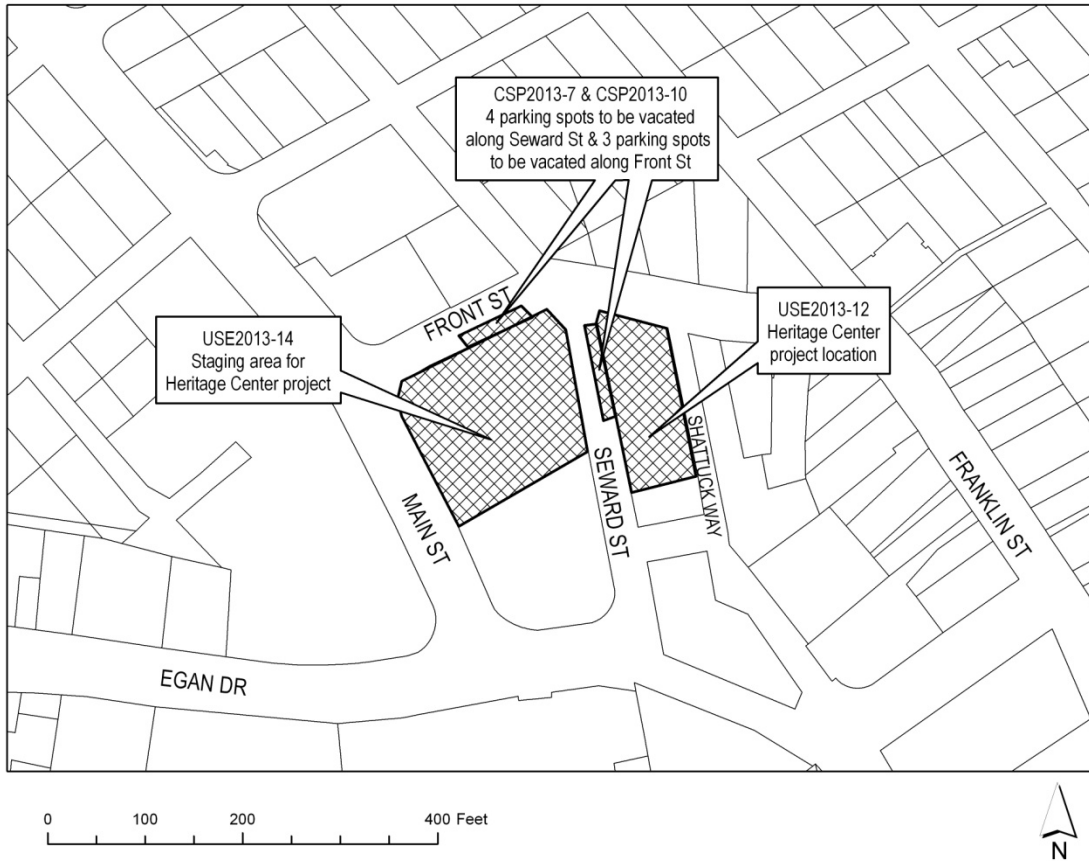


DATE: May 23, 2013
TO: Board of Adjustment
FROM: Beth McKibben, Planner
Community Development Department
FILE NO.: VAR2013 0014
PROPOSAL: Variance for deletion of canopy requirements along Shattuck Way.

GENERAL INFORMATION

Applicant: Sealaska Heritage Institute
Property Owner: Sealaska Heritage Institute
Property Address: 113 S Seward Street
Legal Description: Tidelands Addition Block 78 Lot 1A
Parcel Code Number: 1-C07-0-K78-001-1
Site Size: 9,471 square feet
Comprehensive Plan Future Land Use Designation: Mixed Use
Zoning: Mixed Use
Utilities: City water & sewer
Access: Shattuck Way/Seward Street/Front Street/ Main Street
Existing Land Use: Vacant/park
Surrounding Land Use: North - Retail/Commercial (MU)
South - Retail/Commercial/Office (MU)
East - Retail/Commercial (MU)
West - Retail/Commercial/Office (MU)

Vicinity Map



ATTACHMENTS

- A – Public Comments
- B – Historic District Map

PROJECT DESCRIPTION

The applicant is seeking a variance to the requirement for canopies in the Mixed Use district. The proposed building design includes canopies along the South Seward and Front Street facades, but only along the 35 feet closest to Front Street on the Shattuck Way façade. The remaining 87 feet of building fronting on Shattuck Way is designed without a canopy.

