



**Haines Borough
Planning Commission Meeting
March 10, 2016
MINUTES**

Approved

1. **CALL TO ORDER/PLEDGE TO THE FLAG** – Chairman **Goldberg** called the meeting to order at 6:30 p.m. in Assembly Chambers and led the pledge to the flag.
2. **ROLL CALL – Present**: Chairman Rob **Goldberg**, and Commissioners Lee **Heinmiller**, Brenda **Josephson**, Rob **Miller**, Don **Turner III**, Heather **Lende** (via telephone) and. Larry **Geise** (via telephone).

Staff Present: Brad **Ryan**, Interim Manager and Julie **Cozzi**, Borough Clerk.

Also Present: Diana **Lapham**, Emily **Files/KHNS**, Karen **Garcia/CVN**, Mike **Wilson**, Jan Hill/Mayor, Meredith Pochardt, Thomas and Patricia **Faverty**, and Sean **Copeland**.

3. **APPROVAL OF AGENDA**

Motion: **Turner** moved to “approve the agenda as amended.” **Heinmiller** seconded it. The motion carried unanimously.

4. **APPROVAL OF MINUTES** – February 11, 2016 Regular Meeting Minutes.

Two corrections were needed: 1) Item 8A, Pilothouse should be Pilotlight and 2) Item 9A, should state that the permit is specific to heliskiing rather than year round use not being allowed.

Motion: **Turner** moved to “approve the February 11, 2016 minutes,” and **Miller** seconded. The motion carried unanimously.

5. **PUBLIC COMMENTS**

Pochardt – Takshanuk Watershed Council (TWC) requested a letter of support from the planning commission for a grant application to conduct a watershed assessment. TWC perceives the commission participating in the stakeholder meetings and then reviewing the results...time that would be used as an in kind match. She said she drafted a letter for the commission’s use, and the grant application is due on Monday. The commissioners objected to having no prior notice and being asked to support a draft letter they have not seen. There was no move to take action. **Goldberg** noted the agenda packet deadlines.

6. **CHAIRMAN’S REPORT**

Goldberg encouraged everyone to get their financial disclosure documents in by the 15th.

He briefly talked about the assembly’s action concerning the ordinance for planning commission review of borough projects. The manager’s substitute ordinance will be coming to the commission for consideration.

7. **STAFF REPORTS**

- A. **Planning & Zoning Staff Report**

Cozzi said there was no additional information to add to the report in the packet.

8. **PUBLIC HEARINGS**

A. Vacation Rental Conditional Use Proposal

Note: Property owners Thomas & Patricia Faverty applied for a conditional use permit to operate a vacation rental from May through September at their property on 209 Front Street.

Goldberg opened the public hearing at 6:47 p.m.

T.Faverty explained they plan to rent it only during the spring and summer months, and there should be no impact on the neighborhood.

Goldberg closed the public hearing at 6:48 p.m.

The commissioners expressed support for the proposed use.

Motion: **Miller** moved to “grant the conditional use permit for the vacation rental with no conditions,” and **Heinmiller** seconded. The motion carried unanimously.

9. UNFINISHED BUSINESS

A. Appeal of Manager’s Decision - Nonconforming Heliport Use at 35-mile.

Note: Property owner Michael Wilson appealed the Haines Borough Manager’s December 28, 2015 decision pertaining to historical use of AA35 (35-mile heliport). The text below is a synopsis of the appeal and deliberation. The full account can be heard by requesting a recording from the borough administration.

APPEAL

Wilson presented his appeal. He assured the commissioners his business plan does not include helicopter flight-seeing tours. Rather, it is for more transient industrial helicopter use such as mining, Coast Guard, Forest Service, etc. The heliport would also provide Industrial support when the road is still closed or during other adverse conditions. He conceives of an average of 10 landings per year for the first couple of years, but anticipates there may be times when it is more. He does not believe the manager’s limit of 10 per year allows for the business to grow. He clarified this operation is not associated with Coastal Helicopters and is not meant to be a base of operations for Coastal. He explained only one to two helicopters would land there. The basis for his appeal is there is no borough code that establishes frequency of use. He took the initiative to bring forward what he has been doing up there. This seems inequitable to him.

