MEMORANDUM

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

DATE:

January 8, 2014

TO:

Board of Adjustment

FROM:

Eric Feldt, Planner II, CFM

Community Development Department

FILE NO's:

VAR2013 0024 & VAR2013 0025

PROPOSALS:

A variance to reduce both side yard setbacks from 10 to 5 feet, and a second variance to increase the maximum allowed height from 35

feet to 50 feet for a new 15-unit condominium in Auke Bay.

GENERAL INFORMATION

Applicant:

Aniakchak, Inc. (Same as Owner)

Property Owner:

William Heumann & Jan Van Dort

Property Address:

11435 Glacier Highway

Legal Descriptions:

ATS 725 and Fraction of USS 1504

Parcel Code Numbers:

4-B23-0-105-007-0

Sites' Sizes:

.81 Acres Total (ATS 725 and Fraction of USS 1504)

Comprehensive Plan Future

Land Use Designation:

Marine/ Mixed Use (M/MU)

Zoning:

Waterfront Commercial (WC)

Utilities:

Public Water & Sewer

Access:

Glacier Highway

Existing Land Use:

Residential

Surrounding Land Use:

North

- WC; Bay View Apt.; Glacier Hwy

South

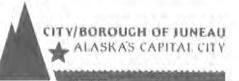
- WC; Vacant Private Land; Glacier Hwy

East

- D-5; Duplex; Glacier Hwy

West

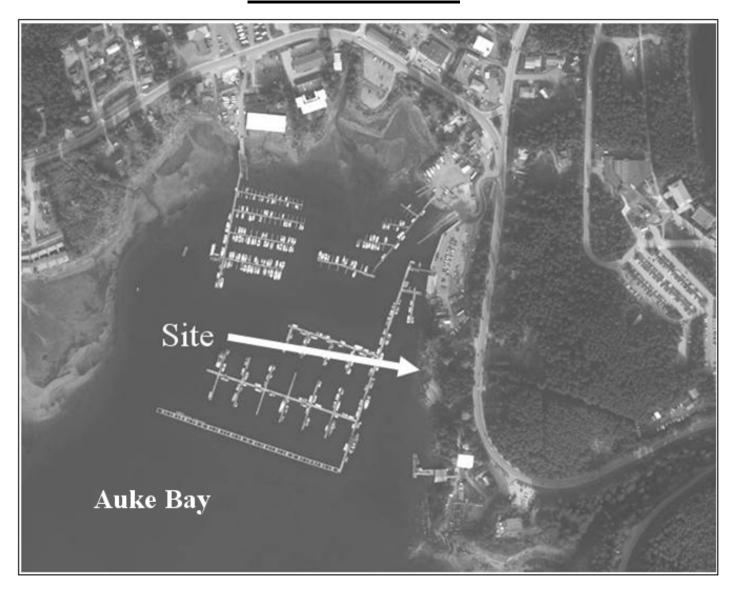
- Auke Bay



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VICINITY MAP



ATTACHMENTS

Attachment A Applicant's Letter

Attachment B Site Plan

Attachment C Elevation Drawings

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PROJECT DESCRIPTION

The applicant has filed a Conditional Use permit (case # USE2013 0037) and two Variances (case #'s VAR2013 0024 & 0025) for a four-story, 15-unit condominium building and covered parking deck. This memorandum addresses the two variances since both must be approved for the Conditional Use permit to be granted. See staff report USE2013 0037 for details of the Conditional Use permit.

The two variances applied for are:

- VAR2013 0024: Reduce the side yard setback from ten feet to five feet for the parking deck roof and building, and
- VAR2013 0025: Increase the allowed height maximum from 35 feet to 50 for a 4-story condominium building.

The applicant's reasons for both variances is provided under Attachment A.

BACKGROUND

According to CBJ Assessor's records, the site was developed with a residence and detached garage in 1953. Both structures will be demolished for future development.

The Auke Bay area consist of a mixture of land uses, such as retail, restaurant, apartments/condominiums, boat harbor, schools, etc. Some of these buildings reach four-stories in height. Many apartment/condominium complexes are located along the waterside on large lots or overlaying several properties, such as Spaulding Meadows or the Auke Bay Towers.

ANALYSIS

The purpose of the side yard setback is to preserve space on a property for surface water drainage, movement of light and air, and fire separation distance. In the Waterfront Commercial zoning district all yard setbacks are ten feet, except along the tideland property where the setback is zero.

