

MINUTES

**PLANNING COMMISSION**  
**CITY OF BOROUGH OF JUNEAU**  
Dennis Watson, Vice-Chair

REGULAR MEETING  
November 13, 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, Jerry Medina, Benjamin Haight, Karen Lawfer, Nathan Bishop, Marsha Bennett.

Commissioners absent: Michael Satre, Nicole Grewe, Dan Miller.

A quorum was present.

Staff present: Hal Hart, Director; Greg Chaney, Planning Manager; Beth McKibben, Senior Planner; Crystal Hitchings, Planner; Heather Marlow, Lands and Resources Manager.

**II. APPROVAL OF MINUTES**

- October 23, 2012 – Regular Planning Commission meeting.

***MOTION:*** By Ms. Bennett to approve the October 23rd, 2012 PC minutes, with any corrections as provided by the Commissioners or staff.

There being no objection, the minutes from October 23, 2012, were approved.

**III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS**

**IV. PLANNING COMMISSION LIAISON REPORT**

Vice-Chair Watson mentioned that their liaison was not there that evening, and if he arrived later, he would ask for his comments at the end.

**V. RECONSIDERATION OF THE FOLLOWING ITEMS**

## **VI. CONSENT AGENDA**

**VAR2012 0021:** A variance request to reduce the side yard setback from 5 feet to 1.5 feet for construction of a carport.

Applicant: Michael D. Lesmann  
Location: 8251 Aspen Avenue

### Staff Recommendation:

Staff recommended that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2012 0021. The Variance permit would allow for a carport to be within 1.5 feet from the eastern side property line with the following condition:

1. Prior to the pouring of the foundation, a surveyor shall confirm that the supporting columns are at least 1.5 feet away from the property line. The roof eave shall be at least 1 foot away from the same property line.

**VAR2012 0025:** A variance to D-1 zone standards for minimum lot, width, area, front and side setbacks, and combined access to roadway to allow a two-lot subdivision.

Applicant: Lenart C. Ceder Revocable Trust  
Location: 17105 and 17125 Glacier Highway

### Staff Recommendation:

Staff recommended that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2012 0025. The Variance permit would allow for a reduction to the required D-1 zone district minimum standards for lot depth, width, area, front and side setbacks, and combined access to lots on fronting on minor arterials to allow a two-lot subdivision.

1. At the time of final plat, a plat note and deed restriction will be recorded stating that no additional dwellings, including accessory apartments, will be allowed on these two parcels.

Vice-Chair Watson stated that both of the items were on the consent agenda and that any member of the public could have either one or both removed from the consent agenda for discussion. Likewise, any member of the Planning Commission had the same privilege. Vice-Chair Watson called for any members of the public who wished to speak against the consent agenda items that were presented and any members of the Planning Commission who wished to speak against these two consent agenda items.

Ms. Lawfer said that she would like to remove VAR2012 0025 for purposes of staff clarification.

Vice-Chair Watson said they would remove VAR2012 0025 and take it up shortly. He asked the Commissioners if there were any objections to VAR2012 0021 that was presented that evening and seeing none, he announced that the variance for 8251 Aspen Avenue had been approved and

they would keep up VAR2012 0025 but not ask for an update from staff because they had seen it before.

Ms. Lawfer had a question for staff on Map Attachment "B", located in the packet dated November 7, 2012, in regards to the staff recommendation to grant a variance and make restrictions not allowing additional dwellings and that would include accessory apartments, she questioned of all those that were highlighted, if any of them had more than one dwelling.

Mr. Chaney responded that the lot, outlined in red on the board, that was the subject of the variance, was a rather small lot. He noted that the highlighted lots were smaller than the minimum lot size allowed in the district because the area was subdivided under old rules where the minimum lot size was 12,000 sq. ft. and the current minimum size is 36,000 sq. ft. He didn't know exactly how many that were shaded yellow had accessory apartments, but he would say the majority did not.

Ms. Lawfer questioned if there were two dwellings on one lot. Mr. Chaney said that it was an unusual situation.

Mr. Medina asked if it was currently non-conforming. Mr. Chaney said that was correct.

Mr. Medina wondered if one of the structures in the variance were to be demolished and rebuilt, if it would need to conform to the current standard.

Mr. Chaney responded that recently the Juneau Planning Commission and then the Assembly passed a modification of their ordinance that would now allow any non-conforming structure anywhere in the Borough that was destroyed by any reason, such as fire, to be reconstructed on the same footprint.

Mr. Medina queried if the structure could still be reconstructed on the same footprint if it was not demolished by fire, but by the owner simply wanting to build a new structure? Mr. Chaney said it could be reconstructed for any reason.

Vice-Chair Watson asked if that was the recent ordinance the Assembly had just passed and Mr. Chaney stated that it was.

Mr. Chaney interjected that it had not been up before the Commission yet and what had been up before was the Director's determination as to whether this was a variance to density and was determined to be so. The item was not heard, although it was on the Agenda, so it was a little unusual and he thought it would be appropriate to have public testimony.

Vice-Chair Watson called for public testimony first from the applicant and then any members of the public.

Mr. Chaney said he did want to make a comment that with the condition that there be no additional dwelling units added, the actual number of potential dwelling units on the lot would be

reduced. Right now, a unit could apply for an accessory apartment with the subdivision, which is what the request was for and that would actually reduce potential density in the long run.

Public Testimony:

Len Ceder, 17105 Glacier Highway, said that there had been two residences on the property for 35 and 32 years. Since they had purchased the first property, they had been inhabited by two separate families and consequently, the density of population would not change but allow the option for them or future owners to have complete sewer systems, water systems, separate electricity, separate accesses, and separate parking pads. There would be two functional units, which are on the same property currently, but their request is to be able to subdivide them.

Ms. Bennett said she remembered the case and the rationale for the subdivision was to allow for two owners rather than an owner and a renter, which would be better for the neighborhood.

Public comment was closed.

**MOTION:** By Mr. Bishop to approve Variance 2012 0025 with staff analysis, findings, and conditions.

**Roll Call Vote**

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

Nays: None.

