

MINUTES

PLANNING COMMISSION
CITY AND BOROUGH OF JUNEAU
Michael Satre, Chair

REGULAR MEETING
May 22, 2012

I. CALLED TO ORDER

Chair Satre called the regular meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:00 p.m.

Commissioners present: Karen Lawfer, Nathan Bishop, Benjamin Haight, Dan Miller, Michael Satre

Commissioners absent: Jerry Medina, Marsha Bennett, Nicole Grewe, Dennis Watson

A quorum was present.

Staff present: Greg Chaney, CBJ Community Development Department (CDD) Acting Director; Laura Boyce, Beth McKibben, Eric Feldt, Benjamin Lyman, CDD Planners

Chair Satre announced that the PC has a minimum quorum of five Commissioners in attendance, which means that all votes would have to be unanimous in order to pass.

II. APPROVAL OF MINUTES

April 10, 2012 – Regular Meeting

April 24, 2012 – Regular Meeting

MOTION: *By Mr. Miller, to approve the April 10 and 24, 2012 regular PC minutes, with corrections.*

There being no objection, it was so ordered.

Chair Satre noted that staff reviewed in detail the April 10, 2012 PC meeting minutes against the digital recording.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Chair Satre noticed that Carlton Smith, Assembly Liaison to the PC is not present, and Assembly member Mary Becker is, so he thanked her for doing so.

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

Chair Satre announced that there are two items on the Consent Agenda, and inquired if there was public comment on them. No one from the public had comments, and no one from the Commission had questions.

MOTION: *By Mr. Miller, to approve the Consent Agenda, as presented.*

There being no objection, it was so ordered and the two cases below were approved as presented by the PC.

CSP20120013

A Douglas Highway sewer infill installment along Simpson Ave. & Douglas Hwy.

Applicant: CBJ Engineering Department

Location: Simpson Ave. & Douglas Hwy.

Staff recommendation: That the PC adopt the Director's analysis and findings and recommend the approval of the sewer installation.

VAR20120009

A Variance Request to reduce the rear yard setback from 15' to 14.3' to allow for a minor subdivision.

Applicant: Anh T. Lam

Location: 3465 Tongass Blvd.

Staff recommendation: That the Board of Adjustment (BA) adopt the Director's analysis and findings and approve the requested Variance, VAR20120009. The Variance permit would allow for the rear yard setback to be reduced from 15' to 14.3' to facilitate the approval of a minor subdivision.

Chair Satre announced that he is reordering the PC Agenda. The PC would hear the Board of Adjustment item, and then Consideration of Ordinances and Resolutions.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - Heard following Board of Adjustment item

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA - None

Chair Satre adjourned the PC, and convened the BA.

X. BOARD OF ADJUSTMENT

VAR20120005

A Variance Request to lot width, depth, area, and density to allow for a minor subdivision.

Applicant: Ceder Revocable Trust

Location: 17105 Glacier Highway

Staff report

Ms. Boyce stated that two letters in the Blue Folder are in support of the proposal. This Variance to lot width, depth, area, and density is to allow for a minor subdivision of an existing lot to create two lots in the D-1 zoning district. It is the Director's determination that if this Variance was granted it would increase density, which is currently not permitted so staff requests the PC's concurrence with the Director's determination. However, if the PC determines that this Variance would not result in an increase in density, staff would provide the full Variance Request at the next scheduled PC meeting.

The project area is located in Lena Cove. There are two parcel numbers with two existing homes on one lot within the 10,471 square foot parcel in the D-1 zoning district, which requires a minimum of 36,000 square feet for a single-family home. The owner wishes to subdivide the property to place each home on its own parcel so that separate ownership could occur in fee-simple ownership. Currently, the two homes are platted as condo units, so each home could be owned individually with shared common grounds, but now one person owns both of them. A Variance is needed to subdivide this property because it is a substandard lot. The applicant proposes to create two lots of 5,235 square feet each from the existing 10,471 square foot subject parcel, which would encompass 14.5% of the D-1 minimum lot size. Of the two homes on the homes on the subject parcel, one home was built in 1970 that was considered the main living structure, and the second structure was built in 1974 that was originally the pool house addition, which was later converted into a single-family home in 1976. The subject parcel is Lot 51B in the Sunshine Subdivision, created in 1969. The property was zoned R-12, which required at that time a 12,000 square foot minimum lot, 110' in width, and 100' in depth. In 1969, a Variance was approved for a reduction in the R-12 zoning standards to permit the subdivision of two existing lots (Lots 51 and 52) into a three-lot subdivision. This was to reduce the 12,000 minimum lot size to 9,860 square feet for Lot 51A, and to 10,470 for Lot 51B, including reducing the minimum 100' lot depth to 87' for Lot 52A, 82' for Lot 51A, and 65' for Lot 51B. In 1974, a Variance was approved to reduce the required front yard setback of 25' to 15' for the swimming pool addition she mentioned earlier, which was a separate structure from the main dwelling unit converted to a single-family residence in 1976 that was allowed at that time. In 1987, the property was rezoned to D-1 from R-12, increasing the minimum lot size from 12,000 to 26,000 square feet, which is when the two residential units on the lot became non-conforming uses, as well as the lot being nonconforming with D-1 district standards. In 1990, another Variance was approved to reduce the front yard setback from 25' to 16' to allow the construction of a 789 square foot second-story addition to the main residential dwelling. According to the code, the nonconforming situation could continue, but cannot be aggravated. Additionally, the code limits reconstruction of nonconforming buildings in the event of excessive damage. Nonconformities could be discontinued in different ways. In the case of this nonconforming use, when the use changes the previous nonconforming use is no longer allowed to continue. Also, if damage should exceed 75% of the cost of replacement of these buildings, reconstruction may not occur. If one or both of the two homes are damaged in any way that exceeds 75% of the cost of replacement of the building, only one of the structures could be rebuilt, which would result in the property coming into compliance with current zoning standards requiring one single-family home. However, if the property were subdivided, resulting in one house on each lot and if damage were to occur to the buildings, both homes could be rebuilt. This would result in permanently approving nonconforming-housing density that, under current regulations without subdividing the lot, would return to compliance if one of the buildings was destroyed. Because