The purpose of establishing a height maximum is similar to yard setbacks in addition to reducing overshadowing from adjacent tall buildings. Further, the height maximum establishes a general scale and feel of a neighborhood. Staff notes that the Land Use Code previously allowed buildings in the Waterfront districts (WC & WI) to be eligible for a height bonus to provide additional stories above 35 and 45 feet, respectively. However, specific criteria to achieve the height bonuses were never put in code; reasons for this are unclear. Currently, only the MU-2 has specific height bonus criteria.

The applicant's reasons for needing two variances for the proposal are due in part of a combination of designing the project outside of the flood hazard zone and developing on a hillside. Both of these are discussed below.

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Flood Zone Hazard

A portion of the property is affected by a Velocity (V), high-risk flood zone with a base flood elevation of 26 feet above mean lower low water mark¹. Any part of the building below this elevation is susceptible to flood damage during a 100-year storm event. Also, condominium owners will be required to pay flood insurance in addition to regular homeowners' insurance. The applicant designed the building, including its supporting piers, to be uphill and outside of the flood elevation line at 26.5 feet. See Figure 1. This forced the project uphill towards Glacier Highway. On the opposite end of the property, the 10-foot front yard setback acts to push the project downhill. Reaching the maximum building potential in this area results in the building and parking deck expanding horizontally (North-South direction) five feet into both 10-foot side yard setbacks. See Attachment B.

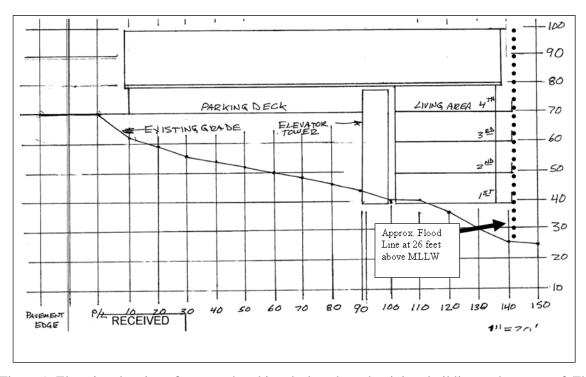


Figure 1: Elevation drawing of proposed parking deck and condominium building under one roof. Flood hazard line of 26 feet is indicated at its vertical axis by the dotted line. The front property line is labeled 'P/L' in the lower left hand corner.

Topography

The steep topography also results in the building and parking deck being near the road. This is to save costs in building and engineering the foundation. The applicant indicates that the side yard setback encroachment is needed to allow efficient to full potential of the already reduced buildable

¹ According to the Flood Insurance Rate Map of the City & Borough of Juneau panel # 02110 C 1219D, dated August 19, 2013.

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area that has resulted from the flood zone and steep topography. The reduced buildable area pushes the applicant's development horizontally as well as vertically. Elevation drawings are provided under Attachment C, respectively. Due to the steep topography, only the top floor will be at the same grade as Glacier Highway; all other floors will be below the height of the parking deck. Therefore, the building will appear as a single-story structure from the road. This is a common design outcome of buildings along coastlines.

Staff notes that there are several apartment/condominium buildings on waterfront hillsides in Auke Bay. Many of which are designed parallel with the slope and which appear to be one to two stories tall from the road. See Figure 2.



Figure 2: Picture taken along Glacier Hwy facing southward (downtown-bound). The 3-story Bayview Apartment building is located to the right of the single-story building in the foreground but is not visible due to the steep decline towards Auke Bay. The building in the background will be demolished with the proposed project. Picture taken by staff on 1-2-2013.

Hillside Height Measurement

The Land Use Code provides flexibility in measuring a building's height along a hillside. According to 49.25.420, the starting point of a building's measured height may be increased by ten feet if the difference between the lowest and highest point is greater than ten feet. The lowest and highest points start five feet above and below the building's highest and lowest foundation points. The applicant designed the foundation of the building to be built into the hillside and partially elevated by supporting piers. The lowest pier will be at 26.5 feet, just above the flood zone line. Therefore, ten

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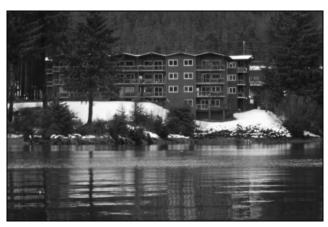
feet is added and the height measurement starts at 36.5 feet. Going up 35 feet to the maximum allowed height will reach 71.5 feet. The remaining distance to the midpoint of the roof is 18.5 feet. This amount is covered by the height variance.

