

## MINUTES

### PLANNING COMMISSION CITY AND BOROUGH OF JUNEAU Michael Satre, Chair

#### REGULAR MEETING January 22, 2013

#### **I. ROLL CALL**

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

Commissioners Present: Michael Satre, Karen Lawfer, Nathan Bishop, Marsha Bennett, Dan Miller, Dennis Watson, Benjamin Haight, Jerry Medina, and Nicole Grewe.

Commissioners Absent: None

A quorum was present.

Staff present: Greg Chaney, Planning Manager; Eric Feldt, Planner; and Hal Hart, Planning Director.

#### **II. APPROVAL OF MINUTES**

- December 11, 2012 – Regular Planning Commission Meeting.

**MOTION:** *By Mr. Watson to approve the December 11th, 2012 and December 18th, 2012 meeting minutes with the exception of minor corrections as staff or other commissioners may find.*

There being no objection, the minutes from the December 11, 2012, Regular Planning Commission meeting and December 18, 2012, Committee of the Whole meeting were approved.

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

#### **IV. PLANNING COMMISSION LIAISON REPORT**

Chair Satre stated that Mr. Smith could not make the meeting tonight and read a note on his behalf:

“The Ad Hoc Committee continues to work on the Housing Panel. Each Panel has been given the same instruction.

1. To identify from their perspective the obstacle for additional housing to be built in Juneau.
2. To identify from their perspective possible strategies to overcome the obstacles.

The Builder/Developers recently presented their white paper to the Assembly Committee of the Whole. The Lenders Group, consisting of both credit union and bank mortgage officers convened last week for the first time and will begin work on their lender's White Paper, but a specific date has not yet been identified. The Realtors Group has begun work, but no dates have been set yet for the Committee of the Whole, and Landowners have not yet convened to begin work, but we do know that they will be joined by the Mental Health Trust Land Office at the appropriate time. When all papers have been delivered to the Assembly, it is anticipated that they will be incorporated in the final report, which will be disseminated. If any planning commissioner has thoughts on any of these areas, please contact Mr. Smith and he will direct you to the appropriate Ad Hoc Committee members.”

## **V. RECONSIDERATION OF THE FOLLOWING ITEMS**

### **VI. CONSENT AGENDA**

**CSP20013 0001:** Illuminate Egan Drive from Norway Point to the McNugget Intersection.  
Applicant: State of Alaska.  
Location: Egan Drive.

#### **Staff Recommendation:**

Staff recommends that the Planning Commission find that the proposed project, to illuminate Egan Drive continuously from Norway Point to the McNugget Intersection, is consistent with adopted plans of the CBJ, and to endorse the project as required at CBJ §49.15.580 and AS §35.30.010. Staff further recommends that the Planning Commission recommend that the Assembly approve an easement for electrical utilities and maintenance where electrical conduit is proposed to cross CBJ property between North and South Twin Lakes, as required at CBJ §53.09.310.

**CSP2013 0002:** Easement on municipal property for an electrical connection, to support an Alaska DOT project for a continuous lighting system along Egan Drive.  
Applicant: State of Alaska.  
Location: Twin Lakes.

#### **Staff Recommendation:**

Staff recommends that the Planning Commission find that the proposed project, to illuminate Egan Drive continuously from Norway Point to the McNugget Intersection, is consistent with adopted plans of the CBJ, and to endorse the project as required at CBJ §49.15.580 and AS §35.30.010. Staff further recommends that the Planning Commission recommend that the Assembly approve an easement for electrical utilities and maintenance where electrical conduit is proposed to cross CBJ property between North and South Twin Lakes, as required at CBJ §53.09.310.

**VAR2012 0030:** A variance to reduce the front yard setback from 14.6 ft to 4 ft (eave projection to 0.5 ft of the property line) for reconstruction and expansion of an existing garage and accessory building.

Applicant: Ken Huse.

Location: 995 Mendenhall Peninsula Road.

Staff Recommendation:

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2012 0030. The Variance permit would allow for the front yard setback to be reduced to 4 feet and eaves to project to 2 feet from front property line at 995 Mendenhall Peninsula Road for the remodel and expansion of an accessory building.

With the following recommended conditions:

1. Prior to issuance of a building permit, the applicant shall modify the building plans so that the eaves are no closer than 2 feet to the front property line.
2. Prior to issuance of a Certificate of Occupancy, setbacks of the structure and eaves shall be verified by a licensed surveyor.

**MOTION:** *by Mr. Miller to approve the Consent Agenda with conditions and findings as provided by staff.*

There being no objection, the three items on the Consent Agenda were approved.

