

MINUTES

PLANNING COMMISSION
CITY OF BOROUGH OF JUNEAU
Dennis Watson, Chair

REGULAR MEETING
August 28, 2012

I. ROLL CALL

Vice-Chairman, Dennis Watson, 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: Dennis Watson, Benjamin Haight, Nathan Bishop, Marsha Bennett, Nicole Grewe, and Karen Lawfer.

Commissioners absent: Michael Satre, Dan Miller, and Jerry Medina

A quorum was present

Staff present: Hal Hart, CBJ Community Development Department Director; Greg Chaney, Planning Manager; Benjamin Lyman, CDD Planner; Laura Boyce, CDD Planner; Crystal Hitchings; CDD Planner; Eric Feldt, CDD Planner

II. APPROVAL OF MINUTES

- July 17, 2012 – Planning Commission of the Whole
- August 14, 2012 - Regular Meeting

MOTION: *By Ms. Lawfer to approve the July 17th Planning Commission Committee of the Whole and the August 14th Regular Planning Commission meeting minutes with individual recommendations as necessary.*

Mr. Chaney had some corrections.

Ms. Ms. Lawfer amended the motion to approve the minutes with corrections.

There being no objection, it was so ordered.

III PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None

IV. PLANNING COMMISSION LIAISON REPORT

Assemblyman Carlton Smith mentioned the approval of the rezoning ordinance and appreciated the commission's hard work on the issue. He commented that there needs to be a special public information effort regarding the Atlin Drive decision on the effect of this change and that the rezoning change in this ordinance really will not change the process nor limit the ownership that individuals have, it provides Juneau with more opportunity.

V. RECONSIDERATION OF THE FOLLOWING ITEMS

USE20120009

A Conditional Use application for a 100' monopole with associated equipment, enclosed within a 35' x 35' leased area, located along Montana Creek Road.

Location: 5600 Montana Creek Road
Applicant: Coogan General LLC

Vice-Chair Watson asked the commissioners if there was any objection to moving the item down underneath the first regular agenda item which is AME 20120012, the amendment to CBJ 49.25.430. He stated that the presentation will be short and would like to have the commissioners' support on making that move.

Hal Hart, Community Development Director, pointed out that the appropriate term would be continuation and not reconsideration.

Vice-Chair Watson introduced Mr. Hart as the new community development director and welcomed him to his first PC meeting.

VI. CONSENT AGENDA

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

AME20120012

Amendments to CBJ 49.25.430, 49.25.510, and 49.30.500 to permit reconstruction of lawfully nonconforming residential structures meeting particular requirements throughout the borough, where such reconstruction is currently restricted to the geographic areas Juneau and Douglas.

Location: BOROUGHWIDE
Applicant: CITY AND BOROUGH OF JUNEAU

Benjamin Lyman, CDD Planner explained that currently there are exceptions in the land use code in several different locations that allow for certain development standards, setback requirements, and lot coverage requirements to be waived in certain circumstances, mainly in residential developments in the geographic areas of Juneau and Douglas. He noted that these exceptions allow historic, lawfully non-conforming buildings that were built prior to the adoption of current zoning codes to be reconstructed in certain circumstances; so if they are damaged by fire, flood, or carpenter ants, and if the cost of reconstruction does

not exceed 75% of the value of the structure, they are allowed to rebuild on the same footprint. He stated that this exception does not apply everywhere and in discussing the issue with the city Law Department, city planning staff felt that the preferential treatment for these two geographic areas could be eliminated.

Commissioner Grewe agreed with Mr. Lyman stating that the outlying areas deserve the same treatment as Juneau and Douglas and was happy to see this issue raised.

Staff recommends that the Planning Commission forward the draft ordinance to the Assembly with a recommendation for approval.

MOTION: *By Mr. Haight to approve AME20120012*

(no objection, motion passed)

Vice-Chair Watson thanked Mr. Lyman for the presentation and for his hard work.

USE20120009

A Conditional Use application for a 100' monopole with associated equipment, enclosed within a 35' x 35' leased area, located along Montana Creek Road.

Location: 5600 Montana Creek Road
Applicant Coogan General LLC

Vice-Chair Watson stated that this is continuation of an application from the last commission meeting two weeks ago.

MOTION: *by Ms. Grewe to reopen public testimony.*

Vice-Chair Watson commented that the reason that this item was continued was due to the removal of a public notice sign that was taken down one day early, which did not meet the requirements for public notification.

Staff Report

Laura Boyce, CDD Planner, presented a brief overview.

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of a new 100 foot telecommunications monopole with an additional five foot lighting rod atop it for a total height of 105 feet, along with associated equipment, enclosed within a 35' by 35' leased area, located on residential zoned property along Montana Creek Road. The approval is subject to the following conditions:

1. Twenty percent of vegetative cover (at a minimum) is required. If 20 percent vegetative cover is not present, it shall be installed or the installation shall be bonded for and approved by CDD staff prior to final inspection for the tower.
2. Prior to the issuance of a Building Permit, the applicant shall submit a letter to the Community Development Department from a radio frequency expert indicating that structures will comply with

electromagnetic radio emission levels set by the Federal Communications Commission (FCC).

3. Prior to receiving Building permit final inspection and approval, the applicant shall submit a letter to the Community Development Department from a radiofrequency expert indicating the structures as constructed and at optimal emission levels comply with electromagnetic radio emission levels set by the Federal Communications Commission (FCC).

4. Prior to issuance of a Building permit, the applicant shall submit to the Community Development Department's planning staff for approval, dark green or brown matte finish color paint samples to be used for the tower and antennas.

5. Prior to final inspection, the tower and antennas shall be painted the color approved by CDD planning staff.

She stated that to date they have received three letters in opposition of the tower, two in support of the tower and at the last public hearing, one person spoke in favor and one person spoke against.

Commissioner Bishop asked if she had any findings for the question that one of the members of the community had posed at the last meeting regarding rights to review and condition permits for health and safety issues.

Ms. Boyce replied that according to the Law Department, they could regulate only what was in the code, but with the future ordinance and master plan, they could alter the code to further regulate powers in the capacity allowed by the Federal Government.

Mr. Bishop asked about the ability to impose a moratorium on pole development until they get the regulatory framework in.

Mr. Chaney answered that the Assembly would have to approve a moratorium. He stated that it is hard to enact a moratorium retroactively or midstream and would take a very concerted effort of the Assembly to do that.

Vice-Chair Watson queried about the process if they were to move forward with a moratorium.

Mr. Bishop stated that there isn't an existing blueprint for it because it would have to come from the Assembly. Vice-Chair Watson said that if there is a desire to pursue this, they could decide at the next meeting when more commissioners will be present.

Ms. Boyce added that there is a federal requirement that once a municipality receives a complete application for a tower, they are required to act on it within 150 days.

Vice-Chair Watson invited the applicant, Wayne Haerer to come up to the podium.

Mr. Haerer, Acquisition and Real Estate Representative for GCI out of Anchorage, stated that he had no new information to provide. He said that staff has done a very comprehensive review and analysis and is deferring to their findings.

Ms. Lawfer asked if the vegetative cover around the monopoles and the electronic equipment would hinder its functionality.

Mr. Haerer replied that if vegetation exceeds the height of the antennas, it would block the RF and give some sort of distortion to the broadcast. He believes that the vegetation in this specific site is mostly brush, grasses, and of fireweed caliber.

Ms. Lawfer asked at what point in time the vegetative growth affects the antenna.

Mr. Haerer stated that in cases where the trees are 80 to 100 feet, they might have to erect a tower that is 120 feet but in this particular case, they will be putting in a 100-foot tower understanding the topography of the area. He also has plans for co-location on that tower with antennas at the top level and a secondary set approximately 8 to 10 feet below.

Ms. Lawfer asked if the pole would need to become longer, removed or replaced if the trees grew taller.

Mr. Haerer said that considering the type of trees in the area, it is unlikely that those trees will grow taller than the tower.

Mr. Haight noted that with the increased use of cellphones and wireless devices, the demand for additional bandwidth has increased demanding more towers and more antennas. He questioned if the need for this particular tower was due to the additional need for capacity and for coverage.

Mr. Haerer responded that this particular site will facilitate and enhance signal strength for voice and digital data and text to the Mendenhall area. He explained that they are embarking upon a program called small cell sites where they will be putting very small antennas and small equipment associated within buildings on structures to help enhance and facilitate the demand for data and data penetration in structures. Mr. Haight thanked him for his response.

Vice-Chair Watson queried when they anticipate start and completion of the project if the application were approved this evening.

Mr. Haerer replied that he would have to defer that to staff. With regards to legal, he believes that there is a 30-day holding period or appeal period.

Mr. Chaney mentioned that there is 20-day appeal period from the date that the notice is signed by the clerk, but the project could begin construction at the applicant's risk as soon as the permit is issued for construction.

Mr. Haerer explained that within the week the bids would be sent out and in three weeks, they would know a start date and who is going to be building it. They would be held responsible for the building permit and all the conditions imposed by this body.

Vice-Chair Watson addressed a letter from Ruth Danner that requested this decision be delayed until the proposed cell tower “Master Plan” goes into effect and asked if GCI would be grandfathered in if the project proceeded.

Mr. Chaney clarified that once a permit is issued by the Planning Commission, they have approval for the project and if the code changes after that, it does not affect the project.

Mr. Haerer reiterated their stand on permits and current code. He also explained his commitment and involvement in the study groups at different boroughs regarding communication facilities.

