AME2015 0005, saying that the request was to rezone 19.71 undeveloped acres from Residential D-5 to a mix of Residential D-18 (12.71 acres) towards the back of the lot and LC (Light Commercial) towards the Glacier Highway frontage. The CDD staff recommended the property be rezoned to D-18, and the Planning Commission denied the request in order to maintain D-5 zoning.

She showed an aerial photo of the area with an overlay of the current zoning in the area and the comprehensive maps showing the Medium Density Residential (MDR) designation of the property and area, with Urban Low Density Residential behind it. She read the definition of MDR: "These lands are characterized by urban residential lands for multifamily dwelling units at densities ranging from 5 to 20 units per acre. Any commercial development should be of a scale consistent with a residential neighborhood, as regulated in the Table of Permissible Uses (TPU) (CBJ49.25.300)." The staff recommendation was for D-18. The TPU allows some commercial uses in D-18 and they are low in intensity. Light Commercial allows for up to 30 units per acre and a wider variety of commercial uses, some not consistent with a residential neighborhood. The Planning Commission, based on public testimony, recommended D-5 and therefore recommended denial of the rezone request.

Mr. Jones asked if there were any guidance regarding access. Ms. McKibben said that through the subdivision process, a right of way access is required to provide access to large unsubdivided tracts of property. In this case, if this piece is subdivided, that type of access would be required to be provided to future development to adjacent parcels. Regarding access onto Glacier Highway, the CDD staff sought comments from DOT, but DOT preferred to reserve its comments to specific developments rather than rezone proposals, due to the variety of uses that could take place within a zoning designation.

Richard Harris spoke about his request for a rezone and his protest of the Planning Commission's recommendation for denial. He said the Comprehensive Plan was a guide. He said the actual numeric density of a district was not the deciding factor. It stated LC zoning should be adjacent to residential uses. Many of the uses in the LC were controlled by the Conditional Use Permit process, not the zone change process. The Assembly and PC should aim towards developing land to its highest and best use. He said his plan substantially fit within the confines of the comprehensive plan and maps. D-5 would not be a good use of the property to get affordable housing as the lots would be too large and the homes would need to be more expensive, similar to Mr. Duran's development next door. He showed the nearby D-18 lots and commercial businesses within a half mile of each direction of the subject property on a map, and he predicted further future subdivisions, as the area was underdeveloped. It was very common in the area to have commercial development in the front of a property. The Comprehensive Plan stated in Map G, the lower east Mendenhall Valley sub area 4 should be utilized for light commercial and higher density mixed use type developments. He referenced several sections of the Juneau Economic Development Plan, including that Juneau should ensure "...an adequate supply of appropriately zoned land is available for commerce, and industry, as well as residential development." There is not enough residential or commercial land available in Juneau as stated in the plan, and the number one concern in the household community survey was affordable housing. Employers had the same concern and added a concern about the lack of availability of land for commercial development. D-18 was a great residential zoning, and light commercial on the front where there is more noise from traffic was

appropriate and could provide nice projects. The Assembly and committees have done studies and have requested help to implement the plan and he was trying to help by providing development.

Mr. Jones asked what kind of development was allowed in D-18 zoning and what different type of development was anticipated in the request for LC in the front. Mr. Harris said LC would allow for mixed use development - he liked low level commercial and offices, etc. in the front with higher density multi-storied housing in the back. He did not have specific plans but the benefits were lot size and it would allow him to create different types of housing.

Ms. White asked about the number of units and said there were a lot of boggy wet spots and she asked how much property would be excluded from developable areas? Mr. Harris said the Corps of Engineers showed a majority of this property as wetlands, which was another reason he was asking for higher density. The 98 units could be fit within 3.25 acres of commercial ground. In D-18 there could be 98 units in 5.5 acres. There would be a lot of extra land that could be utilized as buffers to lessen the impact, but that would not be obtained with D-5 zoning.

Ms. Gladziszewski said MDR in the land use maps allowed 5-20 units per acre and LC allowed 30 units, so the LC zoning by definition did not fit in MDR. Mr. Harris said that case had been previously decided, that MDR was not meant to have a density designation as a deciding factor, in the matter of AME2013 0003 on Atlin Drive.