## **VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS**

### **VII. UNFINISHED BUSINESS**

Mr. Bishop said that it had come to his attention that the applicant had objections to his serving on the Commission for this particular application and he wanted to bring it forward to the Commission so that they could discuss it. He stated that he had served as a planner for this case and the applicant felt that their working relationship jeopardized his integrity in making an unbiased decision. He said he didn't feel that would be the case as he did not have any animosity to the client, any bias, or any financial interest.

Chair Satre said he knew that the first test for a conflict of interest was to determine if there was a direct financial interest in the matter at hand or benefit from an item passing or not passing. He asked Mr. Hart for confirmation of that rule. Mr. Hart confirmed that was the primary test.

Chair Satre asked if any of the members of the Commission objected to Mr. Bishop sitting on the Board for this particular case. There being no objection, he thanked Mr. Bishop and welcomed him to participate fully in this item.

He mentioned they had one item of Unfinished Business, read it and reminded everyone where they were in the process and what had transpired since the last time they had heard this.

## **IX. BOARD OF ADJUSTMENT**

**VAR2012 0031:** A variance to allow a subdivision along an un-built, City right-of-way not maintained by a government agency.

Applicant: Aniakchak Incorporated.

Location: 1901 Davis Avenue.

### **Staff Recommendation:**

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2012 0031. The Variance permit would allow for a future subdivision to use a Driveway-in-the-ROW instead of improving the unbuilt portion of Davis Avenue to a full City street.

Chair Satre stated that this item was heard at their last meeting. They had heard the staff report, from the applicant, from the affected public and the applicant's rebuttal. Public testimony was closed and the item was continued to this meeting, not for additional information, but simply because they had run out of time and had to follow their rules of order at that meeting.

Since that time, the Planning Commission had been provided with a couple of letters containing additional information from the applicant and through conversations with the Planning Director, he thought it would be appropriate to ensure that all affected parties have a chance to provide additional information before they moved on. Chair Satre said he would entertain a motion to reopen public testimony.

**MOTION:** *By Mr. Bishop to reopen VAR2012-0031 for additional information and additional public testimony.*

There being no objection, public testimony was reopened.

Mr. Haight said he had not received the additional documents that were issued. Mr. Hart replied that it was his understanding that they had gone out to everybody on the list via email.

Chair Satre questioned if staff was prepared to present any additional information or to leave it open to the applicant to present the concerns.

Mr. Felt said he didn't believe staff had any objection to presenting the items, some of which were addressed at the previous meeting, but there were some new facts.

Chair Satre stated that the goal was to ensure that they had the appropriate information and defer to both the applicant and the affected public in terms of their opportunity to comment on the matter.

### **Staff Report:**

Mr. Feldt mentioned that the applicant had sent two letters which addressed several points including maintenance of the driveway which was the only access to the project.

Chair Satre asked if there were any specific concern or clarification that staff had upon seeing the letters. Mr. Feldt said he did not find any comments that were specifically Land Use comments, but the applicant might want to address comments that may evolve into an interest of the Planning Commission.

Mr. Medina, referred to Page 7 of the staff report, under the Variance Requirements, first paragraph – Construction Standards, Section 49.35.240, a statement says, ‘No new lots may be created from the division of any parcel of land that is served by the access driveway, unless the driveway is converted to a full standard public road or street or other full standard access is provided’ and asked if that had any bearing on the case. Mr. Feldt said it did.

Mr. Medina queried how they would get around that. Mr. Feldt replied that when previous cases of driveway in the right-of-way and the Allowable Use Permit were presented to the Planning Commission, the Police and Fire Departments had to be notified. The Police and Fire Departments felt that the design as it existed was adequate to safely reach the residents of the property. Drainage and maintenance had been addressed as they would with a new city street. The driveway itself was similar to a local access street, where it is typically narrow, but it did not have the other elements one would find in an urban area such as curb, gutter, sidewalks, and underground drainage, but he noted that there were many streets in the Borough, some in Lemon Creek that didn’t have those elements but the City maintained them.

Mr. Medina asked if there were any other streets of this nature in the Borough that were 1100 feet in length. Mr. Feldt replied there were none he was aware of.

Chair Satre reminded everyone that they were taking this up as the Board of Adjustment, not the Planning Commission.

Mr. Miller asked if when it was previously approved, was it approved for a full build-out or approved as if the only thing getting built were the two buildings. Mr. Feldt answered that the driveway was designed to accommodate a full build-out of 50 units.