Motion passes 6:0 for approval of VAR2012 0025.

Vice-Chair Watson announced that the variance had been approved and thanked Mr. Ceder for coming and his patience with this over several months.

Vice-Chair Watson adjourned the group as a Regular Planning Commission and reconvened it as the Board of Adjustment.

**VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS**

**VIII. UNFINISHED BUSINESS**

**IX. BOARD OF ADJUSTMENT**

**VAR2012 0022:** Variance request to allow an internally illuminated, 32 square foot sign in a residential district, where internal illumination is prohibited.

Applicant: HUB After School Program

Location: 8001 Glacier Highway

Staff Recommendations:

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and deny the requested Variance for an internally illuminated sign located in the northeast portion of the site, but approve an alternative variance for the sign to be located in the northwest corner of the site, west of the existing driveway, with the following Conditions of Approval:

1. One 32 square foot internally illuminated sign, as approved by SGN2012 0029, may be located in the northeast corner of the subject property, west of the existing driveway.
2. The existing sign permit, SGN2012 0029, must be modified to comply with the final decision regarding this variance.
3. Only indirectly illuminated signs are allowed in any other location on this property.

Staff Report:

Crystal Hitchings, CDD Planner, said that the applicants for the HUB application had just approached her and asked if the Commission would be willing to table the application as they wanted to gather some more evidence to present to the Commission in favor of their case.

Vice-Chair Watson called for any objections by the Commission and none were raised. He then asked if they had an idea of when they would like to come back.

Ms. Hitchings replied that it would be possible to meet notice deadlines for the next meeting and proposed November 27, 2012.

Mr. Medina asked if there were members of the audience that were there to address the issue.

Vice-Chair Watson said that as a point of order, they would take testimony from the public and before they completed the testimony, they would decide whether to allow additional public testimony at the subsequent meeting.

Ms. Hitchings indicated that this was VAR2012 0022 for the HUB After School Program located at 8001 Glacier Highway. The variance requested was to allow a 32-square foot internally illuminated sign in a residential district, where internal illumination was prohibited. The site was a split-zoned parcel, D5 and D15, and is directly adjacent to Light Commercial (LC) where Fred Meyer was located. The site is currently developed with the Juneau Christian Center and the HUB After School Program. The site has two existing driveways and proposes a third driveway. The third driveway will be constructed at some time in the future. Directly across Glacier Highway to the north is existing residential development; to the left across Old Dairy Road, there is the Fred Meyer and Light Commercial Zone, and to the east, undeveloped residential land directly adjacent to the site. The subject site appears more connected to the commercial development to the left. The site is over 11 acres in size, significantly larger than any of the nearby lots and has approximately 300 parking spaces. The sign was proposed to be located in the northeast end of the property.

Ms. Hitchings said that the applicant had stated that the main objective for the sign location was to draw a distinction between the HUB After School Program and the church, and to create separate entrances. She showed a picture of the sign, which had already been constructed prior

to coming in for a sign permit. The applicant submitted a statement saying that internal illumination was needed rather than the indirect illumination, which was allowed in the zone, because snow accumulation would build up over the lights and cause it not to be seen. Also, rain falling and light reflecting off of the rain would cause the sign to not be seen and could make the facility difficult to be found. She then showed a photograph of a sign that was recently permitted by SGN2012 0029 and had been permitted to be located in the proposed spot, but with indirect illumination only.

In reviewing the proposal against 49.20.250, staff determined that as proposed by the applicant, criteria 1, 2, 3, 5, and 6 were not met and staff proposed an alternative location to the applicant where the criteria could be met if the internally illuminated sign was located on the northwest corner of the property, west of the existing driveway, closest to the Fred Meyer and closest to the Light Commercial zone.

Ms. Hitchings continued saying that four properties in the residential zone had non-illuminated signs. If the sign was located in the northwest corner, nearest the LC zone and Fred Meyer, it would be across from an undeveloped site and would be consistent with and more closely related to the commercial development that existed there.

Criterion 2: allowing a 32-square foot internally illuminated sign adjacent to established residential properties, when indirect illumination is allowed and easily achievable, would not preserve the aesthetic environment or promote the welfare of the residential district. If it were located in the northwest corner, nearest to Fred Meyer, the sign would be in keeping with the aesthetics of the commercial development and would not directly reflect light or glare towards the residential development located directly across the street from the HUB.. If the sign was located in the northwest corner of the property near Fred Meyer adjacent to the LC zone, there would be no glare directed towards residentially developed properties, and the sign would be compatible with the existing development.

Criterion 5: signage is allowed on the site with indirect illumination. The site is similar in size and development to adjacent commercially zoned property. No existing signs in the nearby residential development are internally illuminated and allowing an internally illuminated sign would not be consistent with the appearance and features of other signs and businesses in the neighborhood. If it were located in the northwest corner, the sign would be next to the commercial zone and consistent with the development and appearance of that portion of the neighborhood.

Criterion 6: The only benefit to the proposed location is that the HUB After School Program sign would direct clients to the proposed future driveway, which is achievable with an indirectly illuminated sign that is allowed in the district. No evidence has been submitted to indicate that the grant of a variance would result in any benefit to the neighborhood. If the sign was located in the northwest corner, nearest to Fred Meyer and LC zone, the benefit to the neighborhood would be that internal illumination would be kept away from residential development and the signage would be more in keeping with the commercial development in that area.

It was found that the application did not present an argument that justifies allowing an internally illuminated sign in the location proposed by the applicant; however, staff did find that an alternative location in the northwest corner did meet the criterion and the recommendation was to deny the requested variance, but approve the alternative location in the northwest corner with conditions of approval.

On condition #1, northeast corner should read as the northwest corner. So, the recommendation is to approve one 32-square foot sign in the northwest corner, with modifications to the existing sign permit to comply with whatever decision the commission came up with, and to condition the approval that no other internally illuminated signs be allowed on this property. Other alternatives that commission could choose to consider would be to deny any internally illuminated sign or potentially to make alternative findings that could support allowing the internally illuminated sign in the location suggested by the applicant. Ms. Hitchings suggested that, if this last alternative were chosen, that a condition of approval state that the sign be equipped with a timer that provided internal illumination during hours of operation only.