Ms. Troll asked why D-10 was not acceptable. Mr. Harris said the cost of the roads were significant and if more housing could be compacted into a smaller area he could develop at a lower cost which resulted in greater affordability. Mr. Harris said he had not calculated D-10 but D-15 - D-18 was generally the ballpark to make things work.

Mr. Nankervis asked how much of the 19 acres were wetlands and Mr. Harris said approximately 12 acres. The property was currently being delineated.

Mr. Kiehl said he was a no vote on the previous case cited and said he still had some concerns about incompatible uses in LC zones with MDR. D-18 allowed a number of commercial uses that might be compatible and asked if any of those were allowed in D-15. Mr. Harris said D-18 was necessary for commercial use. Mr. Kiehl said the zoning in the area seemed to be a patchwork and in that context, the Chair of the PC said "there was no buffer big enough to fix a zoning mistake," and he asked about how potentially incompatible uses could be mitigated. Mr. Harris said that could be addressed through the conditional use process, when a project was brought forward, and that was when the decision about whether or not a specific development fit into an area. A zone change was giving a general a direction of how the area was headed. D-5 was an old designation and did not pencil out in Juneau today. He said he was trying to make the property work.

Ms. Becker asked how many units could be developed with D-18 zoning. Mr. Harris said roughly 400 but the controlling factors were the topography, parking, wetlands and other factors, so that number was generally reduced. It was not possible to condense housing due to wetland factors in D-5 - only in D-18. Mayor Sanford asked Ms. McKibben to confirm that and she said yes.

Public Comment:

Joseette Duran said she and her husband Marciano were developing the Vista del Sol subdivision next to this parcel and she supported increased housing and commercial space, but were opposed to this rezone request. Spoke about the fact that much of Juneau's lands did contain wetlands and she thought the Assembly would open a can of worms by approving rezones just because developers can not achieve maximum density. In this case this would quadruple density. There were ways to develop this parcel to achieve maximum density through off-site mitigation and the Planned Unit Development code section allowed for on-site preservation of wetlands and a mixture of residential types with no minimum lot size and lesser street standards, which was achievable without the impact to the neighborhood. They developed Vista Del Sol at less than D-5 to preserve the existing neighborhood. D-5 opened rentals by allowing people to buy homes. Commercial space was not compatible with D-5 neighborhoods. She said the applicant sketch did not provide a buffer or shield and a prior rezone near Fred Meyer's from D-5 to D15 required a 200 foot buffer during the Assembly rezone process. The Comprehensive Plan encourages maintenance of the density of existing neighborhoods.

Marciano Duran thanked the Assembly for the focus on increasing housing in the community. This parcel could be developed at a D-5 and they had made it work next door. There was a demand for D-5 housing types and if this property was rezoned it would create a bigger mess and they had people waiting for homes that had front and back yards, and D-18 did not work in this area. Developers had an obligation to not sit on property and to develop the property when there was a need. The highest use of the property was not necessarily the best.

Ms. Gladziszewski asked what about this parcel made it inappropriate for D-18 in the area since it was on the bus line and had sewer and water. Mr. Duran said there was a potential for 400 units and that was a tremendous amount of traffic and that would be difficult to combine with commercial traffic. Adding 400-500 cars would not reduce the vehicle noise.

Ms. Becker asked if the homes he had built were affordable. Mr. Duran said that was debatable. Ms. Becker said she believed \$250,000 was the level of affordability and he said that their houses were more expensive but they would open up other housing when people moved into their homes.

Mr. Jones asked about the wetlands and Mr. Duran said they ran into that problem but developed their lots at 7000 sf. per lot.

Doug Wesley said he knows there is a need for high density housing but also a need for housing with larger lots. He and his wife had been exasperated in trying to find a place to live after being in the community for a year. They decided to buy a home on the tract next door and he said there was a need for D-5 housing as any home for sale on Craig's List was bought before a call could be made. He said there needed to be housing type options.

Roger Sams said he had lived near the property in question for 40 years. He was opposed to the projected project at the density level requested. D-5 was appropriate and he could not imagine the traffic and congestion problems with the type of housing units discussed whether 300 or 500 units. The neighbors in the area were long term residents and he was concerned with his status quo.

