

MINUTES

**PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU**

Mike Bavard, Chair

REGULAR MEETING

September 13, 2005

I. CALL TO ORDER

Chairman Mike Bavard called the Regular Meeting of the City and Borough of Juneau Planning Commission, held in the Assembly Chambers of the Municipal Building, to order at 7:03 p.m.

Commissioners present: Mike Bavard, Jacqueline Fowler, Dan Bruce, Marshal Kendziorek, Michael Satre, Mark Pusich, Nancy Waterman

Commissioners absent: Maria Gladziszewski, Peggy Ann McConnochie

A quorum was present.

Staff present: Dale Pernula, CDD Director, Peggy Boggs, CBJ Attorney, Greg Chaney, CDD Planner

II. APPROVAL OF MINUTES-

August 23, 2005 – Regular Meeting

***MOTION** – by Mr. Pusich, to approve the August 23, 2005 Planning Commission meeting minutes, as written, with corrections.*

There being no objection, it was so ordered.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT - None

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

Chair Bavard announced that there was one item on the Consent Agenda and he inquired if there was public comment on the item. No one came forward and no one from the Commission had questions.

***MOTION** – by Mr. Pusich, to approve the consent agenda.*

There being no objection, it was so ordered and the item below was approved, as written.

SUB2005-00045

A combined preliminary and final plats for a Major Resubdivision of USS 3268; wherein CBJ lot 10 USS 3288 will be subdivided and attached to each of seven adjacent parcels.

Location: 25390 Huffman Harbor

Applicant: Frank Homan

Staff recommendation: that the Planning Commission adopt the Director's analysis and findings and approve the requested Preliminary and Final Plat for Huffman Harbor Subdivision.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

MOTION – by Mr. Pusich, to approve the regular agenda.

There being no objection, it was so ordered.

Mr. Pusich noted a conflict of interest and was allowed to step down from the panel.

SUB2004-00022

A Modification of Preliminary Plat SUB2002-00009 to have onsite waste water systems. The revised subdivision will have 44 lots and three Tracts.

Location: Point Lena Loop Rd.

Applicant: R&M Engineering

Staff report: Ms. Boggs stated at this time is not necessarily illegal, which she felt set aside any aspirations.

Mr. Chaney’s report was provided in conjunction with a PowerPoint presentation (on file at CBJ).

Mr. Watt, CBJ Engineering Department, referred to the meeting packet, to a memorandum (Attachment G, noting Option #6), pertaining to an onsite sewage drainage system. He stated after review they abandoned this idea due the associated capital costs, which would require high maintenance and operations costs. He stated the previous homeowner’s did not have equal reasons to cooperate under this type of system. He added if the drain field is now on the individual’s lot, the homeowner’s have pressure to abide with the current system.

Mr. Chaney said previous systems were not always built as they were originally designed, and field changes were made to those systems and fundamental flaws were routinely constructed. Homeowners often do not understand their sewer systems, which may contribute to poor maintenance and longevity of those systems. In pursuing onsite systems, there are two sets of regulations that he referred the Commission to (Attachment H) and is indicative to what has happened in the past. He said that in lieu of this, they are proposing the existing norms that have worked in the past and can work in the future.

Mr. Kendziorek said they should have down slope maintenance to drainage and suggested they craft a condition to receive this.

Mr. Bowman, CBJ Engineering Department, said this was brought up when the previous homeowner's system failed and ran onto their neighbor's lot; this no longer happens with the new system in place. With the new system, any sewage problems that might happen would occur on their own lot and not their neighbor's lot.

Mr. Kendziorek suggested this be added as a condition to the plan.

Mr. Bowman guaranteed that CBJ would operate and maintain these systems. He stated at which point they begin to fail, there are a set of thorough regulations. In addition, there is the element of enforcement, so they have a mechanism in place to ensure these decisions would be taken care of.

Mr. Kendziorek asked if a neighbor smells an odor, what the next step would be and how long it would take for a response from CBJ.