Mr. Miller asked if that was previously approved in a Conditional Use Permit or an Allowable Use Permit. Mr. Feldt said it was an Allowable Use Permit that approved the density of what exists today.

There was some confusion because the staff report stated that the overall development potential was 50 units, which was exactly what the developer was seeking for the future, and when the driveway was designed, it was designed for that capacity.

Mr. Chaney clarified Mr. Medina's question about not being used to provide access to a subdivision, stating that the previous approval did not allow for a new subdivision to be created

on the driveway in the right-of-way and this variance case would allow for that and this was the procedure to get there, even though it was specifically prohibited under the previous approval.

Public testimony was opened.

Jan Van Dort, Co-principal, Aniakchak, stated that their original proposal was not to put the driveway in the right-of-way. Mr. Bishop had proposed putting a driveway on the property and the City had objected and told them they had to put it in the right-of-way in order to avoid conflict with the landowners. They had brought it down onto their property and created an easement for the benefit of the City.

The project was designed for 51 units and until recently they had intended to go ahead and build condominiums there as opposed to apartments, but problems in the real estate market made it very difficult to develop condominiums and get permanent financing on them. The biggest obstacle was meeting the 70% pre-sale requirement which Federal Institutional Lenders required.

Mr. Van Dort said he never realized that the question of whether the units would be condominiums or apartments would be significant and he couldn't remember the Commission getting involved with the form of ownership. The project was approved for 51 dwelling units and by changing that to apartments, they were actually reducing the density by 7 or 8 units; therefore he didn't understand why it would be objectionable.

Mr. Bishop asked how they would address road maintenance given the two different ownerships. Mr. Van Dort suggested that the normal way to do it would be to apportion it based on units. He said they had systems of getting the water exactly calculated and the water, power, sewer lines, and the roads were all right up to the edge of the property.

Mr. Watson mentioned that Mr. Van Dort had surety in how they were going to deal with the water, but there was no surety in how they were going to deal with the road maintenance. He questioned what the size and number of bedrooms the apartments would have. Mr. Van Dort answered that they didn't know yet, and that the condominiums that were currently rented go for about \$1800 a month for 1100-1200 square feet in size with a garage. The City set the fair market rental of a two-bedroom apartment at \$1200, but he said that was not the fair market rental of a new apartment built in Juneau under the current conditions. Mr. Van Dort said they would be back within the next year for an approval to build 20 to 30 apartments above Auke Bay and they were planning on doing a lot of one-bedrooms to try and keep the cost under \$1000 a month but parking was a big challenge.

Mr. Medina questioned if it was Mr. Van Dort's intention to add a monthly dollar amount to the rent to cover their portion of the road maintenance. Mr. Van Dort answered no; they would just rent the units for X dollars per month and only electricity would be metered separately.

Mr. Miller asked staff when they would require the property maintenance agreements; before a building permit, a grading permit, or the Certificate of Occupancy. Mr. Feldt said that with the two driveway in the right-of-way permit, when those are approved and construction starts

occurring, the process includes recording a document as to who would be maintaining the driveway and in this case, that had already been established.

Mr. Miller queried that there would have to be one recorded when they got their extension to do the driveway, but it didn't sound like that had actually happened. Mr. Feldt stated that they hadn't discussed extending the unbuilt portion yet, but the driveway in the right-of-way permit that brought the driveway up to this point, included the requirement of getting the document recorded by the State.

Mr. Miller asked if there would be a share of responsibility between the old un-built part and the new part that is to be built and when that agreement would have to be in place. Mr. Feldt responded that if the new driveway came into the unbuilt part of the right-of-way, that would be recorded with the State and there could be a recorded document between the property owner (applicant) and the Condominium Homeowners Association.

Mr. Chaney suggested having a condition requiring a maintenance agreement for clarification purposes.

Ms. Lawfer asked Mr. Van Dort if he had the staff analysis of the variance. She referenced Page 6 (comments from other departments) and asked him if preliminary plans addressed Mr. King's comment (the third bullet point) regarding the fire apparatus, turnaround and direct pedestrian access to Davis Avenue. Mr. Van Dort said that there were some drawings but they didn't know exactly how it was going to be completed, but they wouldn't be able to get a building permit from the City until they supplied the appropriate access. There was a proposal to bring the driveway in and not be in the right-of-way, there would be a hammerhead which will allow emergency vehicles to turn around. He thought that all of the other requirements would have to be met irrespective of whether they were building condominiums or apartments. Mr. Feldt added that the applicant had supplied a conceptual design of how and where the hammerhead would be located. Staff had sent this to Greg Browning, the Police Chief and Dan Jager, the Fire Marshal, who both had accepted it as being adequate.