Dave Hanna said Mr. Hart and the Planning Department had done an excellent job encouraging development over the past few years and they had been very thorough. The Planning Commission was correct to say that the current zoning should stay in effect. There was a need

for more development in the D-5 area and Juneau needed more stand alone single family homes. D-10 sf may also be appropriate, but there was not need for commercial property on this parcel with Walmart on one end and Fred Meyer on the other. LC was the least restrictive zoning in this area and this neighborhood does not need a liquor store, or 400 apartments. We have reached the point in this community for getting development in place and we don't need to push it further and we should support the Planning Commission on this issue.

Mr. Jones said the Auke Bay plan looked at the problem of the hodge podge of zoning, and looking at this roadway, would this area be a candidate for this type of review considering all of the uses in the area. Mr. Hanna said it would be appropriate to look at and maybe include it in the Lemon Creek planning.

Ms. Gladziszewski said the staff recommended D-18 and the PC did not. Mr. Hanna said yes, there were caveats and he thought D-18 was inappropriate due to neighborhood incompatibility and the need for more D-5 housing.

Ms. Troll asked about a traffic analysis and Ms. McKibben said that action would take place when a development permit application was expected to generate more than 500 trips per day and was only triggered with a development permit application and not a rezone request.

Ms. White said that almost everything in LC required a conditional use permit (CUP) so wouldn't that allow review for neighborhood compatibility. Ms. McKibben said a CUP required findings for neighborhood compatibility, however it would be difficult for the PC to deny a CUP and to make findings that an activity was not compatible and in her time at CBJ she had not seen this finding made and so the Planners considered that any one of the uses in the TPU could take place.

Mr. Jones asked if there were significant wetlands and the property was developed at D-5, how could the density be moved around. Ms. McKibben said if there was one acre zoned D-18 and 18 units per acre, and half was in wetlands, all 18 units could still be put on the one acre, but setbacks, parking and rights of way and height would still be a factor. In D-5, a one acre lot would equal one home, and to get the maximum density the lot has to be subdivided into lots of 7000 s.f., so it was more challenging to concentrate the density into a smaller area. D-10 s.f. have a minimum lots size of 3600 s.f., so that is more flexible. Ms. McKibben said that in the single family zoning districts it was more challenging because the minimum lot sizes needed to be maintained. Montana Creek West was an example of a Planned Unit development. It was zoned D-3 and they were able to set aside a large area of wetlands for conservation and built single family homes and duplexes on smaller lots than what D-3 zoning generally allows.

Assembly Action:

MOTION, by Becker, to forward for introduction an ordinance, directing that staff incorporate the proposed rezone, incorporating language that D-18 and LC be allowed.

Mr. Jones objected to LC being included.

Ms. Becker said Juneau needed more homes and more jobs and putting in commercial businesses in the area would bring in more workers and more jobs..

Ms. Troll objected and said it was hard to say LC was compatible with MDR and this would set a precedent and the need was not worth the precedent of such an incompatible interpretation.

Mr. Nankervis spoke against the motion and said he attended the Planning Commission meeting and heard the arguments and thought the Planning Commission ended up with the right decision. This would be a 25% increase in average daily trips in the area. The neighbors stated that was a significant increase. This was the wrong spot to go to LC and D-18 and he referred to the zoning map.

Ms. Gladziszewski spoke against the LC zoning in MDR.

Mr. Keihl said there were several incompatible uses in LC but disagreed with Mr. Nankervis that this would be an inappropriate place for increased density. He could not support the motion with LC included.

Ms. White said the property was surrounded by light commercial uses, we have the comp plan saying one thing but the economic plan and housing plan telling us to increase our density everywhere on public transit. If we can't do it here, surrounded by other commercial uses and an airport, why spend money on plans if they conflict. She said LC development would be subject to the CUP process and she favored the motion.

Mayor Sanford supported higher density residential to D-18 but did not support the commercial development.

Mr. Jones said there were commercial developments in the present zoning districts presently so he thought this should stay D-5.

Roll call:

Aye: Becker, White.

Nay: Jones, Gladziszewski, Kiehl, Nankervis, Troll, Sanford.

Motion failed, 2 aye, 6 nays.

MOTION, by White, to direct staff to draft an ordinance for introduction to rezone the property to D-18 only with no LC, based on the CDD staff recommendation and that MDR allowed 5 - 20 residential units per acre.