DELIBERATION

The commissioners deliberated. **Turner** said the decision to be made is whether it is a nonconforming use. **Miller** believes the essence of the argument is what limitation there should be on that use. **Lende** said she is uncomfortable overturning the manager’s decision in this. There is still an avenue for the appellant to pursue what he is talking about---he could apply for a conditional use permit (CUP) for increased use. **Josephson** said there could not have been a better record establishing historic use than what was provided by the appellant. Clearly, the heliport use began in 2009, and the code to limit heliports was put in place in 2011. The use did not cease for more than two years.

Turner agreed and noted the borough code guarantees a person will be able to continue using their property under the zoning conditions that existed at the time the property was purchased or the use initiated. **Miller** said 10 flights a year is not the same as a thousand flights a year. He believes there is a difference in the historic use level and the desired future level. **Josephson** said the questions presented to the attorney were not provided to the planning commission. The context of the attorney’s memo was

heliskiing, and that is no longer applicable to this question since the appellant now has a CUP for that particular use. Nonconforming use is not tied to number of times it was used, so to limit in this case is arbitrary and capricious. **Lende** said heliports are something a lot of citizens are concerned with. **Geise** has a problem with what he believes is an arbitrary number. It's not a change in use even though it would be a change in the number of landings. **Heinmiller** observed the FAA decision to permit the heliport was in 2012---after the code was amended in 2011 to require a CUP for a heliport in the General Use zone. In his opinion, having a CUP to increase the use would be better than overturning the manager's decision. **Miller** said the number of landings is not arbitrary but rather based on a historical average. **Goldberg** reminded the planning commission is charged with upholding or overturning the manager's decision. He explained if the commission upholds the manager's decision, the property can still be used as historically demonstrated, and the property owner can apply for a CUP to increase the use. If the manager's decision is overturned, the property can be used as a heliport without use limits. **Goldberg** said he is personally reluctant to open it up for year-round use. **Heinmiller** said a CUP can provide the planning commission an opportunity for review and the public a chance to weigh in. **Turner** reiterated the nonconforming part of the code is to protect the property owner. There is nothing in the code that limits the amount of business a person is allowed. The code is to protect the property owner from just exactly what's happening in this situation. **Josephson** read aloud from the nonconforming use section of code. She said there seems to be a fear that it will open up a can of worms related to tour activities, but that would require separate permitting. **Lende** noted the planning commission did grant the CUP for heliskiing. **Geise** has a problem with the borough telling someone how much business volume they are allowed for their property.

DECISION

Motion: **Miller** moved to "uphold the manager's decision," and **Lende** seconded. The motion carried 4-3 with **Geise**, **Josephson**, and **Turner** opposed.

10. NEW BUSINESS

- A. Historic District/Building Review—None**
- B. Haines Borough Code Amendments—None**
- C. Project Updates**

1. Chilkat Valley Preschool/Senior Center Construction Project

Some concerns were expressed about parking and certain design elements of the addition. **Cozzi** explained it is just a concept. An actual design will come to the planning commission when ready.

2. Chilkoot Distillery – Land Use Permit, Significant Structures Area

Note: Property owner Sean Copeland requested approval to construct a covered deck addition on the Chilkoot Distillery property at 34 Blacksmith Street.

Copeland explained the desire to build a roof that will resemble the other roofs on Officer's Row at the fort. He wants the building to fit in and look historic. In a brief discussion, the commission recognized they will likely need to look at parking and traffic patterns in the future, especially with the Fireweed Restaurant expanding.

Motion: **Turner** moved to “approve the requested land use permit,” and it was seconded by **Heinmiller**. The motion carried unanimously.

D. Other New Business—None

11. **COMMISSION COMMENTS**

Goldberg asked about the planning commission’s request for an ad hoc committee to work on the issue of food carts and trailers. Mayor **Hill** said she will get with **Goldberg** to work on establishing a committee. **Lende** and **Heinmiller** both said they would like to sit on it. There was some talk about the Chamber of Commerce having a seat, as well. **Heinmiller** said he heard a food truck in the Anchorage area was recently granted an alcohol license. He suggested the committee consider that aspect, as well. **Lende** said perhaps a condition could be placed on food carts requiring them to be open for longer than just a few months in the year. **Josephson** said the borough needs to start supporting businesses more if there are going to be limitations.

12. **CORRESPONDENCE** - None

13. **SET MEETING DATES**

A. Regular Meeting — **Thursday, April 14, 2016 6:30 p.m.**

14. **ADJOURNMENT**— 7:40 p.m.