Ms. Lawfer asked about the pedestrian access. Mr. Feldt stated that staff had mentioned in the previous Planning Commission meeting that there is one that exists, that is supposed to be maintained by the City under Parks and Recreation; there were some comments that it wasn't being maintained, but that did supply direct access to the sidewalk along Davis Street; however, there wasn't much direct connection to Buildings A or B. At that point, the applicant had not found it necessary to submit drawings showing direct access to future buildings because the applicant may not know where the future buildings would be located at this time.

Ms. Lawfer referenced the preliminary drawings showing Phase 3 limits and the Subsequent Phase and asked whether there was an intention to build in that subsequent space.

Mr. Feldt replied that Bill Heumann had indicated that the placement of the turnaround was the most important part of the drawing and that the Subsequent Phases did not directly relate to future placement of phases, the hammerhead was the point of the drawing.

Ms. Lawfer sought clarification if the variance was for the entire area from the road down to the edge of the property line. Mr. Feldt said no, that would be the new resulting lot of the subdivision.

Chair Satre opened public testimony.

Public Testimony:

Michael Dau, 1901 Davis Avenue, A10 and A11, stated that his biggest concern was with the sharing of the maintenance with the proposed apartment development. He referred to a statement on Page 6 that said the driveway was to be maintained by the River's Edge Homeowners Association. He brought up that there was nothing in writing stating that it would be shared. Mr. Dau then brought up a piece of land leased from the Department of Corrections that ran down from Lemon Street to their main water pipe that the Condo Association was also maintaining even though there was no agreement to share maintenance on that or share the lease on it especially because it runs through one set of water and sewer measuring meters. Once the subdivision is granted, if there was a leak they would have no say about it. He mentioned that in dealing with Aniakchak before with problems in the condos (plumbing), it ending up costing the Association \$10,000 out of their reserve. He felt that if this went through, they would be on the hook for all the expenses and that was the biggest concern right now.

Ms. Bennett asked if Mr. Dau would be satisfied if the Commission were to add a condition to provide for a Homeowners Association. Mr. Dau answered that he did not know.

Ms. Lawfer thought that when they approved the variance with conditions that suited the circumstances and if a Homeowners Association were one of the conditions, that would solve their problems, then they could do that. Chair Satre clarified that the idea was to have some requirement of an agreement between the existing Condo Association and however the ownership is set up on the new subdivision, not necessarily a new Homeowners Association. Mr. Dau said that he would have to see what kind of agreement is decided upon first.

Mr. Miller stated that in a lot of cases the maintenance agreement had to be done before they get a permit, but it did not make sense to spend the money with an attorney to get an agreement all worked out and spend all the time and effort without even knowing if they were going to be able to do it. He acknowledged the possibility of a condition to have the maintenance agreement at some point in the process, as Mr. Chaney suggested.

Mr. Miller addressed Mr. Dau's concern about the leased land for the water line and the water meter. Mr. Dau stated that he had known they were leasing that piece of land because he had been the President of the Association for the first five years, but nobody had known why and mentioned that it all came up last week when Mr. Heumann said they had brought the water and sewer mains from Lemon Street straight in, because it had been cheaper than running 1400 feet down the road. He felt that was another thing they would have to maintain. Mr. Heumann had also stated that this was all going to be on one meter. Mr. Dau expressed concern about the City calculating the Association vs. the Apartments' water usage.



Cynthia Dau, 1901 Davis Avenue, A10 and A11. Ms. Dau stated that the association had multiple run-ins with Aniakchak and they are a much bigger organization than the homeowners could stand up to. She was dismayed that two of her emails had not been received by the Commission. She said that their condominium board had expressed multiple concerns and had not endorsed or approved the project. She was concerned about the effect of losing additional condominium units because they needed more people to help with the board and committees and asked that it be made affordable by maybe cutting down on some of the amenities. Ms. Dau addressed the issue of the river walk that was to serve as an access point for the property. She reported that it was not viable in the winter due to icy conditions.

Mr. Van Dort referred to a picture and showed an area where there was an easement that they had with the State, which was still in his name because the association did not want to pay the \$250 assignment fee. The Condominium Association had been paying the annual lease, but the easement was still in his name at their request. Mr. Van Dort reiterated the problems that would occur if the condominiums didn't sell. If the units are rented and are part of the condominium complex, the FHA, Fannie Mae, and Freddie Mac, all had limits on the number of investor-owned units that could be in a project and if they were not sold and released, their approval would be gone.