Mr. Jones objected and encouraged the Assembly to uphold the Planning Commission's decision.

Ms. Troll said she could support D-10 zoning, but thought D-18 was too intense. We have heard D-5 housing was a need, and should provide for a mix of uses and needs.

There was some discussion about D-10 and D-15 development.

Mr. Kiehl supported the motion to allow the Assembly to consider increasing the density in the area.

Ms. White said CBJ made an investment of water / sewer / transit and there were already two large businesses in a walkable area and the Assembly should increase density in this area to the highest extent possible.

Roll Call:

Aye: Becker, Gladziszewski, Kiehl, White, Sanford

Nay: Jones, Nankervis, Troll
Motion passed, 5 ayes, 3 nays.

- D. Protest of Planning Commission's Recommendation to Deny a Request to Rezone Lot 5 Block B Alaska Juneau IV-11; Lot 10 – 15 Block B Alaska Juneau V; and Lot 2 Block A Alaska Juneau IV-11, Located on Mill Street and Eastaugh Way.

Beth McKibben provided a presentation of the request to rezone in AME 20150001 from Industrial to Mixed Use (MU). The CDD staff and the Planning Commission recommended denial of the request.

The comprehensive plan indicates that the property in the area is designated HI Heavy Industrial, and residential, office, retail and personal service uses are not to be allowed, except that residential caretaker facilities could be permitted. She read the MU designation from the code. Residential in MU was allowed at 60 units per acre. MU required no setbacks and no height restrictions. MU allowed a variety of uses and HI specifically excludes many of those uses. MU zoning did not conform with the maps of the comprehensive plan.

Mayor Sanford asked if residential was done in some industrial areas above the industrial use and Ms. McKibben said yes, it happened, but the comprehensive plan and zoning code did not provide the tools to accomplish that.

Mr. Jones said the applicant sought general commercial but was told by staff to pursue mixed use and asked for an explanation. Ms. McKibben described general commercial designations and provided the developmental standards, stating that 50 residential units per acre were allowed in GC.

Ms. Becker asked about housing already allowed in the area. Ms. McKibben said that Industrial zoning allowed one caretaker per lot but there may be non-conforming uses in existence throughout the borough.

Ms. Gladziszewski asked if the primary unit was boat storage, if an apartment could be above each lot and Ms. McKibben said each unit would need to be on an individual lot.

Errol Champion said he was asked by the owner/developer of this property how he could do something about housing in this area in the downtown core. They sought a zone change to general commercial and provided a power point presentation showing an number of examples of living accommodations above storage units and said this was a trend. They were encouraged by CDD staff that GC might be too far from Industrial and changed the request to MU. They were denied in their application. Mr. Champion said that Alaska was one of 11 non-disclosed states so it was difficult to find information about sales. He recapped a three year history of MLS sales. He spoke about the popularity of condo development. He showed a picture of one of the two buildings already on Lot 2 of the subject site. He said with a former print shop and a rock climbing wall on the "Rock Dump" location, it was becoming a commercial development area. He showed several slides of the type of development that the owner of the lot was interested in developing. He said the reality of the Rock Dump to be used as a major industrial area was limited and potentially unobtainable. Affordable housing units were needed downtown, and the taxable value would increase to the community. He supported a GC or MU designation.

Ms. White stated a conflict of interest because her adult son worked on the construction of the buildings under discussion. Hearing no objection, Mayor Sanford excused Ms. White from the discussion.

Public Comment:

Jake Manala, works for Alaska Marine Lines in the area and was very concerned about the potential restrictions his business would face if the area was rezoned to MU. There were currently complaints about industry noise from Douglas Island residents from across the Channel, and he was concerned that adding residential units would lead to people requesting that their business hours be decreased. Their business required timely delivery of freight. He distributed a letter of complaint received from a Douglas Island resident about their business noise, and a picture of the view that residents on the site proposed for rezoning would see, which was a wall of containers. He said eventually someone would ask to have the containers moved for their view, and would complain about their freight noise. Their business handles hazardous materials and explosives safely, but there were regulations regarding distances to inhabited buildings that needed to be maintained. These materials were needed by the mines in the area, which were a large economic engine for the community.

