

KETCHIKAN GATEWAY BOROUGH

Planning Commission/Platting Board Meeting Minutes

3/14/2023

The regular meeting of the Ketchikan Gateway Borough Planning Commission/Platting Board was called to order at 6:00 p.m., Tuesday, March 14, 2023, by Chair Sharli Arntzen and the roll was called.

CALL TO ORDER - PLEDGE OF ALLEGIANCE – ROLL CALL

PRESENT: Michael Medford, Sharli Arntzen, Michael Martin, Robb Arnold, Jacquie Meck, and Jos Govaars

ABSENT: Joseph Mainardi

STAFF PRESENT: Director Richard Harney, Planner Jonathan Lappin, Planner Alethea Johnson, and Platting/ Zoning Clerk Jeremy Weber

PRESENTATION OF MINUTES – Meeting Minutes of February 14, 2023

M/S Govaars/Meck to approve the Meeting Minutes of February 14, 2023 as presented.

Upon roll call the vote on the MOTION was:

YES: Govaars, Arnold, Medford, Martin, Meck and Arntzen

MOTION DECLARED CARRIED

SPECIAL ORDERS

Swore in New Commissioners

Commissioner Arntzen and Commissioner Govaars were sworn in for another three year term.

Election of Officers

M/S Medford/Martin to appoint Commissioner Arntzen as Planning Commission Chair

M/S Meck/Medford to appoint Commissioner Govaars as Vice Planning Commission Chair

Upon roll call the vote on the MOTION was:

YES: Govaars, Arnold, Medford, Martin, Meck and Arntzen

MOTION DECLARED CARRIED

Annual Special Appointments

M/S Medford/Martin to appoint Commissioner Arntzen as primary and Commissioner Govaars as an alternative to the City of Ketchikan Historic Commission

M/S Medford/ Martin to postpone the appointment to the Creek Street Historic District Board to the April 11, 2023 meeting

Upon roll call the vote on the MOTION was:

YES: Govaars, Arnold, Medford, Martin, Meck and Arntzen

MOTION DECLARED CARRIED

CORRESPONDENCE – Chair Arntzen acknowledged the following correspondence items on the table:

1. Resolution 4414 A for Case 23-015
2. Correspondence from Leslie and Larry Jackson relating to Case 23-007 (submitted during the public comment period of case)
3. Correspondence from Alaska Department of Natural Resources related to Case 23-007 (submitted by email to Planning Staff at 5:37PM, 3/14/2023 and brought to Staff's attention during case)

PERSONS TO BE HEARD – None

M/S Arnold/Medford to move the Work Session for Title 18 Re-write from Unfinish Business to Regular Business

Upon roll call the vote on the MOTION was:

YES: Arntzen, Govaars, Mainardi, Medford, Martin, and Meck

MOTION DECLARED CARRIED

UNFINISHED BUSINESS/ PUBLIC HEARINGS

POSTPONEMENT REQUESTED - Case 23-004 is a request for a major variance to allow an existing shed and an existing carport to remain and encroach into the side yard setbacks on Lot I3, USS 2554, KRD; located at 219 Potter Road, Ketchikan Gateway Borough.(Resolution 4408)

Planner Johnson summarized the written staff report, in which staff recommended approval for the encroachment of the carport into the setback and postpone the portion of the case relating to the greenhouse encroachment into the northern setback to the September 12, 2023 Planning Commission Meeting.

- The applicant discovered the encroachments on the as-built survey of their property while applying for a minor plat.

The applicant Larry Jackson was in attendance and restated that they submitted an as-built in 2009 after the house and carport were constructed and was dismayed by the encroachment not being brought to his attention at that time.

Dave White neighboring property owner felt that approval of the carport was fine.

Hearing no additional public testimony, Chair Arntzen declared the public hearing closed.

M/S Medford/Martin to amend resolution 4408 B by striking all reference to the encroaching carport, as reflected in Resolution 4408 B - Amended."

Upon roll call the vote on the MOTION was:

YES: Arntzen, Govaars, Arnold, Medford, Martin, and Meck

M/S Medford/Govaars to postpone resolution 4408 B Amended to September 2023.

Upon roll call the vote on the MOTION was:

YES: Arntzen, Govaars, Arnold, Medford, Martin, and Meck

M/S Medford/Arnold to adopt Resolution 4416 A

Upon roll call the vote on the MOTION was:

YES: Arntzen, Govaars, Arnold, Medford, Martin, and Meck

MOTION DECLARED CARRIED

Local Concurrence on Paving Restriping and other maintenance on Tongass Avenue.

