

Minutes
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Michael LeVine, Chairman
March 23, 2021

I. ROLL CALL

Michael LeVine, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held virtually via Zoom Webinar and telephonically, to order at 7:03 p.m.

Commissioners present: All Commissioners present via video conferencing – Michael LeVine, Chairman; Nathaniel Dye, Vice Chairman; Paul Voelckers, Clerk; Ken Alper; Mandy Cole; Erik Pedersen

Commissioners absent: Travis Arndt, Deputy Clerk; Josh Winchell; Dan Hickok

Staff present: Jill Maclean, CDD Director; Irene Gallion, CDD Senior Planner; Sherri Layne, LAW; Dan Bleidorn, Lands Manager

Assembly members: Loren Jones

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA - None

III. APPROVAL OF MINUTES

A. Draft Minutes February 23, 2021 Planning Commission Regular Meeting

MOTION: *by Mr. Voelckers to approve the Planning Commission Regular Meeting February 23, 2021 minutes with minor correction for clarification.*

IV. BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION - Chairman LeVine briefly explained the rules and procedures for conducting meetings and public participation via Zoom format.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None

VI. ITEMS FOR RECONSIDERATION – None

VII. CONSENT AGENDA

Prior to presentation of **CSP2021 0001**, Mr. Voelckers disclosed a conflict as his firm is on the design team for the project and asked to recuse himself. Mr. Alper disclosed he lives across the street from the Capital School Park. He has no monetary interest and felt he can remain impartial. Mr. Alper was allowed to remain.

CSP2021 0001: Retaining structure replacement, site grading, and new equipment, with possible electrical and landscaping work at Capital School Park
Applicant: City and Borough of Juneau
Location: Capital School Park

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and forward a recommendation of APPROVAL to the CBJ Assembly for the "Capital School Park: Retaining structure replacement, site grading, and new equipment."

MOTION: *by Mr. Dye to accept staff's findings, analysis and recommendations and approve CSP2021 0001.*

The motion passed with no objection.

VIII. UNFINISHED BUSINESS – None

IX. REGULAR AGENDA

Prior to presentation of **SMF2021 0001**, Mr. Pedersen disclosed a potential conflict as he used to work on the project. He has no monetary interest in the project and he was off the project before it reached its final version. Mr. Pedersen felt he could remain impartial and was allowed to remain.

SMF2021 0001: Remove a plat note that limits the driveway development onto Karl Reishus Blvd.
Applicant: City and Borough of Juneau; Gary and Kathleen Miller
Location: 3028, 3031, 3032 Karl Reishus Blvd.

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and **APPROVE** the requested amendment to the final plat. The amendment approves the removal of the plat note that limits driveway development onto Karl Reishus Boulevard at 3028, and 3032 Karl Reishus Boulevard in a D10SF Zone.

The approval is subject to the following conditions:

1. Limit plat note modification to allow driveways to lots privately owned, Lots 8 and 10.

Additional findings:

1. ***Final construction drawings for Pederson Hill and construction work created driveways serving lots 8 and 10 from Karl Reishus Boulevard in violation of the plat note.***
2. ***This error was inadvertent and is relatively cumbersome to remedy after the fact.***
3. ***The threat to public health, safety and welfare from retaining the two driveways is minimal.***
4. ***Retaining the driveways as constructed has multiple benefits, including efficient development and cost savings.***

STAFF PRESENTATION – By Planner Irene Gallion

QUESTIONS FOR STAFF

Mr. Voelckers asked Ms. Gallion to elaborate on the technicalities concerning the topography in the area. Ms. Gallion explained there were issues regarding the steepness and terrain in portions of lots 8, 10 and 11.

Mr. Dye asked about equal protection, asking if lot 11 and 12 can be merged without a plat change, but other lots do need a plat change, how does that affect the other property owners.

Ms. Layne explained the equal protection issue is a concern that has come up. She explained that if the Commission were to approve the plat change, then they need to be very specific about what makes these lots special and why the change is necessary only to these specific lots. As long as there are very specific details, then it can be defensible in the future. Ms. Maclean added compared to other subdivisions approved by the PC, there are several subdivisions where the plat notes do not address driveway accesses. Using that comparison, it would appear this subdivision is being held to a higher standard than others are.