Mr. Jones asked if it was permissible for the Assembly to change this zoning designation to General Commercial, despite the Planning Commission recommendation. Ms. Mead said it could be done with findings to the effect that it was within substantial conformance with Heavy industrial in the comprehensive use map. She said that general commercial allowed single family residential.

Ms. Gladziszewski said that mixed use was more incompatible than general commercial, and Ms. McKibben agreed.

Ms. Becker asked if the freight line would be allowed in general commercial. Ms. McKibben said that she interpreted that the testimony to mean that the impacts of the freight operation would be objectionable to those uses that would be allowed in a MU or GC use, such as a residence.

Ms. Troll asked if the Assembly declined to introduce the ordinance, could the applicant apply for another rezone request for GC. Ms. Mead said yes, in January, the time periods for submitting zoning applications. Ms. Mead said that a comment was made that Heavy Industrial was an outdated description and should be updated. If the Assembly amended the comprehensive plan code to allow different uses in HI or changed the map, that would be enough of a different situation to allow the applicant to submit another request in January, otherwise it would not be a substantial enough change.

Mayor Sanford asked if the Assembly could amend the code to change heavy industrial? Ms. Mead said yes, the Assembly could table this matter and initiate a code change and bring back an appropriate ordinance to do a rezone. The Assembly could rezone independent of an application.

Mr. Jones spoke about the marijuana issue and those type of uses being limited to industrial uses, so if the assembly rezoned the area to something that allowed residential uses, that could be problematic.

Assembly Action:

MOTION, by Gladziszewski, to approve introducing an ordinance to affect this zone change, and requested a no vote.

Ms. Gladziszewski said the PC and staff both disagreed with recommending this change, and there was very little industrial land available in Juneau. People in mixed use have an expectation that their residential rights will be protected and that did not seem like a good expectation for the rock dump.

Mr. Kiehl objected in order to vote no.

Roll call:

Aye:

Nay: Becker, Jones, Gladziszewski, Kiehl, Nankervis, Troll, Sanford

Abstain: White

Motion failed: 0 ayes, 7 nays, 1 abstention.

Ms. White rejoined the meeting.

- E. Protest of Planning Commission's Recommendation to deny a Request to Rezone ATS 556 TR A, Located at 1540 Thane Road

Beth McKibben gave a presentation of the request for rezone in AME2015 0002 submitted by the CBJ Public Works and Engineering Director. The CDD staff recommended approval of the zone change and the Planning Commission denied the request.

The request is to change 4.5 acres from Waterfront Industrial (WI) to Industrial (I) in the rock dump area. She showed a zoning map and aerial photo of the area. The majority of the parcel was zoned Industrial and the ribbon of property along the shore was zoned WI. The property was the site of the Juneau Wastewater Treatment Plant. The Comp Plan designation was Institutional and Public Uses (IPU) and a small part was Waterfront/Commercial/Industrial (WCI). Ms. McKibben reviewed the Comp Plan designation descriptions. She said the dilemma was that IPU was intended to support a variety of public uses. The applicant indicated the purpose of the rezone was to expand public uses that may be permitted in the Industrial district but not in the WI district. She referred to the Table of Permissible Uses and the note "n" which indicated a restriction to water dependent, water oriented or water related. The uses allowed in WI were not as broad as the uses allowed in Industrial. Another factor was that the lot for rezone was split in two different zoning districts and it was challenging to do split lot zoning to designate where the line was drawn between districts. The CBJ owned the property, it was in use as an IPU described designation, and no matter the zoning it would always be used for an institutional public use. The PC decision was based on the scarcity of waterfront lands and this change would result in the only industrial land on the waterfront that was not designated for waterfront use.

Rorie Watt said that when he became the Engineering and Public Works Director, a lot of opportunities and ideas were combined. Juneau was a small town with limited property availability and the Assembly has a goal to find more industrial land. CBJ was trying to provide efficient services and make the best use of the land that exists. The placement of the treatment plant in this location was a 100 year decision. The biosolid project may be a 20 year decision. The piece of land he was most interested in was the area outside of the fence and there is some developable land that could be used. He indicated the land on a projected map. He spoke about the need for areas of

expansion of operations of the treatment plant and said even if this request was not successful, he would never agree to give up that land to a Waterfront Industrial use as some treatment plant manager in the future would need land for another facility into the future. He did not have any waterfront use other than an outfall pipe. In the short run he would like to find a better place to park snow plow equipment in place of the abandoned bridge public works facility. He would like to manage the city's available lands for uses related to the biosolids project. The zoning district followed mean high tide for 100 feet, which was challenging, as it did not follow the property line. He asked the Assembly to take the planner's recommendation in support of this rezone request, that finding made sense. He said he thought the Planning Commission did not believe the matter was timely, but he said that it was, and now he could not apply for another year.