Negotiations with the State, City and Borough have been success in the pursuit to maintain the bus stops and shelter at their historic locations.

M/S Martin/Arnold move to provide local concurrence of the ADOT&PF Project no. 0902042 / Z680910000, Paving, Pathways, Signing, Striping, Drainage, Illumination, and

Signalization based on the plan set dated January 31, 2023, as provided in this agenda item, with the following conditions:

- the three parking spaces just north of the hospital driveway from Tongass Avenue shall be retained and the bike lane ends just south of the said driveway; and
- the Washington Street bus stop shall be retained and not removed from the current location as shown on the attached plan sets; and
- existing bus shelters shall be reinstalled and not removed; or replaced with similar or enhanced bus shelters."

Upon roll call the vote on the MOTION was:

YES: Arntzen, Govaars, Arnold, Medford, Martin, and Meck

MOTION DECLARED CARRIED

NEW BUSINESS/PUBLIC HEARINGS

Sharli Arntzen described the procedures for public hearings and appeals of decisions of the Planning Commission/Platting Board. She then read the agenda published on February 10, 2023, into the record.

Case 23-007 is a request for a minor plat to create ATS 1741, abutting Lot I-3, Harrington Subdivision of Lot I, U.S. Survey 2554, Clover Pass Group of Homesites, Ketchikan Gateway Borough; located at 219/215 Potter Road. Filed by Larry and Leslie Jackson on November 17, 2022.

Planner Johnson summarized the written staff report, in which staff recommended approval.

- The proposed Alaska Tideland Survey will plat an area to be leased by the applicant because it encompasses an existing dock utilized by residents of their property.

Planner Johnson stated for Commissioner Medford that there was no pre application period with the applicant since the state was the government agency that has jurisdiction over the placement of tidelands surveys.

Director Harney state for Chair Arntzen that the zoning of the new tideland would be the same as the uplands.

Commissioner Arntzen stated that the impact of a restrictive easement would not fix the problem created by the dock and tideland projecting in front of the neighboring lot.

Director Harney stated that if the commission denied the preliminary plat the applicant would have the option to appeal to the State of Alaska Superior Court.

Director Harney stated that the Borough did not object to the Department of Natural

Resources not submitting notification for review.

The applicant Larry and Leslie Jackson were in attendance. Leslie stated they are not running a commercial business from their property and have no intentions to in the future and therefore do not want to rezone their property to General Commercial.

Mrs. Jackson stated for Commissioner Govaars that they tied up their own boats to the dock and they have many that they have parked in other places. She further stated that they rent out the boats with their vacation rental as a package. She also stated that when they run charters they utilize the Knudson Cove marina for pick ups.

Mr. Jackson stated they do have a boat rental business and sometimes those boats are tied up to the dock because he does his own maintenance. He further stated that he was frustrated that the State and Borough could not see eye to eye on the tidelands surveying.

Bailfery Brecktal representative of the applicant that worked for the Department of Natural Resources Survey Section.

Mrs. Brecktal stated for the commission that the reason for the ATS not following in line with upland lot boundaries was because issues can arise when those lines are extended into the ocean. She further stated that many times DNR will default to the surveyor's professional judgement. She continued that many tidelands are created to encompass the improvements already in place in the water.

Surveyor William "Bill" Nielson stated that many times people believe that the meander line is only established to figure out the amount of land that the government originally sold; however the meander line changes with time and is not a stable property boundary. He further stated that often the ATS lot line were perpendicular to the shoreline even when the uplands lot lines are not; which was the case with this ATS.

Mr. Nielson confirmed for Chair Arntzen that the ATS design was to encompass the existing structures and accommodate future expansion.

John Harrington neighboring property owner submitted his concerns to Staff and those concerns were included in the packet. He further stated that he would be fine with approval of the existing conditions for restrictions.

Dave White, a neighboring property owner stated the Chinook Shores owners were not in attendance because they were out of town. He further stated that he was happy that the restrictions on the tidelands were included. Mr. White would like to see setback requirements included for the tidelands to allow for maneuvering of large vessels.

Mr. Jackson thought the bigger problem was that the Borough has no powers over tidelands which makes it difficult in the creation of new tidelands surveys.

7:56 PM recess was called

8:20 PM recess was ended.

On the table item from the State DNR was received at 5:37PM 3/14/2023; the item was not supplied prior to the meeting since the Clerk was not informed of it.

Director Harney stated that there appears to be confusion regarding jurisdiction. The state is the platting authority in unincorporated boroughs and many of the references cited with the supplied letter are questionable in their merit based on jurisdiction.

