

MINUTES
WETLANDS REVIEW BOARD
REGULAR MEETING
August 20, 2015, 5:15 p.m. City Hall room 224

Meeting Summary

Roll Call

Board Members Present: Amy Sumner, Brenda Wright, Nina Horne, Jerry Medina, Andrew Campbell, Lisa Hoferkamp; Ben Haight; Hal Geiger

Board Members Absent: Dan Miller

A quorum was present.

Staff Members Present: Teri Camery, Chrissy McNally, Laura Boyce, Allison Eddins, CBJ Planners

Public Present: Gretchen Pikul, DEC; Dave Hanna; Scott Jensen

Meeting called to order at 5:18 p.m.

II. June 25, 2015 Regular Meeting minutes approved.

III. Agenda approved with edits; Ms. Camery apologized for listing the wrong streamside setback variance case from the previous board meeting.

IV. Public Participation on Non-Agenda Items

None

V. Board Comments.

Ms. Sumner said that she would be representing the Juneau Watershed Partnership for the variance discussion.

VI. **Agenda Items**

- 1) **VAR2015 0024, a Streamside Setback Variance to Jordan Creek for installation of a fence, bioswale, and raingarden**

Staff Presentation

Ms. Camery explained that the Board is reviewing this project in its scientific advisory role. Draft minutes, a summary of board comments, and the final board motion will be included in Ms. Eddins' staff report to the Planning Commission. Ms. Camery said that she is recusing herself from the remainder of the board review due to conflict of interest, since she is on the board of the Juneau Watershed Partnership.

Ms. Eddins provided an overview of the project and the reason for the proposed streamside setback variance because of grading within the 25-foot no-disturbance zone and installation of a fence within the 50-foot no-development setback of Jordan Creek. She referred to an aerial photo of the site and noted that the lot is used for commercial driver's license training. She described how the polluted run-off and gravel from the lot settles toward Jordan Creek. The project creates a bioswale and raingarden to catch run-off and act as a natural filter, while the fence and barriers will be put in place to prevent snowplowing into the creek.

Ms. Eddins noted a correction to the application: the application stated that the bioswale would be between 20 and 40 feet, but it is actually 10-40 feet. She said this doesn't change the review because the project is just 10 feet farther into the 0-25 foot no-disturbance zone.

Applicant Presentation

Ms. Sumner referred to photos of the site and explained the boundaries of the bioswale, raingarden, and fence as they related to the 25-foot no-disturbance zone and 50-foot no-development setback. She said that the final vegetation plan for this fall has not yet been determined, but additional planting will likely be necessary in the spring.

Mr. Geiger said that he was not familiar with the raingarden term. Ms. Sumner said that a raingarden is similar to a bioswale. It slows the movement of water by utilizing vegetation in a shallow ditch. Ms. Hoferkamp requested clarification on distances, which Ms. Sumner pointed out on the photographs. Ms. Sumner explained that no trees would be removed, and the fence would be placed on the stream side of the trees.

Ms. Hoferkamp asked if there were any figures on the volume of water coming off the lot. Ms. Sumner explained that the raingarden was sized based on the CBJ Manual of Stormwater Best Management Practices, so she was confident that it would be sufficient. Ms. Hoferkamp asked why it would be necessary to re-plant in the spring. Ms. Sumner explained that it would only be necessary to re-plant whatever vegetation does not survive from this fall's planting.

Ms. Pikul noted that previous re-vegetation efforts in the area had failed because of snowplowing, so she emphasized that the fence and barriers were essential to the effort.

Mr. Hanna noted that the lot was created in 1968, before streamside setbacks were in place.

Ms. Sumner showed a slide that listed partners and financial support. She showed letters of support from Tlingit Haida Central Council and the U.S. Fish and Wildlife Service. She said that the project would be treating reed canary grass, but the method was undetermined currently

because Tlingit Haida opposed herbicide use. She asked Ms. Camery if CBJ regulated herbicides, and Ms. Camery said no.

Mr. Medina asked where the snow would be stored on site. Ms. Sumner pointed on a photograph to an area outside of the streamside setbacks where snow has been stored in the past.

Mr. Geiger asked if the Alaska Department of Fish and Game had been consulted on the project. Ms. Sumner said no. She said the project is a result of a stormwater mapping project on lower Jordan Creek.

Public Participation

Mr. Hanna said that the project is imperative, and barriers are essential to protect the stream.

Board/Staff Discussion and Motion

Mr. Geiger proposed the following motion:

The Wetlands Review Board supports the variance because it will greatly improve water quality in Jordan Creek.

Ms. Wright seconded the motion. The motion was passed unanimously.