of this, it is staff's determination that this Variance, in the long-term, would result in an increase in housing density. As the BA, they are authorized to interpret text of the code, and therefore the Director is requesting that they determine if this proposal would constitute a variance to housing density, which is specifically not within the Board's power to grant. However, if the BA decides that the Variance, if approved, would not result in an increase in housing density, staff would bring forward the full Variance Request at the next scheduled meeting. Staff recommends that the BA adopt staff's recommendation and deny the Variance on the grounds that approval would ultimately result in an increase in housing density.

Mr. Miller said Ms. Boyce basically stated that in this case nonconformity would eventually disappear, so he asked if staff believes that every other nonconforming use would do so as well, e.g., the old buildings in South Douglas. He explained that people could repeatedly make improvements to old buildings forever to where they would nearly be conforming. Mr. Chaney said this is a very fine call, which is why staff provided this Variance to the BA so staff is not administratively denying the applicant due process. Currently, in Downtown Douglas and Juneau the code allows for reconstruction of nonconforming buildings, as long as they don't extend beyond their property line. In those parts of town the code provides recognition that there are nonconformities, so if the subject property were located in those areas they would not be having this conversation because this would be a non-issue. However, beyond Norway Point north of town, if a property has a nonconforming structure and it is destroyed, it would have to be rebuilt according to code. Currently, in this case, only one house could be built on a substandard lot in the D-1 zoning district, but this lot has two residences so if one were destroyed they would not be able to rebuild it, or if both were destroyed they would only be allowed to rebuild one. The open question is if the applicant subdivides, both of those lots would have one house on them, which is allowed under current zoning and both of them would be able to be rebuilt. In some ways this is theoretical because the question is how long those houses are going to last, as the average house does not burn down, and if it is maintained then it would not rot for 100+ years or more, etc., but he does not know what zoning is going to be like in 100+ years. His reading of the code is that to subdivide this property would be a variance to density; it would not change anything on the ground or the existing situation, but they would have two lots with fee-simple ownership on each one. In general, this would be good, although they are down to some of the smallest D-1 lots with houses on two lots in the borough if the BA ultimately approves these 5,235 square foot lots.

Chair Satre said staff's recommendation to the BA is that this request would constitute an increase to housing density. However, if the BA found that it does not, he asked if the Board would be presented with an actual Variance Request. Mr. Chaney said yes, and staff would present a full staff report with their analysis and findings at a public hearing. Mr. Miller asked if there is going to be public testimony on this proposal tonight; Chair Satre said yes.

Mr. Bishop asked if two single-family houses are allowed to be individually occupied in the R-12 zoning district. Mr. Chaney said the R-12 zoning district allowed one single-family residence per lot, and a guesthouse was considered an appropriate accessory use at that time. Mr. Bishop said a guesthouse is a dwelling not permanently occupied, although they are saying that this is now a condo, which means that they could have two separate owners with fulltime occupancy. Therefore, he is understanding of the applicant's tricky situation, but the code prohibits housing density increases so the BA probably should not be reviewing this case. This proposal is clearly an increase in housing density unless it was previously a legal conforming situation when that density was initially allowed, and therefore unless the BA knows that, they would be increasing

density, which this Board is prohibited from doing. He does not like to have applications presented to this body that are in “gray zones” such as this, and if so, he prefers Mr. Ceder to receive a refund on this application fee, and then he might move in some other direction. Mr. Chaney said he had the same thought, so he consulted with the CBJ Law Department and requested their opinion. The Law Department felt that the applicant should have recourse in front of a body, not just at the staff level so they were directed to present this case to the BA. Chair Satre commented that the Board is basically deciding whether to approve the Director’s determination. Mr. Miller said somewhere along the way it was deemed appropriate to plat a residence as a condo, so at that point it was an approved density, and therefore he asked how that came about. Ms. Boyce said she believes it was platted as a condo in 1981, which was for D-1 zoning applied in 1987, so the condo plat was prior to 1987. Mr. Bishop said he understands that condos are not presented to the CDD, which is a state process so staff or the PC would not have approved the condo in this case; Ms. Boyce said that is true.

