

KETCHIKAN GATEWAY BOROUGH

Planning Commission/Platting Board Meeting Minutes

4/25/2023

The regular meeting of the Ketchikan Gateway Borough Planning Commission/Platting Board was called to order at 6:00 p.m., Tuesday, April 25, 2023, by Chair Sharli Arntzen and the roll was called.

CALL TO ORDER - PLEDGE OF ALLEGIANCE – ROLL CALL

PRESENT: Robb Arnold, Joseph Mainardi, Jacquie Meck, Jos Govaars and Michael Medford

ABSENT: Sharli Arntzen and Michael Martin

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

PRESENTATION OF MINUTES – None

SPECIAL ORDERS – None

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

1. Proposed amendments to Resolution 4413 A – Substitute submitted by the applicant's representative (Case 23-007)

PERSONS TO BE HEARD - None

UNFINISHED BUSINESS/ PUBLIC HEARINGS - None

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 April 21, 2023, into the record.

Reconsideration Hearing for Case 23-007 Resolution 4413 A, a request for a preliminary 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, Ketchikan Gateway Borough.

Planner Johnson summarized the staff analysis, in which staff recommended approval.

- Reviewed the timeline and procedures followed during the pre-application process, acceptance of the application, and staff's recommendation for approval.
- The application was originally scheduled for administrative review as a minor plat.
- However, a notable objection was received stating that the dock extended over the projected side lot line of the upland property, and the Planning Director forwarded the request to the Planning Commission for a Public Hearing.
- The Preliminary Plat was approved with conditions on March 14, 2023.
- The Planning Commission's decision was reconsidered on April 11, 2023, and a rehearing was scheduled for April 25, 2023.
- Ketchikan Gateway Borough was recognized by DNR as platting authority.
- ATS 1741 was generally harmony with the Subdivision Code and Comprehensive Plan,
- No improvements were required
- Staff presented a substitute resolution and recommended approval without conditions.

Scott Brandt-Erichsen, representing applicants, offered Res 4413 A Substitute-2, and noted differences. There were two substantive changes. The applicants took the position that this was a final plat approval as opposed to a preliminary plat. In addition, he asserted that the plat was considered approved in accordance with AS 29.40.110, because more than 60 days passed without rejection of the abbreviated plat application. Mr. Brandt-Erichsen stated that the applicant was entitled to a certificate of plat with plat recorded and did not need to go through the final plat process.

Mr. Brandt-Erichsen asserted that the tidelands were owned by State with tideland leases issued. Unless a patent was issued, it was not considered a lot, but a defined area being leased. He stated further that it was inappropriate to condition the approval of tidelands based on the uplands and that the boundary of the proposed ATS 1741 was an administrative demarcation on the premises of a lease.

Mr. Brandt-Erichsen requested that the commission consider DNR points made in letters and referred to an Alaska DNR letter explaining tidelands and noting that owners and uses may be different than the uplands. He asserted that the Planning Commission had no legal basis to impose an easement on the tideland area and suggested that the borough pursue a separate discussion with DNR regarding regulation of tidelands.

John Harrington, neighboring property owner, explained that the applicant's Army Corps Permit for the dock had restriction that it could not go beyond the projected lot lines. He said he did not receive DNR notice of the proposed ATS 1741. Mr. Harrington objected

based on commercial use intended for dock with the uplands zoned as residential. He supported the original resolution with conditions as approved by the Planning Commission in March. He also requested that the Planning Commission and Borough Assembly put rules in place to require dock permits to stay within parallel boundary lines of uplands.

Mr. Brandt-Erichsen said there was an appeal process for a DNR defect in notice process that could be pursued separately.

Four staff members of the Alaska Department of Natural Resources (DNR) were in attendance via teleconference: Kristen Hess, Megan Hillgartne, Sara Brennan and Vivian Brechtel. No comments were provided by DNR staff.

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

Commissioner Mainardi disclosed a conversation with applicant prior to the meeting; however, they did not discuss case. Chair Arntzen ruled there was no conflict of interest and there was no objection by the commission.

M/S Martin/Mainardi to adopt resolution 4413 A - Substitute.

Commissioner Martin asked about the process for final plat. Director Harney explained that it would come forward to the commission in the same form as the preliminary plat.

Upon roll call the vote on the MOTION was:

Yes: Arnold, Mainardi, Martin, Meck, Arntzen

MOTION DECLARED CARRIED

CONSENT AGENDA - None

REGULAR BUSINESS - None

REMARKS

DIRECTOR'S REPORT - None

COMMISSIONER'S COMMENTS

Commissioner Mainardi requested that the Alaska Department of Natural Resources clarify the authority for zoning on tideland leases.

Arntzen encouraged DNR to listen to the comments provided when determining how to move forward and hoped conversations would continue between Planning and DNR.

ADJOURNMENT

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



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



Shari Arntzen, Chair
Planning Commission/Platting Board