Chair Satre reminded Mr. Van Dort that there is a variance on the table to one of our regulations that is being requested for his project, so he asked Mr. Van Dort to support the variance and address the commission.

Mr. Watson asked if Mr. Van Dort was responsible for the maintenance of the utility he owned. Mr. Van Dort said that right now it was unlikely to cause any maintenance issues because it is an 8-inch DI waterline.

Mr. Watson asked what portion of the condominium dues were being set aside for road maintenance. Mr. Van Dort said he did not know. Mr. Watson attempted to clarify if he meant that the exact costs could not be determined due to the varied nature of work year to year (snow plowing, filling pot holes etc.) Mr. Van Dort replied that he did see the annual budget where amounts were set aside for each job but he was unable to recall the specific amounts.

Mr. Watson said he realizes that snow plowing is part of it, but once construction starts, road maintenance increases, increasing the dues for maintenance of that road and reducing the dues after construction. Mr. Watson asked if he had a reasonable idea of what they would be paying. Mr. Van Dort reiterated that he did not know the exact amount.

Mr. Watson said it would make sense that if they were going to pick up a share, that would ease the financial burden on the current property owners, but he didn't see any numbers with that respect and expected that Mr. Van Dort and his partner would know what it would cost.

Mr. Van Dort said if it were 21 condominium units, then they would be paying for 23 apartments. Mr. Watson replied 50-50. Mr. Van Dort responded more than half of it and also

since this was on a separate property, they would also be responsible for taking care of what was on their property. The association would benefit financially.

Mr. Bishop mentioned that they were really addressing some of the problems with variances to subdivisions in undeveloped right-of-ways and that they were getting involved in civil matters that weren't expressed in code. Mr. Bishop asked Mr. Van Dort as an attorney and a developer, if he could propose a condition that would solve the maintenance equity for this particular case.

Mr. Van Dort said he thought that the appropriate way to deal with it was to say that prior to setting a condition, granting a building permit to construct any building or grading permit, they reach an agreement with the Condominium Association on how to share of the cost of maintaining the easement and the improvements in the easement and maintaining the driveway.

Public testimony was closed.

Mr. Medina asked staff if they had any other projects located within the Borough that are similar to this where we have condos and then a subdivision to build apartments adjacent to the condos. Mr. Chaney said that he was not aware of an exact situation like this. This was a little bit unusual because the planning code does not recognize the difference between apartments and condominiums; they are all multi-family. He thought that Mr. Bishop mentioned it quite well that they tried to stay out of civil matters, which was why they required City Maintenance on driveways. He felt that it was very difficult to get to a satisfactory solution that worked for the long run.

Mr. Bishop asked if it would be reasonable to put the condition as Mr. Van Dort had suggested as a final condition that needed to be taken care of prior to the final platting. Mr. Feldt answered that he would agree with the idea of prior to platting of the subdivision instead of prior to issuance of a building permit.

Chair Satre asked staff's opinion on a binding arbitration recommendation to start directing the civil process. Mr. Chaney said he would really want to talk with their attorneys before they gave anything that looks solid on that, because it was definitely legal advice. Chair Satre stated that they had done this many times and many applications required a maintenance agreement or a homeowner's agreement prior to a point in the process. Mr. Chaney agreed.

**MOTION:** *by Mr. Watson to approve Variance 2012 0031 with the condition that they required a maintenance agreement on the road to maintain it on a year around basis between the Condo Association and Aniakchak Incorporated, and the agreement should take place pre-construction of the project and prior to the permit being issued.*

Chair Satre asked staff if platting could be considered a trigger point. He stated that the Commission seemed to be leaning towards was something further up in the process. Mr. Chaney replied that the sooner in the process, the more likely it was to work, but mentioned that he had not talked to their attorney about it. Based on his judgment, if it was prior to platting, it would

give all the parties incentive to come to the table; if it was after platting, it would be a little more difficult to grab on to.

*Friendly Amendment:* Mr. Miller proposed some wording changes.

Condition 1: To record a maintenance agreement with the Condo Association and the owner of Lot 2, outlining and specifying the shared responsibilities of maintaining the Lot 1 driveway prior to platting. This agreement should also address damage from heavy construction traffic.

Condition 2: The waterline easement lease shared cost agreement should be finalized and put in the correct parties' names.

Condition 3: The water meter agreement.

Chair Satre clarified with Mr. Miller that Conditions 2 and 3 would be prior to the plat recording. Mr. Miller agreed.

Chair Satre asked Mr. Watson if he accepted the friendly amendment conditions. Mr. Watson replied that he did.