Ms. Lawfer stated that in 1969 the property was subdivided into three lots, i.e., Lot 51A is 9,866 square feet, Lot 51B is 10,471, and Lot 52A is 18,733, and therefore she asked if a building is still on Lot 51A. Ms. Boyce said 51A has two homes on it, and that lot is also part of the condo plat for the subject property, so there are four condos total; two of which are in one structure on Lot 51A that is 9,866 square feet. Ms. Lawfer asked if the condo association encompasses the entire Lot 51A; Ms. Boyce deferred to the applicant.

Public testimony

Len Ceder, the applicant of Ceder Revocable Trust, said they wish to subdivide the property, and it would not increase existing density. They have lived there for over 30 years with single families since they purchased the first parcel in 1982 and the second one in 1993. The red house is the former pool structure they converted by covering it with half of a second story when his family expanded. Currently, there are two families still living on the property, which has taken place for the past 30 years, so consequently an increase to density is not going to happen. Essentially, one of those structures would have to be 75% destroyed if this Variance is denied, which would reduce density. However, the adjoining landowners and the folks who live in those residences have no problem with this property existing as it has for 30 years. A letter from Mike Bethers was provided to the PC who is an occupier and in favor of the proposal. This also includes Lindy Jones who owns the property next door and he has no qualms with this proposal either, and he resided there for 10 years before he moved out. In addition, this would provide an undo burden on any new owner having to purchase two homes on the waterfront at once, and then have to rent one of the dwellings or use it as a guesthouse. This is also true if they wish to sell the property because their asking price would be twice as high for these waterfront homes, which are at a premium, and therefore they are requesting that the property be allowed to be subdivided.

Ms. Lawfer asked how the condo building on Lot 51A works with the adjacent lot structures, including the joint use of the land. Mr. Ceder said Lot 51A was purchased separately, but the condominium association has been nonfunctional since 1993. Ms. Lawfer referred to the real estate property inquiry in the packet titled Lena Cove Residential Condominium Apartments, Units 3 and 4, which she is assuming is referencing the two subject buildings; Mr. Ceder said that is correct, but as he mentioned that condo association is no longer functioning.

Mr. Bishop asked if Mr. Ceder constructed the actual addition to red pool house. Mr. Ceder said that was their primary residence, and they did remodel it via a Variance granted in 1992 to add a

half of a second story due to their expanding family. In 1993, the previous folks who attempted to purchase the other green house allowed it to substantially deteriorate, and consequently somewhat in defense they purchased that house, which is when he performed extensive remodeling and restructuring of it, including installing a new roof. They also totally rebuilt the upstairs, remodeled the kitchen, and where there were four bedrooms there are now only two. They did so to have some control over who lives next door, and since that time they have had people continuously residing in it since 1993.

Soapy Lingle, 9135 Parkwood Dr., said those two properties are well-built homes that are not guest homes, as one is 2,700 square feet and the other is 2,400 square feet. Mr. Ceder has been paying property taxes and homeowner's insurance on both structures since he has owned them. The houses are in harmony with the neighborhood, and at this point both adjoining neighbors have no opposition to the subdivision. Both homes have their own private parking areas, and each has separate stairways. Therefore, those are two separate homes, with their own addresses and borough parcel numbers for tax purposes. He does not see how subdividing the property would make a difference in terms of density. Both homes are currently occupied, so nothing is going to change. The only change that he could foresee, because it is nonconforming, is if one of the houses was destroyed more than 75% they would be unable to replace it, which would cause the density to decrease and the CBJ would lose property tax revenue, and therefore that would not be in the best interest of the City either.

Public testimony was closed.

Board discussion

Mr. Bishop said a subdivision of three lots was created, but it seems that a vacated subdivision took place in 1969 per VR-5-69 that separated 51A and 51B. Ms. Boyce said originally in the subdivision there was Lot 52 and 51, and then in 1969 the Variance Mr. Bishop mentioned allowed these two lots to be subdivided into three, creating a smaller Lot 52A, and Lot 51 became two smaller lots designated as 51A and 51B. Mr. Bishop stated that now the applicant is seeking to split 51B into two lots, but there is no vacated subdivision because it never happened, so he asked what the Variance application on VR-5-69 was for in 1969 because it reduced the 12,000 minimum lot size down to 9,860 square feet for Lot 51A, and 51B to 10,470 square feet. Ms. Boyce said VR-5-69 preceded subdivision of the three lots, so that Variance applied to Lots 51A and 51B for those to be smaller in size as well as reduction to their depth. Chair Satre added that Variance was a request for a reduction in the R-12 zoning standards at that time; Ms. Boyce said that is correct. Mr. Chaney commented that in 1969 the borough extended out to this property, and VR-5-69 was one of the first Variances granted, although this is a very storied property in terms of past Variances.