This variance proposal is in conjunction with a conditional use permit (USE2013 0012) for the Walter Sobeloff Center. The proposed project is a 29,574 square foot three story high building, with a full basement which will house cultural, artistic, ceremonial spaces, and offices for the Sealaska Heritage Institute. The main entrance of the building will be on Seward Street with a secondary entrance on Front Street. Shattuck Way will serve the cultural center as a service street, providing access for pellet deliveries, loading and unloading of materials and displays. The project is located on a 9,471 square foot lot in the Mixed Use (MU) zoning district in downtown Juneau.

BACKGROUND

The site was formerly home to the C.W. Young building. It was built in 1896 and served as a warehouse and hardware store. The building housed a variety of uses before it burned in August 2004. The site has remained vacant since the fire. It was a large hole, known locally as “the pit” before Sealaska purchased and landscaped it in 2010.

In April 2012 the CBJ received a request to close the portion of Shattuck Way between Municipal Way and Front Street to vehicles. The Planning Commission’s recommendation to the Assembly was in support of the request. The Public Works and Facilities Committee considered this request at their March 21, 2012 meeting. According to the minutes they forwarded it to the Committee of the Whole without a recommendation. It is staff’s understanding that the Assembly decision on this request is tabled pending Planning Commission consideration of the Cultural Center.

In January 2013 the project site was removed from the Historic District (Ordinance 2013-01). Shattuck Way is now the western boundary of the District rather than South Seward Street.

ANALYSIS

The Land Use code Chapter 15 Article VIII Canopies & Awnings states, “It is the purpose of this chapter to authorize canopy and awning encroachments into public ways, to provide standards for construction of canopies and awnings, and to provide a permitting process.” The standards for such treatments are outlined within CBJ 49.15.830(b) Canopy and Awning Standards:

“In the MU zoning district, canopies and awnings shall meet the following requirements in addition to those in subsection (a), above.

- (1) Canopies and awnings shall span the entire frontage of a building.
- (2) Canopy height, as measured from the sidewalk to the lowest point on the canopy, shall be a minimum of eight feet and a maximum of ten feet above the sidewalk. Canopies shall match the existing canopy heights of adjacent structures, where practicable.
- (3) For new construction, any clerestory must be located above any canopy or awning.”

This is a relatively new section of code that was adopted in 2007. The staff report to the Planning Commission when the draft ordinance was presented states: “In order to facilitate the pedestrian usage of downtown Juneau, canopies and awnings covering pedestrian ways are needed for protection from the elements and local Juneau climate.”

The Land Use Code identifies the Comprehensive Plan as including additional plans and studies; the following are relevant to this proposal:

Staff reviewed this proposal with regards to consistency with these plans.

The 1981 Downtown Historic District Development Plan is one of the adopted plans in which the primary purpose was to explore the possibilities of historic conservation of downtown Juneau. This Plan seeks to identify what Juneau’s downtown urban design character is, as well as seeking ways to preserve the history and character of the downtown while ensuring the economic vitality of the area. Recommendations for projects and improvements are included as part of this plan. A portion of this document is devoted to specific public improvements that are “appropriate and will generate useful returns”. One of the recommended projects identified in the Plan includes Shattuck Way improvements. From the Plan, this proposed improvement “would convert the present back alley atmosphere of Shattuck Way to an integral continuation of Juneau's retail street network. Its effect would be to nearly double the possibility for retail frontages within the district by making Shattuck Way and its pedestrian alley connection from Franklin a positive attraction to pedestrians. Ideally, this would involve establishing a pedestrian entrance into City Hall somewhere along Shattuck Way itself.” (page 105)

The 1983 “Downtown Street Improvements Design Study” followed the 1981 Downtown Historic District Development Plan, building upon its recommendations. The beginning of that document states the following: “One of the significant conclusions of the Downtown Historic District Development Plan ... is that ‘Public Improvements in Landmark Districts are Appropriate and Will Generate Useful Returns’. Experience has shown that certain improvements to open spaces and to street rights-of-way within a downtown district will noticeably enhance the appearance of the district and will contribute to extended economic life for structures in the district.” One of the recommendations of this study includes improved City Hall open space on Shattuck Way. Shattuck Way and Municipal Way are described in this document as “...narrow service routes with access points to the rear of buildings fronting on surrounding streets. They all intersect at a point at the rear of the Municipal Building, forming a highly identifiable and imaginable [sic] space.” With this in mind, the document outlines the urban design potential of Shattuck Way, turning it into a “pedestrian precinct”.

