

CBJ DOCKS & HARBORS BOARD
SPECIAL BOARD MEETING MINUTES
May 23rd, 2013

I. Call to Order.

Greg Busch called the meeting to order at 5:00 p.m. in the Assembly Chambers.

II. Roll.

The following members were in attendance: Greg Busch, Kevin Jardell (via phone), Eric Kueffner, David Logan, Budd Simpson, Michael Williams, John Bush, Scott Spickler, and Tom Donek.

Also in attendance were: Gary Gillette – Port Engineer, Carl Uchtyl - Port Director, Amy Mead – Assistant City Attorney, Hal Hart - Community Development Director.

III. Approval of Agenda.

MOTION by MR.LOGAN: TO APPROVE THE AGENDA AS AMENDED AND ASK UNANIMOUS CONSENT.

The motion passed without objection.

IV. Public Participation – None

V. Items for Action.

1. Discussion of the Planning Commissions Denial of Statter Harbor Conditional Use Permit presentation by the Port Director

Mr. Uchtyl said there will be discussion about what the Planning Commission can and cannot reconsider. During the Planning Commission's meeting, on Tuesday, May 14th, numerous citizens spoke in opposition of the project because of: lack of green space, inadequate visual shielding, inadequate pedestrian access, property devaluation, and noise during construction. The Planning Commission had a body of five to deliberate and vote. The deliberation was voted down four to one. There was a motion to reconsider at the next Planning Commission meeting.

Mr. Gillette said this project has gone through four and a half years of review with the Army Corp of Engineers permit process and the Environmental Assessment process with federal and state agencies. The alternatives that we considered were rejected by the federal and state agencies because the plans did not meet the requirement to be water-dependent. The federal and state agencies said locations, other than Statter Harbor, could be used to meet the alternative plans considered. The current plan could be altered to meet some of the concerns by narrowing the drive lanes. This will allow for eight to ten feet of landscaping, which will help buffer the noise and provide more green space. The plans already include a sea-walk, benches and a picnic area. The current plans include an adequate amount of parking that is necessary to accommodate the current and future

need for parking. Full cutoff LED lighting, focused downward, will provide sufficient visibility for use within the Harbor, and will limit the amount of light shed on the neighboring areas. The noise due to construction will be temporary, intermittent, and limited by city codes.

Mr. Hart said if the Planning Commission receives enough votes in favor of reconsidering the Statter Harbor Conditional Use Permit, then the Chair can hear new information that evening or at a future time. This would then provide an opportunity for the Planning Commission to hear any additional information based on their concerns.

Committee Questions

Mr. Logan asked Mr. Gillette if the plan is to alter the original proposal that went before the Planning Commission to tighten up the driving lanes and provide green space?

Mr. Gillette said staff is responding to the concern of limited green space and looking for room in the plans to provide more green space.

Mr. Spickler asked what steps can be made if the Planning Commission denies the reconsideration?

Ms. Mead said if the Planning Commission denies the reconsideration, that decision is appealable at that time. There will need to be a motion for reconsideration. If that is decided then the Statter Harbor Conditional Use Permit then becomes debatable. This will erase the previous vote to deny the Statter Harbor Conditional Use Permit. Anything that could have happened at the original vote can happen again. Including: tabling it, scheduling the vote for a different day, or allowing for new testimony.

Mr. Kueffner asked how many votes the Planning Commission requires to carry the motion?

Ms. Mead said that the Planning Commission needed to have five votes to carry the motion. If the Planning Commission does not receive five votes then the permit will not pass.

Mr. Simpson asked what recommendations did the staff make in the first proposal that the Planning Commission disliked?

Mr. Hart said the community is concerned about the lighting, and lighting is a neighborhood harmony concern. Also, public communities are multifunctional. The sea-walk adds value to the immediate property and the surrounding properties. Studies show that parks add value to a home, if that home is within walking distance of a park. Part of the Planning Commission's role is understanding neighborhood harmony. The Planning Commission is focused on the community's concerns with lighting, noise and greenery.

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The Planning Commission is looking for more growth and development in the Statter Harbor area and are focused on neighborhood harmony.

Mr. Williams asked if Docks & Harbors can ask the agencies for more green space in the plan?

Mr. Hart said the agencies might not permit changes in the plan.

Mr. Kueffner asked if the plan does not get reconsidered, would we be able to reintroduce the plan in the future?

Ms. Mead said there is nothing preventing reapplication of the plan, but the plan would need to be substantially different so that you don't get the same results.

Mr. Uchytel said that this space is not meant to be a park. At the most the space will be a tenth of an acre of green space. Also, the last Planning Commission vote was four to one. The next vote might have eight members voting and this increase in member votes could lead to a significant change.

Mr. Jardell asked if the same application and motion can be brought forward again?

Ms. Mead said no, a new application needs to be brought forward. The application needs to be different enough so that a new application is being considered to avoid receiving the same results. I am unaware of any instance of an application being resubmitted and receiving different results from the first submission.

Mr. Williams asked if there is a residential neighborhood organization at Auke Bay?

Mr. Hart said yes, Friends of Auke Bay.

Mr. Donek asked what would qualify as a substantially different plan?

Mr. Gillette said this plan meets the requirement for a minimum amount of fill that will support a water dependent facility. The parking is allowed because it is associated with the water dependent use of a launch ramp. There are other places in the community to build parks that will not require filling valuable habitat.

