

**HAINES BOROUGH PLANNING COMMISSION
REGULAR MEETING MINUTES
MAY 13, 2004**

1. **CALL TO ORDER:** 6:00pm
2. **PLEDGE TO FLAG:** Led by Dawne **THOMSEN**
3. **ROLL CALL:**

Present: Dawne **THOMSEN**, Jim **STANFORD**, Lee **HEINMILLER**, Bill **STACY**, Herb **VANCLEVE**, Harriet **BROUILLETTE**

Absent: Rob **GOLDBERG**

Staff Present: Keith **BETTRIDGE** (Borough Manager), Scott **HANSEN** (Administrative Assistant)

Visitors: Lucy **HARRELL** (Borough Assembly representative), Fred **GRAY**, Al **MOORE**, Stan **BOOR**, Bob **GRANT**, Hugh **RIETZE**, June **HAAS**, Mark **EDWARDS**, Phyllis **SAGE**, Joanne **WATERMAN**, Bill **VALENTINE**, Kathleen **FREDERICK** (via teleconference)

4. APPROVAL OF AGENDA

M/S HEINMILLER/STACY to add item 11a. "Sage SSA Permit Review" to the agenda.

Motion carried unanimously.

5. APPROVAL OF MINUTES

a. April 8, 2004

VANCLEVE directed the Commission to page 5 and noted that when he commented on conditional use permits as being basically a prohibition to development he was actually echoing some Assembly members' comments regarding the conditional use process.

M/S STANFORD/STACY to approve the minutes as amended.

Motion carried unanimously.

6. PRESIDING OFFICER REPORT:

THOMSEN stated that the Comprehensive Plan was passed by the Assembly, so the Commission will be able to make zoning recommendations and handle permitting issues. The Commission will be expected to review the Plan within one year's time. She said that a "second cut" will be proposed, as discussed in the

last meeting, and the Commission will probably start work with that document.

a. Cutoff time

THOMSEN said that the Borough is facing an inherited inconsistent policy of applying land use code. One example was Fred **FOLLETTI**'s recent development, which was installed prior to obtaining a land use permit, but the usual "after-the-fact" fee was not assessed. Several other situations have occurred where the administration hasn't consistently applied the permitting process or assessed fines for noncompliance. The consolidated Borough can start anew, and the Assembly is ultimately responsible for supporting enforcement of the community's law. **STANFORD** said that there is already a process for enforcement - it must be applied consistently. **HANSEN** noted that staff is supported by the Commission, which must be supported by the Assembly, and there is a public process for changing unworkable laws. **BETTRIDGE** agreed, saying that past mistakes don't need to be repeated. The code is interpreted by **HANSEN** right now, and the appeal process works if invoked. **STACY** asked if the Assembly has the option to redefine a code interpretation. **BETTRIDGE** said that the administration daily interprets code, and if anyone objects the public appeal process is the single avenue to publicly establish the "right" interpretation. The administration will align itself to that interpretation. **STACY** suggested that the Assembly must be ready to follow the rules, or any sort of violation might happen. **THOMSEN** added that the commission needs to back staff also. **STACY** recommended that the commission ask the Assembly if they will commit to following the land use regulations. **STANFORD** said that the Assembly cannot legally disobey the laws of the Borough.

M/S STANFORD/THOMSEN that staff complete a letter to the Assembly explaining the situation and expressing that a breach of permitting exposes the Borough to litigation.

Motion carried unanimously.

Staff was directed to draft and communicate the letter to the Assembly.

7. PUBLIC HEARINGS:

a) Setback Variance - Stan BOOR

BOOR explained that an unanticipated water problem compromising the structural integrity of the structure requires him to construct a watershed off the front of the garage, an area within the right-of-way setback. The garage was allowed by a past variance because of steep topography, and unfortunately the design was inadequate for the task at that time.

M/S STANFORD/STACY to approve the setback variance.

Motion carried unanimously.

b) Conditional Use - Animal husbandry - Scott HANSEN

HANSEN joined the audience and explained that he lives in the Single Residential land use zone and wishes to keep bees on his property. Due to the nature and timing of the industry **HANSEN** said that he had to get a land use permit approved for his neighbor's property, which is within the Rural Mixed Use zone where bee colonies are a use-by-right. All specific criteria are satisfied by the proposed design on **HANSEN**'s property, and an elevated stand, accessed via a ramp, and a slope, is designed to ensure public safety and the longevity of the colonies.

M/S STANFORD/THOMSEN to approve the animal husbandry conditional use permit as per the attached memo dated May 13, 2004.