The “Capital City Vision Project – Juneau’s 20/20 Vision for Downtown” is a vision plan created by Juneau citizens in 1996 and 1997. The plan is an advisory document for future planning in Juneau. One of the identified areas for improvement includes pedestrian access and movement. One of the mid-term planning action items, to be completed within one to five years from the date of the plan, is to “consider creating a pedestrian zone using selected streets”. Comments from the vision plan regarding this include that in the 1980s, several streets in the vicinity of City Hall (including Shattuck Way) were recommended for closure to vehicles.

The project area is within Subarea 6 (map M) of the 2008 Comprehensive Plan; Guidelines and Considerations 13 (A.) for this subarea applies to the project:

A. Establish a covered walkway network throughout Downtown.

Canopies are addressed in the 2008 Comprehensive Plan. Chapter 3, Community Form, lists a series of “Principles for Creating Livable Mixed Use Communities”. The first principle - Design on a Human Scale states:

Compact, pedestrian-friendly communities allow residents, workers and visitors to walk to shops, services, cultural venues, and jobs, reduce traffic congestion and improve people’s health. Commercial space should face the street and should mimic a traditional Main Street development pattern with clear display windows, multiple entrances, all weather canopies and seating areas. There should be no blank walls facing public streets or walkways. Parking should be provided in the rear of structures with access roadways limited to side streets. Pedestrian pathways should be well-lit and protected from rain and snow. (emphasis added)

Chapter 5, Economic Development, Implementing Action states:

5.3.IA3 Facilitate the pedestrian usage of Downtown with physical improvements, Land Use Code amendments, or other programs or initiatives which could include:

A. Encourage development that improves year-round safe, convenient and dry

pedestrian facilities:

B. Extend the waterfront seawalk;

C. Repair and widen sidewalks and provide a network of canopies throughout the Downtown;

D. Separate pedestrian ways from vehicular traffic, where practical;

*E. Encourage development of dry, secure bicycle storage throughout the Downtown;
and*

F. Consider revising the parking requirements in the CBJ Land Use Code to eliminate or drastically reduce the parking requirement for Single-Room-Occupancy (SRO), efficiency, and other dwelling types. (emphasis added).

The Shattuck Way right-of-way is just less than 20 feet wide. Current right-of-way standards require 60 feet of width. As mentioned above, the ROW is now the western boundary of the Historic District. The proposed Cultural Center has been designed in such a way that Shattuck Way will serve as a utility entrance and the main entrances will face Seward and Front Streets. As mentioned above, the Front and South Seward Street facades include canopies, as does 37 feet of the Shattuck Way side of the building.

Comments

AELP has noted that from a utility perspective that it doesn't matter either way, but because the canopy will not extend past the curb it shouldn't create a problem unless larger vehicles are curb hopping.

The CBJ Fire Marshall states that canopies made of combustible materials, greater than 4 feet wide must have fire suppression sprinklers. Shattuck Way is too narrow and the turning radius too tight for fire apparatus to be able to use this alley.

At the time of the writing of this staff report comments have been received from (attachment A):

Downtown Business Association does not support the granting of the variance to the canopy requirement.

Alaska Cache Liquor Inc. does not support the granting of the variance to the canopy requirement.

Sydney K. Mitchell, owner of Shoefly finds canopies important for maintaining a walkable community in a rainy climate.

Denise Grant, Vice President -Downtown Business Association would like to see the canopy required.

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 applicant suggests that the variance request is consistent with other properties in the area because the requirement for canopies in the MU district is a relatively new requirement. To a certain extent this is accurate because there is very little opportunity for new development in this area of town and therefore no new canopies have been required for new construction since its adoption. The relaxation would provide substantial relief to the owner of the property because they would be spared the cost of installing a canopy along 87 feet of the Shattuck Way façade.