Public Testimony:

Becky Bear, 10200 Mendenhall Loop Road, wanted clarification whether not being able to make health and safety determinations was a factor in their decision or a true / false statement.

Mr. Chaney answered that federal communications law prohibits local jurisdictions from regulating strictly on health effects. The forum for that would be a congressional change, interactive congressional delegation and local planning commissions. Ms. Bear thanked Mr. Chaney for his answer.

Public testimony was closed.

MOTION: by Ms.Grewe to move USE2012009 and that we accept the director’s recommendation along with staff analysis and findings and the five conditions as noted in the staff report.

Mr. Haight spoke in favor of the motion.

Roll call vote on Ms. Grewe’s motion to continue USE20120009

Ayes: Bennett, Grewe, Lawfer Bishop, Watson, Haight

Nays: None

Motion to approve USE20120009 passed with a 6: 0 vote.

INQ20120006

Inquiry as to whether a homeowner’s association is needed to oversee maintenance of shared driveways for a proposed subdivision.

Location: 4275 N DOUGLAS HWY

Applicant: WALSH SERVICES

Staff Recommendation: It is recommended that the Planning Commission consider these issues proposed by staff and the applicant and provide guidance as how to proceed with this development.

Staff Report:

Laura Boyce, CDD Planner, gave an overview about the site. It is an 8.78 acre site with 18 units per acre. There is water and sewer available to the site now and access will be from Douglas Highway. The

subdivision has not been submitted yet for consideration. She went over the proposed shared driveway, property boundaries, models and the phases of development.

Mr. Chaney commended the excellent presentation. He added that this subdivision did not comply with the standard subdivision geometry and would be only allowed through the director's determination if it was appropriate. He stated that the lots in the back tier do not have enough frontage on the right-of-way to meet the standard geometry. If the developer did that, they would have to build a loop road or two roads paired together which would substantially reduce construction costs and increase the amount of property available for development; but he cautioned about public safety issues.

Vice-Chair Watson reminded everybody that the question being asked is whether or not a homeowner's association is required.

Murray Walsh on behalf of Grant Creek Properties stated that right now, the code does not require that there be a homeowner's association for a standard subdivision. It does require such an association for a Planned Unit Development and various other kinds of developments. The owner in his research found homeowners associations over the years have evolved to become more troublesome than helpful. The idea is to put together a subdivision that has affordable houses in it. Affordable in this context means small buildings on small lots, yet, something that is sellable, mortgageable in a standard way, free-standing single family home on an individual lot that fronts on a city street. The other option would be for everybody to have their own driveway, but he cited the disadvantages of lots of culverts, lots of driveways, lots of impermeable area, and lots of waste. Because of the particular shape of this property, they came up with a two tier system. This allows almost 3:2 as many homes per linear foot of road as a standard subdivision would have. He explained the fire apparatus turnaround issue. He emphasized that they are not proposing a homeowner's association, but if no provision is made, they could have the developer plow the snow until the subdivision was complete.

Mr. Bishop asked Mr. Walsh to explain some of the objections to a homeowner's association for this purpose.

Mr. Walsh replied that a client of his did some research and came up with enforcement problems, funding problems, and neighbors falling into disquiet with each other.

Ms. Bennett inquired if a homeowner's association was something that the developer was thinking about after completion of the whole project or if they were opposed to it from beginning to end.

Mr. Walsh pointed out that the fire apparatus turnaround issue would go away after completion of the project and until then, the city will plow the road as each segment is completed.

Mr. Bishop questioned staff for clarification whether this item was about fire apparatus and emergency vehicle access or about harmony within the neighborhood for maintaining street access or driveway access.

Mr. Chaney answered that it was a combination, but the primary driver is public safety in terms of emergency access. He reminded the members that this was an inquiry case and no conclusion needs to be reached tonight.

Mr. Bishop queried with regard to emergency vehicle access, how a long driveway on an individual lot would differ from what was proposed.

Mr. Chaney felt that sharing a driveway would mean that four parties have to agree and can get more complicated than just taking care of one driveway.

Ms. Lawfer asked if the four homes would share an easement and questioned if all four household would be able to come to an agreement. Mr. Chaney replied that there would be an easement that would go with the property. And if there was a homeowners association, that would also have a life beyond individual property owners. She asked if there were other options. Mr. Chaney replied that there may be other choices and hopefully this discussion will bring those out.

Vice-Chair Watson brought up an example of a previous application from the public Works Committee 18 months ago where some neighbors were good with it and some weren't.

Ms. Bennett felt that if the developer takes responsibility for the plowing, he can build into the contract with the owners some kind of a payback if that is necessary and manage it without having to have a Homeowners Association which seems a lot easier and less complicated. In the future, when all of the houses are built out, the Planning Commission can revisit this. She asked if there was any green space and amenities planned for the location.

Mr. Bishop in response to Ms. Bennett's comment stated that in his previous research on Homeowners Associations, it is a typical characteristic of developers to do the clearing the snow prior to a full build-out. He had questions on whether they were looking at a cul-de-sac or a hammerhead because people usually take more responsibility for a cul-de-sac. He also saw another issue regarding sidewalks, whether the sidewalks are going to be on the street or if they are going to be held back as the plan showed. The other issue was whether or not there needs to be a Homeowners Association for maintenance.

Vice-Chair Watson responded that the way he understood the Public Works Department's comment was that they did not want to be responsible for the hammerheads, they would only be responsible for the cul-de-sac, so that concern is based on a misunderstanding. Purpose of the hammerheads is to enable temporary fire apparatus turnaround. The other issue of clearing the snow seemed to him to be a completely separate concern that is not addressed in regular subdivisions.

Mr. Chaney said that there is some confusion about whether the Streets Department is willing to plow hammerheads and exactly how the subdivision is going to be sequenced. He said that this is not an active application but just a concept that needs to be discussed to find out the interest of the commission, which direction to go with the shared driveways and maintenance of those driveways. The real question was about discretionary design. If the director were to say that this does not comply, it would go back into redesign phase.

Vice-Chair Watson asked the commission to stay focused on whether they need a homeowners association or not.

Mr. Bishop stated that in his experience where the snow was not plowed by the city, it was an uncomfortable and contentious issue and would not want the people to be put in that predicament. He felt that the homeowners association would be an easier fix.

Mr. Haight asked Mr. Walsh if the length of the driveways was about 120 feet. Mr. Walsh replied in the affirmative. Mr. Haight, in his 17 years of Fire Department experience, said, "First of all, when we are looking at this length of driveway, if there is an incident in one of these homes, are they going to drive into the driveway or are they going to park on the street and approach the incident from the street. My experience is that they are probably going to do it from the street. They do not want to get locked into that driveway. That is a question that we should approach the Fire Department with. The other part of it is once they are committed to that street, how do they get turned around once they are completed with the response to the incident. With this plan as it is presented here, the way I see it, they are having to back down the street and turn on the Douglas Highway unless they can turn around somehow within those two driveways, so I think those are questions that I come back to as far as the Fire Department goes. If they approach with a vehicle with their engines, their apparatus out in the street, then the issue of snow falling in the driveways comes back to the same kind of complexity you always run into with long driveways with single homes or two homes."

Mr. Chaney stated that he talked to the Fire Marshal about this issue and his comment was that they basically have a hose length of 150 feet, so to get to the back of the rear homes, they would have to pull up into the driveway some distance if they needed to reach the back of the home with that hose and as long as the driveways were clear, they did not see that as a problem. They did require a turnaround in this roadway and they would not be backing down the Douglas Highway, that would not be acceptable, and so that is why the hammerheads were proposed.

Vice-Chair Watson asked Ms. Boyce what information was required of the commission. Ms. Boyce replied that they would like a direction to take for this concept.

Ms. Bennett said in a small development like this with eight homes initially, the developer will have the responsibility and in building it out maybe charge as part of the cost of the home built in a certain amount of snow plowing as part of the sale of the home and as it builds out, then consider homeowners association, subsequent to the developers finishing as many homes as seems reasonable. On the other hand, if there is a time lapse of many years, a homeowners association is a better way to go, it is certainly more contractual and legally would resolve some of the problems.

Ms. Grewe was highly supportive of a homeowners association in this case, although she recognizes that in selling homes with the homeowners association may not be something that prospective buyers are interested in. She felt that as a commission public safety was their primary duty. Having the paperwork for the homeowners association would give the people who own the property something to rely on. She mentioned having the developer come back and speak with the commission if the neighborhood association is definitely a no-go for this concept and that maybe staff can come up with an alternative idea for managing this.

Ms. Lawfer agreed with Commissioner Grewe's statements with regards to a homeowners association. She felt that it was very important that it be laid out in a covenant so that home buyers can make informative decisions when buying a house.

Mr. Bishop agreed with Ms. Grewe, along with Mr. Haight who clarified that if the by-laws are written very simply they are easier to enforce.

Vice-Chair Watson proposed having the developer provide snow removal in the first phase of development and later on, having a homeowners association to take care of similar housekeeping issues.

Mr. Walsh said that the discussion has been very constructive. He could look into finding a third party to take care of the housekeeping issues for the neighborhood. He reiterated that this is a sincere effort to come up with affordable housing and will need help from the Planning Commission in the future as well.

Vice-Chair Watson thanked Mr. Walsh and called for a break.

BREAK 20:22 – 20:32

USE20120010

Proposed 22 dwelling unit project on the corner of Atlin Drive and Mendenhall Loop Road.

