

MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: August 16, 2011

TO: Board of Adjustment

FROM: Teri Camery, Senior Planner
Community Development Department

FILE NO.: VAR20110021

PROPOSAL: A Variance Request to allow back out parking in the Waterfront Commercial Zoning District.

GENERAL INFORMATION

Applicant: Gary & Marcia Rohweder

Property Owner: Gary & Marcia Rohweder

Property Address: 1050 Harbor Way, Juneau AK 99801

Legal Description: Tidelands Addition Block 51 Lot 4

Parcel Code Number: 1-C06-0-K51-002-0

Site Size: 4,617 square feet

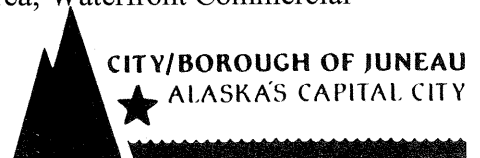
Zoning: Waterfront Commercial

Utilities: CBJ Water and Sewer

Access: Harbor Way

Existing Land Use: Vacant

Surrounding Land Use: Northeast - Harbor Way/Egan Drive; D-18 Residential
Southwest - Harris Harbor; Waterfront Commercial
Southeast - U.S. Fish and Wildlife Service Marine Building; Waterfront Commercial
Southwest - Harbor Way and parking area; Waterfront Commercial



ATTACHMENTS

Attachment 1	Vicinity Map
Attachment 2	Zoning Map
Attachment 3	Development Permit Application
Attachment 4	Variance Application
Attachment 5	Applicant Project Narrative
Attachment 6	Site Plan

PROJECT DESCRIPTION

The applicant requests a Variance to allow back-out parking in the Waterfront Commercial zoning district to accommodate construction of a 48' x 50' duplex adjacent to Harris Harbor. CBJ Code prohibits back-out parking for duplexes that are located in commercial zoning districts, according to code section 49.40.230(b)(1):

(b) Off-street parking and loading areas; design standards.

(1) Access. There shall be adequate ingress and egress from all parking spaces. The required width of access drives for driveways shall be determined as part of plan review depending on use, topography and similar considerations. Except in the case of single-family dwellings and duplexes located in residential and rural reserve zoning districts, back-out parking shall not be permitted on a right-of-way.

The lot size is 4,614 square feet. Approximately one third of the lot is underwater due to the steep slope in the rear yard along the waterfront (Attachment 8). The lot meets the minimum lot size, width, and depth requirements for the Waterfront Commercial zoning district. Waterfront Commercial allows for 18 units per acre, so the lot size allows for the proposed construction of two dwelling units. Each unit of the duplex would be 25 feet wide. The parking requirement would be met with the garage parking spaces located on the ground floor.

Access to the site is via Harbor Way, which is a platted right-of-way that runs parallel to Egan Drive. Harbor Way receives little traffic, and much of it is used as a parking lot for Harris Harbor users and residents.

To the southeast, the property is adjacent to the U.S. Fish and Wildlife Service marine building and government dock (referred to as the U.S. Forest Service building in the applicant's plans). This building is typically used only in the summer. The building further southeast and adjacent to the USFWS building is the former Juneau Electronics Building, which is now the Marine Exchange of Alaska. To the northeast, the property is adjacent to a small parking area for Harris Harbor.

The primary emphasis of reviews regarding back-out parking is safety. Harbor Way receives very little traffic and is primarily used for parking for Harris Harbor. This commercial development is for two residential units only, and since it is adjacent to an area that functions as a commercial parking

lot, staff believes this variance can be granted without significant impacts to public safety.

BACKGROUND

The applicant has also requested a Variance to reduce both side yard setbacks from ten feet to five feet. This Variance will be reviewed concurrently as VAR2011 0018.

ANALYSIS

Variance Requirements

Under CBJ §49.20.250 where hardship and practical difficulties result from an extraordinary situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of Title 49, the Board of Adjustment may grant a Variance in harmony with the general purpose and intent of Title 49. A Variance may vary any requirement or regulation of Title 49 concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards. A Variance may be granted after the prescribed hearing and after the Board of Adjustment has determined:

- 1. That the relaxation applied for or a lesser relaxation specified by the Board of Adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.***

The relaxation applied for would allow maximum use of a commercial lot to accommodate construction of a duplex. Without a Variance to back-out parking, the applicant would need to develop a parking area large enough for two vehicles to pull all the way in, turn around, and pull back out, which would be almost impossible on this lot. Approximately one third of this 4,617 square foot lot is underwater due to the slope to Harris Harbor; therefore the useable area is reduced to approximately 3,001 feet. The relaxation would provide substantial relief from this hardship and more consistent with justice to other property owners, because the adjacent parking area for Harris Harbor has back-out parking onto Harbor Way.

This criterion is met.

- 2. That relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare be preserved.***

The intent of Title 49 is established in Section 49.05.100 Purpose and Intent. Those sections, which are applicable to the requested variance, are as follows:

- 1) To achieve the goals and objectives and implement the policies of the Juneau Comprehensive Plan and the Coastal Management Program;

- 2) To ensure that future growth and development in the city and borough is in accord with the values of its residents;
- 3) To identify and secure, for present and future residences, the beneficial impacts of growth while minimizing the negative impacts;
- 4) To ensure that future growth is of the appropriate type, design, and location, and is served by a proper range of public services and facilities such as water, sewage, and electrical distribution systems, transportation, schools, parks and other public requirements, and in general to promote public health, safety and general welfare;
- 5) To provide adequate open space for light and air; and
- 6) To recognize the economic value of land and encourage its proper and beneficial use.