Mr. Miller said he does not have a clear understanding in terms of a decision on this case. It seems as though there are probably plenty of reasons to deny the Variance based on the property dimensions and standards. However, to deny the Variance based upon an obscure potential that some time in the future one of the houses might burn, but if so, the fire department is just down the road, and therefore to have a full 75% damage happen to one of the structures would be unlikely. He cannot imagine an event happening to where the density would actually decrease, but now staff is saying it is currently an increase in density. He does not want to "hang his hat" on such an obscure denial because it does not seem to carry enough weight. He would rather give the applicant an opportunity to reappear before this body with an actual Variance Request.

Mr. Haight said the point is valid that there would be no density change. On the other hand, a number of previous Variances were granted through the history of this case so the density increased when it should not have. He feels at some point this body has to state that there has been enough density change. Granted, it does not appear that the density would change a whole lot because very little land remains to do so, but he is still debating this conundrum.

Staff recommendation: That the BA adopt the Director's analysis and determination and deny the requested Variance, VAR20120005, on the grounds that approval of the Variance would ultimately result in an increase in housing density.

Board action

MOTION: *By Mr. Bishop, that the BA approves VAR20120005.*

Mr. Bishop spoke against the motion. He sees a series of progressive expansions that have taken place over the years, which allowed the property to be built beyond the original density intent, but unfortunately that does not make this a legally nonconforming density. These are nice houses, and in his experience they have been constructed and serve their purpose well, but he does not see that this case meets the intent of the code. Chair Satre stated, as a point of order, he asked if Mr. Bishop is moving to also adopt the Director's analysis and determination to deny the Variance.

MOTION REVISED: *By Mr. Bishop, that the BA adopts the Director's analysis and determination to deny the requested Variance, VAR20120005, on the grounds that approval of the Variance would ultimately result in an increase in housing density.*

Mr. Bishop spoke in favor of the motion.

Ms. Lawfer agrees with Mr. Bishop because many other houses in the area now have mother in law type of dwellings that are continuing to be built, which she recently viewed while heading out on a Kensington Mine visit. She has a problem with this, even though it was in the 1970s when the subject site morphed, but she foresees much more morphing taking place.

Mr. Miller asked staff to explain the difference between nonconforming and legally nonconforming situations. Mr. Chaney stated that generally when proposals are referred to as being nonconforming, the project was approved at the time it was built and it was legally done with the idea that is legally nonconforming. If it is illegal, it's just illegal and it's not supposed to be referred to as illegally nonconforming. Mr. Miller stated that there are only five Commissioners present at this meeting so any motion would have to be unanimously approved. In this situation, with the motion on the table now, if it fails the Variance would be approved. Chair Satre said the motion is to accept the Director's analysis and determination that this proposal would result in an increase in housing density, so they would deny the requested Variance. If the motion does not pass, then Mr. Bishop probably stated his motion correctly the first time before it was revised, although this is always tricky for the Commissioners when they have minimal Commissioners in attendance with a recommendation to deny a case. Mr. Chaney said the BA could vote on the motion, and then if it does not pass the Commissioners are able to provide another motion. It is possible that the BA cannot agree to approve or deny the recommendation, in which case he recommends continuance.

BREAK: 7:45 - 7:48 p.m.

Chair Satre requested Mr. Bishop to withdraw his motion so another could be provided. Mr. Bishop said he could instead go back to the original motion before he revised it, which is to approve the Variance request, and override staff's analysis and determination. Chair Satre stated, for the sake of order, he requested Mr. Bishop to withdraw his motion, and then provide a new one.

MOTION WITHDRAWN: *By Mr. Bishop.*

MOTION: *By Mr. Bishop, that the BA approves the requested Variance, VAR20120005, with new findings in favor of the Variance.*

Chair Satre said Mr. Bishop made a motion to approve the requested Variance, VAR20120005. However, due to the fact that it ultimately would not result in an increase in housing density, if this motion carries then the BA would have to determine findings to support the motion, which could be accomplished through a discussion right now, or after the vote on the motion, which the BA has done in the past with other cases.

Ms. Lawfer said she prefers to discuss the findings now because she does not yet feel comfortable voting on the motion.

Chair Satre said even though Mr. Bishop made the motion, he is speaking against it, but he is not sure that Mr. Bishop is going to have findings.

Mr. Miller said the BA is voting not to accept the application because typical variance criteria was not provided with findings by staff, so there are no findings for/against this Variance; rather they are just stating that the Variance would constitute a variance to housing density, which is specifically not within the BA's power to grant and staff wants the Commissioners to agree with them on that aspect. Chair Satre said what the BA has to ultimately determine is whether staff's analysis and determination is correct that this Variance constitutes an increase in density, so Mr. Miller is correct in stating that they are not approving the actual Variance, but are approving the Director's analysis and determination. Mr. Chaney said the staff report states (on page 4), "If the Board of Adjustment decides that the variance request, if approved, would not result in an increase in housing density, then staff will bring forward the full Variance Request at the next scheduled meeting." Chair Satre stated that in reality this is an inquiry case, as opposed to an actual Variance Request application. Mr. Chaney said staff is bringing this case forward in two stages. He explained that if they started to talk about Variance criteria for all the setback issues, he was afraid that the Board might lose track of this very important first step. If this application does not meet this first step for the actual Variance Request to be heard later on by the Board, then they should not talk about those other setback issues. He felt it was best to separate these reviews and he apologizes for this being somewhat of a confusing process, but this first determination is an important aspect. Mr. Bishop said the Board has to review the actual Variance Request because what is being proposed is a variance to lot width, depth, area, and density to allow for a minor subdivision. Granted, this involves additional aspects, but the applicant applied for the Variance Request, which has been presented as such, so there is confusion about two different processes taking place. He stressed that the Board has to be presented with an inquiry case to determine whether they are able to take on the Variance Request application with criteria for later review, but one or the other has to be presented to the Board, not both. However, he believes if the Board takes action on this motion, they would be

doing so for the proposal of the actual Variance Request application. He recommends the Board continue this case.