Location: 2600 MENDENHALL LOOP RD

Applicant: RICHARD HARRIS

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of a 22 dwelling unit project. The approval is subject to the following conditions:

1. Through the Foundation Setback Verification form, a surveyor shall confirm the location of buildings to ensure they all meet required yard setbacks.
2. Prior to issuance of Occupancy Permit, the applicant shall submit an as-built survey showing that all buildings adhere to the yard setbacks, or have an approved variance if the setbacks are encroached.
3. Prior to issuance of a Building permit, the applicant shall submit a site plan showing a 6' tall sight-obscuring wooden fence to be installed along the eastern side property line. Where the fence will be within 20' of the travel way of Atlin Drive, it may only be up to 4' high per CBJ § 49.25.430 (4)(L).
4. Prior to issuance of a Certificate of Occupancy, a 6' tall sight-obscuring wooden fence shall be constructed and inspected by CDD staff.
5. Prior to issuance of a Building permit, the applicant shall submit a lighting plan illustrating the location and type of exterior lighting. Exterior lighting shall be designed and located to minimize offsite glare.
6. Prior to removing any trees within the anadromous stream setback during construction, the applicant shall notify CDD staff. Removed trees shall be replanted with similar ones having a minimum height of six feet. All re-planted trees shall be maintained for a minimum of two years; any trees not survived during this period shall be removed and replanted.

7. Snow storage shall not take place within the streamside setback.

Eric Feldt, Planner with The City and Borough of Juneau: The applicant has filed a Conditional Use Permit to construction of a 22 dwelling unit project at the subject parcel located on the map. Mr. Feldt displayed a map showing the parcel being discussed. The adjacent neighborhood to the east and south are mainly made up of single-family residences and two churches directly south of the project, Atlin Drive and Teslin street. Teslin street is the street that is perpendicular to Atlin Drive towards the right of the map. Towards the left of the site, left of Mendenhall Loop Road is a high commercial intensity area. As the map shows, there is a gas station in the Mendenhall Mall and I think many people are familiar with that around there. It is very different from the area east of Mendenhall Loop Road. This difference is also carried out on the zone map. Light Commercial is shown in pink to the left of Mendenhall Loop Road, the zoning district D-10, which is 10 dwelling units per acre as the zoning district of the subject property and the neighboring parcels. Majority of the property in the area around the subject parcel is of a much lower zoning intensity than the district. Mr. Feldt displayed a photo showing this site on the corner of Atlin Drive and Mendenhall Loop Road. It is heavily forested. It has been that way for many decades. Also, the city capital bus stop is identified on there and you can see portions of the crosswalk and the white striping. There is another photograph of the intersection at Mendenhall Loop Road as shown on the photograph. Atlin Drive is behind the photographer and Mendenhall Mall Road is in front. You can see several crosswalks in the area. The area is not a picture of the property. This is taken from Atlin Drive, looking deeper into the neighborhood. There is a church located to the right and a site to the left, there is an existing driveway here from the opposite view, and this is looking at the eastern property line and there is a single-family dwelling just east outside or to the right of this picture. Outside of the edge of the picture, the property is shown on the left where you see all trees. It is inside of the property. There is a clearing area towards the bottom center of the property, but a lot of the trees still remain intact over generations. The history of the property dates all the way back to World War II, as several quonset huts were once part of the Juneau Garrison and these quonset huts have been well documented and added to the Alaska Heritage Resource Survey in 1997 by the Forest Service. The Forest Service was the previous property owner; the applicant is now the current property owner. It has been determined that the site has lost its historic integrity and was not eligible for inclusion on the National Register of Historic Properties. Over time, these structures have been vandalized and trash has been illegally dumped here over time, which has also resulted in bear nuisances. There is another picture inside the property looking eastward towards the single-family dwelling. You can also see the quonset huts. The hill you see towards the edge of that building marks the low land of the lot and in that low land are several Duck Creek ponds, which feed into the salmon spawning stream of Duck Creek itself. Mr. Feldt displayed the site plan. The Duck Creek ponds are shown towards the north section. Duck Creek is a fish-spawning stream and categorized as an anadromous stream. Title 49 requires a 50-foot setback on both sides of anadromous stream and on the site plan that represents the top third or so section of the property. The applicant has laid out the 22 detached dwelling units in the manner shown on the site plan. A new driveway will be provided to provide access. The short little stub of a driveway provides access to those few end units. There will not be a second phase to connect the street to further development to the north due to the anadromous stream setback. Staff has drawn in a proposed location of a new sidewalk. A sidewalk is required under the CBJ Engineering Department and the Director of Engineering Department, Rorie Watt has provided 3 flexible options for the planning commission to act on tonight. One, the sidewalk would be constructed at a minimum width of 5 feet with curb and gutter along Atlin Drive. Second, the sidewalk would be constructed at a width of 8 feet and it would be detached from the Atlin Road pavement and it would be located between the street and the right-of-way line. As you can see, there is a ditch that runs right along the edge of the road. The pathway would be within the right-of-way, but between the right-of-

way line and the ditch, so it would be essentially a separated pathway. The third option would be that the sidewalk would be constructed at a width of 5 feet, but on private property. The applicant has indicated to staff that options 1 and 3 are either very expensive or using private property for a general public use. Staff agrees with those 2 issues. The third option would be on private property, which would be in this section of land, which the applicant has indicated snow storage, also of areas where it would be essentially the rear yard of these dwelling units. With that said, the second option having a separated path would fulfill many positive attributes to the neighborhood. It would provide connectivity for pedestrians, spaces for bicyclists, areas where children and elderly would feel safe from fast moving traffic or uncertainty of where it is safe to walk on the road. The pathway would connect with an existing pathway along Mendenhall Loop Road, so it would add to the overall pedestrian connectivity to the Mendenhall Mall area and beyond. Those 3 options are up for discussion. Staff is recommending option 2. A new fence is recommended with staff's proposal located in green color. This fence is recommended to discourage or deter headlight glare from going through these gaps of the building and glaring into the existing single-family dwelling located here. This is the closest dwelling to the project. Where this fence would get within 20 feet from the travel way where cars would travel on Atlin Street. The Land Use code says that the sight-obscuring fence would have to be 4 feet or shorter as to not create a sight-obscuring element for drivers. The applicant is proposing each building to be essentially the same in design, footprint, and two-storey layout with a single car garage. The dwelling dimensions are shown on the screen. They meet the height standards of the Land Use Code and here is the floor plan. Included are bedrooms, great room, kitchen area, and bath upstairs and bathroom on the ground floor as well. Staff reviewed all the adopted plans to see if the project was consistent or compliant. The comprehensive plan states the following policy when developing urban areas. Policy 3.2 promotes compact urban development in the urban service area while protecting natural resources. The site plan layout protects the Duck Creek ponds to the north. Policy 8.1 promotes well-integrated multimodal transportation that provides safe and convenient access to people. Bicyclist and pedestrian amenities will be provided with the project. The 2009 Non-motorized Transportation Plan states encourage an increase in walking, bicycling, and other active forms of transportation by providing safe, efficient, and easy to use facilities that connect activity centers. The proposed sidewalk will connect to the existing pathway along Mendenhall Loop Road where users can easily access schools, churches, community centers, and daily shopping areas. Further, the plan states improve Juneau's non-motorized transportation network and decrease the number of bicycle and pedestrian-related accidents by identifying unsafe conditions, network gaps and deficiencies and making necessary improvement to sidewalks, bike lanes, paved shoulder lanes, separated paths, intersections, and crosswalks. I think the project with the sidewalk meets that and will provide a safe place for pedestrians to walk and feel comfortable using. The plan states the benefits for incorporating multimodal transportation choices as follows:

1. Increased safety for bicyclists and pedestrians.
2. Energy and cost savings for individuals and governments due to more fuel-efficient modes of travel.
3. Reduced vehicle miles traveled resulting in reduced emissions, improved traffic flow, and decreased vehicle maintenance and repair cost.
4. Improved public health by increasing physical activity levels and improving air quality.
5. Increased mobility and choice.
6. Improved quality of life by fostering the personal interaction that takes place while on foot or on bicycle.

The project consists of two-storey, fairly moderate-sized dwellings and looking at the existing housing stock in Juneau and the proposal, the proposed dwellings would likely attract young families, maybe young professionals, maybe adding housing stock to create affordable housing, and creating a sidewalk is a crucial