Ms. Cole asked why the recommendation is not to remove the plat note altogether. Ms. Maclean said it was because she had only just realized it. Ms. Cole asked if there are any reasons to keep the plat note modified as opposed to removing it altogether. Ms. Maclean said that comes back to Ms. Layne's comments regarding equality of why certain lots are affected and others are not.

Mr. Dye asked if it is the steepness of the lots that makes them unique, and if they are steeper than the other lots. Ms. Gallion said the steepness is not the problem but the steepness does make the driveways unattractive. The real issue is there is not any other roadway already developed around those lots to provide the access.

Mr. Dye asked if Phase II was built and the lots were undeveloped and Yahn Street was extended

at that time, would this be an issue. Ms. Gallion explained it Yahn Street had been constructed and extended to the east to a point where the lots could be combined with a more reasonable approach, then they would be in a similar situation to lot 11.

Mr. Dye asked if staff thinks there are sufficient defects in the original findings from **SNP2016 0002** that installed the plat note. Ms. Maclean said it is hard to say because she is not sure what the thought process was at the time. She continued to explain now CDD is working more closely with CBJ Engineering so this does not happen again in future projects.

Mr. LeVine asked Ms. Maclean if she felt there is sufficient support in the staff report to justify striking the plat note in its entirety now. Ms. Maclean felt the information as it stands supports removing the plat note.

Mr. Dye asked how this subdivision compares to other subdivisions with regard to density. Ms. Maclean said this would be comparable to Chilkat Vistas and Ridgeview Subdivision.

APPLICANT PRESENTATION –

Gary Miller presented showing photographs of the property and explaining the issues with access to the property.

QUESTIONS FOR APPLICANT

Mr. Dye asked what Mr. Miller meant that there are two curb cuts to his property. Mr. Bleidorn explained at the end of Karl Reishus Boulevard there is a driveway cut and further up the boulevard, where the road and curb ends, there is another access to his property. However, the road does not go to the very end of his property.

Mr. Voelckers asked for clarification of if the utilities have been constructed within the right of way. Mr. Miller explained the proposed access would put the driveway over the utilities. If there were ever a problem it would require tearing out the driveway to service the utilities.

Mr. Dye asked to see the plat drawing so he could see the two cutouts. Ms. Gallion pulled up that slide. Based on the plat drawing, Mr. Dye asked Mr. Miller where he would prefer his driveway. Mr. Miller would prefer it be moved further up Karl Reishus Boulevard beyond where the pavement currently ends, as it is flatter there and would not require a steep driveway or crossing the utilities.

PUBLIC COMMENT

Rich Peterson, owner, Low Pete Construction, testified on behalf of his client, the neighboring property owner. His client purchased their property with the understanding that they were going to be able to use an existing access only to learn later that it is not allowed. If it is not allowed, why was it put in? Without that access, the property is not accessible.

Mr. Dye asked about if there is anything unique or different about the lots in question as

compared to others in the subdivision. Mr. Peterson said the difference were mostly terrain issues.

Mr. Dye asked if access had been put into lots 8 and 10 and Yahn St. was built, would they be unusually steep for Juneau. Mr. Miller said yes.

Additional QUESTIONS FOR applicant

Mr. Dye asked Mr. Bleidorn if he knew any background about how the plat decisions had been made. Mr. Bleidorn has done extensive research and did not find an answer.

Mr. Dye asked if phases 2 and 3 would continue with the same intent for Karl Reishus to be a busy road. Mr. Bleidorn answered future phases would necessitate secondary access routes. Mr. Dye asked if the additional access points might be for emergency vehicles only. Mr. Bleidorn does not believe that is the case.

Ms. Cole asked Mr. Bleidorn's thought regarding modifying versus removing the plat note. Mr. Bleidorn felt it desirable to keep the plat note in there as it leaves the intent in place.

COMMISSIONER DISCUSSION

Mr. Dye said he wondered if there is a way to increase findings in order to justify removal of the plat note. Mr. Voelckers also said he believes there is a need for more findings.