Mr. Bowman said they would send a utility engineer out to track the failure down and locate which home has the problem. If the homeowner is not able to identify the home or failure site, they would be provided a 30-day window to figure out how to solve the problem within the following 90 days. If they do not comply by this time, they will be fined \$100 directly to their utility bill. If they do not complete the work by the end of a 120-day time period, there is another \$200 fine to their utility bill. If the problem persists, the homeowner will be provided a disconnection notice and will have their water and sewer turned off. Mr. Bowman stressed they will be working with the homeowners to the best of their ability, but added that CBJ retains the power to enforce the regulations.

Mr. Watt said the homeowner should not be unaware of new problems, as they will know more quickly than in the past of potential problems with the new system that is now in place.

Mr. Waterman asked if the homeowner has the option of hiring in the private sector, should they experience a problem with their sewer. Mr. Buck responded in the affirmative, stating he prefers the homeowners utilize private enterprise and the only time he expects the homeowners to require city personnel is during an emergency.

Ms. Fowler posed a point of clarification directed to Ms. Johnson stating that she had earlier indicated they had a revenue loss of \$1 million, and asked where this might be reflected. Ms. Johnson replied, in the Land Management Plan.

Chair Bavard appreciated hearing comments provided by the public and believes they have made a good compromise on this issue. Ms. Waterman agreed stating she appreciated the spirit of compromise.

Mr. Chaney spoke to the water rights issues in that there is a right for the homeowners to withdraw water, but there will still be two water rights owners; a homeowner, and a water rights owner.

Mr. Chaney elaborated on bonding with regard to this CBJ project and deferred to Ms. Boggs.

Ms. Boggs stated, in her opinion, she does not feel outside bonding is relevant and feels only basic municipal bonding is required.

BREAK: 8:02 – 8:07 p.m.

Staff recommendation: That the Planning Commission adopt the findings, analysis and recommend the approval of SUB2004-00022. The permit would allow for a modification of Preliminary Plat SUB2002-00009 to have an onsite waste water systems. The revised subdivision will have 44 lots and three Tracts on the Point Lena Peninsula. The proposed municipal onsite wastewater disposal program will ensure water quality will be maintained. Approval would be subject to the following conditions:

- 1) Prior to Final Plat recording, the plat shall receive final technical review by the CBJ Engineering Department to ensure conformance with required surveying standards.
- 2) All required subdivision improvements shall be constructed, bonded for construction or CBJ funds dedicated for required projects prior to final plat recording.
- 3) Prior to final plat recording, water service must be extended to all lots in the subdivision (including Tract B).
- 4) The 30-foot wide Utility easement designated on the preliminary plat on Tract B, Lot 3 of Block B shall also include a pedestrian easement.
- 5) If the preliminary plat is approved with the lot lines within 330 feet of an established eagle nest a variance permit to eagle nest setback standards, established in CBJ 49.70.310, will be required prior to final plat approval.
- 6) The applicant shall utilize Best Management Practices listed below for installation of required subdivision improvements:
 - A. Diverted or construction-related water shall not be directed into receiving waters unless sediment retention structures and water quality control devices are used prior to discharge.
 - B. The duration and area of exposed soil shall be minimized to reduce erosion potential. Revegetation shall be completed within one growing season.
 - C. Soils or fill shall not be placed near stream banks where it may be transported into the watercourse.
 - D. Runoff from the site after project completion shall be installed between construction areas and streams prior to grading and maintained throughout the construction period.
 - E. Erosion and sedimentation control devices shall be installed between construction areas and streams prior to grading and maintained throughout the construction period.
 - F. Equipment shall not be serviced or washed within 100 feet from streams.
 - G. Spill containment and cleanup supplies shall be stored within a 15-minute transport time to construction sites.
 - H. Storage of excavated or fill materials must be placed at least 25 feet from streams.
 - I. Sediment traps or stilling basins shall be installed to prevent untreated sediment and runoff from entering streams.
 - J. Construction runoff will be filtered through silt fences before reentering streams.
- 7) Prior to final plat approval, a plat note shall be added to the plat stating:

Ground cover shall be retained for 25 feet bordering Lena Loop Road unless it is demonstrated to Community Development staff that wetlands can be preserved through other means.
- 8) Prior to final plat approval, a plat note shall be added to the plat stating:

Maximum fill in areas of mapped wetlands shall not exceed 12,000 square feet for combined house and drainfield fill pads (exclusive of driveways). Additional fill may be permitted on individual lots if approved by the Planning Commission.