MOTION WITHDRAWN: *By Mr. Bishop.*

MOTION TO CONTINUE: *By Mr. Bishop, that the BA continues VAR20120005 to a subsequent PC meeting to be heard by the BA.*

Mr. Bishop requests staff to research whether the Board should review an inquiry case, or an actual Variance Request application.

Ms. Lawfer referred to attachment B, and asked staff who completed the Variance Application; Ms. Boyce said the applicant. Mr. Chaney explained that anyone is able to apply for a Variance Request application and present it with permission by the landowner, but the landowner is ultimately responsible.

Chair Satre said Mr. Bishop withdrew his previous motion, and they now have a motion to continue with some questions for staff. He suggests that it might be appropriate for the inquiry that results from the Variance Request application to undergo a review by the Subdivision Review Committee (SDR) prior to the Variance potentially being presented to the BA. The SDR might provide guidance as to whether the application constitutes an increase in housing density, which is when a discussion might take place with members of the SDR committee and the applicant on this proposal. The results of that SDR review could potentially be used to consider the path this case might take in the future, which would be a good method in which to use the committee structure.

Mr. Bishop said he wants to respect the rights of the applicant in this particular case to find out whether Mr. Ceder would like the Board to pursue the proposal to be presented as a Variance Request rather than an inquiry at this particular time, or if it might behoove him to see this move forward at a later date after further review by staff who would re-present it to the BA. Chair Satre stated that unfortunately suspension of the rules to re-open public testimony would require six votes.

Mr. Chaney said he realizes the Commissioners are struggling, and staff did as well before they reached this point. He explained that he presented this proposal to the CBJ Law Department a number of times. He finally requested them to make a determination, and the CBJ Law Department informed him that the applicant has due process in terms of this Variance that staff had to provide to the BA, so that is why it was not presented as an inquiry, which he apologizes for. If he were to start over again, he would not have a Variance Request application; rather he would have presented an inquiry case to allow this body to discuss it in the abstract versus it being a live application before them tonight. He is sorry that they are unable to go back, but a motion to continue is perfectly reasonable, especially with only five members present. It would be reasonable if the BA chooses to forward this case to the SDR for more discussion, if appropriate. Chair Satre said the motion to continue is appropriate at this time because there appears to be differing viewpoints on the Board regarding this application and about the process. He is unsure whether the Board would be able to obtain five unanimous votes, and he apologized to the applicant that they do not have a larger membership present to consider this case to provide a clearer answer, but the Board could formulate a better answer by continuing this case.

There being no objection, it was so ordered and VAR20120005 was continued to a subsequent PC meeting to be heard by the BA.

Chair Satre thanked Mr. Ceder for his patience with the BA tonight, and he hopes Mr. Ceder will continue to work with staff on this case.

Ms. Lawfer stated that since this case was continued, she asked staff to outline the process options for the BA moving forward; Mr. Chaney said staff would do their best, including possibly providing draft motions for consideration at a subsequent meeting. Mr. Bishop also requested staff to take into consideration the applicant's need to have this case represented at the next PC meeting for the BA to review if possible, i.e., by either presenting an inquiry, or a Variance Request.

Chair Satre adjourned the BA, and reconvened the PC.

BREAK: 8:00 - 8:05 p.m.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - Heard out of sequence

AME20120006

Review of the Comprehensive Plan (Comp Plan) Update:

Mr. Lyman said chapters 14-18 refer to what type of government functions the CBJ conducts through various agencies. Chair Satre said he would appreciate the Commissioners providing high-level comments.

- Chapter 14: Community Education & Services
 - Page 236: Mr. Lyman described the changes he incorporated, which are denoted as track changes.
 - Pages 238 and 239: He noted Barbara Berg, Library Director of the Juneau Public Libraries, provided comments via an email in the Blue Folder this afternoon, and he described Ms. Berg's recommended changes to the Libraries section of this chapter.
 - Ms. Lawfer referred to 14.2.IA1 in Ms. Berg's email where she deleted "~~joint library and community center.~~" She understands there is a Friends of the Library group working on a new City-owned library in the valley, so she is concerned about losing the community center. She explained that it is difficult to find rooms in which to meet in Juneau because the existing libraries tend to be occupied, so she doesn't want to lose that library or the community center.
 - Mr. Bishop asked if it is specifically Ms. Berg's desire to delete the "joint library and community center," or whether it was instead put forward by the library group as a whole.
 - Mr. Lyman said he suspects Ms. Berg being the Director of the Juneau Public Libraries systems that they are moving towards a City-owned facility, not a leased one. Therefore, it was probably not Ms. Berg's intention to de-emphasize the "~~joint library and community center,~~" but