Snow Storage and Run-off

With a covered parking deck, snow plowing won't be needed. However, the building will be five feet away from both side lot lines and offers little room for snow storage when snow sheds off the roof. Due to the steepness of the site, the snow will melt downhill toward the water. This is what currently happens. The CBJ General Engineering Department indicated that surface water run-off will be addressed during the Building permitting process. Roof gutters will likely be installed along the sides of the parking deck and building to channel water away from the building's foundation. Staff recommends two conditions of approval to ensure adequate snow storage management and protection of the structure's foundation. The first condition would require the applicant to show/ describe how the snow storage along both side lot lines will not cause erosion of the structure's foundation.

The roof eaves are shown closer than five feet from the both side lot lines. Although the Land Use Code allows eaves to encroach four inches per foot of yard setback, the overall encroachment of five feet exceeds the eave encroachment allowance. Therefore, the eaves are considered part of the variance. As measured on the attached plans, each roof eave is approximately 1.5 feet long. If the variance is approved, staff recommends as a condition of approval that a surveyor ensures the building and parking deck are no closer than five feet to both property lines, and that the roof eaves are no closer than 3.5 feet from those same lot lines.





Figures 3 & 4: Left: Picture of 4-story Spaulding Beach Condominium buildings. Right: Picture of Auke Bay Condominium Towers consisting of 3- and 4-stories. These buildings are located across Auke Bay from the site. Pictures taken by staff on 1-2-2013.

Denying the variance will require the applicant to either reduce the allowed number of proposed dwelling units or redesign the structure. The former will lessen the maximum building potential of

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the site and number of housing units. The latter may result in adding stories atop of the parking deck which could lead to greater blockage of views and sunlight from residences across Glacier Highway. As mentioned earlier, many waterside buildings are constructed along a hillside with several stories visible from the water and only a few stories visible from the roadside. See Figures 3 & 4.

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.

As stated earlier, the buildable area outside of the flood zone and front yard setback constricts development and forces it horizontally toward the side lot lines and increases the height of the building above 35 feet. The steep topography plus the flood hazard results in the parking deck being located close to the road. There is an existing garage at the site located very close to the road and a building on the neighboring site that is also located near the road and within the side yard setback. Therefore, allowing the building and roof of the parking deck to encroach into the side yard setback will give substantial relief to the owner by allowing a maximum density build-out and a less intrusive-looking building from the roadside. Further, approving the applicant's design is consistent with justice to other property owners as other buildings on adjacent lots encroach into the side and front yard setbacks.

Therefore, 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.

Side Yard Encroachment

Reducing both side yard setbacks from 10 to five feet for the condominium building and parking deck will have no impact to the adjacent apartment building to the north and little impact to the homes across Glacier Highway due to the steep slope. Drainage will continue downhill towards the tidelands as it currently does but concentrated along the side lot lines and behind the building.

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Surface drainage will increase with the removal of vegetation and addition of large amounts of impervious surfaces, but as conditioned, the development will guide drainage downhill in a manner that protects neighboring properties and the proposed building itself.

Some amount of light and movement of air will be reduced along the condominium building. Additional light and air will be provided with the removal of trees and vegetation. Overall, the encroachment will have little effect upon adjacent property.

The safety and welfare of adjacent properties will not be affected with the encroachment of both side yard setbacks with the recommended condition.

Maximum Height Exceedance

As stated earlier, the overall height of the four-story condominium building will exceed the maximum height of district but will appear as a single-story building from the roadside. Views from residences across the road will not be minimized and may increase with the removal of the existing tall trees. The additional height will not affect public safety or welfare.

Therefore, staff finds that the intent of yard setbacks and maximum height will both be met and the public safety and welfare will be preserved. This criterion is met.

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

As indicated earlier, the encroachment of five feet into both side yard setbacks and the increase in the height maximum from 35 to 50 feet will not have any injurious affect on nearby property. This criterion is met.

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

As mentioned earlier, both variances are associated with Conditional Use permit # USE2013 0037 for a 15-unit condominium project. This use is allowed in the Waterfront Commercial district per Section 1.300 of 49.25.300 of the Land Use Code. Therefore, 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;

As stated earlier, the applicant is already using the property for a permissible principal use: a house with a detached garage. Therefore, this 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;

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As noted earlier, the applicant's proposal is the maximum development potential of the site. Many multifamily buildings exist throughout Auke Bay that overlay several lots or are located on larger sites. The subject lot is narrower than most of the other built multifamily developments and does not overlay adjacent property. This makes it more unique than other apartment/condominium complexes in Auke Bay. Therefore, denying both variances would prevent the applicant from developing the property consistent as to scale, amenity, and appearance with existing development in Auke Bay. This criterion is met.