point in enabling affordable housing because that is the way for people to not rely on expensive personal modes of transportation such as a car, so I think that is important to note, and the Area Wide Transportation Plan mimics much of what I had already indicated about the Non-motorized Transportation Plan and the comprehensive plan. Staff received several public comments, including some concerns about construction noise, loud music, possible negative effect to trees on adjacent lands and the site is listed as an EPA Superfund Site. I know several members of the public are here to testify, so construction noise is regulated by the code not in the Land Use Code, but in the Penal Code, I believe. The loud music is also restricted in the same section of code. The commission may find that stricter regulations may be necessary and that is up for discussion. Negative effect to trees on adjacent lands; specifically this is about the trees located on private property next to the subject site that could be susceptible to windfall. A lot of the trees on the subject site are very tall and very old. The trees next to those on a different private property may have been sheltered from weather condition, so removing all those trees may make those shelter trees susceptible to falling. This is an issue borough-wide whenever someone constructs or develops a vacant land and essentially it is just a settled matter between two property owners. Looking into the superfund site issue, staff was able to confirm this on the Environmental Protection Agency website. We contacted the EPA and the status of the superfund case is in preliminary assessment, so staff asked what is the scene exactly. Unfortunately, the EPA employee who is directly reviewing this case is out of town and does not get back till next week. If the EPA case has not been closed and certain construction methods need to be taken that substantially change the project, staff recommends that the revised plan be brought back to the commission for further review. Another request from a nearby property owner was to have the 6-foot fence as shown in the earlier plan be raised to 8-10 feet tall. This is probably for aesthetic purposes, not wanting to see the construction over time or not wanting to see the different density aesthetics. Staff recommended 6 feet as it is in a section of Title 4; certain sections are connected to Title 49, but I believe this section is not, but it does provide a guideline that has been used in the past. Certainly, an 8-10 feet tall fence is up for discussion, but again staff is recommending a minimum of 6 feet sight-obscuring tall fence. Staff findings, building location, many of the buildings will be constructed along the yard setback line and it is crucial that it's surveyor confirm that during construction of each house that it continues to adhere to the yard setback. Second point, same thing for buildings along the setback. Many buildings will be built along the 50-foot setback line and trees within the setback cannot be removed. While realizing some negative effects of construction to these trees, staff is recommending that any tree that will be removed be replaced with a like tree and prior to removal of such trees, the applicant shall contact staff, so we know exactly which trees will be removed and what trees will be planted in its place in the future. Staff is recommending several conditions in favor of the applicant's proposal. The first two conditions are about building close to the yard setback line. Condition 3 & 4 speak about the fence. Condition 5 is there because the applicant is not proposing exterior lighting at this time, but in the future when the applicant does, this condition will ensure that the lighting is of appropriate light fixture, so it does not have horizontal outward glare. Condition 6 speaks about removing trees in the setback, as I had already mentioned. Condition 7 is that little stub of the driveway area where a snow plow may think it is easier just to push the snow right into the setback; this will discourage it. There are new conditions that staff is proposing. Eight speaks about the superfund site. Condition 9, this is ensuring that the sidewalk will be shown on the plans and it will be constructed in the future through CBJ Engineering Department. The fence height is certainly up for discussion, the three options of the sidewalk location and width are up for discussion.

Vice-Chair Watson thanked Mr. Feldt for the presentation.

Mr. Bishop: Just like our last application for the inquiry case, I am surprised that we don't have a condition referencing homeowners' association on this. Is there a reason why not?

Mr. Feldt: Well, it has not come up in discussion, but certainly listening to the previous comments the commission had, it sounds like it could be one way of dealing with that issue.

Ms. Lawfer wanted clarification if the curved driveway, once the subdivision was built, would become a street.

Mr. Feldt: No, that continues to be a private driveway on private property.

Ms. Bennett: I'm just wondering why the developer doesn't want to put in lights straight away?

Mr. Feldt: It would probably be a good question to defer to the applicant.

Mr. Chaney: I just have a general comment. This is substantially different from the last application I listened to because that was a subdivision and you would have individual private property owners. The grounds will be owned by an individual or a condominium association, so that is somewhat different.

Ms. Grewe stated she was concerned about adjacent neighbors and their possible loss of trees.

Mr. Feldt: That is a common worry and it sounds like a legitimate concern. Our department has always stayed out of those issues, as it is a civil matter, but there are other ideas the commission has for protecting those and that is certainly up for discussion.

Ms. Grewe: Because the suggestion here of the family of the property owner is that, an arborists be procured to determine if trees would be in danger and if loss of trees on the adjacent property could be avoided. Is that a condition we could propose or is that wading too far into the civil matter?. I hate to see this is going to be tight and it is going to be 7 very dense single-family homes right next to another single-family home that actually has a yard and trees and I hate to see other property lose trees, although there is probably a good likelihood that it will happen. Do we have any latitude to try to encourage these trees remain upright?

Mr. Feldt: No, staff won't think of a latitude right now in detail. I will go ahead and see if Mr. Hart would like to comment on this.

Mr. Hart: My only comment at this point is it is a laudable goal, But we have multiple goals that were bouncing, one of them is housing affordability in this case. We are trying to maximize what the zone allows there and that goal on this case is flat property, you know obviously the applicant will probably address this issue as well.

Mr. Chaney: One quick comment, the applicant can take all the trees down on their lot right now without a permit, so it is helpful to note that, so even if this is denied, they can still cut the trees without any conditions.

Vice-Chair Watson asked Mr. Harris to come up to present his project.

Mr. Harris, RH Development, applicant, I guess I can start off with Nathan's first question on the association. And then the trees, this was mentioned, and I think our trees are removed, kind of the back trees. The trees on the neighbor's lot, the trees across the street, are actually the front trees and again take most of the wind or probably blocking part of the wind on our trees. So I do not see that being a huge issue. I do not think that is going to be the case. We do have some blockage in front on their lots. And then outside of that, do you want to ask questions now or do you want me to just go into the additions? On the conditions, I do not have any issues with a few of these conditions, but there are a couple that were on the list that have lead to some heart burn. Condition 1 is not an issue, condition 2 is not an issue, site obscuring fence, I do not really have a problem with building the fence behind the units. We are planning on doing something of that nature anyway to individualize each unit, but as far as the reasoning and the purpose of the staff proposal why we should do it, I do not think that is really applicable. There's 2 units that the light can shine through and the roadway and that is about it. The rest of them are so close together the lights are not really going to shine through them. I could live with that. I think 5 feet is adequate. You are talking about a headlight at 3 feet high. If that is what we are trying to block, I think it is more than adequate. Condition 5 is not an issue. Condition 6, I think I can show on a separate sheet.

The surveyors put most of the trees and their sizes on this plan and you can see these trees are all there and there are a few on the line. They have got to remove it. I mean it is just inevitable. They are going to have to go. The buildings are there. It is going to be tight to the foundation, the roots are going to be there. I think those trees and any trees on the line or within, I would say 5 feet of the line should be exempt from that.

The old plan shows the trees right behind the fence. I do not think it is going to really improve the waterways or anything else there. I think that is reasonable except for I think we can maybe re-word that to say within 10 feet of the property line and then it makes it a doable situation.

The biggest issue I have is the pathway that was imposed by Ron King. (Mr. Harris showed his property line which goes right up to the ditch.) We can't set a 5-foot sidewalk in here with the depth of these ditches and along with the slope at the back and fit it between the edge of the asphalt. This is planned up by John Bean; he shot it all in. Down in this end of the property, it widens out. We would end up reworking this entire ditch line, and now he is talking about putting in catch basins, culverts, plantings. We can't agree with it, and the main reason is because we think it is being improperly imposed on the project. The code that he suggested that applies to our project does not apply to our project. I don't know if it was given in the staff report on the Code that Ron first reference, but it does not entail the privately-owned apartment complex or apartment project., In his last minute e-mail to me today, Rorie Watt was comparing our project to some other project. And it talks about the Glacier Village project, which is a subdivision. Subdivisions with streets require sidewalks, pathways; it is a standard requirement, but an apartment project on an existing lot and an existing subdivision does not require that the entire length of the property be constructed of pathway. I can't agree to that and it is huge cost, and he wants it paved also. We propose having a walkway. If this is actually just for our project, which I don't think is what he is doing. But if we go from here to here with the gravel or 5-foot wide walk strip, our people can get there in and out no problem. But instead he has consistently said that we are to build all the way along with a paved walkway. Whether we can fit it in there or whether it can physically fit in there without catch basins, I don't believe it can. I think that it is improperly being imposed on our project. And so I can't agree to it and I think we went way out of our way to put together a good-looking project. Our original plans were far different than this and the cost, I am

looking at anywhere from \$50,000 to \$80,000, \$90,000 to \$100,000. I don't know what it is going to be. I would end up going back to a much cheaper building project to fit the \$100,000, which could be \$5000 per unit. So I would like to add that into this development now, which means we are totally blind with this thing. We did not see that coming because our last project didn't have it, Del Rae did not have it, the last Sunset project that we had before a few months back didn't require it. I am still trying to figure out why this one would require it, and I am not going to get explanation. So it is the only thing that is really killing me and I just can't agree with that.

Vice-Chair Watson: I didn't write down these new requirements that you put up on the screen that Mr. Harris had addressed them all because I didn't have time to write them down, the ones that he put up on the screen. I just want to know if you need to respond to the new conditions.

The new conditions, well, I would like to look at them one more time, but I think this is the main condition. I don't have those conditions.

Ms. Bennett: Talking about the two conditions addressing the new additional ones that you put in that we don't have in our package. Concerns, I should say.

Mr. Chaney: I would like to make a comment. We are in an awkward situation. Today, Rorie Watt submitted a memo, which unfortunately we didn't make a copy of it for you. It cited in the Engineering code that the requirement for a sidewalk for the project of this nature. So, it is an Engineering Code Citation. It is being required by the Engineering Department. As the Planning Commission, you have the option of coming up with a condition that is similar. You could avoid the discussion altogether and just leave it up to the Engineering Department, but it did come out at the last minute, which are as mentioned, and not very well documented.

Vice-Chair Watson: I'm disappointed in Engineering's last minute response.

Mr. Harris: In this e-mail from Rorie Watt, he's comparing our project to the Glacier Village Project and Erin Manor Phase 3 Project; these are multiple lot subdivisions. They are not of the same type. He also compares this to the St. Vincent de Paul Project, which we're not a non-profit, grant funded project. These do not fit as an example of the comparison to our project. He is saying that these are the projects we've imposed it on, Yet they are not the same and they shouldn't be imposed on our project. As far as the Superfund site, we have a clean bill of health from the Forest Service; they've given us in writing that states that they clean up the site before they put it up for sale. We'll find that out as we go on and apparently if Eric has brought it up to the EPA and others, then I am sure it'll come out in the wash. I did not agree with the sidewalk issues.