This criterion is not 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 to ensure that growth and development is in accord with the values of Juneau residents; to identify and secure the beneficial impacts of growth while minimizing negative impacts; to ensure that future growth is of appropriate type, design, and location; to provide adequate open space for light and air; and to recognize the economic value of land and encourage its proper and beneficial use.

The approval of the variance request would violate the canopy requirements of the Title 49; therefore, the intent of this title would not be observed. Furthermore, the values of Juneau residents are articulated through the various plans adopted by the CBJ. As noted above the various plans speak to covered pedestrian ways and canopies in the downtown mixed use areas. The travel way is very narrow and there is only sidewalk available on the west side of the street, adjacent to the proposed Cultural Center. Delivery vehicles travel on the road, not the sidewalk and therefore should not be impacted by the canopy.

This criterion is not met.

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

No evidence has been presented showing the granting of the variance will injure nearby property. However, it conflicts with the request of the owner of the Miner's Mercantile building to close Shattuck Way to vehicles. The Miner's Mercantile building has been designed with main entrances facing Shattuck Way in anticipation that the plans from the 1983 "Downtown Street Improvements Design Study" and the "Capital City Vision Project – Juneau's 20/20 Vision for Downtown" to make Shattuck Way a pedestrian way would be brought to fruition.

This criterion is met.

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

The proposed use is appropriate according to the Table of Permissible Uses. The Conditional Use permit is listed at CBJ §49.25.300, Section 5.300, Libraries, Museums, Art Galleries, Section 3.4000 Offices greater than 2,500 sq. ft. and Section 3.100 Sales of Miscellaneous Goods less than 5,000 sq. ft. for the Mixed Use 2 (MU2) zoning district. A Conditional Use Permit (USE2011 0026) is being evaluated concurrently and will need to be approved by the Planning Commission.

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;*

The proposed building, a cultural, artistic, ceremonial spaces, and offices for the Sealaska Heritage Institute is a permitted use in the MU2 district. The applicant is seeking a Conditional Use Permit (USE2013 00012) for the building. The property can be used for a permissible use.

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;*

The neighborhood is developed with a variety of building sizes and types. Because the project site was just recently removed from the historic district, many of the nearby structures are historic and have a smaller size and scale to the proposed development. However, the Sealaska Plaza is also nearby and is of a similar size and scale to the proposed development. Most of the surrounding buildings have canopies.

This sub-criterion is not met.

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

The project site is relatively small and the proposed project comparatively is large. The MU zoning district does not require setbacks and consequently the building is designed to, or very near to, the property line. Shattuck Way is a substandard right-of-way and the travel way is very narrow. The applicant indicates that providing 87 feet of canopy on the Shattuck Way side of the building, which has been designed as the service entry to the proposed facility is costly. However, all lots in the MU district have a zero setback and unless granted a variance, must bear the cost of installing a canopy.

This sub-criterion not 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.*

There are no non-conforming conditions associated with this site.

This sub-criterion is not applicable.

Criterion 5 is not met.

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

Currently the site is unused. Redeveloping the area will add vitality to the neighborhood. However, the scope of the project could be modified and no variance would be required. No benefits to the neighborhood have been identified. Providing a covered walkway system is a benefit to the neighborhood as described above.

This criterion is not met.

FINDINGS

1. *Is the application for the requested Variance complete?*

Yes. We find the application contains the information necessary to conduct full review of the proposed operations. The application submittal by the applicant, including the appropriate fees,

substantially conforms to the requirements of CBJ Chapter 49.15.

Per CBJ §49.70.900 (b)(3), General Provisions, the Director makes the following Juneau Coastal Management Program consistency determination:

2. *Will the proposed development comply with the Juneau Coastal Management Programs?*

Yes. The JCMP does not apply to the development

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

No. Based on the analysis above, staff has determined that the applicant has not presented an argument that justifies the grounds for this variance.

Criteria 1, 2, 5 and 6 are not met.

RECOMMENDATION

The requested variance does not meet the variance criteria; therefore, Staff recommends the Board of Adjustment adopt the Director's analysis and findings and deny the requested variance request.