Ms. Lawfer questioned with regards to the friendly amendment, if he meant water and sewer, when he stated water. Mr. Watson said there was a shared responsibility for the sewer which is not metered (it is a flat rate fee charged by the city), but there was the issue of maintenance, so it should be sewer and water.

*The motion was amended by Mr. Watson to include sewer to Condition #3.*

[Condition 3: The sewer and water meter agreement.]

Mr. Bishop clarified that the agreement was between the owners of Lot 1 and Lot 2, which are prospective lots and there were no owners currently, so what they were talking about was an agreement between Aniakchak and the owners of the River's Edge Condominium.

Mr. Miller specified that he had mentioned Lot 1 and was what Mr. Van Dort had testified to. There were 21 condo units and 23 apartments, which would be 44 total units. The apartments would pay 23/44ths of the maintenance of the common portion of the road and 100% of the maintenance from the end of the common area to the apartments.

Mr. Bishop asked them to make sure the parties were correctly described. Chairman Satre opined that his other concern was getting too in depth with an agreement that was yet to be worked out, stipulating what it should be, because if there was going to be somebody maintaining the road, they would be maintaining the whole road. So it may be easier for the body to agree on the whole in their own ways rather than what is stipulated by the Planning Commission. Mr. Chaney commented that he thought the agreement would have to be written in terms of the properties because once the plat is recorded, the parties could change.

Mr. Bishop asked for a reading of the motion as it stood.

Chair Satre stated that they would have the motion to approve the director's analysis and findings for the variance itself with Mr. Miller's suggestions, and deferred to Mr. Miller to go

over them. Mr. Miller read Condition 2 - The waterline easement lease shared cost agreement and shared cost and maintenance agreement. Condition 3 - The sewer and waterline maintenance agreement and the water meter agreement.

Chair Satre called for a break so that Mr. Miller and Mr. Chaney could work on the proposed language and read it to the group as a whole.

BREAK 20:09 to 20:19.

Chair Satre reconvened as the Board of Adjustment.

Mr. Miller read that the following would be recorded at the same time as the plat recording.

Condition 1: Maintenance agreement for the road (driveway) which would also cover the damage from heavy construction.

Condition 2: Water line easement lease.

Condition 3: Sewer and water line maintenance and the water meter agreement.

Ms. Lawfer questioned with regards to the fact that Davis Avenue was an identified road with the City, with an LID, how it would work with a subdivision which had apartments and a Homeowners Association - would the Homeowners Association have one vote and the owner of an apartment have one vote as well. Mr. Chaney answered that the LID process is done on a case-by-case basis and the City Engineering Department administers that, so he was not exactly sure of the process. He knew that they looked at trying to make things as fair as possible and it had to be approved by the Assembly. The Assembly invites the concurrence of the local population, particularly the people being affected by it, to ensure that at least the majority of the property owners can be in support of it. It's not required, but it has to go through Assembly review. Generally, it ends up being pretty fair and so he would expect that if there are 23 units, they would have a larger say than a single-family residence would, but would probably end up paying more too.

Chair Satre said they had a motion to approve the variance and adopt director's analysis and findings with three conditions as proposed by Mr. Miller.

Mr. Miller spoke in favor of the motion. He mentioned that in the current economic times with lending practices affecting development all over the country, Juneau has felt the housing bubble's effect in the lending practices with single-family residences which have been tightened significantly. He also noted that the testimonies pointed to the fact that nobody was building any condos either. He noted the fact that an Allowable Use Permit was passed prior to this in order to build the existing condos, the road was looked at as if it had been fully developed, it had been approved to be fully developed. By allowing the variance, we are allowing the developer to build some apartments instead of condos and actually making it less dense than it would have been with condos and the road having already been approved for a higher density, he thought the road approval should carry through to this variance. He also felt that the concerns were addressed with the new condition of the maintenance agreement.

Mr. Bishop spoke in favor of the motion and agreed with Commissioner Miller's comments. He added that this case and the variances that have preceded this regarding subdivisions in the right-of-way have shown a public need for more relaxation on changes in the code to allow such things without having to go through the variance process and allow subdivisions to take place without having fully developed public right-of-ways. He thought that they should pursue that further in time. He felt that this variance was necessary to meet a known public need, i.e. the interest of the public to have Affordable Housing and the need to be able to develop apartment buildings in a timely fashion.

Ms. Lawfer spoke in favor of the motion as it stood with the conditions; especially because of the fact that there was a road identified and mapped, albeit not developed. At some point in time, this subdivision could meet the requirements of their current zoning laws. She would have had some reservations if the road were not there.