Vice-Chair Watson: So, to summarize, so that we are all together. Recommendation #6, you feel that there should be some additional language there, is that your comment. Do not agree with conditions 9 or 10?

Mr. Harris said that was correct.

Mr. Hart: I'd like to ask a question of the applicant, just to make sure I've heard it correctly. The question is, what portion of a pathway are you willing to accommodate and to what extent are you willing to accommodate that?

Mr. Harris: I think they have a copy of our proposal here, after Ron brought it up. We proposed a gravel surface walkway from our first driveway to the existing walkway at the highway. And if it is specifically for our project, I don't understand why we couldn't put a walkway back in the 25-50 foot zone, so it's pathway for people who walk through there.

Ms. Grewe: Mine is actually kind of a follow-up question about the pathway. Could you go back to the slide that has the visual of the project? Where does the divided pathway end? It is a question for the staff and I have a question for the applicant. I am trying to put together where this pathway is, what it looks like now on the adjacent parcels.

Mr. Feldt: The pathway runs right into the intersection.

Ms. Grewe: Okay, it's already done on that one side of the property.

Mr. Harris: It goes the full length of that property.

Ms. Grewe: All right, so then we are really talking about the frontage to Atlin Drive. What is on the adjacent property? Is there any pathway there or is it just yard to curve and gutter?

Mr. Feldt: There are no pathways along Teslin Street either.

Ms. Grewe: So, it would wrap around in service, basically, this development and other neighbors.

Mr. Feldt: Right and it would connect to any future development to properties east of the site. Whenever future development would occur, it would connect into this sidewalk.

Ms. Grewe: The future development, I am thinking that, are not the adjacent properties all developed already?

Mr. Feldt: Right, but some time out into the future, there could be redevelopment.

Ms. Grewe: Okay, so the applicant is proposing a gravel pathway, which is the hash mark. Is that what this is on your drawing? So, this is the gravel you are proposing, okay. I just want to make sure that I am clear here.

Mr. Feldt: Staff has an e-mail from Rorie Watt indicating the sections of Engineering code in two sections of Title 49. I will pass this to you.

Vice-Chair Watson: If the commissioners are done with questions to the staff, we thank Mr. Harris.

Mr. Harris: If I could say one thing. These are images after Rorie proposed comparisons and you can see this is the full subdivision, full street development; not the same project. One on my note though, here is a very recent project, two weeks of our project. We have a hotel here, which is built, and the GCI Building here and there is not a walkway or pathway around any site of any of these projects, so I don't understand how you can pick and choose per project, what Rorie has admitted they are basically doing is that they are

picking projects here and there and imposing this upon it. This doesn't make any sense and if we are going to be required to do something like this, then, we are going to have to figure out how to pay the \$100,000. So, we are going to go back to our original plan, which is something more along the lines of this. We could save enough money to pay for bike paths if we generate a different project. But that is not what we tried to do here. We tried to do something a little better than what we have now. But you know, this is simple, 11 units. We can save all kinds of roadway by building one straight square flat surface in here and one driveway, but it is not what we are trying to do and I just don't think it should be imposed on our project.

Public Testimony:

Linda Wyeth, 132, 6th street, up the hill. My mother, is the adjacent property owner on the east. Unfortunately, health issues preclude her from being here this evening, so I am speaking on her behalf. You have an e-mail that I wrote on her behalf in your packet, so I think the staff report has adequately addressed some of those issues, so I am not going to take any more time with them. A couple that remain is the fence. Mr. Harris has suggested a 5-foot fence. When I told my mother about the staff report and that they are suggesting was a 6-foot fence, she said, "I really would like an 8 to 10-foot fence. The reason she wants it that tall is because she had not thought of car headlights but with poor _____. I mean, my son is 6-1/2 feet tall. If there is a 5-foot fence, he can look over the fence. The way I understand it is that the part of the property that is adjacent to her property, there is only a 5-foot setback, correct, not a 13-foot setback. I know on page 6 in the staff report, it talks about 13-feet there, but I think it is really, I mean I would like to be mistaken, but I think it is really 5 feet. So, she would really like to see an 8 to 10 foot fence. She would like to see a solid wood fence? I was a little bit confused, so I just wanted to be sure on the fine points that the fence would be a solid wood fence. On page 6, it talks about other organic material and if I think about other organic material, I think, shrubs. You know, my mother is 88 years old. By the time, the shrubs grew up to 8 to 10 feet she is not going to be around to see what it would block. Her other concern, and it is a really big concern that you have talked about already is the proposal that you would have to cut down all of the trees. They are big old trees. They are along her property, particularly on what would be the southwestern part of her property. There is kind of a single line of large old trees that is clustered on the southeast side of his property. They are big old trees, and I am really concerned that if that cluster of trees were cut down in his property, it would leave the single line of trees on her property, which should be subject to blow down. The strong winds in the winter, which get really strong there, come primarily out of the south, and it may be a superman. I got to tell you I would hate to file, on behalf of my mother's estate when a tree fell down on her bedroom in the middle of the night. I don't want to wait until the tree falls down to have to do something about it. I think if there is some way that we can look at this, get some expert opinion, and it is certainly not me to find out what might happen when a single line of trees is left and what we can possibly do to mitigate that. That would be really important.

Eric Feldt: Yes, I would like to clarify the yard setbacks for the property. Along Atlin Street, there is a 13-foot street side yard setback. Along Mendenhall Loop Road is a 20-foot front yard setback. Along the eastern outline, there is a 5-foot side yard setback. Along, where you see Duck Creek Ponds to the north, there is 20-foot rear yard setback.

Ed Quinto: Good evening commissioners. My name is Ed Quinto. I live on 2532 Teslin Street, just around the corner from the proposed site. I am here to talk about the request for Mr. Harris doing away with sidewalks. My concern is that I have two young boys and there are other kids in neighborhood. On this picture right here, there seems to be a small sidewalk around Mendenhall Loop Road; a gravel sidewalk to

the first driveway. My request is to continue on with that sidewalk all the way through as proposed by Engineering because right now with the proposed increased traffic and number of people going through this neighborhood, there is really not any place for my kids to go in case a car comes around the corner. Now, as you know, a lot of fast cars go around the corners pretty fast, and my kids do not really have a place to go. Right now, they do; they can kind of go to the woods, but increased traffic there, there would be more chances of an encounter with vehicles. Also, with the possible future plans of further development and of course there will be more kids there and more vehicle traffic coming through, I want to see my kids be safe along with other kids. Mr. Harris talked about other comparisons. I would compare this to the Allison Apartments on Trinity Drive. There are two sets of apartment complexes there, and they have sidewalks and I would like to see safe things happen here in this situation with a full sidewalk to protect all the pedestrians. One more comment regarding this fence, I recommend a 10-foot fence and I would recommend that fence be put up before construction starts, that way they are protected from sight and sound. Thank you for your time.

Vice-Chair Watson: Thank you very much. Any there any questions? Mr. Harris if you would like to come back up and respond to folks who spoke here tonight?

Mr. Harris: This is in reference to the fence and the sidewalk also. Actually, I do not feel like you should be dumping everything on the developer because he came to the neighborhood to build something. The sidewalk in itself, could potentially be added all the way down the street and then may be _____; we would put in sidewalks to the whole street. You know that I could probably agree with some of that nature. As far as the fence goes, putting the fence up at the wrong time is just asking for replacement of the fence before the construction project is over. You are going to have equipment and things going on. I think the fence should be built at the time those buildings on that east side are built. That is when we would naturally do it as the fence is behind the unit and again, I think 5 feet is adequate; you can build 20-foot fences. We can build a country wall 40 feet high, but at some point you have to keep things within reason and I think a 5-foot fence is more than adequate. More than that, how about I pay for the first 5 feet and they can help pay for the next 5 feet.

Ms. Bennett: I remember when this whole issue came up and there was a discussion about the neighbors wanting to have housing rather than some commercial development. That went back and forth and now we are seeing a good-looking housing development. I have been in the condos that you built on Delray and they are very nice, you know, very comfortable places and I really would like to see this project go forward. We need housing that is on regular roads and is connected close to shopping. I think it has a lot of merit. I hope some kind of compromise with the Engineering Department can be worked out, so that it is not shot down by a late issue and I guess also, we were not informed about this Engineering Department concern, was not part of our packet. We did not get it early. Is there any reason why we should have to consider that tonight? Is that something that the Planning Commission needs to get involved with or can the developer and the Engineering Department work it out.

Vice-Chair Watson: Ms. Bennett. If I could, I believe that the Planning Commission does not have the authority to overwrite CBJ ordinance. Is that correct?

Mr. Feldt: That is correct. In reference to the Engineering Department section of code, spoken about the sidewalk, it is in your packet.

Vice-Chair Watson: That would be something that the applicants have to work with the Engineering Department on, although we could strongly recommend, if the commission chooses, to at least put a strong recommendation if we wish to phrase it.

Mr. Chaney: You have more options than that, I don't know if you want more. Certainly, you can stay completely out, let the Engineering Department manage their codes, and that is completely legitimate; you could recommend something, if you suggested; or you could put a condition on this Conditional Use Permit that mirrors the Engineering Department's code, if you so choose. Then if the Engineering Department changes their interpretation of the code, they would have to come back to the Planning Commission to get your approval to change it. There are some choices.