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

As indicated earlier, the steep topography and flood hazard create physical challenges in developing the site regardless of size. The applicant's design of the building and parking deck are located outside of the flood hazard area, which has caused the whole development to be located near the roadway. If, however, the applicant designed the development re-oriented in parallel with the lot's shape and in the center, the building would be in the flood zone. This will not only put the building in flood risk and require flood insurance, it will also require more engineering and site prep, all of which make the development unnecessarily burdensome. Therefore, this 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.

There are no pre-existing nonconforming conditions that affect the proposal. Therefore, this criterion is not met.

Since Criteria 5(B) and 5(C) are met, criterion 5 is met.

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

Height Variance (VAR2013 0025)

As indicated earlier, if the variance for the increased height is denied, the applicant may lower the condominium unit to three stories and relocate the fourth floor above the parking deck. This will create a larger impact to viewsheds and sunlight to the homes across Glacier Highway and have a negative effect. On the other hand, if the height variance is approved, the nearby residences will have less blockage of views and sunlight. Therefore, approving the height variance would result in more benefits than detriments to the neighborhood.

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Side Yard Setback Variance (VAR2013 0024)

If the side yard setback variance is denied, the applicant will not be able to build to the site's maximum development potential. The applicant may modify the condominium building to meet both yard setbacks by expanding downhill in the flood hazard zone. Although this is permitted by code, the building would be in harms way and the condominium owners would have to pay flood insurance.

As stated earlier, properties to the north are occupied by apartment complexes and the property to the south is vacant and heavily forested. Therefore, as conditioned, the proposed use will not negatively affect adjoining property. Approving the side yard setback variance, the building can be located outside of the flood hazard area. Therefore, this criterion is met.

FINDINGS

1. Is the application for the requested Variances complete?

Yes. Staff finds 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 development will be setback from the 26-foot elevation line and no construction will likely occur in the tidelands. Therefore, no provisions of the Juneau Coastal Management Program apply to either variance.

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

Yes. Based on the analysis above, staff finds that the proposal does meet the criteria of CBJ §49.20.250, Grounds for Variance.

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RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variances, VAR2013 0024 and VAR2013 0025. The Variance permit would allow for a roof and 1.5-foot long roof eaves covering a parking deck and 15-unit condominium building to encroach five feet into both side yard setbacks, and allow the condominium building to be 50 feet tall with the following condition:

- 1) Prior to the issuance of a Building permit, the applicant shall submit a site plan, and if needed, a narrative, showing/describing how the snow will be managed on site. If snow will be partially managed on adjacent property, the applicant shall submit a recorded easement addressing snow management.
- 2) Prior to the issuance of a Building permit, the applicant shall submit documentation that will ensure the foundation of the parking deck and building will not be eroded by water run-off along both side property lines.
- 3) For the Building permitting process, a surveyor shall verify all yard setbacks of the Foundation Verification Setback Form.
- 4) Prior to Final Certificate of Occupancy, the applicant shall submit an as-built survey showing the parking deck, building and roof eaves all complying with yard setbacks.

VARIANCE APPLICATION

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TYPE OF VARIAN	CE REQUES	STED:			
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Variance to Setbacks		(VHB)		Variance to Parking Requirements	(VPK)
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NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

DEVELOPMENT PERMIT APPLICATION

Staff to A		Description					
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ANIAKCHAK, INC.

10518 Fox Farm Trail, Juneau, Alaska 99801 907.789.3441

December 13, 2013

Mr. Hal Hart, Director Community Development Department City and Borough of Juneau 155 S. Seward Street Juneau, Alaska

Re: Dunn Property

Dear Mr. Hart:

Thank you for the time and attention given to our Auke Bay project at the recent preapplication meeting. The information submitted in connection with that meeting, including the letter dated December 2, 2013, is incorporated by reference in this application. The information which follows supplements that which was previously submitted.

Height Variance

Three problems surfaced during the discussion on the subject of the height variance. The first problem involved a typographical error in the code which raised the question of whether our project was eligible for an automatic 10 foot increase in height when a building is constructed on a sloping site. The second problem was accurately determining the precise level of the foundation before cutting the ground, removing non-bearing material and coring or blasting to virgin bedrock. The third problem was determining the starting elevation when the slope is not uniform across the width of the site (in this case, across the front of the building). These problems constitute a serious barrier to our ability to confidently design a building which we know will comply with the law.