A grant of the variance would allow maximum use of this small commercial lot with minimal impacts to surrounding property owners, in conformance with intent numbers 2, 3, 5, and 6.

This criterion is met.

3. *That the authorization of the Variance will not injure nearby property.*

No evidence indicates that authorization of the Variance will injure nearby property. Harbor Way receives minimal traffic and is primarily used as a parking area for Harris Harbor. The area to the northeast has several designated parking spaces for the harbor and already utilizes back-out parking. CBJ Docks and Harbors does not have any objection to the proposal.

This criterion is met.

4. *That the Variance does not authorize uses not allowed in the district involved.*

A duplex is an authorized use in the Waterfront Commercial Zoning District; therefore the Variance would not authorize uses not allowed in the district involved.

This criterion is met.

5. *That compliance with the existing standards would:*

- (A) *Unreasonably prevent the owner from using the property for a permissible principal use;***

Compliance with the existing standards would not unreasonably prevent the owner from using the property for a permissible principal use in the Waterfront Commercial zoning district, which would include many other options besides construction of a duplex, though it would significantly reduce the buildable area.

This sub-criterion is not met.

- (B) *Unreasonably prevent the owner from using the property in a manner which is consistent as to scale, amenities, appearance or features, with existing development in the neighborhood of the subject property;***

Compliance with existing standards would prevent the owner from using the property in a manner consistent with the scale, appearance, and features of existing development in the neighborhood of the subject property, because the adjacent parking area for Harris Harbor requires back-out parking.

This sub-criterion is met.

- (C) *Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive;***

Compliance with existing standards would be unnecessarily burdensome because the unique physical feature of the property—the slope to tidewater which renders approximately one-third of the lot very challenging to build on would require construction of a significant portion of the duplex on pilings, which would be unreasonably expensive.

This sub-criterion is met.

or

- (D) *Because of preexisting nonconforming conditions on the subject parcel the grant of the Variance would not result in a net decrease in overall compliance with the Land Use Code, CBJ Title 49, or the building code, CBJ Title 19, or both.***

No pre-existing non-conforming conditions exist on the parcel.

This sub-criterion is not met.

Criterion 5 is met because sub-criteria B & C are met.

- 6. *That a grant of the Variance would result in more benefits than detriments to the neighborhood.***

A grant of the Variance would promote maximum use of this small commercial lot with minimal detriments to the neighborhood. Back-out parking would have few, if any, impacts along Harbor Way because the road receives little traffic and is primarily used as a parking area for Harris Harbor.

This criterion is met.

FINDINGS

1. Is the application for the requested Variance complete?

Yes. The application is complete.

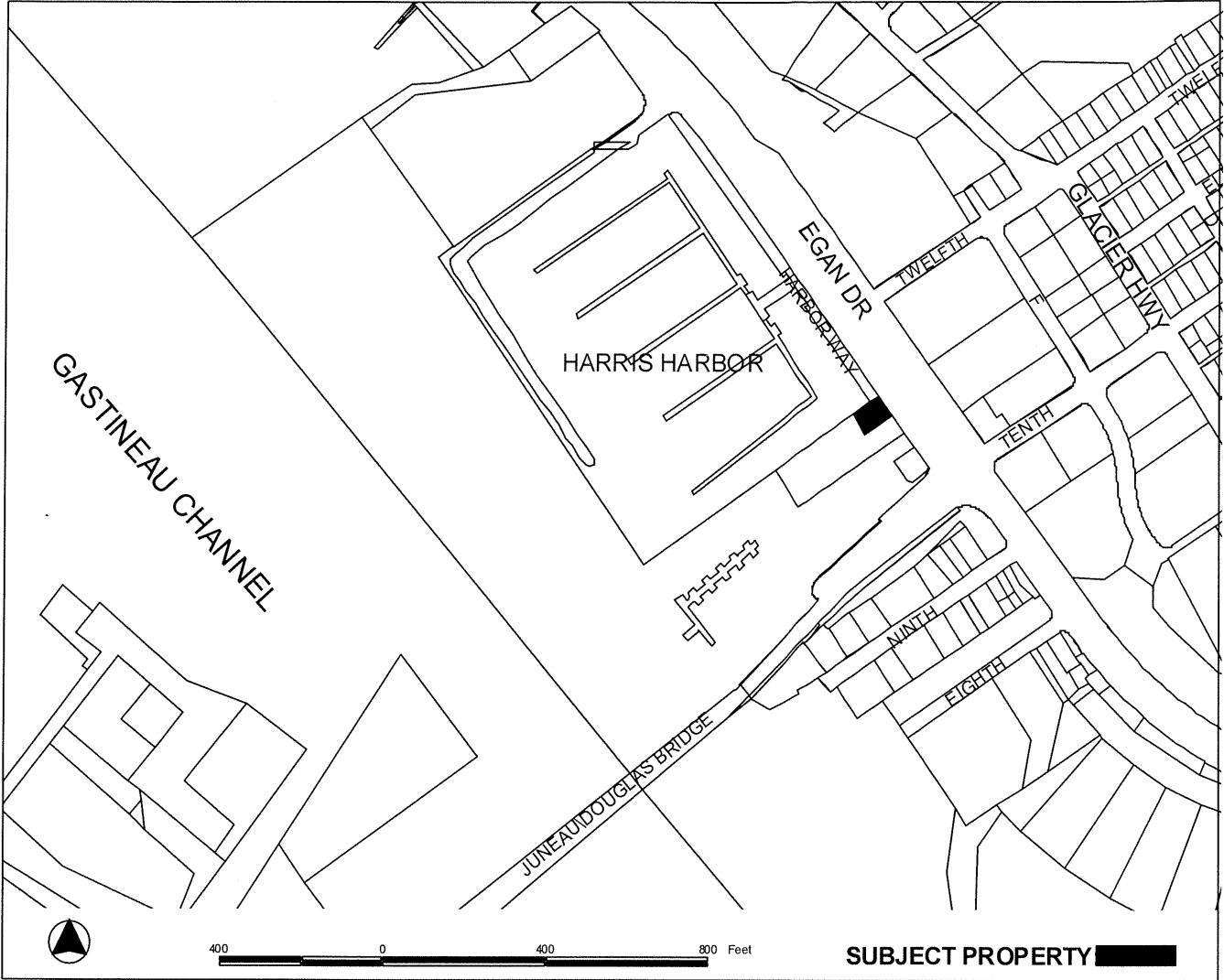
2. Does the variance as requested, meet the criteria of Section 49.20.250, Grounds for Variances?