Ms. Bennett: This is from my own experience. Elderly people do not do very well with big development. I am just concerned that your mother is not going to survive this, honestly, and that does not mean that the project should stop. I really think you should take seriously that that much construction is really going to be disruptive to a very elderly lady that has lived there for a long time. Having had a mother that went through this, along with other elderly people, they just can't handle that kind of stress very easily. So, I think that an 8 or 10-foot fence would be a lot more sensible, but I think the noise and the disruption is going to be very upsetting to her.

Ms. Grewe: Perhaps before we make a motion, I could benefit from commission's discussion on sidewalk/pathway. We have the code here and we have engineering's e-mail. Also in the back of my mind is that we are adding 22 homes to a neighborhood. I want to see the project go forward, but many of those homes could have children, and I just do not know where people are going to go except on the road. I wish there was something the Borough could do to make sure that this project happens and a pathway is built.

Mr. Bishop: Thank you Ms. Grewe. I agree that something needs to happen there. I feel like we are kind of put between a rock and a hard spot here. We do not have the analysis and we do not have the information in front of us to make a decision on the sidewalk at this point. I think we are probably better off letting this take place after our approval and letting the Engineering Department work with the applicant and do some negotiation to make something happen. I do not really think that it is best for us to come up with an ad hoc decision that is premature and not well enough sort out. So, I want to be supportive of serving that condition, as such, I would recommend, just for conversation sake, that we pull that condition out and move forward without it. I guess I would like to move this.

Vice-Chair Watson said he will wait for that.

Mr. Haight: Its been hard to follow. A lot of visual stuff going on that I am missing. The other thing understanding that there are additional recommended conditions, but I am not sure I see all of them. I have 7 on the documents that I have. Are there others that I have not seen?

Vice-Chair Watson: I will ask Mr. Feldt to verbalize those for you.

Mr. Feldt: There are three conditions that are not probably in front of you, commissioner Haight and I will read them. Recommended Condition #8: The site is listed as a superfund site under the EPA. If this substantially changes the project, the revised project shall be reviewed by the planning commission. Condition #9: Prior to issuance of a Building permit, applicant shall show a sidewalk along Atlin Drive

meeting CBJ Engineering Department standards. Condition #10: Prior to Temporary Certificate of Occupancy, a sidewalk along Atlin Drive shall be inspected and approved by the CBJ Engineering Department.

Vice-Chair Watson asked Mr. Feldt - The project behind McDonald's, when we approved that, was there not a condition for a fence? And you recall how tall that fence was, it was 6 feet.

Mr. Feldt: Right. I do not remember. I do not know if Mr. Cheney remembers.

Vice Chair Watson: Not trying to put you on the spot, but it is somewhat similar because we're abutting two different types of neighborhoods.

Ms. Bennett: But it did not. The end result was there was no fence. I do not think we required it. The people in the subdivision behind that development said that they would rather have the building itself as a buffer rather than a fence.

Vice-Chair Watson: I stand corrected, Mr. Feldt. Thank you very much, Ms. Bennett.

Ms. Lawfer: Well, I guess, as I'm looking through this and as I was reading the engineering report, the concern that I have is the fact that you could easily be adding 66-68 additional people in this, I mean, it's a relatively small piece of property, without a sidewalk or some way to provide for safe access to the bike path, the bus stop, and all the different things. This is something we definitely have addressed in a number of policies with regard to affordable housing and the needs of cars aren't it. I think about the one subdivision that worries me all the time, which is back in front of the Thunder Mountain area where it was all with no sidewalks and watching those kids traverse on that. I don't know how we could allow a special use for a piece of property and it's not that I am not in support of that, but without putting the conditions for that in order to do that, we have to make sure that people can get in and get out of their homes and be safe. My recommendation would be that the Engineering Department enforces their standard for this project.

MOTION: *By Mr. Bishop to approve USE2012-0010 with staff analysis and findings and Distance 1 through 8, without 9 and 10 and ask for discussion on condition 6 regarding trees.*

Ms. Grewe made an amendment for Condition #3 to read as an 8-foot tall sight obscuring wooden fence.

Mr. Bishop: I guess I would like staff to respond to condition 6 a little bit, and tell us how that's been applied. It is my understanding that it's a no-development zone. From 0-25 there is no disturbance and from 25-50, there is no development. No development means no excavation, but it does not mean no tree cutting. So, I guess that's for some clarification on that.

Mr. Feldt: The removal of substantial vegetation is defined under development and the land use code. That means removal of trees and removal of small shrubs. Bushes may likely fall under minor vegetation or unsubstantial vegetation. In the past, our department has drawn the line at removal of trees equals removal of substantial vegetation.

BREAK 21:37 – 21:42

Mr. Bishop: Eric has responded to the question regarding condition 6 and substantial vegetation explaining that condition satisfied my question.

Ms. Lawfer: With regard to recommendation No. 6, if I am not mistaken, that seems to be the same language that we used for the Auke Bay Elementary School when we were dealing with their building permit. Is that correct?

Mr. Feldt: You could be correct. That project was also adjacent to an anadromous stream. Bay Creek, I believe.

Ms. Bennett: My question about why the lighting is not going to be put in, I didn't ask it of the applicant, I should have. It is still hanging out there in my mind.

Mr. Chaney: As a general comment, a lot of times, these early proposals do not have their lighting plan in place. The land use code actually requires a lighting plan for the conditional use permit, so it is very common for us to just have a condition that prior to a building permit they provide the lighting plan showing cut-off fixtures. It is a pretty normal thing.

Ms. Bennett: But the lights will be put in at the time of the development.

Mr. Chaney: Yeah.

Vice-Chair Watson: Thank you commissioner Bennett. Do commissioners have any comments or motions?

Bishop: We have a motion on the table. We have accepted for friendly amendment and will call for the vote.

Motion passes with a 6-0 vote.

X. BOARD OF ADJUSTMENT

VAR20120010

Variance request to allow the side yard setback for an existing carport to be reduced from 10' to 0' from the property line.

Location: Lee Richard Revocable Trust
Applicant: Pt. Lena Loop Rd.

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and "decision" on the requested Variance, VAR20120010. The Variance permit would deny the request for the existing carport to remain at zero (0) feet from the west side property line.

The proposal 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 permit.

Should the Planning Commission decide to grant the variance, staff recommends the following two (2)

Conditions of Approval:

1. The carport roof must be altered such that the entire structure is located entirely within the boundaries of the subject property; and
2. The applicant must apply for and obtain an after-the-fact building permit for the existing carport, including fire-rating for the portion of the roof that is located within two (2) feet from the property line.

Vice-Chair Watson adjourned as planning commission and re-adjourned as Board of Adjustment.

Crystal Hitchings: The applicants request a variance for the east side yard setback on their property to allow an existing carport to remain located at 0 feet from the west side lot line. The minimum required side yard setback in the D3 zone is 10 feet and they are requesting 0 feet. The subject site is located at 17725 Lena Point Loop Road, on the north side of the road, adjacent to Lena Cove. The site is 38,332 sq. ft. in size, and is developed for the single family residence with an attached carport and a detached garage. The site is located within and surrounded by a D3, low density single-family dwelling residential zone. The lot is sloped for the water and the home sits on the northwest section. The driveway runs from Lena Loop on the northwest corner of the property along the property line to the house. According to the applicant, the driveway and parking area have been located in the same place since they original pattern was built in the 1950s. The carport was constructed in its current location in 2006. The applicants state that they hired an architect, engineer, and licensed contractor to handle the design, permitting, and construction of the carport. The applicants requested that the contractor obtain all necessary building and zoning permit to the carport and were under the assumption that these had been properly completed. Early last year, the adjacent neighbors to the left, Keith and Tamara Criddle, removed the fence along the common side property line to do some work on their own foundation and had their lot surveyed. The survey revealed that the fence was not on the property line and that the carport had actually been constructed partially over the property line. Further research revealed that a building permit for the carport had never been applied for. The southwest corner of the existing carport actually encroaches by about 6 inches in that little corner. This portion of the southwest corner of the carport roof will need to be removed, so that the entire structure is located on the subject property and this comes from the building officials. Here is the picture of the site from Point Lena Loop Road. Section 492250B set forth criteria for reviewing a variance. Granting this variance would provide substantial relief for the property owners and that the applicants would be spared the cost of removing the existing structure and locating it to meet the required setback; however, this relaxation is not consistent with other property owners. In this neighborhood, the majority of similarly detached accessory structures do appear to comply with required side yard setbacks and there is no evidence that the majority of neighboring properties enjoy covered parking adjacent to their front door. No variances have been granted to nearby property owners for similar setback reduction. Observations of development in the neighborhood revealed that only one nearby property appears to have structures that are located within the 10-foot side yard setback and here is the photograph of one property that was found. That criterion is not met because both aspects have to be found. It does provide relief; however, it does not appear to be consistent. Criterion 2: The intent of title 49 in part is to ensure that future growth is of the appropriate type, design, and location to promote public health, safety and general welfare, providing adequate open space for light and air. A carport is an appropriate development in the residential district; it provides greater amenities and value to the subject property. This particular carport, of an open construction, is located below the level of an out of the main view of the adjacent home. It is approximately 30 feet from the neighboring home at its closest point. Therefore, adequate light and air to the neighboring property do not appear to be affected. Any