- 9) Prior to final plat approval, a plat note shall be added to the plat stating:
Lots 4, 5, 6 and 7 Block B with frontage along both the upper and lower roads will be allowed access from the upper road only.

Public testimony

Gordon Evans, 604 Gold Street, respectfully disagreed with Ms. Boggs stating his lot seems to contain more water than dirt. His lot literally consists of pipe running down hill. During heavy rain, it pours downhill into his and onto his neighbor's lot. Mr. Evans provided for the record a hardcopy of his comments presented to the Planning Commission. (Written comments attached.)

Kirk Miller, 17330 Point Lena Loop Road, President of the Lena Loop Neighborhood Association, said lately there has been negative news pertaining to this same topic on the Bonnie Brae and Bay View subdivisions. He then encouraged the Commission to revisit increasing some lot sizes.

Mr. Kendziorek reaffirmed with Mr. Miller that he was not in attendance voicing the Lena Loop Neighborhood Association's objection at the last Planning Commission meeting. Mr. Miller agreed, stating the Lena Loop Association did not provide their objection in person at that particular meeting, but clarified they did send an email approximately a day or so before stating their concerns to CBJ staff. Although, he stated that he could not confirm if the mentioned email made it into the last Planning Commission meeting packet.

Mr. Kendziorek asked Mr. Miller what lesson would be learned. Mr. Miller said he is not pleased with the scale of this construction.

Chair Bavard stated there was a window of public comment about six weeks ago. Mr. Miller responded by stating he and John Hudson attended a CBJ Assembly meeting and voiced their opinion at that time.

Tom Lawson, 16280 Lena Loop Road, stated he is in favor of the Point Lena Loop Subdivision. Mr. Lawson served six years as member of the Planning Commission and said he would find this a very difficult task, but feels the public sewer should be installed prior to disposal of this land. He added that he feels the CBJ has been a major workaroud in their avoidance to provide a public sewer system and feels that in order to make lots available to the public; they have to make the property right prior to a sale. Mr. Lawson recommended turning Lot 1 into a buffer area. He then referred to a lot on the map where he has lived for 11 years, stating he abuts Lots 1 and 4. The newspapers state the life of a septic system is basically 10 years and he feels that in next couple of years he is going to have a problem. Mr. Lawson said if the CBJ desires a road down the middle of Lena Loop, it should be done correct, i.e., a road down the middle with public sewer access.

Sarajejan Fujioka, 17013 Towers Road, provided a letter which she read verbatim.

Chair Bavard asked if Ms. Fujioka provided a copy of the above letter to the applicant. Ms. Fujioka affirmed.

Public testimony was closed.

Chair Bavard invited Ms. Johnson, the applicant, the opportunity to address the Commission, along with any other staff she wished to accompany her. He then asked Ms. Johnson if she had any comments pertaining to Ms. Fujioka's letter. Ms. Johnson responded in the negative.

Mr. Bruce asked that if the assembly were to approve this plat and if the ordinances that were enacted and are in place, they would provide the same public health and safety in terms of disposal of solid waste for the homeowners.

Ms. Fowler asked Mr. Evans about his earlier comment whereby he cited documentation about a plan, and she asked which plan he was referring to. Ms. Boggs clarified on Mr. Evans behalf that he was referring to the Land Management Plan.

Ms. Fowler asked why the resolution was not amended pertaining to the Land Management Plan on this issue. Mr. Watt responded by stating that the difference was that the Lena Heights Neighborhood Association preferred to proceed in advance of the regulations. This will now be included in the sign-off process on the regulations. In addition, he noted they would now be maintaining long-term, historical records on each property.

Ms. Johnson said after listening to the public's remarks, she feels they are very close on an average consensus. They have analyzed this from a zoning and aesthetics angle, and feel even as a visual, there is probably minimal impact. She feels the CBJ has provided good oversight, including installing a new water reservoir at Lena Point. In addition, the new road that has been constructed now has a bicycle lane. In closing, she recognized how hard everyone has worked on this project, as they have held approximately 40 meetings to date.

Ms. Waterman noted there is rural development beyond Lena already that includes other infrastructure, so she is comfortable with this concept.