Yes. As described in the staff report above, the variance meets criteria 1, 2, 3, 4, 5(B), 5(C), and 6.

RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and grant the requested Variance, VAR20110021. The Variance would allow back-out parking in the Waterfront Commercial zoning district.

NOTICE OF PUBLIC HEARING



PROPOSAL: VAR20110018: A Variance Request to reduce the side yard setback from 10 feet to 5 feet.
 VAR20110021: A Variance Request to allow back-out parking.

<p>FILE NO: VAR20110018 VAR20110021</p> <p>TO: Adjacent Property Owners</p> <p>HEARING DATE: August 23, 2011</p> <p>HEARING TIME: 7:00 PM</p> <p>PLACE: ASSEMBLY CHAMBERS Municipal Building 155 South Seward St Juneau, Alaska 99801</p>	<p>APPLICANT: GARY & MARCIA ROHWEDER</p> <p>Property PCN: 1-C06-0-K51-002-0</p> <p>Owner(s): GARY & MARCIA ROHWEDER</p> <p>Size: 4617 sqft</p> <p>Zoned: Waterfront Commercial (WC)</p> <p>Site Address: 1050 HARBOR WAY</p> <p>Accessed via: HARBOR WAY</p>
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PROPERTY OWNERS PLEASE NOTE:

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department no later than 8:30 A.M. on the Wednesday preceding the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a few days before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

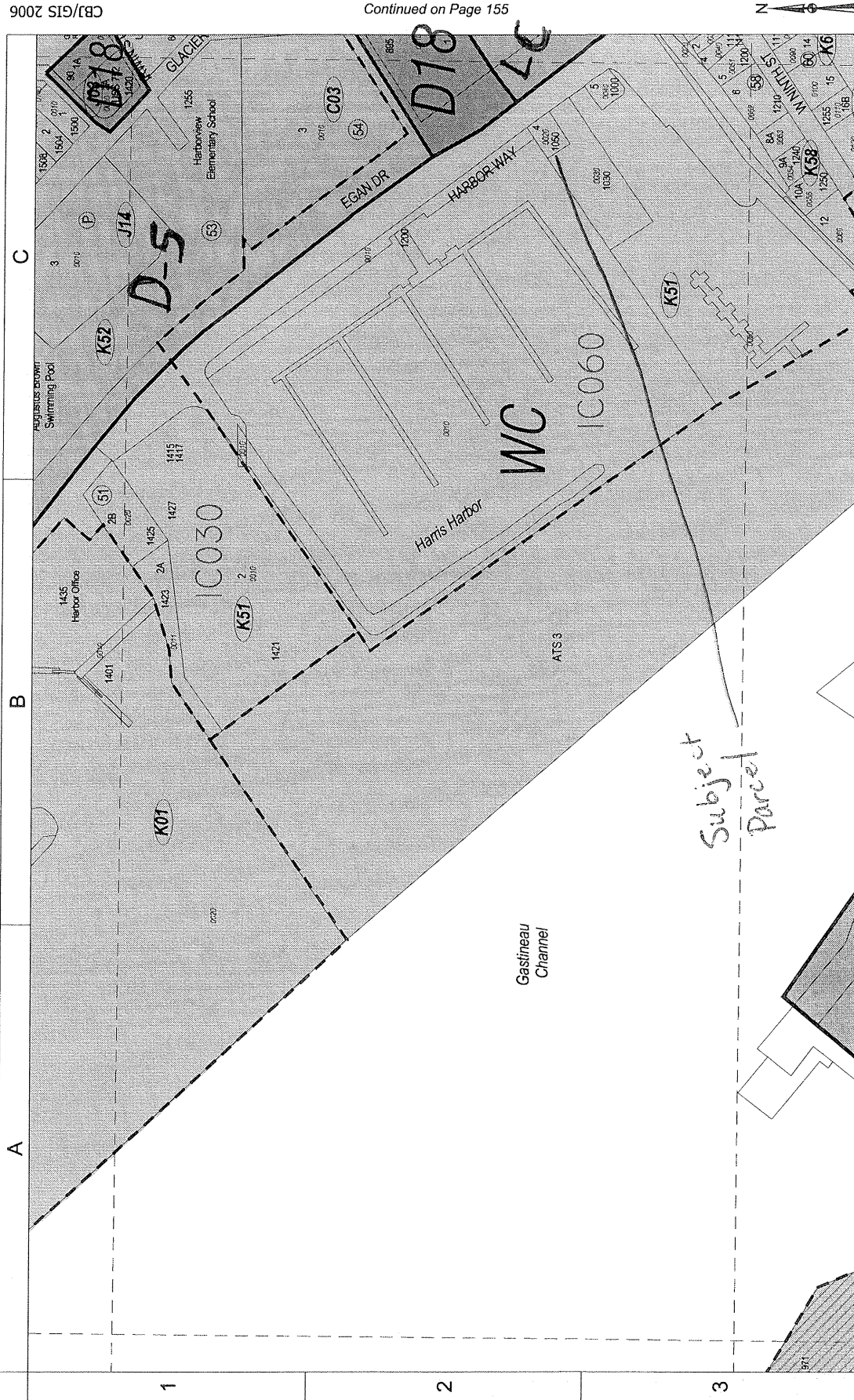
If you have questions, please contact Teri Camery at (907)-586-0755 or e-mail: teri_camery@ci.juneau.ak.us