We believe that in evaluating projects on steeply-sloping sites such as the one which we now propose, the technically-calculated building height is much less important than the impact the building will have on the view plane from adjacent roadways. Accordingly, we are seeking a variance which will allow us to construct a building identical or substantially similar to the one shown in the attached drawings bearing the condition that the highest point on the building, excluding any chimney, cannot exceed an elevation greater than 28.5 feet over the elevation of Glacier Highway at the point where a line running east to west through the center of the site intersects the pavement of that highway. A building so constructed will have a peak height 6.5 feet and a legal height 9.25 less than that allowed without a variance if that building was constructed at an elevation identical to the road.

Side Yard Setback Variance



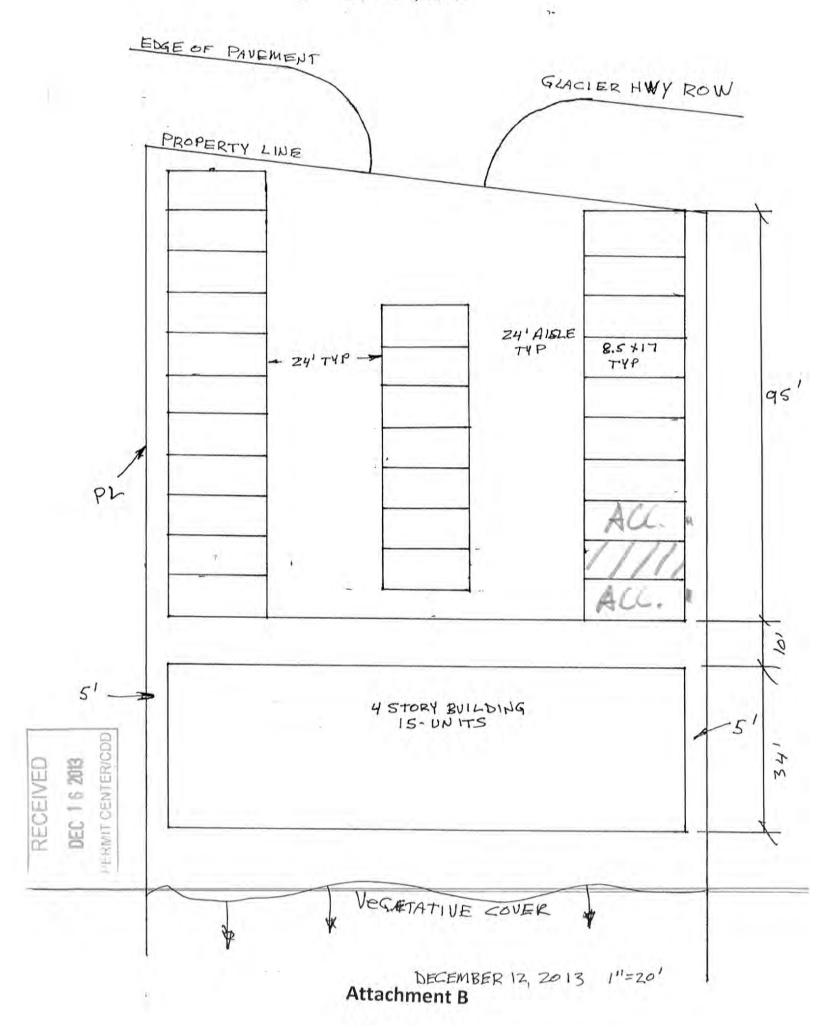
Our site, besides being steeply-sloped, is narrow. Moreover, the bottom portion is either patented tidelands or below the identified flood elevation of 26 feet MHHW. The 15 units which we are allowed to build and the required parking must fit on less than 90% percent of the site. This means that the remainder has been effectively reduced to open space or, at best, severely limited in its use. Without the variance, the number of units on each of the first three floors of the proposed building will be reduced from four to three. Because the land, elevator, engineering and site development costs are fixed, the price of each unit will rise substantially, thereby making housing less affordable and limiting choice. The challenge to the planning staff, developers and the commission is, at present and in the foreseeable future, fully and effectively using the limited quantity of publically-serviced land. Granting the variance positively responds to this challenge.

Respectfully submitted,

William Heumann

Jan Van Dort

We have been told that the flood insurance quote given to the Spaulding Beach condominium owners for the lower buildings was over \$100,000 per year per building.



34-"=11 RIGHT ELEVATION PERMIT CENTER/CDD RECEIVED DEC 1 6 2013

11-17 CINC 01 0701 XL-11

RECEIVED DEC 16 2013 PERMIT CENTER/CDD

VEFT ELEVATION