MOTION: *by Mr. Voelckers to accept staff's findings, analysis and recommendations and approve **SMF2021 0001** with additional findings and approve the requested amendment to the final plat.*

Additional findings:

5. *Final construction drawings for Pederson Hill and construction work created driveways serving lots 8 and 10 from Karl Reishus Boulevard in violation of the plat note.*
6. *This error was inadvertent and is relatively cumbersome to remedy after the fact.*
7. *The threat to public health, safety and welfare from retaining the two driveways is minimal.*
8. *Retaining the driveways as constructed has multiple benefits, including efficient development and cost savings.*

Ms. Cole asked for some clarity regarding Mr. Voelckers' motion. Her understanding is this motion will modify, not remove, the plat note. Mr. LeVine answered the motion modifies the plat notes as they apply only to lots 8 and 10.

Mr. Dye asked if we using a finding of 'construction violated' would establish a precedence such that someone else could violate a plat note and use this as a 'get out of jail free' card. Ms. Layne said that is a possibility.

Mr. Dye spoke with concerns to Mr. Voelckers' first two proposed findings saying he did not think they were sufficiently defensible. He added without the first two findings, the last two are not necessarily applicable.

Ms. Cole said she could support the motion. She sees the possible options being the modifications proposed, removing the plat note altogether, or doing nothing. Doing nothing was her least favorite option because the property owners bought in good faith and they would be 'stuck.'

Mr. Dye asked for Ms. Cole to explain the difference between 'developer' and 'CBJ as developer'. Ms. Cole explained the owner bought the property in good faith that the construction plans were accurate and he would be able to build according to that.

Mr. Pedersen said he is generally supportive of the motion saying he could support eliminating the two lots in question and limiting driveway access to Karl Reishus in the future lots.

Mr. LeVine asked Mr. Voelckers if he thought the geographic features in lots 8 and 10 were unique. Mr. Voelckers did think so saying the testimony supported that.

Mr. Dye did not think the topography was that extreme compared to other area constructed in southeast.

Mr. LeVine said he shares Mr. Dye's concerns about precedence and wants to be clear that this is not a 'get out of jail free' for developers. He believes the topography is sufficiently unique to justify supporting the motion even without the first two findings and will, therefore, support the motion.

Roll Call Vote

YES: Mr. Voelckers, Mr. Alper, Mr. Pedersen, Ms. Cole, Mr. LeVine

NO: Mr. Dye

The motion passed on Roll Call Vote.

X. BOARD OF ADJUSTMENT – None

XI. OTHER BUSINESS – None

XII. STAFF REPORTS

Ms. Maclean reported:

- Work is ongoing on Downtown Parking and getting a packet out to Title 49
- The Floodplain Ordinance should be before Assembly on April 5th for the first reading
- April Meetings are April 13 and 27 with Committee of the Whole proposed both nights.
 - April 13 COW will be at 6 pm to discuss rules of order and a presentation by Mr. Hudson

- April 27 COW to discuss accessory apartments ordinance
- Commissioners need to respond and let staff know if they will be able to attend the COW meetings
- The Court sided with CBJ over Harris Homes LLC

XIII. COMMITTEE REPORTS

- Mr. Voelckers reported the Assembly Public Works & Facilities Committee met. CIP and long-range lists were discussed.
- Mr. Pedersen reported the Douglas/West Juneau Steering committee met and discussed neighborhood connectivity and public transit.

XIV. LIAISON REPORTS

Deputy Mayor Jones reported:

- The Assembly met and moved the Calhoun project based on PC recommendations.
- The Assembly has dismissed the Sealaska Heritage appeal.
- The Willy and Weldon vs Planning Commission and Central Council public hearing was March 8th. The Assembly expects a report in coming weeks.
- The next Assembly meeting will be April 4. Budgets will be introduced at that meeting and referred to the Finance Committee.

Mr. Voelckers asked Mr. Jones for his sense of the coming Federal COVID support. What is the timing of the funding and how does it affect the budget process? Mr. Jones explained it is not yet clear when the funds will be provided or how they can be used. It is possible that it can be used to cover lost revenues. It may come over two years or come all at once with two years allowed to expend it.

XV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS – None

XVII. EXECUTIVE SESSION – None

XVIII. ADJOURNMENT – 8:28 p.m.