Ms. Grewe spoke in favor of the motion supporting Mr. Miller and Mr. Bishop's comments. She had a correction for the staff report, on Page 9 of 10 under D, she thought he likely meant, "therefore this criteria is not met." She read 5-D, "Because of pre-existing non-conforming conditions on the subject parcel, the grant of the variance would not result in a net decrease in overall compliance with the Land Use Code. The platted but unbuilt street is a non-conforming situation. Granting variance would result in a decrease in compliance." She thought it should read, "Therefore, this criteria is not met." She said it doesn't change the analysis or the recommendation, but just cleans up the record.

Mr. Watson also spoke in favor of the motion, but commented that he did have concerns that both property owners would work this out. He expressed concerns that it might not happen, but sincerely hoped it would especially in light of all the time and effort put into this by all involved.

Mr. Medina complimented Mr. Miller on his conditions but spoke against the motion citing that in his opinion, the project was a perfect example of why the Land Use Code required subdivisions which create new parcels to have direct and practical access along a street maintained by a government agency. Mr. Medina said that Ms. Lawfer had referred to it a road but noted that it was still a driveway, an 1100-foot driveway, not a road.

**Roll Call Vote:**

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

Nays: Medina

Motion passes 8-1 and VAR2012-0031 was approved with the conditions recommended by the Planning Commission.

Chair Satre adjourned as the Board of Adjustment and reconvened as the Planning Commission.

**X. REGULAR AGENDA**

**XI. OTHER BUSINESS**

## **XII. DIRECTOR'S REPORT**

Mr. Hart offered a few items of note that might help as they talked about the housing issue. He reported they were seeing a lot of permit activity and so far for the year, they had taken in 36 permits compared to 17, double last year's activity, and the dollar amount was \$2,537,865 and that's in planning, a value that they assigned to it, it was probably a lot more than that in the real market, and last year, it had been \$1,287,000. So they were significantly above where they were just out of the starting blocks from 2012. He mentioned that they would be putting it online monthly, so they could see this year compared to last year. Currently, they have the last four years to compare monthly and weekly; however, he wasn't sure how accurate the data was, but would look into it. The second update was regarding the Comprehensive Plan. He stated that they should have the Comprehensive Plan update out online within the next day or so and the Commissioners could take a look at the staff edits which he said were mostly minor edits and formatting related. He noted that the Planning Commission will have to revisit it once the draft has been out for a while, which would then go back before the Assembly, after which they would make any further changes. He added that they have set up a good week or so of outreach meetings and may add more per request but are scheduled right now for Tuesday, February 5th, at the Douglas Library; Thursday, February 7th at the Dzanti-kahini, Middle School; Saturday, February 9th at the Nugget Mall; Monday, February 11th at the Downtown Public Library, and Wednesday, February 13th at the Auke Bay Fire Station. He said he would be working with staff to get people out into these meetings and do what they can for press releases to try to raise awareness and get public input regarding the changes. He sought the advice of the Commissioners on the two updates if they had any.

Mr. Chaney stated that they took in three bungalow subdivisions and noted that the lots already exist on the road system and two of them already have houses on them. He said that it was encouraging to see the new building opportunities within the Borough particularly because they would be less expensive.

Mr. Hart asked how many new lots that would be. Mr. Chaney answered three plus a few vacant standard lots and some small ones; he noted it was a good trend.

Chair Satre asked if they had seen any rezone applications. Mr. Chaney replied that they are going to be seeing a couple.

Mr. Bishop mentioned that in his experience using a bungalow subdivision and having platted a lot, it was a good thing, but the requirement of the house size was too small. So, he hoped they could bump that up. Mr. Watson asked Mr. Hart about the comments he received at the last Committee of the Whole meeting, Housing Needs Assessment. Mr. Hart stated that there were different perspectives of what's going on in the economy and their experiences seemed legitimate, but he noted it would need to wait until the whole recommendation package was complete.

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

Mr. Watson reported that the Public Works Committee met last Monday and discussed transfer of money and the library project which was moving rather quickly now that they have all the funding required (one million given by the Friends of the Library). He added that the Commissions' recommendations were being used at the little boat launch ramp on the beach and are actually working on the Lawson Creek Lift Station, as that sewer line was not effectively working for them. He also stated that the Subdivision Review Committee met on January 22nd to look at subdividing one lot into two, which had some unusual challenges to it and said that it would be coming before the Planning Commission in the near future.