Public Testimony:

Kathy Ensor, 7860 Glacier Highway, stated that her residence was directly across the street from where the sign had been put up. She opposed having that sign there saying that it would directly affect the neighborhood, and because HUB had already gone ahead and constructed and installed it, she felt it showed a total disregard for the neighborhood. She mentioned also being concerned about property values, because it made it more commercial instead of residential. She continued saying that she was not opposed to them moving it to be more in compliance with the commercial aspect. She also raised a concern that the sign might be a distraction that could possibly lead to car accidents.

Howard Ensor, 7860 Glacier Highway said that he found it odd that the sign had been applied for May 30th and the neighborhood had just found out about it. The sign had already been put up and HUB had not even come to them in advance. He said that he would have no objection to the sign facing another commercial business such as Fred Meyer.

Ms. Helen Trout, Chairman of the Board, HUB After School Program, spoke about the mission of the program; to provide a safe afterschool place for all kids, junior high, and high school. She mentioned that the property owners put a fair amount of money into the youth center instead of building a sanctuary, because they saw a great need in the city to provide healthy and safe places for children to go. She invited the commissioners to call her to arrange a tour of it. She mentioned that it was a separate 501(c)(3) from the church and a non-religious organization. She said they thought that their previous director had communicated properly with the sign company. They were unaware that it was zoned residential and applied as soon as they realized what had occurred. They had approval from the city for an exterior lit sign, which they knew they would have to compromise on if they were unable to get the variance. She mentioned that they wanted to try and use the sign they had. HUB did have approval for the actual exterior lit portion. They had looked at the sign both ways; internally and externally lit and had wanted to table the motion because they felt that it would be better for people to see it both ways. Their biggest issue was

getting people to the correct area, to the Youth Center on the large church compound and they felt that the location near the Fred Meyer Store did not facilitate that as well.

Mr. Bishop asked if the variance was to be denied, would they rather have an illuminated sign, where staff was proposing or externally lit where it currently is.

Ms. Trout said that the only issue for them if it is moved over by Fred Meyer, would be the additional expense.

Ms. Bennett asked if she was correct that the legislature had given them some money to start the project. Ms. Trout answered yes.

Ms. Bennett questioned if the money was for the furniture and things or for the building itself. Ms. Trout replied the building itself and that the signage was part of it.

Ms. Lawfer said considering the fact that these were middle and high school kids that would be accessing this facility and looking at where the third driveway was being proposed, her concern, almost irrespective of the sign, is where the entrance was and pedestrian access to the HUB. She said that she could see it more coming from the Fred Meyer side versus the Glacier Highway side, especially if the sign was there, the lighting right around that area was not good and there was no crosswalk. She questioned if a lot of kids would be arriving and/or leaving via the bus system.

Ms. Trout answered that primarily the kids were getting there directly from the schools by bus.

Mr. Medina asked if the only additional research Ms. Trout was proposing was to see the sign internally illuminated and externally illuminated.

Ms. Trout replied yes, that they would like for the Board to see the difference, as the pictures did not represent it well. She mentioned a comment made by their director when the exterior light is on, sometimes it gets foggy on the inside which made it difficult to read.

Jeffery Trout, Secretary of the HUB Board, referred to photographs provided to the commissioners and offered to provide them to neighbors if they will call him at 723-5684. He described that the pictures showed there was actually more light coming out of the exterior lighting than from the interior lighting and he felt the latter was more aesthetically pleasing.

Ms. Lawfer asked if there was a timeline for the additional driveway.

Ms. Trout responded that the driveway was actually proposed when they were going to do the sanctuary, but there was no money for it currently. She didn't know if the city would allow them to have three driveways because when the one had been approved, it was with the understanding they would shut the other two down.



Ms. Bennett asked if Ms. Trout had ever thought about a sign with an arrow that pointed towards HUB, located in the parking lot area that was already developed.

Ms. Trout mentioned that they had the sign for a while, but they had the issue of illumination. She also noted that having a sign in the middle of the parking lot might be difficult in the winter when it came to snow plowing and they didn't have the money to have a separate one.

Vice-Chair Watson thanked Ms. Trout and asked Mr. Hart for direction regarding the requested continuance.

Mr. Hart replied they would continue this on November 27, 2012, and they would advertise as such.

Vice-Chair Watson questioned the commission as to whether they would consider additional public comments.

Mr. Medina responded saying that in light of the applicant's testimony, he would be opposed to tabling the item based on the current code 49.45.240 paragraph A, internally illuminated signs were not allowed in the district.

Mr. Bishop felt that the applicant had expressed to them prior to bringing this forward that they wanted to pull it and they should honor that. Mr. Bishop also said that he personally was not going to recommend approval of the variance and wouldn't change his mind because he saw it illuminated at night. He felt that the neighborhood had the right to have the rules enforced and he wouldn't want to go against that, especially given that exterior illumination seemed to be adequate.

Ms. Bennett stated that she personally thought that if she were in a house across the street from that sign and looking out over her picture window, she wouldn't want the sign facing her living room window and the fact that they did not consult the neighborhood and just put the sign in, was very insulting to the neighbors. She said she would vote down the variance.

Mr. Chaney asked if they could clarify whether or not it is going to be continued.

Vice-Chair Watson stated that it was his understanding that the commissioners have only expressed their opinions at this point in time.

Mr. Medina sought clarification and that he was not opposed to tabling this item because more research was going to be done. He agreed with Mr. Bishop in the essence of seeing the internal illumination of the sign was not going to change his mind.

Vice-Chair Watson questioned Mr. Hart as to the applicant's request for a continuance on the variance ruling.

Mr. Hart and staff responded that the applicant could ask but it was up to the Commission's discretion whether or not they wanted to grant the continuance.

**MOTION:** Mr. Haight made a motion to continue the ruling to the next meeting as they had originally planned prior to the discussion.