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/plancomm.

Date notice was printed: August 9, 2011

Continued on Page 150

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Continued on Page 155

CBJ/GIS 2006

ATTACHMENT 2

Assessor Tax Code
16D090 **102** **0030**
 Tract Code Block Lot
 Number Number Number

Continued on Page 126

DEVELOPMENT PERMIT APPLICATION

Project Number	CITY and BOROUGH of JUNEAU	Date Received: 7/27/11
Project Name <small>(City Staff to Assign Name)</small>		

INFORMATION	Project Description <i>Variance Application for below described property. Variance request is to grant an exception to the CBS code #49.40.230 (Section (b) and (c))</i>		
	PROPERTY LOCATION		
	Street Address <i>1050 Harbor Way</i>	City/Zip <i>Juneau 99801</i>	
	Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) <i>LOT 4, BIKSI Tidelands Addition/Towasite of Juneau, Plat 340</i>		
	Assessor's Parcel Number(s) <i>1</i>		
	LANDOWNER/ LESSEE		
	Property Owner's Name <i>Gary A. Rohweder and Marcia E. Rohweder</i>	Contact Person: <i>either</i>	Work Phone: <i>209-4946</i>
	Mailing Address <i>P.O. Box 22134 Juneau 99802</i>	Home Phone: <i>586-8120</i>	Fax Number:
	E-mail Address <i>uptick3@me.com</i>	Other Contact Phone Number(s): <i>209-5740</i>	
	LANDOWNER/ LESSEE CONSENT <small>****Required for Planning Permits, not needed on Building/ Engineering Permits****</small>		
I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows: A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission. B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.			
<input checked="" type="checkbox"/>	<i>Laura Rohweder</i> Landowner/Lessee Signature	<i>July 25, 2011</i> Date	
<input checked="" type="checkbox"/>	_____ Landowner/Lessee Signature	_____ Date	
NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours and will attempt to contact the landowner in addition to the formal consent given above. Further, members of the Planning Commission may visit the property before the scheduled public hearing date.			
APPLICANT <small>If the same as OWNER, write "SAME" and sign and date at X below</small>			
Applicant's Name <i>Same</i>	Contact Person:	Work Phone:	
Mailing Address <i>1</i>	Home Phone:	Fax Number:	
E-mail Address <i>uptick3@me.com</i>	Other Contact Phone Number(s):		
<input checked="" type="checkbox"/>	<i>Laura Rohweder</i> Applicant's Signature	<i>July 25, 2011</i> Date of Application	

-----OFFICE USE ONLY BELOW THIS LINE-----

STAFF APPROVALS	<input checked="" type="checkbox"/>	Permit Type	**SIGN	Date Received	Application Number(s)
		Building/Grading Permit			
		City/State Project Review and City Land Action			
		Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)			
		Mining Case (Small, Large, Rural, Extraction, Exploration)			
		Sign Approval (If more than one, fill in all applicable permit #'s)			
		Subdivision (Minor, Major, PUD, St. Vacation, St. Name Change)			
		Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)			
	<input checked="" type="checkbox"/>	Variance Case (De Minimis and all other Variance case types)		<i>7/27/11</i>	<i>VAR 20110021</i>
		Wetlands Permits			
	Zone Change Application				
	Other (Describe)				
<small>***Public Notice Sign Form filled out and in the file.</small>					
Comments: <i>associated w/ VAR 2011-18</i>					Permit Intake Initials <i>BME</i>

NOTE: DEVELOPMENT PERMIT APPLICATION FORMS MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS

VARIANCE APPLICATION

Project Number	Project Name (15 characters)	Case Number <i>VAR 11-021</i>	Date Received
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TYPE OF VARIANCE REQUESTED:

- | | |
|---|--|
| <input type="checkbox"/> Variance to the Sign Standard (VSG) | <input type="checkbox"/> Variance to Dimensional Standards (VDS) |
| <input type="checkbox"/> Variance to Habitat Setbacks (VHB) | <input checked="" type="checkbox"/> Variance to Parking Requirements (VPK) |
| <input type="checkbox"/> Variance to Setback Requirements (VSB) | |
- Code 49.40.230 Section 6-1*

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:

To Construct a 2-3 story duplex and utilize the small lot and allow back-out parking. Due to 35% of the lot being under water at high tide, the economics of construction require used filled portion of the lot

Previous Variance Applications? YES NO Date of Filing: *6-29-2011*
pending

Previous Case Number(s): *VAR 20110018*

Was the Variance Granted? YES NO *pending*

UNIQUE CHARACTERISTICS OF LAND OR BUILDING(S): *Small lot, 4617 SQ. FT with 35% under water. Piling would be necessary to fully utilize the lot which is very expensive.*

UTILITIES AVAILABLE: WATER: Public On Site SEWER: Public On Site

WHY WOULD A VARIANCE BE NEEDED FOR THIS PROPERTY REGARDLESS OF THE OWNER?