2) SMN 2015 0008 Silver Bay Planned Unit Development Subdivision

Staff presentation

Ms. Camery explained that the Board is reviewing this project in its scientific advisory role. Draft minutes, a summary of board comments, and the final board motion will be included in Ms. Boyce's staff report to the Planning Commission.

Ms. Boyce explained the details of the current approved Planned Unit Development, which allows clustered development with a common area. She said the subdivision can have up to 45 units but is currently approved for 20 units. She said that the applicant requests a 21st unit and the creation of six lots from the single existing lot, as shown in Attachment A of the packet. She said that the Juneau Wetlands Management Plan indicates that a significant section of one of the proposed lots contains high-value Category A wetlands that drain into Jordan Creek. Lot 12 is 3.4 acres in size and contains most of the wetlands on the property. These wetlands are currently in common ownership under the existing approved PUD, and would be developed under private ownership in the applicant's proposal for a single family home. She explained that this change to number of lots and the change to the common area require Planning Commission approval. The review is coming to the Board to obtain the Board's advisory opinion on removing the wetlands from common ownership to individual development.

Mr. Jensen questioned the need for the review and raised questions regarding the requirements of the existing approved PUD as they relate to the changes he has proposed. He did not believe that

review was required. Ms. Boyce explained that Mr. Jensen is amending an approved development plan, therefore it has to go back to the Planning Commission. She said that the development still meets the requirement to have 40 percent of the area within common ownership. However the proposal is going to the board because the portion of the PUD that is wetlands which is now in common ownership that isn't developable would now be available for residential development. In response to board questions, she confirmed that there is just one unit proposed on Lot 12.

Ms. Wright asked if the wetland category, Category A, had changed over time. Ms. Camery explained that the wetland categories in the Juneau Wetlands Management Plan (JWMP) have never changed since the plan was first adopted in 1992. There are later versions of the plan, but only the chapter language has changed. All versions are based on the same studies from the 1980s, with the same wetland categories. She explained that this is why there has been such a strong push to update the plan.

Ms. Boyce noted that the wetland area is within the 100 year floodplain, therefore development must be constructed above the base flood elevation. She also noted that the preliminary plat review requires a wetland delineation.

Applicant presentation

Mr. Jensen stated that he was unsure why the meeting was necessary, because wetlands can be developed with Corps approval and because a portion of the lot is uplands, not Category A wetlands. Ms. Boyce explained that the proposed lots will put the wetland area into developable status, instead of the current common-area status, therefore both Planning Commission and Wetlands Review Board review is required. Mr. Jensen said that CDD is viewing the development differently from his first Planned Unit Development, and it seemed that the rules had changed. Ms. Boyce said that the development is approved for 20 units; additional units require review.

Mr. Campbell said that in his experience, the JWMP maps have not always been accurate; they are general boundaries that may not give exact lines in relationship to individual properties. He suggested getting a wetland delineation to confirm the wetland boundary. Ms. Camery concurred with Mr. Campbell. She said that if Mr. Jensen provided a wetland delineation that showed that the proposed lot was not within wetlands, then board review would not be necessary. She said that Mr. Jensen would still need to go to the Planning Commission to amend the plat as Ms. Boyce described, but there would be no wetland review. Mr. Campbell agreed.

Ms. McNally said the common open space in a PUD has different management and maintenance standards than private lots based on the PUD's Homeowners Association agreement. The board could suggest that Lot 12 be reduced in size in order to keep more of the wetlands in common ownership if the Board deemed that was beneficial to the preservation of the wetlands.

Ms. Boyce asked if the Board could support the creation of Lot 12 if any development occurred only on the upland portion of the lot; that way, Mr. Jensen wouldn't need to return to the Board once a wetlands delineation has been completed. Mr. Geiger asked about what would happen to

the rest of lot 12 if the Board took that action. Mr. Jensen said that it would be retained as a non-common area with the potential for development. Ms. Boyce clarified that if the rest of the lot was developed, the PUD would need to be amended to allow for increased density.

Public participation

There was no public participation

Board discussion/motion

Ms. Wright offered the following motion:

The Wetlands Review Board approves the lot designation in the described plan provided the applicant provides a certified wetland delineation that confirms that the proposed structure is within the upland area.

Mr. Geiger seconded the motion.

In favor: Campbell, Sumner, Haight, Wright, Horne, Geiger, Hoferkamp

Opposed: Medina

Mr. Medina explained that he voted against the decision because he does not like approving projects “on the fly.” He said he would like to see the wetland delineation first. He said he is not opposed to the idea. Mr. Geiger and Ms. Horne agreed, and said that the board did not have adequate information for the review.

Mr. Jensen said that from his perspective, you should not ask a developer to go to great expense for something that may not be approved. He said this approach of getting approval first is better for him because he knows that the money will not be wasted.