Mr. Bishop said he wanted to hear from the applicant whether they wanted to continue it or not before they had a vote.

Ms. Trout responded saying that the only motivating factor for them was to give the neighbors an opportunity to see if they preferred one over the other. She added that they had put the sign at the other end of the property, so that it wasn't in front of a lot of the residences but instead a vacant lot, and left the decision up to committee.

Vice-Chair Watson thanked Ms. Trout and continued on to the motion that was on the table.

Mr. Bishop spoke in favor of allowing the applicant to have that opportunity to pull the motion.

Mr. Medina spoke against the motion being that the item was properly noticed and there were people from the neighborhood in attendance that night. Based on the applicant's reason for the continuance, he expressed his opposition to it.

**Roll Call Vote**

Ayes: Lawfer, Bishop, Haight, Watson

Nays: Medina, Bennett

Motion failed 4:2 because it needed 5 votes for approval.

Vice-Chair Watson called for a vote on whether to approve VAR2012 0022 or not.

Mr. Bishop said he moved that they accept staff analysis and findings and deny as presented by staff.

Nays: Watson

Motion passes 5-1 and VAR2012 0022 was denied.

Ms. Trout asked if that meant they were approving the location proposed by staff.

Vice-Chair Watson replied yes and thanked Mr. & Mrs. Trout.

Mr. Chaney interjected that for future reference, it would probably less confusing to make the motion in the positive and vote against it, so when the item passed and the motion failed, the item failed.

**VAR2012 0023:** Variance to reduce the front yard setback from 11 feet to 6 feet in order to construct a second story entry deck.

Applicant: Anna Latham

Location: 209 St. Ann's Avenue

Staff Recommendations:

Staff recommended that the Board of Adjustment adopt the Director's analysis and findings and deny the requested variance to allow a larger deck in the front setback, VAR2012 0023.

Crystal Hitchings, CDD Planner, stated that the applicant had originally requested a variance to reduce the front yard setback from 11 feet to 2 feet in order to construct a second story deck. Upon doing analysis of the proposal, it was determined that the portion of the deck and stairs did not require a variance. The request put forth to the Commission was 6 feet, but Ms. Hitchings clarified that was an error on her part and she had meant to give them a half a foot in one direction and instead went the wrong direction. The request should really have been 5 feet, rather than 6 feet.

The new home was constructed with an unfinished above-ground basement at ground level, a kitchen and living area on the second level, and bedrooms on the third level. The second story entrance is accessed by the proposed stairs and deck. The applicant stated that the proposed deck was necessary to provide access to the home and that if the variance was not granted, access to the main entrance of the home would not be possible and the main entry of the home would have to be closed off and a new entrance designed. The applicant also stated that the larger deck would provide for emergency access. The proposed second story deck would consist of a main L-shaped deck and two sections of stairs with a landing in between. The landing and stairs would be no greater than 5 feet in width. This meet the setback exception provided by 49.25.430(4)(C)(i), which allows entry decks and stairs no wider than 5 feet to be located up to the front property line through the building permit process and that was why a portion of this does not need the variance as originally requested. The deck area was 11 feet 8 inches in total width and 9 feet in depth and did not meet that exception. Approximately 4 feet of the depth of this deck would be outside of the 11-foot setback and the portion of the deck that actually required a variance is about 6 feet deep x 7 feet 8 inches wide.

Ms. Lawfer asked if Ms. Hitchings would repeat which line was showing where it is not in the setback.

Ms. Hitchings stated the dotted line is the 11-foot setback from the street. The largest portion of the deck beyond that is not subject to the variance, but allowed by right, and the stairway and landing are all less than 5 feet in width, so again they were allowed by the exception. The only portion of the deck that was subject to the variance was just a 3 foot wide portion. She showed a transposed graphic of the deck and what the proposal would look like, the home in relationship to adjacent properties and the previously existing home. The home had been demolished by the applicant and a new home was built on the same footprint. The previous home had main entrances on the first floor and the second floor. The second floor was accessed by a small deck

and stairway and by a wide entry deck on the rear of the building, the new home was built in the same way, but the proposed front deck is larger.

Ms. Hitchings showed several pictures of sites in this area that had extremely reduced setbacks because of the density of the development and many of them had steps, stairs, and ramps that did meet the exception that was mentioned before. She continued saying that staff found that criterion 1, 5, and 6 were not met and both primary access and emergency access would be adequately provided by an entry deck that met the exception 25.430 (4)(C)(i) and that such a deck would not hinder the use or require the closure of the existing main front entry.

Ms. Hitchings said that no similar variances had been granted in the area for decks and that since the subject site already had a reduced front setback from 20 feet to 11 feet, allowing a 5-foot setback for a deck would result in further decrease in overall compliance with the front setback. No information had been submitted to show that the grant of the variance would result in any benefit for the neighborhood. Staff recommended that the Board of Adjustment adopt the analysis and findings and deny the variance.

Vice-Chair Watson relayed to Ms. Hitchings that he had gone over to the area and could not find where the sign for the variance was posted.

Mr. Chaney responded saying that variances did not require public notice signs, only Conditional Use Permits, so there was no sign.

Mr. Medina asked staff if it was correct that since the old deck was removed by the applicant, the new deck must meet current standards. Ms. Hitchings answered that was correct.

Mr. Haight questioned where they had gotten the 11-foot reduced setback.

Ms. Hitchings stated that there is a section in the code which allows for existing substandard setbacks and is an averaging allowance. The subject site could use the adjacent existing setbacks and get an average of the distance to create a setback for the site. That process was conducted and it had come to 11 feet.

Vince McElmurry, 815 5th Street, Douglas, stated that he thought that the permit for the deck could be approved without a variance if they looked at Section CBJ 49.25.430(E), which covered unenclosed porches or deck. It stated that unenclosed first story porches or decks with or without roof and with or without non-sight-obscuring safety rails less than 44 inches in height, may project no more than 6 feet into any yard setback provided; however, such projection is no closer than 5 feet to a lot line. He asked how they determined if this is the first story or not. He looked at the house plans that showed the main living area with the entry that he was trying to access as clearly defined as being the first floor, then the second floor would be the floor of the bedrooms. The bottom floor would be the daylight basement and based on that he believed they could approve the deck just with standard approval.