- she instead probably meant that she would want to maintain some sort of community use.
- Mr. Bishop stated that since this is probably the case, he recommends they incorporate what Ms. Lawfer suggested to maintain the library and community center in this chapter and other areas of the Comp Plan where it makes sense, including the indication that it is City-owned.
 - Mr. Lyman offered to include verbiage stating, “Provide a City-owned joint library and community center at a convenient location,” and PC agreed for him to do so.
- Ms. Lawfer said she would like a new Standard Operating Procedure (SOP) for Vocational Education and Facilities, specifically should Greens Creek or Kensington wish to open such a facility for mining training, or some other type of fisheries training, and so on, i.e., beyond post secondary education.
 - Mr. Miller said this might be also be added to the Workforce Development section of the Comp Plan, i.e., construction, technology, and training classes to teach basic work ethics.
 - Chair Satre stated that such an SOP could be provided in many sections of the Comp Plan, and it would be good to call it out within this chapter as well.
 - Mr. Lyman said this is a rather spare chapter of the Comp Plan, which is a minor update, not a full re-write. However, he believes community education is a huge component of this City, as it is stated all the time “The Children are the Future,” although Chapter 14 only has one section on Schools with one policy, and another section on Libraries also with one policy. Therefore, it would be appropriate to perhaps include a new policy titled “Continuing Education or Non-Traditional Education or Vocational Education.” The borough has a great Community Schools program, along with many independent organizations providing training and leadership, and therefore he offered to establish new Implementing Actions (IAs) and SOPs. If the Commissioners have any suggested language, he requests that they provide it to him via email.
- Chapter 15: Cultural Arts & Humanities
 - Page 240: He reviewed staff’s two revisions of this chapter, stating that he would also further delete the comma after “December 2010;” that should not be there.
 - Chapter 16: Historic & Cultural Resources
 - He reviewed staff’s minor revisions throughout this chapter.
 - Page 244: He said staff added a new 16.2.SOP6. He intended to speak to Ms. Boyce who reviewed this chapter before this meeting, as he is somewhat worried about this SOP addition. He explained that the code does not necessarily use the term “discourage,” so it is much better to include proactive language stating what should be done; to which the PC agreed.
 - Page 245: Ms. Lawfer requested to add “...buildings, sites, artifacts such as totems, traditions...” to Policy 16.4, as there are totems throughout the borough, not just necessarily in the historic district.
 - Chapter 17: Community Development
 - Mr. Lyman said staff updated some of the language in the first paragraph.
 - Mr. Miller described a rezone case several months ago reviewed by the PC that staff recommended against because the maps in the Comp Plan signified other

zoning than what was being requested. Therefore, even though surrounding parcels to the subject lot were zoned D-18, the maps in the Comp Plan did not agree with the requested rezone in that particular case. At that time, he commented that when the PC updated the 2008 Comp Plan they were presented with a flurry of papers, so they did not review specific zoning aspects of individual properties. Instead, they viewed those maps of the Comp Plan in a broader sense, and yet those maps have been taken as being absolute when the PC reviews actual cases, and if it states that a request is not in compliance with the Comp Plan, they cannot approve it. He stated that if that is the case, the PC has to conduct a closer review of the maps of the Comp Plan, or make it so the maps are not so absolute. He asked in which chapter of the Comp Plan might they review this aspect.

- Mr. Chaney said this is not found in the Comp Plan; rather it is in Title 49, specifically §49.70.120 Restrictions on Rezoning. He cited a portion, which states, “49.75.120 - Restrictions on Rezoning - A rezoning shall not allow uses which violate the land use maps of the comprehensive plan.” He explained that this portion of code would have to be revised if the PC wishes to do so.
- Mr. Miller said if the PC does not do so, they are going to have to scrutinize the maps in the Comp Plan more closely, which in reality would probably be more than they possibly could do. If those maps in the Comp Plan are not absolute, Title 49 needs to be fixed because the Comp Plan is meant to be a guiding document.
- Chair Satre said these comments should be forwarded to members of the Assembly.
- Mr. Lyman said this was primarily discussed when he provided an update to an increase in residential density and height limits for Light Commercial (LC), General Commercial (GC) and Mixed-Use 2 (MU2) land use designated zones. During those previous PC discussions they attempted to understand how much more of a stringent reading of that section of Title 49 was than what they expected or experienced in the past. In doing so, they tried to eliminate confusion, i.e., where they have a GC land use category in the Comp Plan and a GC zoning district in the Land Use Plan, which created a lot of confusion. Therefore, they reviewed changing the land use designation names, so it would now be Commercial zones in the Comp Plan if it is adopted, which makes it easier to see that Waterfront Commercial (WC), GC and LC are all acceptable. Another possibility was rather than listing many different zoning districts that would be appropriate in a Comp Plan designation, perhaps they should instead review expanding the section of Title 49 to ensure that they do not have to have that strict of an interpretation. He cited page 1 of the Chapter 1: Introduction and Background of the Comp Plan, specifically the portion that states, “This is not to say that the Plan will be infallible or that it is cast in concrete,” which staff has routinely reviewed. Historically, staff and the PC have reviewed many zone change requests that were across Comp Plan land use designation boundaries because they were consistent with the neighborhood. During his tenure with the CDD, and some of the Commissioners might recall, along Old Dairy Road where Budget Car Rental, Arctic Carpet, Four Seasons Glass, Rayco Sales, and the new hotel