Mr. Bishop stated that the Lands Committee met last week and discussed the easements necessary for the Auke Bay roundabout and were forwarded on to a full Assembly with the positive recommendation. The Lands Committee had been given an in-depth report on the Housing Needs Assessment, put together by JEDC. Mr. Bishop noted an interesting point in the study that a great number of people were spending over 40% to 50% of their income on housing in Juneau and that was low-income housing to begin with, so there was a disproportionate amount of income being spent on housing.

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

Mr. Miller spoke regarding the variance they just approved and stated that Mr. Medina and Mr. Bishop had some very thoughtful comments, but he felt that the Ad Hoc Committee's decision would be to relax the subdivision standards. He mentioned why the cost of housing was going up and how it was difficult for the developer to provide more affordable prices – e.g. streetlights have to have a stainless steel disconnect box which cost about \$5000 installed and four streetlights in a 20-unit subdivision, will end up costing \$20,000, raising the lot price by \$1000; in building a 20-lot subdivision, the developer has to buy sewer pipes, water pipes, install it, then get the final plat, give it to the City, and the City turns around and charges them \$2250 to hook up to the water and sewer line that they just got done putting in, which increases the lot price by \$2250. He pointed out that in the 70s and 80s when the valley was built during the big boom, if they would have had the subdivision standards that they had today, it wouldn't have been built. He gave an example of the 20% down banking requirements, which would be \$60,000 on a \$300,000 loan, which is a lot of money to buy a house. He said if they could cut that down to \$50,000, then one could pay for an LID 10 years down the road and get some improvements back in and rebuild the road after it's completely developed and everybody is on the street living as opposed to having to do everything upfront and pay interest on all that money and taxes on the loan and improvements. He concluded by saying that he thought it was interesting that Mr. Bishop said they needed to relax the laws and Mr. Medina said that they shouldn't, but if it was code, it would have been okay to do it.

Mr. Bishop agreed with Mr. Miller that were certain things that could be relaxed, but he felt that there was also a need for a simplified process where they don't have to go to the full city right away. He mentioned a variance discussed at a past meeting, where it was a five-lot subdivision with a series of panhandles that were forward, backward, and sideways. It was bad configuration with wasted land that didn't serve any good purpose other than getting around a subdivision code

that didn't work very well and he felt it didn't come out with the best product in the end. He stated that they needed a process whereby they could have a public right-of-way that was unmaintained by the public entity, but would be maintained by a neighborhood association that was not the same standard as the public street and the Commission could set a standard for the number of lots and size. Regarding the variance just approved (a long driveway in the right-of-way), he thought that Mr. Medina was correct in that they were pushing the outside limits of going a quarter mile in. He did think that it was easy to say five lots can get along without public mitigation and that they had to build to those standards. He said there were lots of driveways that have five houses on them in the Borough that work just fine.

Mr. Medina appreciated Mr. Miller's and Mr. Bishop's comments, but realized that they look at things from a development standpoint whereas he tended to look at things strictly from a code standpoint. He asked Chair Satre if they would still continue on their existing committees since it was a new year. Chair Satre stated that they need to put the election of officers on their agenda for the next meeting. He told the committee members that if there were committees they wanted to serve on, to hand those to Mr. Hart and himself, so that they could address it as they went forward.

Chair Satre stated that he truly appreciated the time that the commissioners spent researching and reading their packets, being prepared for the meeting, the discussions during the meeting and the record that they set each and every time they make their decisions. Whether they agreed with each other or not, they always found ways to make decisions that he thought were in the best interests of the community and he appreciated the professionalism by which they got to that point. He mentioned that when the Assembly members receive appeals, they appreciate the time the Commission has spent on each and every decision and the records which state how they reached that decision. He noted that items have been appealed lately, but it was part of the process and was glad to see the citizens see that as part of the process. What worried him was the press' interpretation of the appeals, which cast dispersion on the professionalism of the members of the Commission, but he truly believes in his heart that all the members value their role as planning commissioners and treat it with the utmost professionalism and stated that he would defend the integrity of any individual commissioner or this body at any time. Chair Satre continued to say that he fully believed that everybody that he has ever served with on the board and everyone that currently serves on the board knows that it is a weighty position and treats it as such and he appreciated that professionalism.

Chair Satre also wanted to make sure that as they went forward that they still adhered to the Rules of Order, to the Rules of the Governance Body, to ensure that they were treating their seats with the respect that it truly deserved and continue to defend the integrity of this body.

## **XV. ADJOURNMENT**

**MOTION:** *By Mr. Watson to adjourn the meeting.*

*With no objection, the meeting adjourned at 8:50 p.m.*