He addressed the staff recommendation report that stated that he didn't meet Requirement 1 - if the granting of the variance was consistent with justice that had been shown to other property owners in the area. He went on to mention that there were several homes on St. Ann's Avenue that only have a few feet as a setback, some built all the way up to the storm drain and so, he believed he did meet the requirement. He continued to Requirement #5, that it would prevent principal use of the house and in looking at the plans for the deck, if he simply brought that portion of the deck inward, he would not need a variance to construct it. However, one of the main reasons he pushed the deck out there is that if he brought it in, it would obstruct the entrance to the basement making it would more difficult to get in and out.

Mr. Bishop said he tended to agree, that the basement, whether it be a daylight basement or not, was not a first story, so he thought it was a bit of a technicality, but it met the letter of the law, if not the intent. He asked to see that particular section of code used for this.

Mr. Chaney mentioned that since they didn't have a definition for basement or story in their code, they went back to the building code in this particular situation and it did not appear to meet that but he continued that it was debatable since the building code isn't Title 49.

Vice-Chair Watson asked what they considered a basement for the purposes of permitting and construction.

Mr. Chaney answered that generally 50% of the perimeter of the floor had to be below grade and so if more than 50% of the floor perimeter is above grade, it would be considered a first floor.

Ms. Lawfer referred back to a picture of the new building as the applicant had built it and asked with regard to the bottom floor, if it could be turned into a bedroom and meet egress window requirements. Mr. Chaney asserted that the window could meet egress. Ms. Lawfer asked if there was one on the other side. Mr. Chaney replied that there was a sliding window but he didn't believe that would meet egress.

**MOTION:** Mr. Bishop moved that the Planning Commission determine that this was a first story deck and did not require a variance as such, but was allowed outright per 49.25.430(E).

Ms. Bennett added that her question had to do with access to the daylight basement with a deck on it and whether it was a bigger deck or smaller deck and how one would access the daylight basement with a deck on top.

Mr. Chaney pointed out that the entrance to the daylight basement would be right under a portion of the deck.

Mr. Chaney said that with regards to the old deck, he would probably have to add on to it as he didn't believe the stairs met the rise and run requirement.

Ms. Bennett called for further clarification about Mr. Bishop's motion and justification.

Mr. Bishop opined that his motion was to determine that no variance was required for this particular application because Section 49.25.430(E) covered this particular condition, being that this was a first story porch, it met the setback exception to within 5 feet of the property line.

Mr. Medina asked staff if there had been past applications that were similar in nature.

Mr. Chaney responded yes and explained how they interpreted the situation. In order for them to have applied the building code exception for basements, 50% or more of the wall would have to be below grade, not just a portion of the wall, all the way around the back and on both sides. The front obviously could have been above grade (daylight basement), but they had to determine at what point it became a basement versus the first floor. They had made the call using the building code.

Vice-Chair Watson referred to the motion in front of them.

Mr. Medina opined that he would speak against the motion based on the criteria stated by Mr. Chaney on the determination of how the basement came to be by the building code and that there had been precedent in the past based on the same determination.

**MOTION WITHDRAWN:** Mr. Bishop withdrew the motion stating that he had not recognized the determination as it was said from when he heard it previously.

Mr. Haight said that he thought they needed to honor the building code when reviewing the variance and so he agreed with staffs' resolution that this was not a basement but a first floor.

**MOTION:** Ms. Lawfer moved that they accept the recommendations presented by staff on VAR2012 0023, and deny the requested variance.

Mr. Medina said that based on what Mr. Chaney said earlier, he thought it would be cleaner if they made a motion to approve the variance and then vote against it.

Vice-Chair Watson agreed. Ms. Lawfer agreed and seconded it.

Mr. Bishop asked if there was no other principal entry into the main house. Mr. Chaney replied that there was a back door .

Mr. Medina questioned if the new structure would have a back entry. Ms. Hitchings responded there would be one off the rear deck leading directly into the kitchen.

Ms. Bennett sought clarification that by denying the variance, they would go back by default to a back entrance and if a front entrance would be possible.

Ms. Hitchings related that there was no reason to move the front entrance and that the deck would simply have to be slightly smaller than proposed.

Ms. Bennett asked if they could then have both a front and a back entrance. Ms. Hitchings replied that was correct.

**Roll Call Vote**

Ayes: Watson, Bishop

Nays: Lawfer, Medina, Haight, Bennett

Motion fails 2:4 for approval of VAR2012 0023.

Mr. Bishop commented regarding safety issues (more staging area for emergency vehicles, getting stretchers in and out) and felt it did make an improvement for safety purposes and for emergency access and therefore didn't see any negative impact. He stated he preferred to see an exit or entry that had more room.

Mr. Medina referred to the staff report, which stated that "daily and emergency access for the main living area was not dependent on approval of a larger deck."

BREAK 20:37 to 20:42.

Vice-Chair Watson made a motion to continue the item to the November 27, 2012, meeting of the Planning Commission to allow further study.

**Roll Call Vote**

Ayes: Lawfer, Bishop, Haight, Bennett, Watson

Nays: Medina

Motion passes 5:1

Vice-Chair Watson asked for clarification as to what they would be doing on November 27, 2012.

Mr. Hart answered that they would come back and visit any additional information and recommended that the item should be the first on the agenda.

Ms. Bennett questioned polling the neighborhood to see what the feeling was about this item. Vice-Chair Watson stated that was the prerogative of the applicant, not the department.

Mr. Medina requested that staff include the definition they had used with the building code.

Vice-Chair Watson announced that they would adjourn as a Board of Adjustment and reconvene as the Planning Commission.

**X. REGULAR AGENDA**

**AME2010 0008:** Re-zone of the area recently connected to city water and sewer along

Applicant: Glacier Highway and Pederson Hill from D1 to D10 zoning.  
City and Borough of Juneau.  
Location: Glacier Highway.