Mr. Campbell said that he has seen that the JWMP maps do not always exactly delineate the wetland line. He felt that the Board’s motion was a good compromise, and said that the Board has not committed itself to a violation of the wetland area. Mr. Haight noted that the Board’s motion is not a final decision, because the development still has to go to the Planning Commission.

3) Juneau Wetlands Management Plan Update

Ms. Camery explained that the preliminary draft Juneau Wetlands Management Plan is due on September 15, therefore the board’s regular monthly meeting must be on the fourth Thursday of the month, Thursday September 24, instead of the usual third Thursday. She said that room 224 is not available on the 4th Thursday; therefore the meeting will be in the Marine View 4th floor conference room. She said she will send the draft to the board just as soon as she receives it to allow the board as much time as possible to review the document. She said that the update has been in the works since 2009, and tonight’s review of the PUD gives further evidence of why the update is needed.

Ms. Camery explained that approximately 90 percent of the plan's 360 wetland assessments are on public land rather than private, because CBJ did not receive many authorization forms to conduct assessments on private property. She said that the good news is that this gives the city the opportunity to show the public how the assessments can be used for planning efforts on public land in constructive ways, and this will ease the way for greater acceptance of the wetland assessments on private land in the future. She said that she is often asked about development of wetland policies in city code according to a category system, similar to the current plan. She said that the city may or may not develop policies with the update, because wetland categorization is sometimes a contentious political process and because it will be difficult to develop local policies that comply with new federal wetland regulations and also correlate well with the Southeast Alaska Land Trust's fee-in-lieu mitigation program. She explained that the "worst-case scenario" is still positive, because the plan provides sound scientific analysis for wetland decision-making by the Corps of Engineers, city, and other entities. This information has not been available before, which has led to wetland development and mitigation decisions that the Corps admits have been subjective and arbitrary.

Ms. Camery said that the contract timeline for the JWMP Update specifically provides time for the contractor to address comments from the WRB, from the Planning Commission, and also from the Assembly Lands Committee. CBJ revisions to the preliminary draft are due to the contractor on November 15, and the contractor has until February 15 to submit the final draft.

Ms. Camery said that Ms. McNally has done a great job with the stream mapping component of the federal grant, and CDD expects to bring the stream maps to the board for review and comment in October.

VII. Pending Permits and Updates

1) Casa Del Sol Creek streamside setback variance

Ms. Camery provided the Planning Commission Notice of Decision from the Casa Del Sol streamside setback variance that the Board reviewed at the last meeting. She apologized for not being more knowledgeable about Roberts Rules of Order at the time of the meeting, and explained that both board motions failed because the rules require five votes in the affirmative. However the NOD shows that the Planning Commission listened and responded to the board's comments and recommendations, and she was pleased with the board's work.

2) Juneau International Airport streamside setback violation and enforcement

Ms. Camery said that the CBJ Community Development Department filed an enforcement action against the Juneau International Airport (JIA) in July for extensive limbing within the 25-foot no-disturbance zone in the city-owned Jordan Creek greenbelt, directly across from the JIA long-term parking area. She said that much of the limbing was immediately next to the creek. JIA cited safety concerns as the reason for the limbing. However Ms. Camery said that JIA staff have wanted to clear the area for many months, and JIA staff had been notified in writing twice last fall that an approved streamside setback variance was required for the limbing. She said that the

enforcement letter requires JIA to develop a scientifically-supported mitigation plan to address the functions and values lost as a result of the limbing, and the letter states that the mitigation plan will be reviewed by the Wetlands Review Board, and possibly the Alaska Department of Environmental Conservation and U.S. Fish and Wildlife Service as well.

She explained that she has had several meetings with JIA, and the issue is difficult to resolve because JIA wants to do more cutting in the area rather than mitigation, citing safety issues. Many board members expressed frustration with the airport's action. Mr. Geiger said it undermines the Board's position with reviewing other streamside setback developments when the city itself violates ordinances. Mr. Campbell stated that the airport has repeatedly violated the setback ordinance and seems to flaunt city regulations. Ms. Sumner noted that there is a safety issue in the area, but she felt there were other options to address the problem. Ms. Camery noted recent articles in the Juneau Empire and the New York Times which have documented that salmon have been dying in streams in both Oregon and in Alaska, in the Anchorage area, due to warm stream temperatures. She said this serves as a tangible reminder of why stream setbacks, and in particular the 25-foot no-disturbance zone, are important to provide a cooling effect. She said that she would send these articles to the board as a reminder for those who may question the need for the city's ordinance. She said she would keep the board posted regarding the enforcement action.

VIII. Planning Commission Liaison Update.

Mr. Haight said that he did not attend the last Planning Commission meeting and did not have an update.

IX. Next meeting: Thursday September 24, 5:15 p.m., in the Marine View 4th floor conference room.

The meeting was adjourned at approximately 7:00 p.m.