To Fully utilize the filled portion of the lot in an economical manner. This would require back-out parking and the building could utilize the 10' front setback from the street.

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?

Higher expenses for the foundation would be a hardship financially. Expensive because of driven pilings and the necessary platform over the pilings. The bottom line hardship is that nothing could be built and owner has a worthless property.

For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side. If you need any assistance filling out this form, please contact the Permit Center at 586-0770.	VARIANCE FEES	Fees	Check No.	Receipt	Date
	Application Fees	\$ <i>400⁰⁰</i>	_____	_____	_____
	Adjustment	\$ <i>-</i>	_____	_____	_____
	Total Fee	\$ <i>400⁰⁰</i>	<i>10066</i>	<i>08/18/06</i>	<i>7/27/11</i>

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

TO BE COMPLETED BY THE APPLICANT

VARIANCE APPROVAL CRITERIA NARRATIVE

This narrative will be similar to the variance application pending asking for 5' side yard setbacks. The reasons for this variance are the same as in the pending variance on the same property.

1. This project is not a commercial building, but rather, a residential duplex being built in a water front commercial district. The code states back-out parking is not permitted on a right of way. I believe the code exists assuming a commercial building will be constructed on a WC district lot which is not the case here. The relaxation allowed by an exception to the code would allow building on existing fill. Otherwise, additional piling in the water with the associated platform would be necessary and this makes the project not feasible economically.

The project location is on a dead end street with low traffic. Relief can be granted with public safety and welfare preserved and consistent with the land use code and building code. Relief would not impede safety, traffic patterns, adjacent property uses, etc.

The authorization of the variance would not injure nearby property.

The intended project, with approved variance, will maintain the same uses currently allowed.

The unreasonableness would make it not feasible economically to go to the expense of constructing a smaller duplex with the associated high cost of the pilings and building platform necessary.

Allowing an exception to the code shows using the property to be consistent with the scale, amenities and appearance with existing development in the neighborhood.

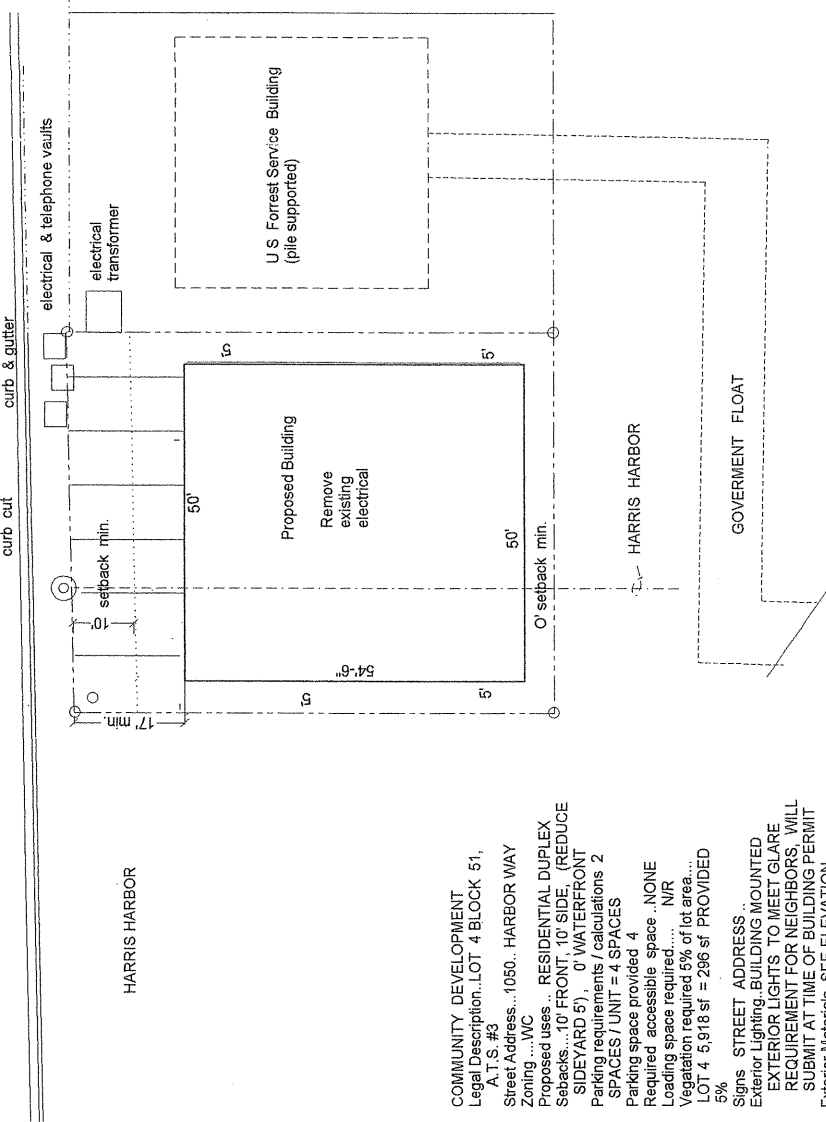
Unique features of the property – that being that it is a small lot with 35% under water. Attempting to build under current lot conditions with the existing code constraints is financially burdensome and probably the reason no one has ever built on the lot.