are now, was previously designated as Industrial in the Comp Plan that was rezoned from Commercial to Industrial in the late 1980s. This made all the Commercial properties in that location nonconforming that could not be improved because they could not be expanded, and no one wanted to invest in them. However, many years later they found that this area was not being put to its highest and best use with potentially heavy industrial uses adjacent to the highway and along Old Dairy Road. The interpretation provided by staff, the decision by the PC and the Assembly was that it was not inconsistent with the Comp Plan to pull the Commercial zoning from Fred Meyer across the highway and south of the Nugget Mall area to create a Commercial frontage in this location, but under the other interpretation they could not do so. Therefore, staff intends to represent the PC with the chapter on land use and its maps so the PC has not yet finished their review, which he is continuing to work on.

- Mr. Miller said he was absent from the last Wetland Review Board meeting, although staff delivered the packet where an applicant requested a zone change. That subject property is located across from Fred Meyer, but the staff report stated that doing so is not allowed per the Comp Plan because the property is designated as different zoning than what was being requested in the rezone, and therefore it appears as though the Comp Plan is still being interpreted that this is not allowed.
 - Chair Satre said it is, but they do not want to get into the details of that application. He said Title 49 has to be revised because the Commissioners would never be able to review the Comp Plan maps in enough detail to ensure that they could take into account every potential rezone consideration. They need to look at the Comp Plan maps in sufficient detail for potential conflicts in terms of boundaries within zoning districts. They have to find a way to frame the changes the PC wants to make to Title 49, but he wants this done with minimal analysis for the PC to review at a public hearing, and then move it onto the Assembly.
- Mr. Bishop said the subarea planning policy of the CBJ is missing, and they need to prepare SOPs and IAs in relation to this.
- Page 246: Ms. Lawfer suggested revising the following to state, “...further ~~expansion~~improvement of facilities at the Dimond Park Complex.”
 - Mr. Bishop said this is a run-on sentence that Mr. Lyman should also revise.
- Chapter 18: Implementation & Administration
 - Page 250: Mr. Lyman stated that the PC decided to review the Comp Plan every two years, but they are currently at the four-year point after adopting that horizon in 2008. In reality, they have to let two years pass in order to have aspects to update in the Comp Plan, and then it takes a couple of years of reviewing, collecting information, and preparing the draft to be reviewed by the PC. Unless CDD had long-range planners dedicated to constantly update the Comp Plan, it is not feasible to complete a review every two years.
 - Chair Satre said if they were to change it to every other budget cycle, it would push the review further out.

- Ms. Lawfer said policy 18.2 says “once every two years” in general, and policy 18.3 says “undertake a full update...every ten years,” which is more comprehensive in nature that includes Resident Involvement. They might include IAs of what the PC wishes to review over the next two years, e.g., identify subareas.
- Pages 250 and 251: Mr. Lyman cited this portion of the Amendment and Updating section of the first paragraph, stating that “It is important to highlight the distinction between the Planning Commission’s **review** of the Plan, their entertaining a specific **amendment** to the Plan, and **updating** the Plan.” Right now, the PC is completing a two-year Comp Plan general review, not a comprehensive 10-year update.
- Mr. Miller said the Comp Plan update was approved in late 2008, so it is truly only a little over three years since then, and therefore it is probably okay if this is how a two-year review works. When they included this in 2008, the Commissioners probably thought it would take place exactly every two years, but that probably was unrealistic, although what they have now should probably be defined that the review process would start in two years.
- Chair Satre said they should state, e.g., “should be initiated.” He thinks the PC might be diving into this particular general review of each chapter of the Comp Plan more so than they initially anticipated when they did the last update. A full update is going to be initiated in 10 years, which is also going to take a few years before it is fully approved.
- Mr. Miller commented that there probably would not be a review every two years for a total of five in a 10-year period; rather only two or three reviews at the most within that time.
- Policy 18.2: Mr. Lyman offered to revise this to state, “~~It is the policy of the CBJ~~” and “For the Planning commission to ~~undertake~~undertake a general review of the Comprehensive Plan ~~once every two years~~ after the adoption of the last update, and to make recommendations to the Assembly...”
- Policy 18.3: Ms. Lawfer asked if the PC should undertake a full update effective on a certain date so they do not have as many amendments, as those could be undertaken during the two-year review process.
 - Mr. Miller said that is not right because the full update would be initiated every 10 years, but it would actually take a couple of more years at least to get it done.
 - Chair Satre said they would be incorporating amendments during the 10-year updating process, after which major policies and text would be revised.
 - Mr. Lyman stated that all the updates of the Comp Plan are required to be adopted by ordinance by the Assembly in order to be effective.
 - Ms. Lawfer said the PC would be amending the Comp Plan forever if that were the case.
 - Mr. Lyman said the Comp Plan is a living document, so the PC should be forever amending it. He explained that many other municipalities have moved to more condensed Comp Plans, with

everything else being done through small area plans, and therefore this is a much more detailed Comp Plan than many other communities.