Chair Bavard commented at the last Commission meeting there were a number of items staff was asked to research and he feels staff has provided a very good response to those issues.

Mr. Kendziorek has gone back and forth on this issue, and said he is unexpectedly falling on the other side of the discussion.

Mr. Satre said he continues to struggle to rectify onsite sewer treatment centers as a whole.

Mr. Bruce said when he asked staff if there was public supervision in the event of a major failure of the treatment plant, he received an unequivocal yes response. He then stated he was supportive of a motion to approve.

MOTION - by Mr. Kendziorek, to adopt staff's findings, analysis, and recommendations and approve SUB2004-00022, with the previous condition provided to Mr. Bowman.

Mr. Bruce said he realized this has been an emotional issue and feels the land, especially pertaining to this project, at times they have to agree to disagree. He relies on the position of the CBJ attorney, which has guided him in forming his decision tonight.

Chair Bavard made an earlier comment that the Lena Loop Neighborhood Association was an integral part of this process and thanked them for expressing their concerns. He also thanked staff, as they too have spent a long time of hard work on this project.

Ms. Waterman said she is confident they will continue to work together on this project moving forward.

Ms. Fowler also voiced her agreement with the Commissioner's comments.

Roll call vote:

Yeas: Bruce, Fowler, Kendziorek, Satre, Waterman, Bavard.

Nays: None

With a 6:0 vote, and SUB2004-00022 was approved.

BREAK: 10:00 – 10:05 p.m.

X. BOARD OF ADJUSTMENT

Chair Bavard adjourned the Planning Commission, and called the Board of Adjustment meeting to order at 10:05 p.m.

VAR2004-00045

An extension of VAR2002-00040, a Variance request to subdivide and develop residential lots less than 330 feet from eagle nest trees on Pt. Lena Loop Road.

Location: Point Lena Loop Rd.

Applicant: CBJ Lands, Cynthia Johnson

Staff recommendation: That the Board of Adjustment adopt the Director's analysis and findings and approve VAR2002-00040. The Variance permit would allow a subdivision development on public land within 330 feet of mapped eagle nests with the following advisory condition:

- 1) Advisory: This variance applies to the proposed subdivision and required improvements. Private development after final plat recording shall be subject to the provisions of the Land Use Code, including CBJ 49.70.310 Habitat.

MOTION – by Mr. Kendziorek, to approve VAR2004-00045 with the advisory condition.

There being no objection, the Variance was approved.

Mr. Pusich returned to his seat on the Commission.

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

Mr. Pernula reported that a group was recently appointed by the Mayor, named the West Douglas Development Group. The group's task is to draft a West Douglas Conceptual Plan to designate a new growth area in West Douglas. The Development Group has prepared a resolution for adoption by the Assembly. Mr. Pernula said their draft plan is located on the CBJ website for the Commissioner's perusal and this plan will be brought forward for the Planning Commission's review at the October 11, 2005 meeting.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mr. Bruce said there was a recent Subdivision Review Committee meeting pertaining to a discussion of a potential gated community, and informed the Commissioner's this matter would be forthcoming.

Ms. Waterman stated the Public Works and Facilities Committee also met and there were issues that will be brought forward from that meeting to the Lands Committee. She added that the fish creek query has also been on the agenda. In addition, there were requests for areas to be designated for off road vehicles, so the Lands Committee and the Assembly are considering the disposal of 25,000 cubic yards of crushed rock from the Lena Point Subdivision project for this project.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Bruce mentioned he was not able to locate on the CBJ website the Planning Commission members' term limits. Mr. Pernula said he would locate this information for Mr. Bruce.

Mr. Kendziorok informed the Planning Commission members he would be absent at the next meeting on September 27, 2005.

Ms. Fowler appreciated Mr. Bruce's comments pertaining to the Planning Commission's past history in dealing with these types of issues and projects, and the Commission's intent moving forward on this particular project.

Chair Bayard stated his pleasure with staff for their hard work, and providing assistance to Ms. Johnson. He also provided his thanks to the Lena Loop Neighborhood Association for their diligent work.

XV. ADJOURNMENT-

MOTION: – by Mr. Kendziorok, to adjourn the meeting.

There being no objection, the meeting adjourned at 10:25 p.m.