Motion carried unanimously.

c) Conditional Use - Fish Processing Facility - Cannery Cove Corporation

HANSEN was asked to explain the development. Going through a detailed memo dated May 13, 2004, he described how the development is planned to satisfy each element of HBC 18.50 necessary to approve a conditional use permit request. The memo cited potential impacts such as noise, odors, property values, consistency with comprehensive plan, public health/safety, environment, and others. **HAAS** asked about future development. **RIETZE** said the future is not clear, especially if the ability to develop is unknown, but there could be increased fish production and a possible tourism thrust oriented to the cannery's fishing history. **GRAY** stood up in support of the development, saying that there are always certain impacts to a business, but there must be flexibility. New landowners have built in the Letnikof subdivision and then complained about the fishing industry in adjacent waters. People need to realize

that with the cannery image comes cannery impacts. The cannery has been a significant addition to the community for decades. **MOORE**, the president of the Letnikof homeowners' association, stated that he was in attendance to gather information and to make sure that there will not be problems. **STANFORD** noted the incongruity of having fish processing as a Conditional Use in the Cannery zone, whose intent is to support the fishing fleet. He suggested that fish processing should be a use-by-right.

M/S STANFORD/STACY to approve the fish processing conditional use permit as per the attached memo dated May 13, 2004.

Motion carried unanimously.

d) Setback Variance - Bob GRANT

GRANT explained his narrow lot and house built virtually next to property lines back 50 or so years ago. He stated his intent to construct residential additions to the lot.

M/S STACY/VANCLEVE to approve the setback variance request.

Motion carried unanimously.

8. STAFF REPORTS:

- a) Land Use Permits
 - i) Dick Flegel - SFR addition - W
 - ii) Rodger Tuenge - SFR - SR
 - iii) Fred Folletti - temporary commercial trailer - C
 - iv) JA Tate - SFR addition - SR
 - v) Len Feldman - SFR addition - SR
 - vi) Ira Henry - residential shop - SR
 - vii) Jack Hodnik - SFR - SR
- b) Enforcement - none

9. COMMUNICATION

10. OLD BUSINESS

11. NEW BUSINESS

a. Sage SSA Permit Review

HANSEN noted that the Commission is discussing the permit because the code requires that all development within the Significant Structures Area (SSA) zone requires the Planning Commission to review the permit as Historic District Committee. **WATERMAN** explained the proposed sign installation, which

utilizes the porch for support. Some discussion ensued over the appearance of the sign and the property.

M/S STANFORD/STACY to approve the sign design and placement permit request.

Motion carried unanimously.

12. PUBLIC COMMENT

13. MEMBER COMMENT

BETTRIDGE noted that he will be investing more time with the Commission in the future and discussed variance procedures, noting that the variance process should be a serious, objective process allowing for some looseness for four specific code areas. He also introduced the conditional use permit process, which may bear some changes. **HANSEN** agreed, suggesting that a code change may be in order to keep the Conditional Use permit process legal and effective. **BETTRIDGE** said that the process cannot be arbitrary and capricious. In particular, the way public input is handled must be consistent and equitable. **HARRELL** added that for efficiency's sake written comments should be submitted prior to meetings. She noted that the conditional use process swallows tremendous amounts of money, staff time, and effort, and the process should only be used when necessary. It also hinders economic development by delaying and/or injecting an amount of uncertainty into the development process. Government should be ruled by law and not by personal preferences. She noted that specific criteria should exist for every Conditional Use. **THOMSEN** added that consistency comes from staying within the limits of code. **HANSEN** added that the Conditional Use permit process is designed to be objective, but the "public comment" portion ends up requiring subjectivity of the Commissioners, and this contradiction does not achieve the purpose of land use code. **BETTRIDGE** said that staff would work on language to present to the Commission at a later time.

BETTRIDGE suggested a joint Commission/Assembly meeting with the Alaska Department of Community and Economic Development (DCED) for planning training to discuss the planning process and other topics relevant to the newly-formed Haines Borough. After some discussion it was suggested that sometime in September would be best.

STANFORD asked about the tabled heliport ordinance and what would become of it. **BETTRIDGE** suggested that the Commission re-introduce it to the Assembly after ensuring that it conforms to

the Comprehensive Plan. **VANCLEVE** expressed that he would feel validated if the Assembly were to vote again on the ordinance in light of the existing Comprehensive Plan. Commissioners agreed.

M/S STANFORD/STACY that since the Commission is intimately familiar with the Comprehensive Plan and can affirm that the heliport ordinance conforms to the Plan that it be re-introduced to the Assembly for approval.

Motion carried unanimously.

14. NEXT MEETING DATE

- a. Zoning recommendation workshop - May 27, 2004, 6:00 pm in the Assembly Chambers
- b. Regular meeting - Thursday, June 10, 2004, 6:00 pm in the Assembly Chambers

15. ADJOURNMENT

M/S HEINMILLER/BROUILLETTE to adjourn.

Motion carried.

The meeting adjourned at 8:12 pm.

Respectfully submitted:

SCOTT HANSEN, Haines Borough Administrative Assistant