Staff Recommendations:

Staff recommends that the Planning Commission adopt the Director's analysis and findings and take the following actions:

1. Approve the zone upgrade to D-10 as shown on Attachment A.

Staff Report:

Beth McKibben, CDD Senior Planner, relayed that the area is about a 73 acres in total and a mix of single-family residential and vacant land. She referred to a map from the Comprehensive Plan and mentioned the area shown as RDR(T)MDR, which meant the Comprehensive Plan wanted them to go from Rural to Medium Density Residential Development. She pointed to lots near the water tanks that are not included in the rezone because either sewer was not provided or the comprehensive plan maps showed them in two different land use designations. She identified a large lot, which was partly in the D1-D10 transition zone and the D1-D3 transition zone, but it was also split in the Comprehensive Plan maps. The property owners wanted to re-zone the entire thing, but they are going to do that separately because it is a lot more complex and it would not be an action that could be approved by the Planning Commission. She referred to several lots on the map and discussed potential zoning changes. She pointed out the site of the new Latter Day Saints Church and city-owned parcel of about 10 acres that was going to be re-zoned to D10. The remaining chunk would be re-zoned at some future point and had been included in the Pederson Hill study for future development. Ms. McKibben stated that she had a neighborhood meeting in March which four people attended and at least one person was not in favor of the re-zone. She had not received any phone calls or correspondence since the public notice went out either way. Staff recommendation was to adopt the director's analysis and findings and approve the zone upgrade to D-10.

Mr. Chaney clarified that with the transition zone, the Planning Commission's decision would become the new zoning and didn't have to be approved by the Assembly.

Ms. Lawfer asked about the list of people notified of the change. Ms. McKibben replied that the list with the property tax ID number, etc, was the list of properties in the re-zone area and that public notice was mailed to all those properties, plus properties within 500 feet.

Mr. Medina asked Ms. McKibben if she could show on the map, the 13.87-acre parcel owned by the LDS Church. Ms. McKibben pointed to it.

Mr. Medina then asked if she could show the 231 acre CBJ-owned-parcel and where the 10.6 acres were to be rezoned Ms. McKibben pointed to the parcels.

Mr. Bishop questioned if the two lots that were not proposed to be developed or not proposed to be transitioned were the ones on the downhill side and sewer couldn't get to them. Ms. McKibben said Mr. Bishop was correct.



**MOTION:** Mr. Bishop moved that they accept staff analysis and findings and approve AME2010 0008.

**Roll Call Vote**

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

Nays: None.

Motion passes 6:0 for approval of AME2010 0008 with staff analysis and findings.

**CSP2012 0015:** Lands study to identify municipal property eligible for improvement and sale as residential property.  
Applicant: City and Borough of Juneau  
Location: Glacier Highway

The Director and Planning Commission recommended to the Assembly the Switzer Creek Development Area 2A for development in the near term. Additionally, the Director recommended that the Planning Commission recommend to the Assembly Pederson Hill Development Areas 3 & 4 as the priority long term project area(s) to use existing and future CIP funds for development to facilitate affordable housing.

**Staff Report:**

Ms. McKibben, CDD Planner, stated that her report focused on the review and recommendations and reminded everyone that at the last meeting, they were presented a table of alternatives of various sites that could be considered for development by CBJ with a priority for affordable housing. The study focused on three sites; Switzer Development Area 2A, which is approximately 3.2 acres, Switzer Development Area 3, which is approximately 27 acres, and Pederson Hill Development Areas 3 and 4, which are approximately 124 acres. Those three areas were the focus of the staff report. All areas are Medium Density Residential in the Comprehensive Plan and there are a variety of zones varying from D1, D5, and D15. City water and sewer are to the parcel edges, not to the parcels, and the sites are currently vacant. CBJ Lands and Resources came to the Planning Commission to present the studies they had done and to seek a recommendation from the Planning Commission on which project areas to use existing and future CIP Funds to facilitate affordable housing. This staff report is the City/State Project review for consistency with the Comprehensive Plan. The Comprehensive Plan has identified affordable housing as a need in the community for quite some time. There are a lot of policies, standard operating procedures, and implementing actions that support development of affordable housing inside the Urban Service Area and all three of these areas are in compliance with the Comprehensive Plan.

Ms. McKibben went back to a couple of things the Planning Commission asked for at their last meeting; an overlay of the Auke Bay Bypass project overlaid the Pederson Hill study areas, and the various Switzer Creek Areas joined together to see the possible road connection between Area 3 and Area 2.

The Affordable Housing Commission supported the Switzer Creek Area 2A, and Lands and Resources staff recommended the Switzer Creek Development Area 2A as the priority for the near-term development. The Community Development Department's recommendation is to support that as well. The Affordable Housing Commission recommended Switzer Development Area 3 and Lands and Resources Staff recommended Pederson Hill Development Areas 3 and 4 as the longer term priority development. Community Development staff recommends that the Planning Commission recommend to the Assembly Pederson Hill Development Areas 3 and 4 as the priority for the long-term project.

Ms. Lawfer asked for clarification with regard to the Auke Bay Corridor Area. Ms. McKibben responded saying she was not familiar with the Auke Bay Corridor study.

Mr. Chaney said he wanted to make a comment that the lines they were referring to were very conceptual and he would be cautious about making any firm judgments based on a specific location.

Mr. Medina asked if Ms. McKibben could elaborate on what was included in the cost estimate per dwelling unit. Ms. McKibben replied that she would defer that to Ms. Marlow.