- 18.3.IA1: Chair Satre commented that this IA states that during their general review of the Comp Plan the PC is able to initiate a major update as well, so they do not necessarily have to wait 10 years.

XI. OTHER BUSINESS - None

XII. DIRECTOR'S REPORT

Revising City Project (CSP) and Capital Improvement Program (CIP) review processes

Mr. Chaney said staff is looking into revising these review processes, e.g., the Auke Bay School Renovation project that was already put out to bid, and now the Juneau School District doesn't want to change a single detail. However, the PC has not yet reviewed that case, which does not comply with the code. He is going to work with other City departments to require that projects be presented to the PC at the very beginning with a site plan of existing conditions, a sketch of the proposal, a short project description, and then they would request input from the PC. He was particularly frustrated at the Public Works and Facilities Committee (PWFC) when that Auke Bay project was presented, which is when the committee disregarded recommendations by the PC. He would also like the PC to generate some of the CIP projects early on. Currently, it seems as though CBJ Engineering generates the CIP list of projects, and then shortly before they are adopted is when that list is provided to the PC for review. When that has taken place, those were not the actual projects; rather a short list describing them using only few words, and then the PC has to determine whether they comply with the policies. If the Commissioners have ideas on how either of these processes could be improved, he requests that they provide them to him prior to the next PC meeting. Chair Satre said it would be easier for the Commissioners to come up with a process for the CSP in terms of potential permits by providing input at the beginning of projects. It is going to be a bit more difficult to integrate the PC's input into the six-year CIP plan, but there has always been great interest by the Commissioners to do so. Mr. Miller said the process might follow the method in which subdivision projects are presented to the CDD, and then to the SRC for review. Therefore, a new committee might be formed to review CSP projects, which should be a requirement in the code that applicants would have to undergo, and that would be easier than what the Auke Bay School Renovation project applicant had to go through. Mr. Chaney commented that they do not want to present this as having additional steps in the review process. Mr. Haight said most projects undergo preliminary design stages. He knows that different agencies and groups make presentations to their respective agencies using those documents to assist in defining project direction early on in the process. This is the same time when those projects should also be presented to the PC to ensure the proposed projects are in conformance with City policies as well. Mr. Miller said this is going to have to be required if they want this to happen otherwise developers are not going to make any changes, and they would continue to ask for forgiveness later on. Mr. Bishop said the CIP is politically sensitive to many departments within the CBJ, as it is often tied to comprehensive planning for the community. Many examples of this are found within codes around the country. The CIP is directly connected and developed from the Comp Plan, and the Assembly has expressed interest to have something similar generated. He would like staff to research this further to determine what project connections there are between Comp Plans and the CIPs, including exploring this with the City Manager and CBJ Engineering at the same time. Staff should also provide examples of this from around the country and how they tied CIP plans to

their Comp Plan efforts. He would like staff to provide feedback because there are positive outcomes with Comp Plans that have been tied to CIPs in terms of initiating federal and state grant requests, as much of the work is done ahead of time before the CIP is adopted, which provides background support for projects.

Coogan sand and gravel appeal

Mr. Chaney said the appeal has been accepted, and staff is compiling the record. The pre-hearing conference is scheduled on May 30, 2012. Chair Satre asked if that pre-hearing is going to be on the record; Mr. Chaney said it would be at that pre-hearing conference when that would be decided upon.

New LDS church was approved by the PC with three options

The PC with three options previously approved this case, and he believes the chosen access option would be directly off of Glacier Highway because the negotiations regarding Engineers Cut-off did not “pan out.” Staff received an email from the State Department of Transportation stating that they agreed to allow the applicant to access Egan Drive/Glacier Highway.

CDD Director’s position application submission

He stated that he applied for the CDD Director’s position yesterday at 3:30 p.m.

North Shattuck Way Case

Ms. Lawfer said she heard on the radio that Sealaska appealed the North Shattuck Way case. Mr. Chaney clarified that Sealaska has certain plans for their adjacent property, but the CDD has yet to receive an application for that new building. The North Shattuck Way case was a recommendation provided by the PC, which is not an appealable decision. The primary concern, as he understands it, is while building the heritage center, Sealaska intends to completely shutdown North Shattuck Way for the entire construction duration. The PC’s recommendation was to allow pedestrian access along the side of the Mercantile Building, including installing a barrier between the adjacent construction site and pedestrian pathway. Chair Satre said that case is currently being reviewed by the PWFC. Mr. Chaney said once an application is received for the Sealaska project, staff would provide it to the PC.

XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES

[The April 30, 2012 Assembly Lands Committee meeting minutes were provided by staff to the PC for their perusal.]

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS - None

XV. ADJOURNMENT

MOTION: *By Mr. Miller, to adjourn the PC meeting.*

There being no objection, it was so ordered and the PC meeting adjourned at 9:15 p.m.