Having permanent residents living in the duplex 24-7 providing another set of eyes overlooking the boat harbor would provide a degree of safety in the area. A residential duplex would possibly mean less noise, car traffic coming and going. This is as opposed to a commercial establishment.

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JUL 27 2011
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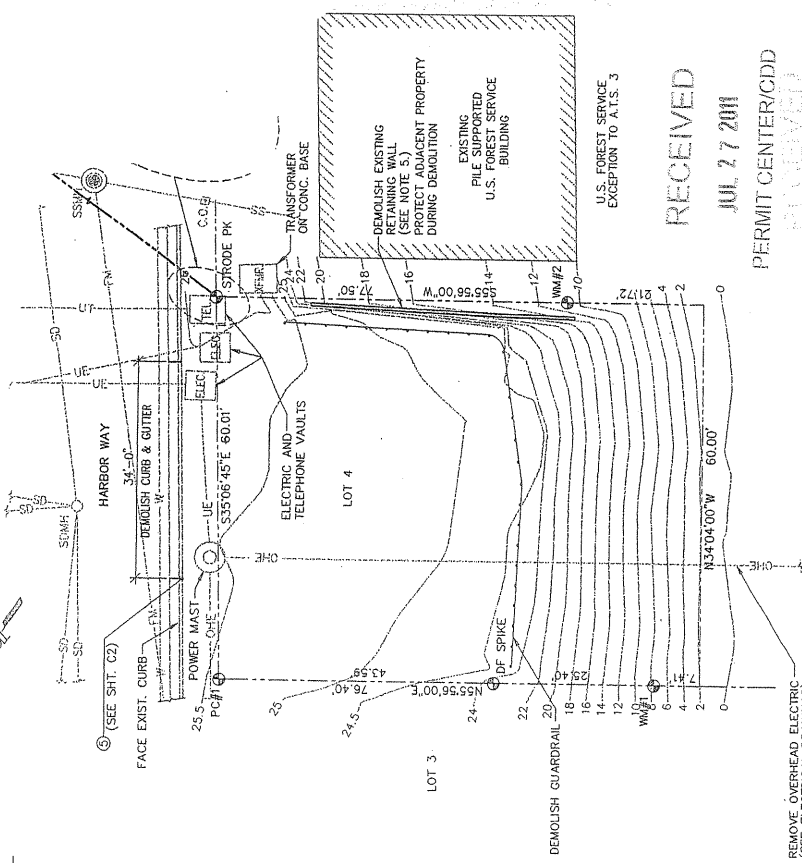
HARBOR WAY



SITE PLAN 1"=20'

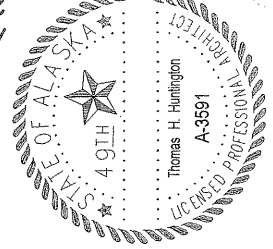
COMMUNITY DEVELOPMENT
 Legal Description...LOT 4 BLOCK 51,
 A.T.S.#3
 Street Address...1050, HARBOR WAY
 ZoningWC
 Proposed uses .. RESIDENTIAL DUPLEX
 Setbacks...10' FRONT, 10' SIDE, (REDUCE
 SIDEYARD 5'), 0' WATERFRONT
 Parking requirements / calculations 2
 SPACES / UNIT = 4 SPACES
 Parking space provided 4
 Required accessible space ..NONE
 Loading space required..... N/R
 Vegetation required 5% of lot area....
 LOT 4 5,918 sf = 296 sf PROVIDED
 5%
 Signs STREET ADDRESS ..
 Exterior Lighting..BUILDING MOUNTED
 EXTERIOR LIGHTS TO MEET GLARE
 REQUIREMENT FOR NEIGHBORS WILL
 SUBMIT AT TIME OF BUILDING PERMIT
 Exterior Materials...SEE ELEVATION

1050 Harbor Way
 VAR 20110018



REMOVE OVERHEAD ELECTRIC (SEE ELECTRICAL DRAWINGS)

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 JUL 27 2011
 DEPT. OF PERMITS