Ms. Marlow explained that one of the requests from the Planning Commission was to have an exchange with DOT and what DOT was looking for in this area. She presented DOT comments from the Regional Traffic and Safety Engineer and a summary of a conversation with Andy Hughes, Southeast Planning. She continued her presentation with the history of affordable housing needs along with current needs for multifamily, single family, and senior housing. She referred to the 2012 Housing Needs Assessment Report and indicated there was no positive net gain providing new housing. She moved on to buildable lands to address the identified need and then drew upon the Buildable Lands Study that was done for the current Comprehensive Plan. The study focused in on several select parcels that included the Sit'uwan Subdivision, which they did not pursue further, the Pederson Hill and the Switzer areas, and presented development studies that framed the issues that went along with subdivision development. In particular, they looked at roads, sewer, water, power, access etc., and came up with buildable land parcels that they reviewed in their initial sort and once again it was Parcel #5, the Under Thunder, the Sit'uwan, Parcel #4 Pederson Hill Area, then Parcel #1 or a portion of Parcel #1, which was the Switzer Creek DZ Area. They found in the Switzer Creek area that there were 3 Development Areas and 2A had their recommendation for the near term; Development Area 3 was accessed by a single point, Mountain Avenue. Mountain Avenue was a developed neighborhood and some distance out to Glacier Highway. Looking at the traffic analysis of their consultant, based on capacity at the intersection and based on separated bypass on David Street, there were going to need to be improvements from Mountain Avenue in order to get the number of dwelling units proposed. This has the support of the Affordable Housing Commission and is in line with the documented demand. It would be easier to site at this location because it is similar to surrounding development and so they thought they would have an easier chance of getting the development in place, with less resistance from the community. They also like the centralized location in the community.

Ms. Marlow said they had studied the Pederson Hill area and came up with some development areas for consideration. Lands and Resources' recommendation is to pursue Development Areas 3 and 4 for 100 dwelling units to begin with. There would be potential for multiple phases to occur and those phases could continue up across the property out to Back Loop Road. There is an opportunity for multiple decades of investment and development and multiple generations could be sited in this area; it really provided the largest opportunity for community expansion over time, more so than the Switzer area given the nature of the holdings. Once there were more than 100 dwelling units for Development Areas 3 and 4, they would need a second access point. She explained that if they were to start off on one of the C corridors, if they wanted to pursue Development Areas 1-8, they would need another access point after 100 dwelling units and so their consideration was to look at a combination of access corridors A and C and that seemed to be supported by DOT.

Next, Ms. Marlow addressed the University and indicated they had new leadership in place and were working on new goals and establishing a framework to complete those goals. Their observation from being owners of the east half of Pederson Hill was that it would probably work better for both the University and CBJ if they were to do a land transfer and be the consolidated owner of Pederson Hill. She anticipated talking to them again in a couple months and was very encouraged by their comments. Ms. Marlow said she believed that the concept of doing a land trade on the parcels she had proposed was going before the University Board as a discussion item in December or January. She concluded that if they were to go into some of the additional phasing that would take the project up over the hill onto the Back Loop Road, they would have to work closely with DOT on getting the second access point, which would likely be Wild Meadow Lane or Corridor A. This would involve planning for road sides that could accommodate the ABCor Corridor; she thought that as they moved forward and this site was selected, they would see continued discussion and coordination between the two agencies.

Ms. Marlow said that the Engineering Department had also looked at the Kowee Creek Bridge Project as a utility extension which provided another opportunity for private development to occur with multifamily housing. The City completed the Industrial Boulevard/Glacier Highway Sewer Project, which had multiple purposes, but one of them was to open significant public lands for higher density and that is what this proposal looked to piggyback on.

There is not enough project funding in hand now to pursue all projects and they wanted to be thoughtful with funding. In comparing Switzer Development Area 3 with numbers that they had for Development Areas 3, they got more developable land per dollar than for Switzer. Their recommendation was to go into 2A for near-term and to go into Pederson Hills 3-4 for long term with thoughts that they would do a master plan for all of Pederson Hill and work into it with multiple phases that would likely take decades to accomplish.

Mr. Medina asked Ms. Marlow to explain what was included in the cost estimate per dwelling unit. Ms. Marlow responded that it included master planning, permitting infrastructure development, and subdivision plat.

Mr. Medina asked if they had a monthly rent amount that was affordable. Ms. Marlow referenced a HUD number that came out on an annual basis. She said that for their community right now, the average median income was \$1200 and rent should be no more than 30%, so they would be looking at rents in the range of \$400, which really became single-room occupancies, or needed some sort of a program that covered a portion of the costs.

Ms. Lawfer wondered why they wouldn't look at 2A and 2B in the short term and Pederson Hill in the long run because the cost of development for 2A and 2B together took it down to \$50,000 versus the 21 and the 113.

Ms. Marlow responded that they could get more output by not investing in those 14 dwelling units in 2B at the same time as 2A.

Ms. Lawfer questioned if that was the consideration, could they bring down the cost in Development Area 3, if Area 2 was developed with it, or were they still looking at \$113,000 for those 4 units.

Ms. Marlow said she didn't think that they could get more than 100 dwelling units on Development Area 3 because they would have to do the second road access and the second road access was so expensive that she didn't think it would happen.

Ms. Lawfer suggested some changes to the decision matrix to make it clearer.

Mr. Bishop inquired if the Pederson Hill access would initially be 3 and 4 or if they were talking about two access points with Wild Meadow Lane as well. Ms. Marlow replied it would be C1 or C2.

Ms. Lawfer said she really appreciated all the work the staff had done and Vice-Chair Watson stated that the progress Ms. Marlow had made with the University was very encouraging.

Mr. Bishop wondered if they were talking about turning all of 3 and 4 over to affordable housing or looking at other development proposals as well.

Ms. Marlow replied that it was too early to say but at this point, they were looking at D10 development. If they didn't receive responses from affordable housing providers, they could look at market rate sales at any time.

Ms. Marlow said they could look at market rate sales in Pederson Hill Development Areas 1 and 2 after they get the initial infrastructure up in Development Areas 3 and 4. She thought it would be relatively easy to request proposals for the sale of 1 and 2 at market rate. Mixing the housing products and the price points early on, will become a predictable form of development in the area, was probably a good way to go.

Mr. Bishop opined that he was perplexed and wondered if the Affordable Housing Commission's sole purpose of choosing the Switzer Area was for similarities of textual context.

Ms. Marlow answered that it was, that they had some concerns about bringing affordable housing into the West Mendenhall Valley, because West Mendenhall Valley did not have affordable housing per se and they felt it was too large of a departure from what the normal price point in that neighborhood was. The Affordable Housing Commission wants to see a project move forward quickly but the primary motivator for their original recommendation was comparability or comparable housing products in the Switzer area.

