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TO: Planning Commission Committee of the Whole

FROM: Rob Steedle, Director
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CASE NO.: AME2017 0006

SUBJECT: Ordinance 2017-23, Essential Public Facilities

Essential Public Facilities is a concept not previously considered for inclusion in CBJ's land use code. Its purpose is to provide a process for permitting public facilities that typically are difficult to site. Siting an urban campground for transients, a warming shelter, or a sobering center are representative challenges, because they are usually unwanted by nearby property owners and residents. Siting such facilities can be accomplished through the conditional use process, and by amending the Table of Permissible Uses. However, that may be too coarse an approach for a unique facility such as an urban campground to serve the homeless population. It is challenging to foresee the appropriate local governmental response to meet emerging social needs such as increasing addiction and homelessness.

Background

The concept is borrowed from the State of Washington. The Washington State Growth Management Act requires that local comprehensive plans include a process for identifying and siting essential public facilities, as defined in RCW 36.70A.200. Essential public facilities include such facilities and uses which are typically difficult to site, such as correctional facilities, solid waste handling facilities, mental health facilities, and group homes. The Growth Management Act also states that the siting of such essential facilities may not be precluded from a comprehensive plan or development regulations. The State Office of Financial Management is required to maintain a list of essential state public facilities that are required or likely to be built within the next six years. Washington requires local communities to develop a structured process, including public involvement at an early stage, to consider the siting of essential public facilities.

In contrast to Washington, Alaska does not mandate that local communities provide for Essential Public Facilities. The City and Borough's Charter likewise does not contemplate these facilities. While chapter 13 of the 2013 Comprehensive Plan addresses the provision of police, fire, emergency medical, medical, and social services, it does not contain the concept of essential public facilities, as such.

Ordinance 2017-23

The purpose of the ordinance is to “...provide a process to site essential public facilities that are typically difficult to site or where the provision of the service is substantially connected and dependent upon its location.” This permitting process closely follows that of a conditional use permit. The key distinguishing differences are:

1. The proposed facility does not have to be a permissible use as specified in the Table of Permissible Uses, and
2. The applicability of the process is confined to developments that “...will be used to provide a service to benefit the health, safety, and welfare of the public and will be delivered by a government agency or private or nonprofit organization under contract to or with substantial funding from a government agency.”

A proposed development would qualify as an essential public facility on a very case-specific basis. For this reason, certain types of facilities that are present in the Table of Permissible Uses might be permitted using this new process. For example, National Guard centers are excluded from the MU and MU2 zoning districts. It may be that there is a compelling reason, perhaps based on proximity to another governmental facility, to permit a particular type of National Guard center in a mixed use district. In that specific case, the Planning Commission could make the finding that the proposed development qualified as an essential public facility.

Because a nongovernmental entity may be developing the facility, the types of conditions available for a conditional use permit such as performance bonds are also potential conditions for permitting an essential public facility.

The ordinance requires a public meeting at least 30 days before the Planning Commission’s public hearing. The purpose of the meeting is to inform the public about the proposed development and hear concerns in advance of the Planning Commission hearing.

Summary

While the essential public facility permitting process will likely be rarely used, it may prove to be an appropriate avenue for government to more nimbly deploy facilities to mitigate unanticipated societal needs. We will be bringing the draft ordinance back to the commission for a public hearing in the very near future.