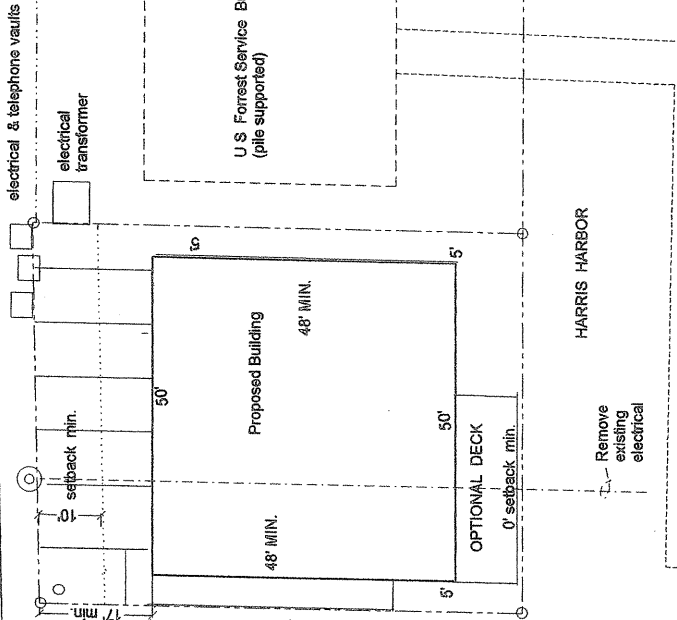
1 of 5
 10.20.09

DUPLEX BUILDING
MARSHA & GARY ROHWEDER
 1050 HARBOR WAY
 JUNEAU ALASKA

ATTACHMENT 6


ABC/TOMAS H. HUNTINGTON, ARCHITECT
 2314 DOUGLASS AVE. JUNEAU, ALASKA 99804 907-586-3636 & FAX

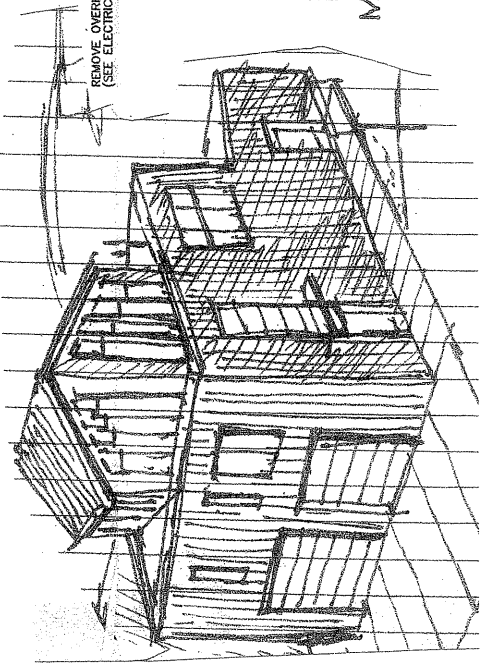
HARBOR WAY
32' curb cut



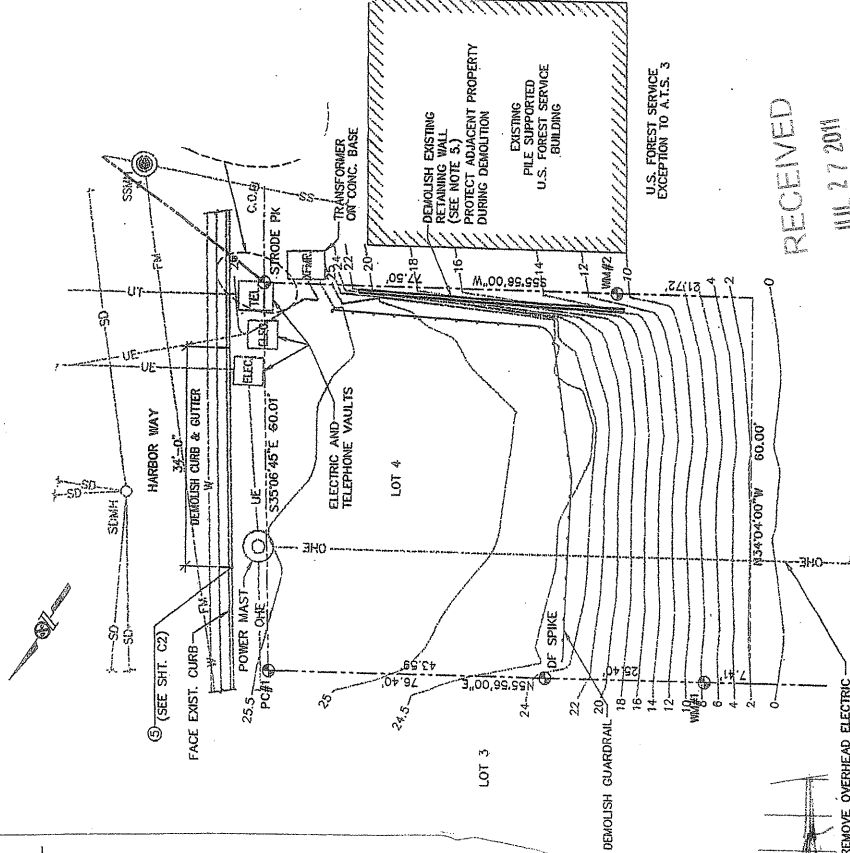
HARRIS HARBOR
PARKING SPACES

COMMUNITY DEVELOPMENT
Legal Description, LOT 4 BLOCK 51,
A.T.S. #3
Street Address... 1050, HARBOR WAY
Zoning... WC
Proposed uses... RESIDENTIAL DUPLEX
Setbacks... 10' FRONT, 10' SIDE, (REDUCE
SIDEYARD 5'), 0' WATERFRONT
Parking requirements / calculations 2
SPACES / UNIT = 4 SPACES
Parking space provided 4
Required accessible space... NONE
Loading space required... N/R
Vegetation required 5% of lot area.
LOT 4 5,918 sf = 298 sf PROVIDED
5%
Signs STREET ADDRESS
Exterior Lighting, BUILDING MOUNTED
EXTERIOR LIGHTS TO MEET GLARE
REQUIREMENT FOR NEIGHBORS, WILL
SUBMIT AT TIME OF BUILDING PERMIT
Exterior Materials. SEE ELEVATION