Mr. Bishop said he had a lot of hesitancy to move forward in Pederson Hill without DOT working with them, but he respected Ms. Marlow's position that they don't work this far out. He was starting to believe that if they were going into C1 or C2, it would not affect A B C or at all. He said he definitely wanted to see them go into 2A, that the price points were there to start with and they needed to get there as fast as they could. He thought they needed to mix affordable housing up in their community and supported the idea of putting affordable housing in the West Valley as well. He stated support for the staff proposal.

Ms. Bennett said that Ms. Marlow had done a great job and was really excited that they were going forward.

Ms. Lawfer expressed her support for the Switzer land Area 2A.

Mr. Bishop commented that he saw Development Area 3 as having potential, and he thought there would be market rate housing in 3 as well. He thought the best money would be spent on Pederson after 2, 2A etc. He recommended that they accept staff analysis and findings and recommendation as written.

**Roll Call Vote:**

Ayes: Lawfer, Medina, Bishop, Haight, Bennett, and Watson.

Nays: None.

Motion passes 6-0.

**XI. OTHER BUSINESS**

**XII. DIRECTOR'S REPORT**

Mr. Hart noted that they had a meeting with the University of Alaska Southeast and part of that meeting was about future plans. They had just finished a master plan and was sending it up to Anchorage. Mr. Hart mentioned that they were discussing their long-term growth needs and their vision for the campus. The University was busy starting the new \$8 million dorm for freshman. Part of the University's long-term strategy is to keep students on campus and create a campus feel there. He thought it was a good backdrop and an exciting opportunity to continue working with them. He continued to say that he had met with the Juneau Realtors and they were also very excited about the Auke Bay area efforts. The Realtors were pleased about the re-zone and they were very supportive of that. They were also very supportive of anything that the

Commission can do to help with the housing issues. Again, they are very supportive of the work that the Planning Commission is doing. He conveyed the Realtors' congratulations for the Commission's hard work.

Mr. Chaney mentioned a small vignette about Dan Garcia, an enforcement officer at the Community Development from a few years back. His home had burned down recently in Aspen Avenue. Mr. Chaney reached out to him and Mr. Garcia said, "I've been thinking, I don't think this house conforms to the setbacks currently because it was built back in the 1950s". It was a great moment for Mr. Chaney to be able to say, "Well, we just passed an ordinance that extended the exception Borough Wide." Previous to that, he could not have re-built his house in the same footprint, but now he could. So, he thought he should let them know that what they were passing actually made a real difference in peoples' lives.

### **XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES**

Mr. Medina spoke about the Wetlands Review Board meeting which took place last week. The board looked at renewing the gravel extraction permit for SECON in Lemon Creek and it would be coming before the Planning Commission. Normally, they were 5-year and 10-year periods, but they decided to make it 6 years, so that it would coincide with all the other agencies.

Mr. Haight said he attended a meeting of the Committee on Sustainability last week and the committee is working hard on a web page, which they should be seeing soon.

### **XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS**

Ms. Bennett asked Mr. Hart if he would be meeting with the Assembly. After the fire, they were concerned about affordable housing and was wondering how that was going to dovetail with what they were doing.

Mr. Hart stated that they were keeping the Assembly in the loop with what was going on through the Manager's office, providing information from Charlie Ford in the Building Office directly up to the Manager's office and he believed that Ms. Marlow was providing some information as well from various providers for affordable housing. Apparently, there had been a discussion that day. The city had some money that could be used as a catalyst to redevelop or to preserve the building if it should go that way. He mentioned the apartment fire and various options that might be available.

Mr. Medina stated that he was curious about the process for a project that was constructed without a permit and if there was some kind of penalty that is enforced. Mr. Hart said they had a penalty that could be levied if people did something noncompliant, but it depended on the issue and how complex the structure was.

Mr. Medina mentioned that the project encroached into the setback and they didn't get a variance.

Mr. Chaney said he would follow up on it, but mentioned that for building code violations, if something was built without a permit and then had to get a permit after the fact, they would have to pay an investigation fee, which was actually pretty severe.

Mr. Medina said he just wanted to make sure that there was a process in place to discourage noncompliance.

Mr. Bishop said he was curious about the state of appeals. Mr. Chaney replied that the rock crusher was decided in favor of the Planning Commission.

Mr. Chaney spoke about the Professional Plaza at Berners Avenue and that they were still in the early negotiation phase of it. The Professional Plaza Group had made a motion that the appeal was not filed in a timely fashion. There was a second notice of decision issued, which corrected an error from the first, so that hasn't been worked out yet. He then mentioned a 16B appeal that Ms. McKibben had more focus on, regarding approval of the cruise ship dock.

Vice-Chair Watson asked about the capacity for the Auke Bay Sewer Treatment Plant and learned it was not at capacity but they didn't plan on expanding it. The plan was to eventually close it and move it through the Mendenhall Sewage Treatment Plant. He mentioned plans to build out there and commented that he didn't know where they plan to run the sewer line and if they plan to run it back to the Mendenhall Plant, but somewhere along the line, it would have to cross the highway. DOT was building a new highway and he didn't think they were going to be real flexible. He knew of 137 acres of property there with a timeline on developing it and he had asked Mr. Watt what the requirements were for sewer hookup and said that properties within a 100 feet of the sewer line had to be hooked up to the city sewer. He felt it would discourage development and thought it to be a vital area for the community. Vice-Chair Watson then asked about basements and how it is defined.

Mr. Hart responded that they would provide the drawing at the next meeting. Mr. Chaney referred to their drawings saying that if less than 50% of the perimeter of that floor is underground, that would not be a basement. Vice-Chair Watson asked how the assessor looked at it. Ms. Lawfer suggested that the assessor would look at if you could make it into a bedroom.

## **XV. ADJOURNMENT**

**MOTION:** *By Vice-Chair Watson to adjourn the meeting.*

*With no objection, the meeting adjourned at 9:49 p.m.*