portion of the carport within 2 feet of the property line must have a minimum fire rating of 1 hour applied to the underside of the roof structure per building codes. Therefore, once that is met, the carport would not necessarily affect public health or safety or general welfare. The subject carport is a one car structure attached to the home, the profile of the carport is woven into that existing structure creating a positive relationship with that building in keeping with the residential development in the neighborhood. Again, the distance of approximately 30 feet between the carport and the neighboring home along with the trees and other vegetation in that space provides the minimum required separation of 20 feet, so criterion 2 is met. Criterion 3, authorization of the variance will not injure nearby property. Again, once the eaves are fire rated, there is no danger to neighboring property. The adjacent neighbors, the Criddles previously submitted a letter stating that they strenuously object to the continued encroachment on their property and urged that the planning commission deny any request for variance suggesting setback requirements. We need to note that the encroachment will not be allowed to continue, so that aspect of their concern will be removed and I do understand from further conversation that the Lees and the Criddles have had conversation and that may or may not have resolved their concerns. The Criddles have not submitted any further statements. No evidence has been submitted at this time that shows the carport would injure nearby property. Only one other neighbor submitted a comment and that was in support, so 3 was met. Four, the subject site is located in a residential district. Carports are typical accessories, so 4 is met. Criterion 5, subject property is developed with the single-family home and this application is for an accessory rather than a principal use. Compliance with existing standard would not prevent the use of the property for a permissible use, so criterion 5A is not met. The nearby neighborhood is developed with single-family homes and most properties appear to contain attached or detached garages, carports, and other accessory structures. Some of these structures are near to the house and some are farther away. Most appear to be in compliance with the required setback, so denial of this variance would not unreasonably prevent the owner from using the property in the manner consistent with other properties in the neighborhood. The site contains moderate slopes, but does contain flat or buildable areas. The topography is typical for the neighborhood and is not unique to the subject site. According to the applicant, the eastern portion of the lot contains a marine outfall and drain field along with overhead utility line, which according to the applicant again are of a height not conducive to driveway development, so they did look at other places around the site prior to choosing their current location. The house was constructed approximately 16 feet from the east side property line with the main entrance deck and main entrance door on that side of the home. It would be impossible to construct a carport between the home and that property line adjacent to the main entrance that would meet that 10-foot setback. The staff report originally made findings that stated that this criterion was not met on the basis of the carport. It could have been located on the southwest corner of the home rather than on the west side, but further conversation with the Lees reveal that they actually had looked into that site as well, but they used a separate bedrock and so that would have put the carport near the main entrance but just outside of the setback. They determined they could not put it there because of bedrock, so criterion 5C is met. Criterion 5 is not met because all of the standards need to be met. Criterion 6, no evidence has been presented that indicates that allowing the carport to remain in the side yard setback will have any beneficial effect on the neighborhood; however, neither has any evidence been submitted showing that there will be detrimental effects, so this criterion was not met. Based on the analysis and evidence submitted by the applicants and by the public, Staff has determined that there are no grounds that justify this variance because Criterion 1, 5, and 6 were not found to be met. Staff recommends that the Board of Adjustment adopt the announcements and findings and deny the requested variance to allow the carport to remain at 0 feet on the left side of the property line.

Staff recommends the following two conditions of approval, one that the carport roof must be altered such that the entire structure is located entirely within the boundary of the subject property, and that the applicant must apply for and obtain an after-the-fact building permit for the existing carport, including fire rating for the portion of the roof located within 2 feet from the property line.

Mr. Bishop: Criterion 5, staff report reads staff finds that the Criterion 5 is met.

Vice-Chair Watson: Thank you commissioner Bishop. Any other comments or questions by the commissioners? If not, we will ask the applicant.

Ms. Grewey: I have a question on 5. I thought you only had to meet one of A, B, C, and D? I thought you changed staff findings to yes on C, which would mean 5 is met.

Crystal Hitchings: Okay, you are correct.

Ms. Grewey: OK, so its 1 and 6 are not met.

Crystal Hitchings: Yes.

Vice-Chair Watson: We ask the applicant to come up and speak to their application and please give us your name and street address for the record and if you would sign in.

Public Testimony:

Chava Lee, 17725 Point Lena Loop. This has been quite an education for us and I want to thank Crystal and the entire Community Development Staff throughout this whole process, even though sometimes the questions were fairly emotional. They were able to help us work through this process and try and figure out what all of this meant and we appreciated that. There is no way we can mitigate at this point the fact that we did not follow through with our contractor and actually called CBJ to see if in fact he had applied for the permit as we thought he had done. It was a mistake on our part and one we would certainly never make again, but there are a couple of things that I would like to address that were possibly not in my written statement and one that I have realized is that access into and out of a home is relative. Thirty years ago, we may not have thought that driveway was difficult. Ten years ago, we may not have thought it, but having the carport has really saved us from having to walk up this one section of driveway that is so incredibly steep and icy in the winter and has allowed us to have safe access into and out of our home for my elderly mother. Prior to the building of the carport, one would think that it was not that difficult to get 8 feet from a driveway into your front door, but when the weather is really inclement, even when it is raining, getting an elderly person out of a car and trying to convince them that they have to walk 8 feet through the pouring rain or the snow was difficult to the point where in the end she was unable to live with us.

Vice-Chair Watson: Ms. Lee, if I may interrupt you for just a moment. Our rules are that at 10 o'clock we have to ask the commission for a motion to continue on past 10 o'clock, so Mr. Bishop?

Mr. Bishop: Mr. Vice-Chair Watson, I move that we bend our rules and continue on hearing this case till 10:30 or 11:00, whichever the case maybe.

Ms. Lee: I am not exactly sure of the exact chain of events. Actually, they said we were on their property and I am not exactly sure that the word encroachment came up, but we said we will take care of it right away. I called the City Development Department and we were told that the best thing that we could do was to get a document written up that would be an easement with our neighbors for the carport. This is where my first educational process began. I called in the attorney, we sat down, and he told us these things happen all the time and we will get this taken care of. I believe in retrospect, had we just tried to muddle through this ourselves with our neighbors, we would have gotten to the point that we did a lot sooner instead of having our attorney speak to their attorney who spoke to our attorney and it became something that certainly we did not want. I think that our neighbors did not want that as well. Mostly, I just want to say that it was our intention in going ahead with the building of the carport, that we felt that we had covered all of our bases. We hired people who are professionals in their field, and obviously not correctly, since we've now found out there was not a building permit. We assumed that everything would be done and that all the rules and regulations would be followed and it was certainly never our intent to encroach on our neighbor's property, that is for sure. I guess, in conclusion where I recognize that maybe none of the neighbors have an easement issue. I really feel in my heart that the carport adds to our ability and anyone else's ability to have access into that home, to be able to enjoy it, to be able to live there for many years to an age where, without the carport that might not be possible.

Keith Criddle, 17695 Point Lena Loop, the property immediately to the west of the applicant's property. The information that has been presented to you is correct for the most part. There are few minor details that are off. We didn't purchase our property until November of 2007, and the construction took place subsequent to our purchase of the property, so would have been shifted into early 2008. The fence that we took down was falling down; it was a small 3-foot fence around the portion of the garden in the front yard. We undertook the survey because we wanted to expand the portion of the driveway pad that sat at the bottom and we wanted to make sure that in doing that we didn't bump up against the neighbor's property. In the course of having that survey done we discovered in fact that the line **lay** further to the east than we had anticipated on. In terms of this, we would like to work something out nicely. Our neighbors undertook considerable expense to bring on the board an attorney who was in agreement. The attorney did what the attorney is to do and set out to secure the maximum interest of their client. We were concerned of the language of the proposed agreement. We were uncertain that we understood all the ramifications of it and so that left us with the need to contract an attorney as well. So, between the two of us, our families have done a lot for supporting the economy of Juneau. We could have instead used those same funds, substantial funds on both parts, for something else, but that is water under the bridge and when we take a look at this, we certainly are concerned as we want to make sure that we've got clean, clear title. That we don't run into problems with our insurance company over having structures that encroach on to our property. That we don't run into problems with, what we say, is our property, but of course this belongs to the bank and we are just making payments to the bank on that property and the bank certainly has interest in what happens on that property. The encroachment is a problem for us. They had considered an easement agreement. Our attorneys argue with it instead. We needed to look for an encroachment agreement and it just kind of went nowhere on that. At no point did our attorneys come to us and say Oh, by the way, whatever you guys work out between you two, the two of yourselves, it is still going to have to go before the Planning Commission, which should have occurred to me, it didn't. It should have occurred to the attorneys to mention it and it didn't. When we look at what is proposed right now, we would like to be able to see the Lees maintain their carport. We have a couple of concerns. We have a concern that a carport might at some point morph into an enclosed structure, that the character of it might change, and again we would just seek assurances that if the request for variance is granted, that if we clear any change to the use and change to the structure would

require additional consideration and would require a separate variance. There is a difference between a carport and a garage. The other item that raises some concern for us and we didn't notice that until this evening when we sat down and read through the set of documents that are prepared here, is the concern about meeting the minimum separation.

We do not at this moment have plans to expand our house to the east or to the west or more through to the south, but we would be concerned if our opportunity to consider expansion meant that we had to stay 20 feet away from our east property line rather than to stay 10 feet away from that east property line. We would really appreciate some understanding and some clarification on what the implications of that 20-foot minimum separation requirement is. Should we desire to expand our house, would our building permit then require us coming back to the Planning Commission and saying we have planned the structure, it is going to go out to within 12 feet of the property line, so it is well back from the normal side yard setback, but it now would be in violation of the separation. We would appreciate hearing from you what the implications of that 20-foot separation requirement would be and how that would affect possibilities for us or future purchasers of our property and we would appreciate it if you included that in your discussion on this decision. I would be happy to answer any questions.

The property was bought in November 2007 and the structure in discussion was bought the following spring.