 SITE PLAN
1"=20'



DUPLEX BUILDING
MARSHA & GARY ROHWEDER
1050 HARBOR WAY
JUNEAU ALASKA



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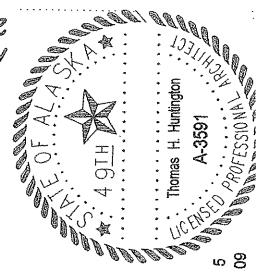


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10.20.09

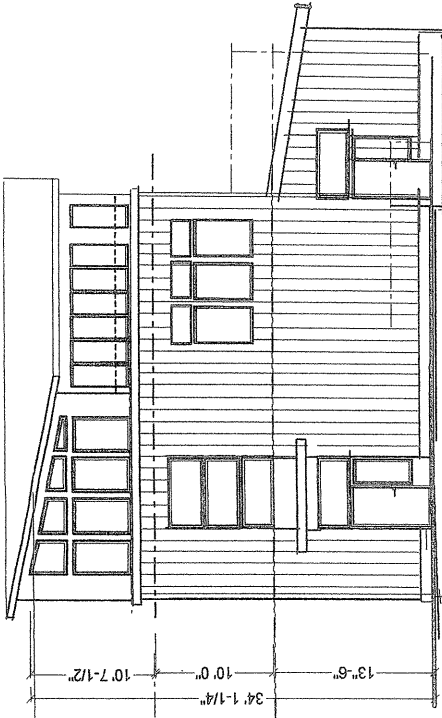
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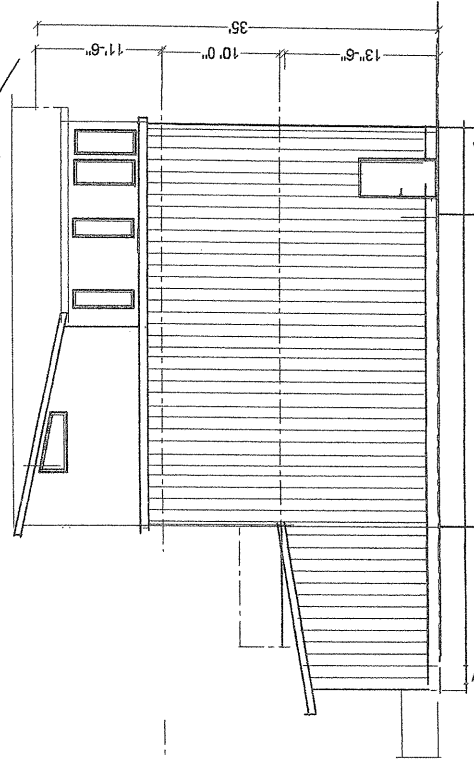
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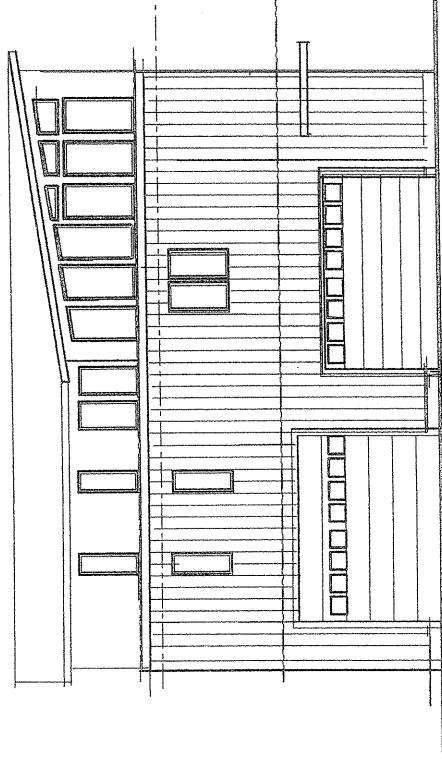
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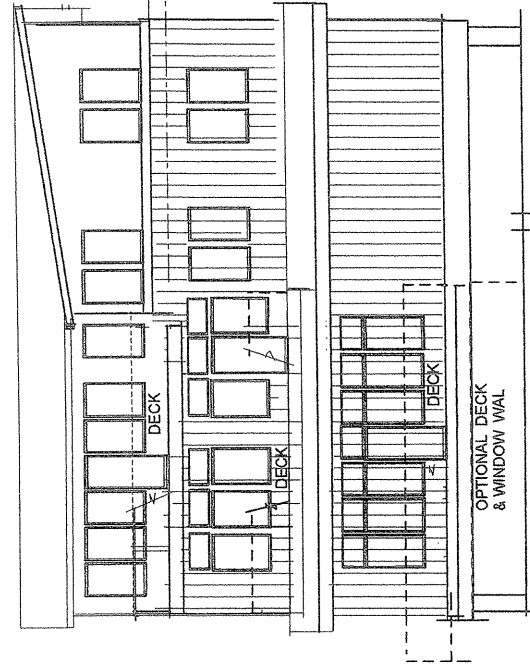
RIGHT ELEVATION 3/32"=1'-0"



LEFT ELEVATION 3/32"=1'-0"



FRONT ELEVATION 3/32"=1'-0"



REAR ELEVATION 3/32"=1'-0"

DUPLEX
MARSHA & GARY ROHWEDER
1050 HARBOR WAY
JUNEAU ALASKA

OPTIONAL DECK
& WINDOW WALL