Mr. Donek asked if a substantially different plan is a possibility?

Mr. Gillette said no, a substantially different plan that will meet all of the requirements is not likely.

Ms. Mead said that the Planning Commission's first step will be to consider if they will reopen voting on the Statter Harbor Conditional Use Permit. If they reopen the vote, then the previous vote will be nullified, and anything that could have happened previously can

happen now. For example, the Planning Commission could decide to reopen discussions for the Statter Harbor Conditional Use Permit, move the discussion to a committee, table the discussion for another day, withdraw the permit, or renew the permit.

Mr. Jardell asked if a substantive change to the current plan is permissible?

Mr. Gillette said no, a substantive change is not permissible. Removal of parking spaces could lead to the permit being taken away because that would show a lack of necessity in the project.

Mr. Busch asked Mr. Gillette if the minor changes he suggested would be in conflict with the Corp of Engineers Permit or the Environmental Assessment completed?

Mr. Gillette said no, adding some small landscaping, and not remove parking spaces, is not in conflict with the Corp of Engineers Permit nor the environmental assessment.

Ms. Mead said that in order for a new permit application to be submitted it will need to have substantive and meaningful changes. The changes presented do not meet the definition of 'meaningful change'. The changes being discussed can be done with the current permit application if the Planning Commission allows the permit to move forward.

Mr. Kueffner asked if the Planning Commission is required to take public testimony.

Ms. Mead said no, the Planning Commission is not required to take public testimony. If this is appealed, there are limited issues that the Assembly can reverse. The record is limited as well. If there is new evidence that the Docks and Harbors would like to present, the Planning Commission cannot consider that new evidence without approval from the Planning Commission to let the new evidence into the record by reopening the question. The Assembly cannot reconsider the issue on the question whether they like it and want it to move forward. During an appeal, the Assembly is limited to the evidence the Planning Commission received thus far.

Public Comments

Bob Janes, Gastineau Guiding, Juneau, AK 99801

He said the Statter Harbor Conditional Use Permit is important to different user groups in the community. Some concessions might need to be made. Such as, eliminating four parking spaces for green space should be considered to achieve more greenery. What the sales aspect and the sea-walk would do for the Auke Bay community needs to be considered. Property values would increase. If we put some creativity into the sea-walk this would lead to the community welcoming this project. Today was a typical, busy day at Statter Harbor, this shows the need for more parking and organization.

Mr. Kueffner said that he avoids using Statter Harbor because it is too crowded.

Committee Discussion

Mr. Logan said that he does not support making amendments to the lane sizes. Making the lanes smaller is not a good idea because there will be issues maneuvering in the current allotted lane space. I am in favor of the amendments suggested outside of changing the lanes spaces, for example, changing the sea-walk, and access to Glacier Highway.

Mr. Simpson said the staff should be given the discretion to address the concerns of the Planning Commission.

Mr. Uchytel said the Planning Commission has to make the decision to reconsider the Statter Harbor Conditional Use Permit. If the Planning Commission decides to reconsider, then we can have staff input their recommendations.

Mr. Jardell said three motions are in order:

1. The board endorses the maximum amount of changes, which the current permit will allow, to meet the concerns expressed.
2. Ask the Planning Commission to make a final decision to approve or deny the Statter Harbor Conditional Use Permit, as the Docks and Harbors do not find changes to the plans to be possible.
3. Approve an appeal if the Planning Commission denies the Statter Harbor Conditional Use Permit.

Mr. Simpson seconds Mr. Jardell's motions.

Mr. Jardell said there is a need to address the concerns of the neighborhood and our team works well addressing those concerns.

Mr Bush said if the Planning Commission reconsiders the Statter Harbor Conditional Use Permit then the Docks and Harbors Board can ask the Planning Commission to hear the Docks and Harbors amendments to the permit.

MOTION By MR. BUSH: THE BOARD ENDORSES THE MAXIMUM AMOUNT OF CHANGES, WHICH THE CURRENT PERMIT WILL ALLOW, TO MEET THE CONCERNS EXPRESSED.

Mr. Busch voted yes.

Mr. Jardell voted yes.

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Mr. Kueffner voted yes.

Mr. Logan voted no.

Mr. Simpson voted yes.

Mr. Williams voted yes.

Mr. Bush voted yes.

Mr. Spickler voted yes.

Mr. Donek voted yes.

The motion passed eight to one.

MOTION By MR. JARDELL: ASK THE PLANNING COMMISSION TO MAKE A FINAL DECISION TO APPROVE OR DENY THE STATTER HARBOR CONDITIONAL USE PERMIT, AS THE DOCKS AND HARBORS DO NOT FIND CHANGES TO THE PLANS TO BE POSSIBLE.

Mr. Bush seconds the motion.

The motion passed unanimously.

MOTION By MR. JARDELL: APROVE AN APPEAL IF THE PLANNING COMMISSION DENIES THE STATTER HARBOR CONDITIONAL USE PERMIT.

Mr. Logan seconds the motion.

The motion passed unanimously, eight to zero, as Mr. Jardell was unable to vote.

VI. Member or staff reports.

None.

VII. Adjournment.

The meeting was adjourned at 6:17 p.m.