Mr. Nankervis asked why he was asking for Industrial use vs. public use. Mr. Watt said that I was the zoning designation and IPU was the comp plan designation. He did not actually need the whole ribbon, but was particularly interested in the upland area of the property.

Mr. Watt explained a short history of the rock dump. The treatment plant was built in the 1970's. The rock dump was filled tidelands as a result of historic mining operations. The city owned the tideland surveys. He indicated on a map the areas that the Assembly gave to the Docks and Harbors Board to manage. Mr. Lockwood had a lease with the Docks and Harbors and part of the lease was to provide a survey of the leased area, which he had not done, and it got more complicated due to overlapping mineral claims. Everything was CBJ property barring mineral claims, which overlaid much of the rock dump.

Ms. Becker asked for clarification of what portion he was interested in rezoning. He outlined on the map.

Ms. Troll said the PC discussed amending the TPU and the lack of imminent need. Mr. Watt said that the method of achieving his ends was not an issue for him, and it had been suggested to him that modifying the TPU was a worse idea, but he had no opinion on that. Because he spoke about two possible uses for the property the PC may not have felt the need was imminent.

Mr. Kiehl said he could not see what use would not be currently allowed in the present designations, as it appeared that an associated parking lot to a public utility was allowed as a water related use. Mr. Watt said the definitions of water oriented definition did not fit his potential uses. Parking snow removal equipment or the biosolids project were not dependent to the water or related to being on the waterfront. The short term use was snow plowing but the long term use was expanded sewage treatment. He would like to secure and use the land so to make more beneficial use of other CBJ land, such as the former valley public works shop site. Ms. McKibben said that Mr. Kiehl was referring to a code section regarding Coastal Management and the relevant code section was the Table of Permissible Uses. Mr. Watt read CBJ 49.80 regarding the definition of water related/dependent/oriented. Ms. Mead said that all the definitions were somewhat similar, and were included in the discussions on marijuana zoning because she went back to the 1987 code and the concepts with respect to land uses evolved and were splintered into different sections of the code, including in the Coastal Management Plan. The idea of what is water dependent/related had remained the same since the late 80's, and she apologized for the lack of clarity.

Mr. Jones said the entire section should be done or not, not a patchwork. Mr. Jones asked if there was any activity that Mr. Lockwood would be doing that would be in conflict with the industrial zone. Ms. McKibben said moorage was allowed in waterfront and industrial zones, but perhaps some of the upland uses would be affected.

Public Comment:

Howard Lockwood said he was the manager of the Juneau Port Development LLC and handed out a packet of information to the Assembly. He said he was opposed to the zone change to Industrial designation as presented. He has an active lease on ATS 556A, which was signed in 2007 with CBJ and the area was designated WCI at that time. The WCI zoning was needed to construct the harbor and upland development for the mega-yacht (up to 250') harbor, that would be constructed with private capital at no cost to the taxpayers. A change to Industrial zoning would eliminate approximately 54 of the servicable slips out of the 112 in design. In addition, there are two major land title issues that had not been properly addressed to date. The CBJ did not own ATS556A in fee simple title in the same manner that they did the uplands. ATS556A is filled and submerged tideland which lied seaward of the mean high tide 154. ATS556A was granted to the city after statehood under Tideland Patent 224, a municipal preference right and contained a mineral reservation which reserved the gold, silver, lead and zinc to the benefit of the State of Alaska, its heirs and assigns. This property is left open for appropriation and Dr. Roger Eichmann staked 5 mining claims on nearly all of ATS556A sometime in the 1980's. These 5 mining claims were valid and current with annual rents being paid as required to date. Both of these property title equities must be eliminated before anyone can legally do anything with that land. His packet contained more information. He spoke against the rezone. He said when the lease was signed in 2007, the first requirement was to take the survey from 556A and incorporate that into the lease document, eliminating only the city's sewer treatment plant at the time. He showed a state plat showing 556A which showed that ATS556A includes the treatment plant.