Chair Arntzen was a little confused by the drawing submitted by the applicant showing the ATS lot lines mostly projected straight out from the upland property lines. She further didn't like the State calling out the Borough for not following the code when the State never provided notification to the Borough as required by law.

Surveyor Nielson stated for Chair Arntzen that the ATS is a lease and the ATS could be revised when the lease is up in 25 years and that could alter the boundaries in the future.

Director Harney stated that the reason staff tried to accommodate the applicants was because the process is complicated, long and costly for individuals trying to obtain and ATS. Staff felt that there was a large burden for the applicant so staff felt the restrictive easement would provide a path forward for all stakeholders.

Director Harney stated for Commissioner Medford that the Borough attorney felt all the recommendations would be upheld in a court of law.

Director Harney stated for the Commission that the 60 day timer the State is referring to would only start once a complete application was received.

Commissioner Medford felt the details of the case are not clear.

Director Harney stated for Commissioner Arnold that the dock was not install prior to the applicant purchasing the property.

Commissioner Martin fully understood the property owner and neighboring property owners concerns, but also that the commission was dealing with an applicant that already had a record of not necessarily following the Borough rules.

Director Harney stated for Chair Arntzen that if in the future the applicant decided to build within the restricted easement; enforcement would be handled through a civil trial between the two property owners.

Commissioner Govaars did not feel the conditions should be included in the resolution.

Hearing no additional public testimony, Chair Arntzen declared the public hearing closed.

M/S Govaars/Martin to adopt resolution 4413A.

Commissioner Govaars and Arnold felt that the conditions were not necessary.

Chair Arntzen stated that the neighbors never had a chance to have their voice heard at the beginning of the process, because steps were missed by the State. Further the only way to resolve the issue was through the restrictive easements.

Upon roll call the vote on the MOTION was:

YES: Arntzen, Govaars, Martin, and Meck

NO: Medford and Arnold

MOTION DECLARED CARRIED

Case 23-015 is a request for a conditional use permit (CUP) for a mobile food vender use on Lot 1, Block 4, of the Crowder/Karlson Subdivision, Plat 2006-31; located at 4227/4229/4231 Don King Road, City of Ketchikan.

Planner Johnson summarized the written staff report, in which staff recommended approval.

- The applicant sought to park a food truck on the property for the sale of food and beverages.
- A CUP is required to allow a mobile food vendor to operate on one lot for more than two hours per day.

The applicant Gretchen Moore was in attendance.

Hearing no additional public testimony, Chair Arntzen declared the public hearing closed.

M/S Martin/Meck to adopt resolution 4414A.

Upon roll call the vote on the MOTION was:

YES: Arntzen, Govaars, Arnold, Medford, Martin, and Meck

MOTION DECLARED CARRIED

Case 23-016 Code Amendment creating a permitting process for vacation rentals (Resolution 4415)

Planner Lappin summarized the written staff report, in which staff recommended approval.

- This was the same resolution code amendment brought before the Commissioner last year that was subsequently struck down by the Assembly.
- The assembly in January 2023 requested that Planning Staff bring back the code amendment for further consideration.

The applicant was the Ketchikan Gateway Borough.

Planner Lappin stated that the Borough had discovered third party software that tracks and charts vacation rentals, making the short term rentals permitted with standards unnecessary at the time.

Director Harney stated that the finance department had department personnel that comb through vacation rentals in search for non-compliance.

Hearing no additional public testimony, Chair Arntzen declared the public hearing closed.

M/S Martin/Medford to adopt resolution 4415A.

Upon roll call the vote on the MOTION was:

Yes: Arntzen, Govaars, Arnold, Medford, Martin, and Meck

MOTION DECLARED CARRIED

CONSENT AGENDA - None

REGULAR BUSINESS

Worksession: Title 18 Re-Write

M/S Martin/Arnold to move into work session

Upon roll call the vote on the MOTION was:

Yes: Arntzen, Govaars, Arnold, Medford, Martin, and Meck

Several changes were made to the re-write related to as-built surveys in their form and in remote properties.

M/S Medford/Arnold to move out of work session.

REMARKS

DIRECTOR'S REPORT


COMMISSIONERS' COMMENTS

Chair Arntzen would like to hear more about the situation with the DNR. She would also like to see a statement of some sort acknowledging the disconnect between the Borough and State.

ADJOURNMENT

M/S Govaars/Martin moved to adjourn.

With no objection, the meeting adjourned at 9:42 p.m.



Jeremy Weber, Platting/ Zoning Clerk
Planning Commission/Platting Board



Sharli Arntzen, Chair
Planning Commission/Platting Board -