Mr. Cheney: I do have a quick comment on the question. The setback requirement for the building code is different than the land use code, so you would have a 10-foot side yard setback as always in the future or less zoning change and then the building code does change over time, so we can't say for sure right now what your setback to the other structure would be in the future. There are ways of constructing buildings that you could be closer than 20 feet and they generally involve a slightly more involved review, but it is not a difficult thing to do, so you have options. It might require a certain style of construction and we would need to look at the building code at that time.

Crystal Hitchings: I was just going to comment on that also and note that the discussion of the 20-foot separation was more of a demonstration of how if each building was 10 feet from the property line as is the minimum requirement, there would be a 20-foot separation. It was a statement that, as things are now, there is approximately 30 feet between the buildings. Visually the properties appear to be meeting that setback as far as the zone requirements and housings appear on the site.

Chava Lee: I don't really have any additional comments. I think that both Richard and I are in agreement that we want to make sure that our neighbors feel comfortable.

Ms. Bennett: The neighbor said that he didn't object to the carport roof as it is, but what we are saying is that it is going to be altered to fit within the boundaries of the present home, am I right?

He was just going to take 6 inches off, but there is also a question of the foundation for those posts being on the property of the neighbor, is that not correct?

It is just the roof.

Ms. Bennett: Am I correct that the neighbor has said tonight that he does not require that the roof be changed at all?

Crystal Hitchings: Correct, word has come from our building officials that say that they cannot approve a structure that goes over the property line.

Ms. Bennett: I see, okay.

Mr. Bishop: Can you tell us how far the post was off the property line?

Chave Lee: Yeah, it is about a foot.

Vice-Chair Watson: So, to sum this up, if I may attempt to say what we are dealing with here tonight is whether or not we require a portion of this roof to be removed, which will meet the requirements of the code.

Crystal Hitchings: My understanding is that the corner of the roof would have to be removed regardless of the commissioner's opinion on that, so the question is can the carport remain at 0 feet?

Vice-Chair Watson: I just wanted to clarify that. Are the commissioners clear on what variance is now, Ms. Lawfer?

Ms. Lawfer: The other question though is the fire rating, correct?. We do not know if it was built to comply with that.

Crystal Hitchings: It was probably not. It doesn't have a building permit, but one of the conditions would be that it would be required to have a building permit and the fire rating would be part of that process.

MOTION: *By Ms. Grewe to move Variance 20120010 and that we accept staff recommendations to deny the variance and accept the findings that it does not meet criteria 1 and 6.*

Let's put the motion on the table and I will speak in favor of the motion and stick with my historic voting pattern on post-construction variances. I take the first criterion quite seriously and the justice to other property owners. Crystal spoke to what is going on in that neighborhood, but I also have concerns for when you grant a variance, you are allowing property owners to break the laws of the borough and these after-construction ones are always awkward because it is already built, it is beautiful and I know that the applicants hire professionals, but you are responsible for what professionals do on your property and you had to have known that you were bumping up to the property line, you had to have known. Setbacks are not something that just came around in modern time, and I worry about when you build into the setback and then you encroach on to the neighboring property by 6 inches, you are ultimately impacting the neighbor and the neighbor's future ability to potentially develop their property. I have been in the planning commission long enough to know that commissions change and we look at old staff reports, but when a structure is built and it stays, it is just not fair, so I will leave my comment of that.

Mr. Haight: I am inclined to agree with commissioner Grewe. I know that we always try to find a middle ground and I have been looking for it. I am not seeing it. The criteria 1 and 6 are pretty clear and I just can't

see how we can get there in a positive manner. I have to agree that this is just not there to meet our requirements.

Vice-Chair Watson: If I could ask staff a question, if this variance is denied tonight, the applicant is required to what?

Greg Chaney: They will be required to meet the 10-foot side yard setback, which would result in the majority of the carport being removed, I would say, and having to be completely redesigned.

Crystal Hitchings: It would probably be rendered useless as a carport.

Ms. Lawfer: The criterion 5, parts of it were not met but parts were, so in essence 5 is met.

Okay, I just wanted to make sure I get that. I was pretty sure that is what we were saying, but it is 10:30 at night, so I just wanted to make sure that its because of 1 and 6. Thank you.

Mr. Bishop asked what the distance between the two posts was and how wide the entry to the carport was. He thought it was about 20 feet, but couldn't scale that.

Ms. Hitchings showed the photograph and was not positive.

Mr. Bishop: This looks like around 12 feet. Thank you. As follow up on that, you indicated that it is not meeting the criteria for the 5-foot setback for the carport because of the terrain. It seems to me that they are making a good argument with the topography is steep and especially given the case when they have elderly people in the house that does have an argument to it. If that be the case, there will be a 5-foot setback and the variance might be a little bit more close to the de minimis if they could cut that off.

Mr. Hitchings showed a photograph of the site where you can see that the upper portion of the site is all pretty flat.

Mr. Bishop: Right, but the area directly below is not and that is the area that is problematic. So, I guess what I am asking is if it was found to be fitting within that criteria, how much would they need to cut it down to be eligible for the minimum.

Mr. Hitchings: Twenty five percent of the required setback distance 2-1/2 feet for the de minimis.

Mr. Chaney: You are allowed to encroach 25% of the required setback after the fact discovered situation for the minimum, so we are kind of making a couple of leaps here. First of all, we are saying that the director would have determined that the garage exception did apply so the side yard setbacks were reduced from ten feet to five and that the grounds for de minimis would be met which means that the carport could be 25% into the setback. So, 25% of five would be about four feet, so the side yard setback would go from ten to four under that, not quite to zero.

Ms. Bennett felt that they should allow the variance to go forward and decided to vote against the motion.

Mr. Bishop: I guess I am going to speak in favor of the motion although I am very uncomfortable with it because I would like to find resolution as does Ms. Bennett. I see the solution to this maybe being more worked out between the owners and the neighbors themselves and perhaps with the director finding that it does meet the criteria for the carport setback. If that be the case, then we could get down to 5 feet and it is a matter of moving a lot line rather than tearing something down. I think that might be the way that we have to proceed on that and I regret that, but I can't see going otherwise, so I am going to vote for the motion.

Vice-Chair Watson: I find myself in a situation here where especially Ms. Grewe who has raised this point many times and I really respect her opinions and position on this. It is unfortunate that the neighbors have come before us, but I can also understand Mr. Criddle, that he needs finality to this issue so that eventually if he has to sell his home, he does not have to deal with these issues and vice versa for the Lees. I would speak against the motion. I think there is a way to accommodate this, but I think we will call for a vote and start with commissioner Haight.

Haitght yes

Bennet no

Grewey yes

Lawfer yes

Bishop yes

Vice-Chair Watson: no

Motion to deny variance passes with a 4-2 vote.

Vice-Chair Watson: The variance has been denied and I would also go on record asking for reconsideration on this.

Mr. Chaney: As I understand it, the motion failed, so the motion was to not deny the variance, so the motion failed. No action has been taken. Need 5 votes to pass the motion.

Vice-Chair Watson: In that case, I will rescind my reconsideration and we should be able to continue this. We will continue this and we should be able to get it on our next planning commission schedule. What that means folks is that there wasn't a majority vote as required, we must have 5 votes to make it a majority and there wasn't enough to go the other way, so this will be before us again in about two weeks, I believe it is so, and what we will ask Mr. Cheney since you have been so patient with us this evening and you can see we get busy but we will make every attempt to put you on the agenda at the beginning of our meeting, so that you don't have to sit through this lengthy process again and with that I conclude my comments. You can discuss with the Staff, but unfortunately we can't respond. If you could discuss them with Ms. Hitchings and Mr. Chaney, it would be helpful. We are sorry that you had to wait so long in the evening, but unfortunately we had a very busy schedule this evening. Thank you again and we hope that this will work out to the satisfaction of both parties.

Vice-Chair Watson: Mr. Chaney, give a brief synopsis of what took place last evening with regards to our brief now.

Mr. Chaney responded saying with some discussion, the Assembly approved the provision that would allow for zone changes to substantially conform with the land use maps of the comprehensive plan which relieves

you of the burden of getting it all perfect. He stated that it all worked out in the end and he will be back with more comprehensive plan update chapters.

XI. OTHER BUSINESS

XII. DIRECTOR'S REPORT

Mr. Hart stated that he is watching and learning and will be interacting more as time goes by.

III. REPORT OF REGULAR AND SPECIAL COMMITTEES

- July 23, 2012 – Public Works & Facilities Committee Minutes
- July 23, 2012 – Lands Committee Minutes

Lands Committee Minutes

Mr. Bishop said that the Lands Committee met last Monday and they discussed the maritime building. His main concern was having an office building at the focal point of the marine park. He also asked the committee to look for other ways for more compliance with their long-range water plan and provide some amenities for the public not just for docks and harbors and marine exchange; this was the focal point of their discussion.

Mr. Chaney reported that the Public Works Committee met on Monday and it was basically a housekeeping meeting, they spoke mostly about moving funds between closed out projects, nothing that affects community planning or development.

XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Ms. Grewe passed a newspaper article from the Anchorage Daily News on August 14th regarding municipalities across the state struggling with cellphone tower construction.

Ms. Bennet asked about item that was taken off the agenda today. Vice-Chair Watson replied that the applicant was out of town and he will be back two weeks from now for the next regular meeting.

Mr. Bishop asked staff to look at the 5-foot setback exception, to take that into consideration and try to find a solution with moving the property line.

XV. ADJOURNMENT

Vice-Chair Watson thanked the commission and adjourned the meeting at 10:37 pm.