Ms. Troll said that the layout of the harbor did not appear to conflict with Mr. Watt's plans. Mr. Lockwood said that there needed to be upland support of the harbor and rezoning would remove 52 - 54 slips that would not be compatible in an industrial zone.

Mayor Sanford asked about the placement of the sewer treatment plant. Mr. Watt said the Assembly gave the Dock and Harbors authority over the land and he understood some was leased to Mr. Lockwood and the sewer treatment plant was not part of that lease. Mr. Watt said there was a long story going back to 2007, the lease was issued to Mr. Lockwood, with several conditions, including the requirement for a survey, easements, permits and starting construction, and those, in his opinion, had not been met and the lease had been extended a few times.

Ms. Becker asked if the area Mr. Watt wants to use is part of the lease. Mayor Sanford said he wants the Assembly to have the lease information when these issues arise.

Ms. McKibben said that private moorage was allowed in waterfront and industrial zones. Mayor Sanford said that the issue was the upland lots and the support services of the harbor uses, which was the big rub.

Mr. Kiehl said the TPU at 9.6 said that marine commercial facilities, including passenger traffic, were not allowed in industrial zoning, so that was the concern. Ms. McKibben said that TPU 9.600, marine commercial facilities, was a 1 and 10.510 and 10.520, private moorage was allowed in WI.

Ms. Mead said there was a provision in the lease that spoke to CBJ's use. After the first 36 months of the lease being signed, in 2010, it allowed CBJ to put on any public facility that did not conflict with the lease holder's plan, but part of the problem in defining the lease area was the survey, which had not been done to define the lease area. The Planning Commission mentioned the mining claim, which I have researched and spoken about with DNR, but they are two different things.

Ms. McKibben said 49.25.110 (f) said that district boundary lines are to follow property lines, streets, etc., as in existence when the maps are adopted.

Mayor Sanford asked when the lease with Mr. Lockwood was up and it was determined to be at the end of this year.

Mayor Sanford suggested letting this go and waiting to see what happened with the lease and let another request come back in January. Ms. Mead said that was possible if that was how the Assembly wished to act. The Assembly had the right to rezone property without concurrence of a property owner and spoke about the options. It was also noted that the CDD Director or Assembly could initiate a rezone.

Assembly Action:

MOTION, by Nankervis, to request staff draft an ordinance to introduce a rezone from WI to I using the CDD staff's findings and recommendations.

Ms. Gladziszewski objected as there seemed to be a lack of clarity about the mining claims and the lease and Mr. Lockwood had been working on this project for several years.

Mr. Kiehl said there were a slew of unanswered questions and a few answers. He was not ready to forward this for approval and he was willing to wait to get answers. He questioned the need, the existence of a snow dump that may be incorrectly permitted and it went too deep. He had concerns about different standards applying to CBJ or private projects.

Ms. Becker asked if there could be answers about the confusion tonight. Ms. Mead said there is no confusion about the mining claims. If you have questions about the lease with Docks and Harbors we can follow up.

MOTION, by Becker, to table the motion until questions could be answered.

Ms. Troll objected.

Roll call to table:

Aye: Becker, Jones, Gladziszewski, Kiehl, White, Sanford

Nay: Nankervis, Troll.

Motion passed, 6 ayes, 2 nays.

Ms. Mead asked for clarity on the questions to be answered and after those were provided, an Assemblymember would need to make a motion to take the matter off the table.

Mayor Sanford said the Assembly needed to see and understand the lease. The Assembly needed to learn what would be affected with Mr. Lockwood's development in the uplands area by such a zone change.

Ms. Troll asked if it made sense to reduce the amount of property to be rezoned to the specific area that Mr. Watt would like to develop.

Mr. Kiehl said he wanted to understand waterfront uses and the standards related to waterfront related, dependent and oriented uses in historical perspective.

IV. ASSEMBLY COMMENTS AND QUESTIONS

None.

V. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 9:00 p.m.

Signed: _____
Laurie Sica, Municipal Clerk

Signed: _____
Merrill Sanford, Mayor